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U.S. DISTRICT COURT

Attorney for Plaintiff Caldera, Inc.
[represented by its successor-in-interest,
The Canopy Group, Inc.]

ORDER

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH CENTRAL DIVISION

CALDERA, INC., [represented by its successor)	
-in-interest, THE CANOPY GROUP, INC.])	
)	
Plaintiff,)	
vs.)	
)	
MICROSOFT CORPORATION)	Civil No. 2:96 CV 0645DB
)	
Defendants.)	Judge Dee V. Benson
)	Magistrate Judge Ronald N. Boyce
)	

~~PROPOSED~~ ORDER REGARDING
PRESERVATION OF DOCUMENTS
UNDER THE PROTECTIVE ORDER

Background

1. This case was an antitrust action (the "Action") that was dismissed on January 7, 2002.
2. The parties engaged in extensive discovery and produced numerous documents (the "Documents") pursuant to a Protective Order entered by this Court on April 1, 1997 (the "Protective Order").

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3. The Protective Order originally contemplated destruction or return of all confidential documents upon the conclusion of the Action. However, on May 30, 2000, this Court entered a Stipulation Concerning Preservation of Documents under the Protective Order (the “Stipulation”) ordering the Plaintiff, Caldera, Inc. (and now its successor-in-interest, Canopy, Inc.) to retain the Documents.

4. Canopy has paid for the storage of the Documents since the Action was dismissed. Canopy has no corporate interest in, and perceives no corporate benefit to, retaining the Documents. Canopy cannot be expected to bear the ongoing expenses of storing the documents indefinitely.

5. Canopy now seeks relief from any further obligation to store the Documents.

6. Canopy has demonstrated good cause for a modification of the Stipulation to permit destruction of the Documents. The Protective Order contemplated ultimate destruction of the Documents, and such destruction was and is foreseeable to all those interested in the retention of the Documents.


7. The parties to the Action (and those third parties who produced documents subject to the Protective Order) relied on the Protective Order, and upon the knowledge that after the Action was completed, the Documents would be returned or destroyed.

ORDER

NOW THEREFORE, good cause having been demonstrated, the Stipulation Concerning Preservation of Documents under the Protective Order (the “Stipulation”) entered by this Court on

May 30, 2000, is hereby modified to permit Canopy, the successor-in-interest to Caldera, Inc., to destroy the documents being preserved in accordance with the Stipulation.

SO ORDERED this 26 day of October, 2002.



United States District Judge

United States District Court
for the
District of Utah
October 25, 2002

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:96-cv-00645

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