



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

ORDER

File No. PR-2009-056

Microsoft Canada Co., Microsoft
Corporation, Microsoft Licensing,
GP and Softchoice Corporation

v.

Department of Public Works and
Government Services

*Order issued
Friday, November 27, 2009*

IN THE MATTER OF a complaint filed by Microsoft Canada Co., Microsoft Corporation, Microsoft Licensing, GP and Softchoice Corporation under subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47;

AND FURTHER TO a notice of motion filed by Microsoft Canada Co., Microsoft Corporation, Microsoft Licensing, GP and Softchoice Corporation on November 13, 2009, for an order directing the Department of Public Works and Government Services to produce certain documents;

AND FURTHER TO a notice of motion filed by the Department of Public Works and Government Services on November 17, 2009, for an order directing Microsoft Canada Co., Microsoft Corporation, Microsoft Licensing, GP and Softchoice Corporation to produce copies of two documents each filed as a single copy exhibit as part of the complaint;

AND FURTHER TO a notice of motion filed by the Department of Public Works and Government Services on November 17, 2009, requesting an extension to the due date to file the Government Institution Report.

BETWEEN

**MICROSOFT CANADA CO., MICROSOFT CORPORATION,
MICROSOFT LICENSING, GP AND SOFTCHOICE
CORPORATION**

Complainant

AND

**THE DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT
SERVICES**

**Government
Institution**

ORDER

Having considered the representations made by the parties on the aforementioned motions, pursuant to subsection 17(2) of the *Canadian International Trade Tribunal Act* and to rules 5, 6 and 8 of the *Canadian International Trade Tribunal Rules*, the Canadian International Trade Tribunal hereby disposes of said motions as follows.

The Canadian International Trade Tribunal hereby dismisses the motion filed by Microsoft Canada Co., Microsoft Corporation, Microsoft Licensing, GP and Softchoice Corporation, on the basis that it is premature to order the filing of such documents before the Department of Public Works and Government Services has had the opportunity to file the Government Institution Report, which is to contain, in accordance with rule 103(2)(c) of the *Canadian International Trade Tribunal Rules*, all documents relevant to the complaint.

The Canadian International Trade Tribunal notes that the Department of Public Works and Government Services, in correspondence with counsel for the complainant and the Tribunal dated November 23, 2009, withdrew its motion for the production of copies of two document each filed as a single copy exhibit to the complaint by Microsoft Canada Co., Microsoft Corporation, Microsoft Licensing,

GP and Softchoice Corporation. The Tribunal notes that said documents are available for consultation at the Registry of the Canadian International Trade Tribunal, and that said documents are protected by copyright and are otherwise available to the Department of Public Works and Government Services.

The Canadian International Trade Tribunal hereby grants, in part, the motion filed by the Department of Public Works and Government Services for an extension of time to file the Government Institution Report. The Canadian International Trade Tribunal directs that the Government Institution Report be filed with the Canadian International Trade Tribunal no later than December 11, 2009. Accordingly, the Secretary of the Canadian International Trade Tribunal will fix a new deadline for the filing of any comments by the complainant on the Government Institution Report.

André F. Scott
André F. Scott
Presiding Member

Dominique Laporte
Dominique Laporte
Secretary