

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

HYPERPHRASE TECHNOLOGIES,
LLC., and HYPERPHRASE, INC.,

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendant.

ORDER (No. 2)

02-C-647-C

Plaintiffs have moved for relief under Fed. R. Civ. P. 37(d) and 37(b)(2)(A)-(C), contending that defendant has destroyed documents it should have retained and produced to plaintiffs. The missing documents are alleged to concern defendant's employees' reaction to Carlos de la Huerga's disclosure of his inventions to defendant in meetings that took place on October 29, 1998 and June 25, 1999.

Now that I have determined that defendant is not liable to plaintiffs for infringement of plaintiffs' U.S. Patents Nos. 5,895,461, 6,272,505 and 6,516,321, there is no reason why plaintiffs would need the documents it is seeking from defendant Microsoft and no reason to sanction defendant for its alleged failure to retain relevant documents. Therefore,

plaintiffs' motion for relief under Fed. R. Civ. P. 37(d) and 27(b)(2)(A)-(C) is DENIED.

Entered this 24th day of September, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge