



Z-NIX COMPANY, INC.

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**JUDGE OVERTURNS RESTRAINING ORDER IN DISPUTE
WITH MICROSOFT**

Judge Kenyon Rules Microsoft's Case Too Weak

(LOS ANGELES)--United States District Court Judge David V. Kenyon issued a rare reversal of a Temporary Restraining Order (TRO) granted on behalf of Microsoft Corporation against Z-Nix Company. He also denied Microsoft's motion for a preliminary injunction against Z-Nix. Microsoft has accused Z-Nix, the nation's third largest manufacturer of computer mice, of violating its license agreement to sell Windows 3.1 by making the upgrade available to people who were not already registered users of the Z-Nix version of Windows 3.0.

"We are especially pleased by this ruling, since the reversal of a TRO is such an uncommon judicial event," says Thomas Chan of the prestigious law firm of Chan & Jodziewicz, Z-Nix's attorney in the case. Chan is a leading expert in the field of computer law and a frequent lecturer on international trade and the protection of high technology. Chan's firm has also represented such industry leaders as Hughes Aircraft, Ashton-Tate, Novell and Word Perfect. Chan successfully represented Z-Nix in its 1990 antitrust lawsuit against Microsoft, which Chan believes may have been a catalyst for the Federal Trade Commission's investigation of Microsoft's alleged anti-trade practices.

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In papers filed in United States District Court, Judge Kenyon ruled that "Z-Nix (has) presented substantial evidence that it was taking active measures to ensure that its distributors were complying with the requirements of the licensing agreement." At the same time Judge Kenyon noted that "Microsoft has not presented any evidence ...to show that Z-Nix has failed to monitor its distributors adherence to these guidelines."

According to Judge Kenyon, "In order to obtain a preliminary injunction, a plaintiff must show either a combination of probable success on the merits of their claim and the possibility of irreparable injury, or that plaintiff has raised serious questions and the balance of hardships tips sharply in the plaintiff's favor. ...Microsoft is one of the largest and most successful software companies in the country and appears to be quite capable of weathering the ensuing months before this case goes to trial without the benefit of a preliminary injunction. ...The Court believes that Microsoft has failed to show that the balance of hardships tips sharply in Microsoft's favor."

The Court made its original ruling based on claims by Microsoft's private investigators that three of Z-Nix's wholesale distributors had sold Z-Nix's Windows 3.1 upgrade software to Microsoft's undercover agents without any proof that they were already registered users. In reviewing the situation, Judge Kenyon found that many of the statements made by an employee of one of the distributors named in the suit to Microsoft's investigator, Israel Raygoza, "were ambiguous enough to be reasonably susceptible to several different interpretations, some of which would tend to exculpate (Z-Nix) from liability."

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In the opinion of Judge Kenyon, "(Z-Nix) has rebutted most, if not all of Microsoft's allegations and raised numerous issues that need to be resolved. (Z-Nix has) presented too many reasonable explanations for their activities to find that (Microsoft is) likely to prevail on the merits. Z-Nix presented plausible, if not wholly convincing, explanations for all of Microsoft's allegations."

"This decision just substantiates what we have always maintained - that Z-Nix has always lived up to both the letter and spirit of its license agreement with Microsoft and that Microsoft is just trying to bully and intimidate a major competitor out of the mouse market," proclaims Jimmy Chen, President and CEO of Z-Nix.

Z-Nix, headquartered in Pomona, California, is a leading force in cordless technology for computer input devices, including its best-selling Cordless SuperMouse. The company also manufactures scanners and trackballs and has successful bundling relationships with Hewlett Packard, Symantec and more than a dozen other leading computer software manufacturers. Its leading clients and distributors include Merisel, CompuAdd, Tandy Corporation and Commodore Europe.