IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

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| BLOCK FINANCIAL CORPORATION, | ) | |
| Plaintiff/Counterclaim Defendant, | ) | |
| v. | ) | C. A. No.: 03C-04-010-CLS |
| INISOFT CORPORATION, | ) | |
| Defendant/Counterclaim Plaintiff. | ) | |

Submitted: December 8, 2008
Decided: April 2, 2009

# ORDER

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Scott, J.

## I. Introduction

On October 31, 2008, this Court issued its Proposed Findings of Fact and Conclusions of Law Following a Non Jury Trial to the Parties under seal. In that Order, the Court determined that Block materially breached the November 2, 2000 Agreement ("Agreement") but it did not misappropriate Inisoft's purported trade secrets. Also in that Order, the Court invited the Parties to submit their respective motions for reargument. The following is the Court's decision on those motions.

## II. Discussion

The purpose of reargument is to permit reconsideration of findings of fact, conclusions of law, or judgment of law.[1] Reargument usually will be denied unless the moving party demonstrates that the Court overlooked a precedent or legal principle that would have a controlling effect, or that it misapprehended the law or the facts in a manner affecting the outcome of the decision. A motion for reargument should not be used merely to "rehash the arguments already decided by the court."[2]

[1] *McKay v. St. Francis Hosp., Inc.*, 2008 WL 4947652 (Del. Super), citing *Hessler, Inc. v. Farrell*, 260 A.2d 701, 702 (Del.1969).
[2] *Id.*

### a. Block's Motion for Reargument

In its motion for reargument, Block requests the Court to reconsider its determination that Block unlawfully terminated the Agreement. Specifically, it asks the Court to reconsider it's finding that Inisoft was required to rectify only "minor" deficiencies and to reevaluate the consequence of Inisoft's voluntary cessation of business operations in May 2001. Block argues that Inisoft should not be awarded breach of contract damages because it failed to correct alleged deficiencies in its software and then ceased business operations which rendered it incapable of complying with its future obligations to correct problems with its software.

Block fails to demonstrate that the Court misapprehended the law or facts that would affect the outcome of the decision. Although it disagrees with the Court's findings and conclusions of law, it has not shown that the Court misapplied the law or misunderstood a material fact. Block's attempt to rehash its argument does not constitute a sufficient basis for granting a motion for reargument. Accordingly, Block's motion for reargument is **DENIED.**

### b. Inisoft's Motion for Reargument

In its motion for reargument, Inisoft asks the Court to reconsider its determination that Inisoft's purported trade secrets are not trade secrets

protected under Delaware law. It argues that its software is novel, that it took reasonable steps to protect the secrets and that the software is proprietary.

Similarly to Block's motion, Inisoft fails to establish that the Court misapprehended the law or facts that would affect the outcome of the decision. The Court determined that Inisoft's purported trade secrets were not protected under Delaware law mainly because Inisoft failed to reasonably ensure the secrecy of its claimed trade secrets. This determination was based on the fact that Inisoft did not subject its owners or employees that worked on the source code and software to confidentiality agreements. Inisoft disagrees with the Court's conclusion and urges the Court to consider that in Canada confidentiality agreements are not necessary because the obligation to keep trade secret information is imposed by law. The Court will not consider this argument because Inisoft failed to give notice of its intent to rely on proof of foreign law as required by D.R.E. 202(e).[3] Furthermore, even if the Court were to agree with Inisoft regarding its novelty and propriety arguments (which it does not), the Court's

[3] D.R.E. 202(e) *Notice, Information, Ruling on Laws of Foreign Country.* A party who intends to raise an issue concerning the law of a foreign country shall give notice in his pleadings or other reasonable written notice. The court, in determining foreign law, may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under these rules. The court's determination shall be treated as a ruling on a question of law.

determination that Inisoft's purported trade secrets are not protected under Delaware law because it failed to take reasonable steps to ensure their secrecy would not change. Accordingly, Inisoft's motion for reargument is **DENIED.**

**IT IS SO ORDERED.**

**Judge Calvin L. Scott, Jr.**