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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MICROSOFT CORPORATION, a
Washington corporation,

Plaintiff,

v.

JDO MEDIA, INC., a Florida corporation,
TONY LAMPERT, an individual,
TIMOTHY ROLAND, an individual, ERIK
SUMMERS, an individual, and JOHN DOES
4-50,

Defendants.

No. C04-0515P

**MOTION BY COUNSEL FOR
DEFENDANT JDO MEDIA, INC.
FOR LEAVE TO WITHDRAW**

Noted for Consideration:
December 20, 2004

COME NOW counsel for Defendant JDO MEDIA, INC. ("JDO"), Fowler White
Boggs Banker P.A. and Yarmuth Wilsdon Calfo PLLC, and move this Court for leave to
withdraw.

I. INTRODUCTION

Pursuant to Local Rule GR 2(f)(4), counsel of record in a civil case may not
withdraw an appearance except by leave of Court, which will "ordinarily" be granted if
leave is sought prior to sixty (60) days before discovery cut-off date. *Id.* The discovery
cut-off date for this case is currently March 28, 2005. The instant motion is noted for
December 20, 2004 — 98 days prior to March 28, 2005.

1 **II. DISCUSSION**

2 As a result of irreconcilable differences that have arisen between JDO and its
3 attorneys, Fowler White Boggs Banker P.A. and Yarmuth Wilsdon Calfo PLLC, the
4 aforementioned attorneys must request leave to withdraw or face unreasonable financial
5 burden. Washington’s Rules of Professional Conduct expressly recognize an attorney’s
6 right to withdraw from representation if continuing the representation will result in an
7 unreasonable financial burden. See RPC 1.15(b)(5).
8

9 In accordance with Local GR 2(f)(4)(A) and (B), the undersigned have attached a
10 certification stating: (1) that, concurrent with the filing of the instant motion, a copy of this
11 motion was served on opposing counsel, the other defendants, and JDO MEDIA; and (2)
12 that counsel has already informed JDO MEDIA that it is required to be represented in this
13 matter by counsel admitted to practice in the Western District of Washington and that
14 failure to secure replacement counsel in the event the instant motion is granted may result in
15 the entry of a judgment of default upon Plaintiff’s claims asserted against JDO MEDIA.
16

17 **III. CONCLUSION**

18 For the reasons set forth above, the undersigned counsel request this Court to grant
19 their motion to withdraw, effective immediately.

20 Dated: December 9, 2004.

YARMUTH WILSDON CALFO PLLC

21 By: /s/ Karin Bornstein Swope
22 Karin Bornstein Swope, WSBA No. 24015
23 Scott T. Wilsdon, WSBA No. 20608
24 The IDX Tower
25 925 Fourth Avenue, Suite 2500
26 Seattle, WA 98104
Phone: (206) 516-3800
Email: kswope@yarmuth.com

and

1 FOWLER WHITE BOGGS BANKER P.A.
2 G. Wrede Kirkpatrick
3 Florida Bar No.: 984116
4 PO Box 1438
5 Tampa, Florida 33601
6 Phone: (813) 228-7411
7 Fax: (813) 229-8313

8 Attorneys for Defendant JDO Media, Inc.

9 **CERTIFICATION REQUIRED PURSUANT TO LOCAL RULE GR 2(f)(4)**

10 I, G. Wrede Kirkpatrick, am lead counsel of record for defendant JDO Media, Inc.
11 in this action. Pursuant to Local Rule GR 2(f)(4)(A), I certify that, concurrent with the
12 filing of this Motion By Counsel for JDO Media, Inc. For Leave to Withdraw, opposing
13 counsel and JDO Media, as well as the other defendant parties to this case, were each
14 served with a copy of the motion and proposed order.

15 I further certify, pursuant to Local Rule GR 2(f)(4)(B), that on December 3, 2004, I
16 sent by certified mail, return receipt requested, a letter informing JDO Media that it is
17 required to be represented in this matter by counsel admitted to practice in the Western
18 District of Washington and that failure to secure replacement counsel in the event the
19 instant motion is granted may result in a default judgment being entered against JDO Media
20 on Plaintiff's claims.

21 Dated: December 9, 2004 at Tampa, Florida.

22 /s/ G. Wrede Kirkpatrick

1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that a true and correct copy of the foregoing has been served
3 this date by legal messenger service upon defendant JDO Media c/o its registered agent
4 John McLeod, 2580 SE 37th Street, Ocala, Florida 33471; and furnished by electronic filing
5 upon David A. Bateman and Robert J. Dzielak, Preston Gates & Ellis LLP, 925 Fourth
6 Avenue, Suite 2900, Seattle, Washington 98104-1158 (dbateman@prestongates.com,
7 robertd@prestongates.com, rhinman@prestongates.com), Tony Lampert, 1901 Tower
8 Bridge Terrace, St. Louis, MO 63146 (mentoryou@swbell.net), Erik Summers, 1649
9 Seattle Slew Way, Oceanside, CA 92057 (email@eriksummers.com,
10 erik@liquidgoeey.com) this 9th day of December, 2004.

11
12 By: s/ G. Wrede Kirkpatrick
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