

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

STATE OF NEW YORK, *et al.*,

Plaintiffs

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1233 (CKK)

**ORDER**

This case comes before the Court upon the filing of Microsoft's "Motion to Compel America Online, Inc. to Comply with Subpoenas Duces Tecum." Upon review of Microsoft's accompanying request for an accelerated briefing schedule, America Online, Inc.'s ("AOL") response thereto, and Microsoft's reply, the Court has determined that the expedited nature of the discovery schedule in this case demands a prompt response from AOL. However, before setting forth a schedule for the completion of briefing related to Microsoft's motion, the Court notes at the outset that it appears that the three remaining issues arising out of Microsoft's subpoenas duces tecum are sufficiently narrow such that they should be resolved without the Court's intervention.<sup>1</sup> The Court further notes that the aspersions cast in the parties' pleadings as to the respective motivations of the opposing party do not advance the resolution of the issues presently

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<sup>1</sup>In this regard, the Court reminds the parties that the maintenance of an unreasonable position in the context of a motion to compel shall result in an order requiring the unreasonable party to pay the other side's fees and expenses incurred in conjunction with the motion. Fed. R. Civ. P. 37(a).

before the Court and in truth, only serve to lengthen needlessly the parties' filings.

Accordingly, it is this 24th day of January, 2002, hereby

**ORDERED** that, if the discovery dispute is not resolved by the parties, non-party AOL shall file a responsive pleading with the Court not later than 10:00 a.m. on January 28, 2002, with a courtesy copy delivered to Chambers;<sup>2</sup> and it is further

**ORDERED** that, if the discovery dispute is not resolved by the parties, Microsoft shall file a reply to AOL's submission not later than 10:00 a.m. on January 29, 2002, with a courtesy copy delivered to Chambers; and it is further

**ORDERED** that, should the parties resolve the discovery dispute raised in Microsoft's motion to compel, the parties shall promptly file a notice to the Court indicating that a resolution has been reached.

**SO ORDERED.**

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COLLEEN KOLLAR-KOTELLY  
United States District Judge

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<sup>2</sup>As a non-party, AOL will not be required to comply with the electronic filing procedures which apply to party filings in this case. AOL may simply file its motion with the Clerk's Office in paper form in accordance with the local rules.