

Case T-201/04 R

Microsoft Corp.

v

Commission of the European Communities

(Proceedings for interim relief — Intervention)

Order of the President of the Court of First Instance, 26 July 2004 II - 2980

Summary of the Order

1. *Procedure — Intervention — Conditions of admissibility — Direct and present interest (Statute of the Court of Justice, Arts 40, second para., and 53, first para.)*
2. *Procedure — Intervention — Applications for interim measures — Conditions of admissibility — Interest in the result of the interim proceedings — Appraisal in the light of the consequences on the economic or legal position of the parties seeking leave to intervene (Statute of the Court of Justice, Arts 40, second para., and 53, first para.)*

3. *Procedure — Intervention — Applications for interim measures — Conditions of admissibility — Direct and present interest — Appraisal having regard to the specific nature of the proceedings for interim relief — Broad interpretation*
(Statute of the Court of Justice, Arts 40, second para., and 53, first para.)
4. *Procedure — Intervention — Interested persons — Representative association having as its object the protection of its members — Admissibility in cases raising questions of principle liable to affect those members — Conditions — Broad interpretation*
(Statute of the Court of Justice, Arts 40, second para., and 53, first para.)

1. An interest in the result of a case within the meaning of the second paragraph of Article 40 of the Statute of the Court of Justice, which is applicable to the Court of First Instance by virtue of the first paragraph of Article 53 of that Statute, must be understood as being a direct and present interest in the granting of the form of order sought by the party whom the prospective intervenor wishes to support. To that end, it is necessary, in order to grant leave to intervene, to determine that the prospective intervenor is directly affected by the contested measure and that his interest in the result of the case is established.

result of the interim relief proceedings may adversely affect the interests of third parties or be favourable to them. It follows that, in interim relief proceedings, the interests of the parties seeking leave to intervene must be appraised in the light of the consequences which granting the interim relief sought or rejecting that request may have on those parties' economic or legal position.

(see para. 33)

(see para. 32)

2. When the application for leave to intervene is made in proceedings for interim measures, the interest in the result of the case must be understood as being an interest in the result of the interim proceedings. In the same way as the result of the main proceedings, the
3. The direct and present nature of the interest in the result of interim relief proceedings must be appraised having regard to the specific nature of such proceedings. In interim relief proceedings, the interest invoked by the intervenor is, if appropriate, taken into account in the balancing of interests. It is even possible that the balancing of the interests involved will prove to be decisive once the judge with responsibility for granting interim relief has formed the view, in his analysis of the

request before him, that the conditions relating to a prima facie case and urgency are satisfied. The notion of an interest in the result of a case should therefore be given a broad interpretation by the judge responsible for granting interim relief in order to ensure that the appraisal of the various interests in issue is not prejudiced.

undertakings active in the sector concerned, if its objects include that of protecting its members' interests, if the case may raise questions of principle affecting the functioning of the sector concerned, and if the interests of its members may therefore be affected to an appreciable extent by the forthcoming judgment or order.

(see para. 34)

4. Representative associations whose object is to protect their members may be granted leave to intervene in cases raising questions of principle that are liable to affect those members. More particularly, an association may be granted leave to intervene in a case if it represents an appreciable number of

The adoption of a broad interpretation of the right of associations to intervene is intended to facilitate assessment of the context of such cases while avoiding multiple individual interventions which would compromise the effectiveness and proper course of the procedure.

(see paras 37, 38)