

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

JAMES ODOM, <i>Plaintiff-Appellant,</i> v. MICROSOFT CORPORATION, a Washington corporation; BEST BUY Co., INC., a Minnesota corporation, <i>Defendants-Appellees.</i>
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No. 04-35468  
D.C. No.  
CV-03-02976-MJP  
ORDER

Filed September 28, 2006

Before: Mary M. Schroeder, Chief Judge.

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**ORDER**

Upon the vote of a majority of nonrecused regular active judges of this court,<sup>1</sup> it is ordered that this case be reheard by the en banc court pursuant to Circuit Rule 35-3.

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<sup>1</sup>Judges Pregerson, McKeown, Wardlaw, Gould, Clifton, Smith, and Ikuta are recused.

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