

SOFTWARE FREEDOM LAW CENTER, INC.

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Attorneys for Plaintiffs *Software Freedom Conservancy, Inc.* and *Erik Andersen*

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

-----	X
SOFTWARE FREEDOM CONSERVANCY, INC. and	:
ERIK ANDERSEN,	:
	:
Plaintiffs,	:
-against-	:
	:
BEST BUY CO., INC., SAMSUNG ELECTRONICS	:
AMERICA, INC., WESTINGHOUSE DIGITAL	:
ELECTRONICS, LLC, JVC AMERICAS	:
CORPORATION, WESTERN DIGITAL	:
TECHNOLOGIES, INC., ROBERT BOSCH LLC,	:
PHOEBE MICRO, INC., HUMAX USA INC.,	:
COMTREND CORPORATION, DOBBS-STANFORD	:
CORPORATION, VERSA TECHNOLOGY INC.,	:
ZYXEL COMMUNICATIONS INC., ASTAK INC.,	:
and GCI TECHNOLOGIES CORPORATION,	:
	:
Defendants.	:
-----	X

ECF CASE

09-CV-10155 (SAS)

**PLAINTIFFS'
MEMORANDUM OF LAW IN
OPPOSITION TO
DEFENDANT
WESTINGHOUSE DIGITAL
ELECTRONICS, LLC'S
MOTION TO WITHDRAW
COUNSEL OF RECORD**

Plaintiffs Software Freedom Conservancy, Inc. and Erik Andersen (“Plaintiffs”) respectfully oppose defendant Westinghouse Digital Electronics, LLC's (“Westinghouse”) motion to withdraw counsel of record.

While Plaintiffs are sympathetic to counsel for Westinghouse for the situation they are in, Westinghouse cannot appear in this matter *pro se* and once it has had counsel of record, that counsel cannot withdraw unless (1) Westinghouse finds substitute counsel, or (2) Westinghouse consents, or is otherwise subject, to default judgment. Brown v John H. Beyer, Inc., 1998 U.S. Dist. LEXIS 9098 (S.D.N.Y. 1998) (recognizing that corporations may not appear *pro se* and accordingly denying counsel of record's motion to withdraw); Avon Elec. Supplies v. Elec. Maint. & Servs. Corp., 2001 U.S. Dist. LEXIS 17861 (S.D.N.Y. 2001) (Scheindlin, J.) (“Nusbaum's motion to withdraw as counsel is denied without prejudice. If defendants permit a default judgment to be entered against them, they will have no further need for counsel.”).

Currently pending before the court is a motion by Plaintiffs for default judgment, or in the alternative, summary judgment, against Westinghouse. Docket #112. Plaintiffs filed that motion on June 3 and Westinghouse failed to respond thereto by June 17, the deadline set by the court for them to do so. See Transcript of May 20, 2010, Pre-Motion Conference attached to Declaration of Daniel B. Ravicher, Docket 117, as Exhibit 4, p 5. If Westinghouse consented to the default judgment, or if default judgment is entered against Westinghouse, then Plaintiffs would not oppose this motion by Westinghouse's counsel to withdraw. If Westinghouse is not willing to consent to default judgment, then they must find substitute counsel to represent them in this matter unless or until judgment is entered against them by the court.

Dated: July 2, 2010
New York, New York

Respectfully submitted,
SOFTWARE FREEDOM LAW CENTER, INC.

By: s/ Daniel B. Ravicher
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CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2010, I electronically filed the foregoing document with the Clerk of Court for the Southern District of New York by using CM/ECF. I also certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: July 2, 2010
New York, New York

By: s/ Daniel B. Ravicher
Daniel B. Ravicher (DR1498)