

Date: 20080521

Docket: T-1105-06

Citation: 2008 FC 641

BETWEEN:

RESEARCH IN MOTION LIMITED

**Plaintiff
(Defendant by Counterclaim)**

and

VISTO CORPORATION

**Defendant
(Plaintiff by Counterclaim)**

REASONS FOR JUDGMENT

HUGHES J.

[1] These brief reasons are provided in respect of the Judgment issued in this matter pursuant to the Plaintiff's Motion for Judgment made in writing pursuant to Rule 369.

[2] Originally, the trial of this matter was scheduled to be heard in April of this year and to last for at least 45 days. The commencement date of the trial was moved to May 12 to suit the in-house counsel of the Defendant who had to attend to litigation in the United Kingdom, Canada and the United States between these parties or related parties. The estimated length of the trial was reduced several times until the estimate reached 15 trial days. Approximately two weeks before the trial was scheduled to begin, the Court was advised that the matter would be settled and a draft Judgment, on

consent, would be provided. Plaintiff's counsel filed a letter with the Court to the effect that the trial date was no longer needed.

[3] It appears however that the parties cannot provide a draft Judgment to which they consent. There have been telephone conferences with the Court and counsel commenting on early drafts as a result of which the parties are now in agreement as to the operative part of the Judgment, only parts of the preamble are in controversy.

[4] The preamble is just that, a cryptic recital of some of the background. It is not the operative part of the Judgment. The preamble is intended to be a factual recital of sufficient of the history of the matter to give context to the operative part of the Judgment. Several Judgments of this Court have no preamble at all. Given the lengthy submissions of the parties including rather unnecessary assertions by counsel as to the conduct and motives of counsel for the opposing parties, I am lead to believe that somewhere, possibly in the larger framework of litigation in other countries, the preamble may play a greater role than this Court would ever have known or intended. If this is the case, Counsel have not been candid in their submissions. If it is not the case, I am left to wonder why such great efforts are being made in respect of seemingly minor and unimportant matters.

[5] I have considered the submissions of the parties and made my own adjustments to their respective draft preamble so as to reflect, in my view, an accurate picture, cryptically, of some of the background. As I have said, the operative part of the Judgment, paragraphs numbered 1 through 5 are agreed to by the parties.

[6] Needless to say, no costs are awarded on this motion given what I view is needless controversy and overpapering of the file.

"Roger T. Hughes"

Judge

FEDERAL COURT

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: T-1105-06

STYLE OF CAUSE: **RESEARCH IN MOTION LIMITED v. VISTO CORPORATION**

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCES OF PARTIES

REASONS FOR JUDGMENT: Hughes, J

DATED: May 21, 2008

WRITTEN REPRESENTATIONS BY::

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FOR THE PLAINTIFF
RESEARCH IN MOTION LIMITED

Mr. Tim Gilbert

FOR THE DEFENDANT
VISTO CORPORATION

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