

VisiCorp seeks injunction vs. Software Arts today

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SAN JOSE, Calif.—VisiCorp and Software Arts will meet in court today as VisiCorp continues its fight to seek a preliminary injunction against Software Arts to prevent it from using the VisiCalc trademark.

The two firms met earlier this month during a two-day hearing in the U.S. District Court in Boston, but no decision was reached.

In early February, VisiCorp was denied a temporary restraining order against Software Arts. VisiCorp had asked for the order until the court had a hearing on the preliminary injunction, explained Ed Gregorian, VisiCorp counsel. The denial of the temporary restraining order left Software Arts free to begin marketing VisiCalc Advanced Version for the IBM PC on its own. Beginning last month, it advertised the product for \$99, and is still doing so, said Fran Jacobs, Software Arts' attorney.

During the two-day hearing May 3 and 4, VisiCorp chairman Dan Fylstra testified for about three hours, but Gregorian declined to comment on the substance of the testimony.

Also testifying for VisiCorp were market analyst Robert Freeman from Input, and representatives of the Palo Alto Management Group, which completed a survey done on the consumer recognition of the VisiCalc name. Results were favorable to VisiCorp, Gregorian said.

At presstime, it was unclear how long hearings would continue before the judge made a decision about the preliminary injunction. However, if the situation is not resolved today, indications were that the next available court date is not before August, Jacobs said. This would leave Software Arts free to continue marketing VisiCalc Advanced Version, he said.

VisiCorp's request for the injunction stems from a Software Art's countersuit, which charges that VisiCorp failed to maximize sales of VisiCalc by "discounting improperly and marketing Visi On Calc in a manner that is designed to impair the sales of VisiCalc." (C+SN, Feb. 13.)

Software Arts is also asking that the VisiCalc trademark be reverted to them under the terms of the 1979 agreement between the two companies.

The countersuit is a response to a suit filed by Visi-Corp last September, charging that Software Arts failed to make timely delivery of several versions of VisiCalc Advanced Version.

Beyond coping with a lawsuit, sources close to VisiCorp say the company is working on a couple of products, in line with its overall product strategy, for specific machines. The products were reportedly developed in-house.

At presstime, VisiCorp officials were in conference with their public relations agency, Regis McKenna, to schedule a press tour for this month, presumably to announce these new products. 0

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