

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

PETER M. WALLACE,
Plaintiff,

vs.

Case No. 07-2379-JTM

MICROSOFT CORPORATION,
Defendant.

MEMORANDUM AND ORDER

This matter is before the court on the plaintiff's Motion for Reconsideration. Plaintiff Wallace seeks reconsideration of the court's Order of June 30, 2008 (Dkt. No. 45), which denied Wallace's motion for remand, and granted in part and denied in part defendant Microsoft's motion to dismiss.

A motion to reconsider may be granted to correct manifest errors, or in light of newly discovered evidence; such a motion is directed not at initial consideration but reconsideration, and is appropriate only if the court has obviously misapprehended a party's position, the facts, or applicable law, has mistakenly decided issues not presented for determination, or the moving party produces new evidence which it could not have obtained through the exercise of due diligence. *Anderson v. United Auto Workers*, 738 F.Supp. 441, 442 (D. Kan. 1989). See D.Kan.R. 7.3(b). A motion to reconsider is not "a second chance for the losing party to make its strongest case or to

dress up arguments that previously failed.” *Voelkel v. GMC*, 846 F.Supp. 1482 (D.Kan.), *aff’d*, 43 F.3d 1484 (10th Cir. 1994). The resolution of the motion is committed to the sound discretion of the court. *Hancock v. City of Oklahoma City*, 857 F.2d 1394, 1395 (10th Cir. 1988).

The court has reviewed Wallace’s motion for reconsideration, and finds that it does not present any valid basis for the relief sought. Rather, plaintiff’s motion simply reiterates his prior, unsuccessful arguments. Indeed, most of the authorities cited by Wallace in either his original brief (Dkt. No. 48) in support of his motion for reconsideration, or in the subsequent supplemental memorandum (Dkt. No. 49), were authorities mentioned in his earlier pleadings. The remaining arguments and authorities are extensions or amplifications of earlier arguments, representing no valid basis for reconsideration of the court’s Order.

IT IS ACCORDINGLY ORDERED this 27th day of August, 2008, that the plaintiff’s Motion to Reconsider (Dkt. No. 47) is denied.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE