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Microsoft

May 10, 1998

*Via air express courier*

60-7371-0007
DEPARTMENT OF JUSTICE
MAY 11 1998
ANTITRUST DIVISION
SAN FRANCISCO OFFICE

Phillip R. Malone, Esq.
U.S. Department of Justice,
Antitrust Division,
450 Golden Gate Avenue,
Room 10-0101,
San Francisco, CA 94102.

Re: Civil Investigative Demand No. 18140

Dear Phil:

Enclosed please find Microsoft Corporation's Answers to Interrogatories, Civil Investigative Demand No. 18140 (that I have already sent to you via facsimile), a chronology and associated documents as well as the documents responsive to the CID that we have been able to locate in the short period available.

The accompanying material includes information that is confidential and valuable to Microsoft Corporation. We request that you accord it the highest level of confidentiality protection available under compulsory process.

Sincerely,

Diane D'Arcangelo
Corporate Attorney

Enclosures

GOVERNMENT EXHIBIT
1547

"container" is an information source, such as a file on a hard drive or a page on the Web.) This same concept of such browser/shell integration was demonstrated by Bill Gates at Internet Strategy Day on December 7, 1995, and is what underlies the new user interface in Windows 98. Additional contemporaneous documents explaining the benefits to customers and Microsoft of integrating web browsing functionality into the Windows shell are being provided in response to the document requests.

**INTERROGATORY 4**

Describe each reason, and the basis for that reason, that Microsoft concluded or believed that its decision to price and distribute Internet Explorer free or without separate charge would be profitable and that Microsoft would make money from or recoup its investments in the development, marketing, promotion, and distribution of Internet Explorer.

**ANSWER:**

Microsoft has always regarded Internet Explorer technologies as an integral element of Windows 95. Consequently, it did not consider charging separately for those Internet Explorer technologies independent of the rest of the operating system. Licensing Windows is very profitable for Microsoft, making it easy for Microsoft to recoup the amounts it has invested in the development and marketing of Internet Explorer technologies for Windows.

To recover its annual investment of roughly $100 million in Internet Explorer technologies would require only a 3.5 percent increase in units of Windows 95 or Windows 98 licensed. In view of the fact that many of the most important enhancements to Windows 95 and Windows 98 relate to Internet Explorer, Microsoft believes that such a small increase in the licensing of Windows 95 and Windows 98 is easily achievable. As a result, Microsoft will have no difficulty recouping its investments in Internet Explorer technologies.

More broadly, Microsoft views the Internet as central to everything it is doing in the area of software development. Having a widely-used platform for displaying Internet content promotes a wide range of other Microsoft products, and helps grow the entire personal computer industry. That is one of the reasons why Microsoft makes versions of Internet Explorer technologies available free of charge for Windows 3.x, for the Apple Macintosh and

for the Solaris variant of UNIX from Sun Microsystems. With regard to Internet Explorer technologies integrated into Windows 95 and Windows 98, Microsoft's willingness to make upgraded versions available to the installed base of users at no additional charge substantially enhances the appeal of the entire Windows family of products (and is consistent with Microsoft's policy regarding many other upgrades to Windows which are freely available). Users like being able to get the latest level of functionality provided by elements of the operating system (such as Internet Explorer) that are improved frequently without being required to pay Microsoft for an entire new operating system. Finally, the widespread adoption of Internet Explorer technologies is likely to promote the licensing of various other Microsoft products, including server operating systems, various client and server applications, and development tools. These technologies all of which "leverage" Internet Explorer technologies, generate billions of dollars annually in revenue. For example, Windows 95 revenue is approximately $3 billion annually; Office revenue exceeds $4 billion. Therefore, even a small increase in sales of these technologies would account for the costs associated with Internet Explorer. An increase of less than one percent of Microsoft's annual revenue of $11.4 billion would offset the annual development costs of IE technologies.

Microsoft's decision not to charge separately for Internet Explorer technologies in Windows is also consistent with the pricing policies of its competitors. Novell, Sun and IBM have all integrated Internet-related technologies, including web browsing software, without separately charging for that aspect of their operating systems. Such features are added to operating systems without being charged for separately in order to increase the overall appeal of the product, thereby increasing demand for the product and revenues derived from licensing the product. This integration of new features is a routine practice in the software industry.

In addition, as the Division is aware, Netscape web browsing software has always been offered effectively without charge to many users, and is now free to all users. (Netscape officials stated publicly, even before their recent adoption of an "all free" policy, that half or more of Netscape browser users had not paid for the product.)

## INTERROGATORY 5

Identify each current or former Microsoft employee who was responsible for the decision to price and distribute Internet Explorer free or without separate charge and, for each person identified, describe the role of that person in such decision and the date(s) of such decision.

## ANSWER:

Bill Gates, Paul Maritz and others made the decision not to charge for Internet Explorer technologies apart from the price of the operating system. Bill Gates announced that decision during his Internet Strategy Day speech on December 7, 1995. (A copy of that speech is annexed hereto as Exhibit 5.)

## INTERROGATORY 6

For each provision in Microsoft's agreements with OEMs, Internet Content Providers ("ICPs"), Internet Service Providers ("ISPs") and On-line Service Providers ("OLSs") that restricts the ability of the contracting party to place content on, distribute, or promote products that compete with Internet Explorer, explain in detail how that provision benefits (i) Microsoft, and (ii) consumers generally.

## ANSWER:

### OEMs

Microsoft's agreements with OEMs in no way restrict the OEMs ability to place content on, distribute, or promote products that compete with Internet Explorer (assuming there were any products that competed with the Internet Explorer technologies in the sense of providing substitute functionality). OEMs have always been completely free to license, promote, and distribute any web browsing software. Since long before the release of Windows 95, Microsoft's license agreements have provided that OEMs should not modify or delete any part of the Windows program (with limited exceptions related to customizing the operating system for hardware support). With regard to the boot-up sequence, Microsoft's license agreements with OEMs merely require that *the very first time* a consumer turns on their new computer, the Windows operating system is allowed to go through its full start sequence as