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To: Microsoft ATR
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Subject: Changes In Microsoft Policies Over The Past 30-Days Render Settlement Harmless

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TO: Renata Hesse, Trial Attorney
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RE: Microsoft Settlement, getting the big picture.

While I have major concerns regarding (and do not support the signing of) the settlement agreement with Microsoft, I wish to point out several new issues that relate not only to the settlement, but to new activities on the part of Microsoft that leave the settlement quite short in resolving today's and tomorrow's Information Technologies relating to Microsoft.

1) Microsoft has changed part of its business model by modifying how SOME Microsoft applications (not middleware, but applications) work with one another. A perfect example is that in EVERY previous version of Microsoft Word since the creation of Outlook Express (OE) was able to integrate seamlessly with the shared OE / Windows address book. Now however, this integration has been removed from all new applications (post Office 2000). Thus, if you upgrade now, you are FORCED to also upgrade your Email & Address Management from the free Outlook Express to the full blown Microsoft Outlook 2002 product.

This fact alone translates to the following:

- a) Consumers upgrading to the latest versions of Microsoft Application software are promised enhanced functionality, but instead receive REDUCED functionality and interoperability with freeware applications (which are still being support, updated, and released by Microsoft).
- b) Consumers are not told of the reduced functionality. In fact, Microsoft has hidden this issue even from OEMs and dealers.
- c) Consumers upgrading Word or any other application that previously had integration with OE or the Microsoft Middleware "Windows Address Book" will no longer have this interoperable functionality and the wording of the EULA and OEM agreements moves all liability issues from reduced functionality to dealers or the entity deploying the upgrade, leaving Microsoft "held harmless" from liability and forcing consumers from a "Free" solution to a "Purchased Licensed Required" scenario. This represents an unfixable liability to dealers and also potential creates non-rectifiable liabilities for anyone deploying any updates of Microsoft Application software.
- d) This integrated functionality has existed since the creation of Outlook Express, yet Microsoft is now reluctantly stating that the removal of these features "Is not a bug, but rather an interoperability feature removed by Microsoft at their own discretion.
- e) This move represents a monopolistic campaign and marketing strategy in that:

- i. Outlook Express was created to compete as freeware against Netscape Messenger. Now that this threat to Microsoft has been removed, it is no longer necessary to "Give a product away (OE) when Microsoft can force consumers to purchase it (Outlook)".

- ii. There is no liability to Microsoft from enacting this change.

- iii. This move has the potential of creating over a billion dollars in new Outlook 2002 revenues for Microsoft this year, as consumers have no viable alternative for performing these basic tasks.

- iv. Microsoft has also removed this functionality from "Suite" products including Microsoft Works, again, forcing consumers to purchase a second product when the suite previously delivered this functionality.

- v. This represents the perfect example of how the Operating Systems (which includes the "Address Book" application) development is being controlled

and influenced by the Applications division. Removing functionality is the first step (in what will be many) of forcing consumers to purchase multiple products to deliver the same functionality that was previously available for free.

2) Microsoft's latest Operating System includes many new freeware applications that will follow this same model which is:

- a) Release a freeware product (which may have cost hundreds of millions of dollars to create) to eliminate non-freeware competitor application software.
- b) Consume market share through delivering these applications via Operating System releases. (As is the case with Media Player, Outlook Express, Internet Explorer, Messenger, etc.)
- c) Create Application smart tags which utilize security protocols thus preventing competitors from delivering this same functionality due to Microsoft's settlement agreement which would allow them to keep this information proprietary as "Application Software Functionality" and NOT middleware or API functionality.
- d) Wherever possible, once the market has been saturated, remove application integration features so that they only work with software that must be purchased (as they have just done with Word/OE)

In this regard, Microsoft eliminates "Middleware" and instead leverages "Application Integration" features which are exempt from the settlement agreement.

The bottom line is that they are making a shambles out of the entire case by moving OEM relationships and Middleware issues to the forefront. Behind closed doors, Microsoft is instead redefining middleware by more tightly integrating applications and proprietary cross-application functionality. At this point, the concern should not be how these changes affect OTHER software manufacturers, (which is serious enough on its own) but rather how the settlement affects how Microsoft will integrate application functionality with previously delivered Operating System to Applications features. This now evident threat extends to all Microsoft applications including those delivered in its newest Operating Systems including:

- a) Outlook Express
- b) Internet Explorer
- c) Media Player
- d) Messenger
- e) Remote Assistance
- f) Disk Defragmenter
- g) Internet Connection Sharing
- h) Internet Connection Firewall
- i) Windows Address Book (Delivered with Windows XP, but now not functional with other Windows Based Application Software beyond Outlook Express)
- j) Remote Desktop
- k) Internet Information Service (IIS)

The fact remains that each listing above is application software by definition, yet Microsoft has somehow been able to disguise them as part of the Operating System.

As time progresses, Microsoft will now continue to further evolve fee based application software to replace these "Free" applications while in each new release and update they have and will continue to slowly remove integrated functionality in favor of forcing the consumer to purchase a retail equivalent by completing the steps outlined in Sections 2a through 2d. This is no longer a theory of motive operandi but rather one that had been successfully practiced by Microsoft in the past 30 days.

What this means, is that eventually you will see full-retail application versions of EACH AND EVERY application mentioned above and that ONLY by purchasing these products will you obtain the same functionality that

you had previously. In other words, upgrading means losing functionality of your previously licensed applications

I additionally have several other examples of newly discovered reduced functionality that not only concern me as a dealer, but also as a Computer Manufacturer. Unfortunately, I have had no success in resolving these issues with Microsoft as they are now stating officially that these problems are not bugs (which would be the assumption when you lose a feature that you previously had) but rather "Changes in the company policies regarding integration with freeware". As the settlement agreement NEVER mentions how Microsoft will deal with Microsoft integrations of Microsoft Applications, they are therefore left with a big fat loophole in the settlement agreement which gives them license to create freeware to eliminate application software competition, then saturate the market via Operating System deployments and then remove the functionality of this freeware once market dominance has been achieved. A conscious M-O-N-O-P-O-L-Y!

My primary concern at this point is the liability of my company when performing updates. It is conceivable that I will be liable to purchase Outlook 2002 for every customer that had Only Microsoft Word or any office suite that does not include Outlook 2002 on the grounds that if I remove functionality by implementing the update, I can be held directly liable to the consumer. Thus, this move places my company at high risk of law suits from both Consumers here in New Hampshire as well as our clients in other states throughout the United States. Furthermore, the official line from Microsoft is that there is no remedy of liability from reduced functionality between consumers and Microsoft, but rather we alone (those deploying updates) are liable for any impacts to consumers. In other words, Sue your dealer, not Microsoft. As Microsoft actively promoted this functionality through intense marketing campaigns (including information that you can still view on their website), this is furthermore a blatant example of "Bait and Switch".

In summary, this model gives Microsoft the ability to develop any application software they want (at any cost to the company), give it away until the competition for that product is eliminated and then change the configuration of how that application is used to force the consumer to then purchase the product.

Should you have any questions, comments or wish to discuss these dramatic new changes in Microsoft development practices and marketing strategies, please contact me at your earliest convenience.

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