

From: Brent J. Nordquist
To: Microsoft ATR
Date: 1/18/02 9:36am
Subject: Microsoft Settlement

To Whom It May Concern:

As a software professional of over 10 years experience, I have significant concerns that the proposed settlement is inadequate to provide redress for Microsoft's proven, illegal use of their monopoly power, and to prevent them from continuing this pattern in the future. Here are my concerns:

(1) The disclosure of APIs for the purposes of interoperability is a very important measure, and I applaud its inclusion. Vibrant competition in any market produces the best result for consumers; for example, the x86 instruction set, the recent heated competition of Intel and AMD, and the resulting increase in processing power per unit cost demonstrates this point. However, the security exceptions given in III.J.1 and III.J.2 will give Microsoft the loophole they need to refuse to document modern APIs which increasingly have security built into them. Microsoft's hold on such APIs as WIN32, such protocols as SMB (file sharing), and such file formats as Microsoft Word .doc files, and Microsoft's strategy of altering and not fully documenting them with every release, is one of the ways they preserve their monopoly status and force consumers to upgrade, to the detriment of consumer choice and healthy competition.

Certainly "keys [and] authorization tokens" are properly excluded, but the settlement wording should be strengthened to specifically require not only the complete documentation for every API, but also a fully functional reference implementation of each API. This is how Internet standards (such as RFCs and IETF standards) are handled. Anyone who says that an API or reference implementation cannot be fully provided due to security concerns is relying on "security by obscurity" and does not understand how computing security really works.

(2) The conduct of Microsoft in question resulted in their making profits far above what a free, competitive market would have allowed, on the basis of their illegally-maintained monopoly status. This profiting was to the detriment of consumers worldwide. The settlement is wholly inadequate in providing compensation to the consumers who were so negatively impacted. Any settlement should include a substantial refund to consumers who purchased Microsoft products (directly, or through OEM agreements with hardware vendors). The penalty should be sizable enough (given Microsoft's size and resulting extremely large sales and profit numbers) to serve as a deterrent to future illegal conduct.

Respectfully submitted,

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