

From: Andy Lubbers
To: Microsoft ATR
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Subject: Microsoft Settlement

The PFJ contains misleading and overly narrow definitions and provisions, such as the following:

The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered.

The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.

The PFJ allows users to replace Microsoft Java with a competitor's product -- but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware.

The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box -- operating systems that all use the Win32 API and are advertized as being "Windows Powered".

The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware -- but only after the deadline for the ISVs to demonstrate that their middleware is compatible.

The PFJ requires Microsoft to release API documentation -- but prohibits competitors from using this documentation to

help make their operating systems compatible with Windows.

The PFJ does not require Microsoft to release documentation about

the format of Microsoft Office documents.

The PFJ does not require Microsoft to list which software patents

protect the Windows APIs. This leaves

Windows-compatible operating systems

in an uncertain state: are they, or are they not

infringing on Microsoft software patents?

This can scare away potential users.

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