

From: Mitchell Tasman
To: Microsoft ATR
Date: 1/23/02 11:57pm
Subject: Microsoft Settlement

Dear Sir or Madam:

I am submitting this e-mail in response to your solicitation of public comment on the proposed settlement with Microsoft.

I believe that the settlement, as currently drafted, is wholly inadequate, and would not serve the public interest.

Given Microsoft's position as a monopoly provider of operating systems, it is critical that all external communications protocols be documented, and available for implementation in any competing operating system, INCLUDING especially "freely licensed" software such as Linux or FreeBSD.

One way that Microsoft maintains its monopoly is by tying its product suite together via proprietary external communications protocols. For example, a Microsoft desktop operating system may only work, or only work well, when communicating with a Microsoft server operating system, and vice-versa. A Microsoft web browser may only work, or only work well, when communicating with a Microsoft web server.

A Microsoft mail client may only work well when communicating with a Microsoft mail server. And further, Microsoft might choose to withhold components such as a web browser or a mail client from competing (e.g., freely licensed) operating systems. If the external communications protocols remain proprietary, then it is impossible, or at best impractical, for third parties to create compatible applications that run on competing operating systems.

I believe that any settlement must include the following two protections:

1. Microsoft must document any and all external communications protocols, including those between client and server operating systems, and also those between client and server applications, and make this documentation publicly available.
2. Microsoft must allow these protocols to be implemented by third parties, without threat of litigation or assertion of intellectual property rights. Without these protections, it will be impossible for freely licensed operating systems such as Linux and FreeBSD (or anyone else) to have a chance of competing with the Microsoft monopoly.

I would suggest a third protection as a means to ensure ongoing compliance:

3. Microsoft or a third-party must create a reference implementation based on the documented communications protocols, and make the resulting source code freely and publicly available. If this reference

implementation is shown to be incompatible with the documented communications protocols, Microsoft shall be required to either:

- a. identify the programming errors in the reference implementation that are causing the incompatibility.
- b. OR if the documentation is in error, Microsoft must publish corrected documentation.

This compliance process would iterate, until it was eventually shown possible to create a third-party implementation that interoperates with the monopoly Microsoft products. Of course, the documentation, and thence the reference implementation, would need to be updated as Microsoft releases new products, and new versions of existing products.

Thank you for taking the time to read my comments.

Sincerely,
Mitchell Tasman, Ph.D.