

**From:** Michael.Ronayne@PearsonTC.com@inetgw  
**To:** Microsoft ATR  
**Date:** 1/26/02 9:08am  
**Subject:** Microsoft Settlement

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To: Renata B. Hesse  
Antitrust Division  
U.S. Department of Justice  
Re: Microsoft Settlement  
From: Michael E. Ronayne  
88 Satterthwaite Avenue  
Nutley, New Jersey, 07110  
Date: January 26, 2002

I wish to go on record as supporting Microsoft in the current Microsoft Settlement case. While I believe that the original antitrust case should never have been brought against Microsoft and the judicial decisions in the case were seriously flawed, in the interests of both the national defense and the economy of the United States, this case must be brought to a swift and just conclusion. If the national condition were other than it is, I would have urged Microsoft to pursue every avenue of legal redress, to fight the decisions in this case. However, if Microsoft and the Department of Justice have reached an agreement to settle this case, then the terms of the agreement should be implemented quickly, in the national interest.

One of the key arguments against Microsoft in this case involves the struggle between Microsoft and Netscape for market share in the Internet Web Browser market. In this struggle, Netscape is portrayed as the victim who was unjustly deprived of market share by Microsoft. I believe a careful examination of the historical record will show that Netscape's rights to the software they claimed to have developed are not supported by the facts. The reality is that both Netscape's and Microsoft's web browsers are totally based on a web browser development project funded by the National Science Foundation, a branch of the Government of the United States. By distributing Internet Explorer at no cost, Microsoft was enabling software which had been funded by the American people.

### History Of Internet Explorer

Every copy of Microsoft Internet Explorer contains the following statement in the "Help" / "About Internet Explorer" pull-down window:

"Based on NCSA Mosaic. NCSA Mosaic(TM); was developed at the National Center for Supercomputing Applications at the University of Illinois at Urbana-Champaign. Distributed under a licensing agreement with Spyglass, Inc. Contains security software licensed from RSA Data Security Inc. Portions of this software are based in part on the work of the Independent JPEG Group. Multimedia software components, including Indeo(R); video, Indeo(R) audio, and Web Design Effects are provided by Intel Corp. Unix version contains software licensed from Mainsoft Corporation. Copyright (c) 1998-1999 Mainsoft Corporation. All rights reserved. Mainsoft is a trademark of Mainsoft Corporation. Warning: This computer program is protected by copyright law and international treaties. Unauthorized reproduction or distribution of this program, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law."

The above statement is in my opinion, is one of the best defenses Microsoft can put forward to show that their business practices with regards the marketing of Internet Explorer was completely justified and in fact quite honorable.

The first successful web browser was Mosaic (1, 2 & 3), which was developed at the National Center for Supercomputing Applications (NCSA), a unit of the University of Illinois at Urbana-Champaign. The Time Line for Mosaic (4, 5 & 6) is as follows:

### Mosaic Timeline

Phase 1 (1987-1992/12): Work leading up to the idea to do Mosaic.  
Phase 2 (1992/12-1993/11): Implementation and early adoption of mosaic and NCSA HTTPd by brave souls.  
Phase 3 (1993/12-1994/5): Killer-app phase, when the world recognized that this was the next big thing in IT.  
Phase 4 (1994/5-1997): Commercialization phase. NCSA continued to develop and improve Mosaic, but the big news was that Netscape was formed and Microsoft transformed itself to make the Web integral to its long-term strategy. It was during this phase that the world's economic and communications structures were changed forever.

In mid-1994 Marc Andreessen, a principle Mosaic developer and recent UIUC graduate, and Jim Clark, the Silicon Graphics founder, founded Mosaic Communications, which was later renamed Netscape Communications (5 & 6). On October 13, 1994 Marc Andreessen announced the availability (8 & 9) of the Mosaic Netscape Beta v0.9. The most interesting item in the announcement was the following:

"Mosaic Netscape is a **built-from-scratch** Internet navigator featuring performance optimized for 14.4 modems, native JPEG support, and more."

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In short, Marc Andreessen developed an entirely new browser in four months, an effort which had previously taken two years, while he was a student at UIUC. As UIUC still had a product named Mosaic, with an installed base of several of several million users world wide (7), Netscape had to drop the word Mosaic from their product and company names. Other than the issue pertaining to the use of the word Mosaic, there apparently was no other interaction between Netscape and UIUC. The two questions which beg to be asked are, what are the similarities between early versions of Mosaic and Netscape and was Netscape development initiated while Marc Andreessen was in the employ of UIUC?

With the launch the first commercial version of Netscape in December 1994, Microsoft licensed Mosaic (7) from Spyglass, Inc, a licensing company created by UIUC to facilitate to commercial distribution of Mosaic to over 100 companies (6). Evidently, Netscape was not a Spyglass licensee. In August of 1995, Microsoft launched Internet Explorer v1.0 and the rest is history. From the release of the first version of IE, Microsoft stated that it was its intention to bundle the browser as an integrated component its operating systems.

The reality is that both Netscape and Internet Explorer are directly derived from NCSA Mosaic, Netscape through a re-engineered version of the source code and Internet Explorer directly from the original source code. While NCSA Mosaic is owned by UIUC, the critical question is who paid for the research and development costs of Mosaic? The answer is that Mosaic's development was funded by the National Science Foundation's (NSF) Supercomputer Centers program, a branch of the Government of the United States.

It was not Microsoft who harmed Netscape, but Netscape who harmed UIUC and Spyglass. It was Microsoft who rescued the intellectual property rights entrusted to UIUC by the National Science Foundation. For the reasons which I have sighted, Netscape's allegations against Microsoft should be inadmissible. Without Netscape as a plaintive there is no case against Microsoft.

### **Citations**

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2. "NCSA Mosaic History" <http://archive.ncsa.uiuc.edu/General/CommGroup/MosaicHistory/timeline.html>
3. "NCSA Mosaic History" <http://www.ncsa.uiuc.edu/Divisions/Communications/MosaicHistory/>
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6. "NSF Initiative Leads to NCSA Mosaic and E-Commerce" <http://www.ncsa.uiuc.edu/Divisions/Communications/MosaicHistory/impact.html>
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8. "Here it is world!" <http://groups.google.com/groups?selm=MARCA.94Oct13005712%40neon.mcom.com>
9. "Mosaic Netscape is out the door..." <http://www.w3.org/Style/History/www.eit.com/www.lists/www-talk.1994q4/0187.html>

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