

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT IN CIVIL ACTION NO. 94-1564

SIGNED BY GARY REBACK

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Ruling still lets firm incorporate apps in its OSes.

Clerk, U.S. District Court

District of Columbia

BYLINE: Michael Csenger and adam Gaffin

BODY:

Washington, DC

The antitrust settlement Microsoft Corp. reached with the Justice Department skirted an issue central to network users, paving the way for the software giant to continue integrating applications with its desktop and network operating systems.

The consent decree, announced July 16, focused almost entirely on the way Microsoft sold operating systems to hardware vendors. But it does not prevent the company from integrating applications into the operating system itself.

Competing software vendors such as Lotus Development Corp. had long alleged that Microsoft's applications division received unfair information from its operating systems division that gave the company a leg up on the competition.

Some analysts and users said the decree, which also poses stricter controls on the royalties Microsoft can collect from personal computer vendors, leaves the path clear for Microsoft to mop up competitors that sell stand-alone applications, resulting in more limited user choice down the road.

#### SEPTICISM

But others said Microsoft has yet to prove to the market that it has operating systems and networked applications worth betting a business on. "A lot of its networking products are either futures or first-generation products," said Jamie Lewis, president of The Burton Group, a Salt Lake City consulting firm. The company faces entrenched and growing user bases for both Novell, Inc.'s NetWare operating systems and Lotus' Notes groupware applications, he said. Users also expressed skepticism.

"Microsoft promises Chicago and Cairo and a whole lot of networking, but the question is, will it work before they run out of cities to name these things after?" quipped a network manager whose major brokerage house network runs on Unix.

Windows NT is not a truly open environment, he said, "Because if Gates doesn't have it then neither do you, and I'd rather not put myself in his hands. That's why we've standardized on Unix for our trading floor."

Frank Caro, technology transition team leader for Otis Elevator Co. in Farmington, Conn., cited interoperability problems with Microsoft's current Windows implementation of Transmission Control Protocol/Internet Protocol as an example of the company's network shortcomings.

"We've been trying to get into the networking capability of Microsoft's products and find there's one con, non theme: NETBIOS," Caro said. Microsoft does not yet support native TCP/IP, but uses NETBIOS or NETBEUI encapsulated within TCP/IP, he said.

"We're totally uninterested in any approach like this; it can't handle a network of more than 50 users and is terrible over the wide area," Caro said.

And Windows NT has proved unable to handle the applications that Otis wants to take off its mainframe system, because Windows NT is not a multiuser environment.

But Caro respects Microsoft's ability to change course as necessary and awaits the promised native TCP/IP support in Chicago.

"That one feature alone is going to cause dramatic change in network connectivity," said Nick Lippis, principal at Strategic Networks Consulting, Inc. in Rockland, Mass., referring to Windows' TCP/IP.

Native TCP/IP support for Chicago could help Microsoft cut into Novell's installed NetWare client base by providing an alternative to Novell's Internetwork Packet Exchange (IPX) protocol. If the desktop operating systems supported TCP/IP directly, "why continue with IPX?" Lippis asked.

#### NOVELL NOT WORRIED

"I laugh when I hear people say it's all over for Novell now, we should pack up and go home," said David Bradford, vice president and general counsel for Novell.

"Microsoft has come against Novell [several] now with their networking products, and we've beat them every time," Bradford said.

Bradford also noted that this consent decree does not close Microsoft's books forever. "They will be monitored, perhaps even more so than before," he said. "The industry and consumers have an ally in the Justice Department."

Frank Dzubeck, president of Communications Network Architects, Inc., in Washington, DC, agrees that the case may not yet be closed.

"If Microsoft gets very aggressive and starts burying things in their operating systems, then this whole issue will be revisited, he said. But it will require that another company first go bankrupt."

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Business Day

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The New York Times

Microsoft's Barely Limited Future

By JOHN MARKOFF

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SAN FRANCISCO, June 17—Rath?? than reining in the Microsoft Corporation, the consent decree that the Justice Department announced over the weekend with Microsoft, the world's largest software publisher, frees the company to define the computer industry's ground ?? through the rest of the decade.

The agreement leaves ??intouched what many computer in??ustry executives say is

Microsoft's ?? advantage—that it devel??ps both the basic operating-system ??software that makes personal com??ters run, known as MS-DOS, and ??pphactons software, like word-pro??essing programs or spreadsheets, ??nat perform spec?? ??

"Microsoft's whole empire is based in the interlocking nature of their ??perating-system and application software," said William Joy, a ??ounder of Sun Microsystems, and the ??uthor of one version of the Unix Perating system.

??Vol a Central Issue Microsoft officials said Saturday ??nal issues related to the relationship ?? their operating software and their ??ppicaons programs had not been ??ocus of their ?? nego??anons with us??ce Department officials.

MS-DOS and the Windows proram, which makes DOS easier to ?? are installed in millions of com. ?? worldwide White the Jusuce ??epartment has decided that Micro?? does have a monopoly in opera?? ?? systems, it ?? that the ?? changes the c??unsent decree spells ??ut provide a remedy.

Yet many Microsoft compet??nors ??ce a broader problem, as well: the ??ne between where the operating system ends and the applications pro??las start is increasingly being ??lurred by advances in technology. ??Smaller compe??tors with innovave ideas in businesses as diverse as ?? man. ?? compression,

?? creates more storage space on disk, and screen savers, which pre?? ent damage to mounors, are finding ?? their business is evaporating because Microsoft keeps adding such programs to ?? operating system as ?? periodically brings out an updated version.

A Microsoft's operating system scheduled for release next year, called Chicago, will accelere?? the process The program will mer??e DOS and Windows and will include electronic mail, remote access, filesearching functions and screen savers. Since introducing MS-DOS in 1981.

Microsoft has continually campaigned to expand the ?? of what computing functions belong inside the computer operating system.

The early vers?? of DOS were small programs that did ?? more than control the storage and ?? of data and start and stop applications programs. But in the 14 years that followed, Microsoft's ??rating systems have greatly expanded the servtees they provide to users and programmers The other important issue not specifically addressed in the consent decree is whether Microsoft has been able to leverage us virtual monopoly ?? operating systems into domination of applications software—a far bigger and more lucrative market This matter is of great concern to companies like Lotus Development.

Boarland International and Novell, and its recently acquired Wordperfect—which specialize in applications software. About half of the 50 million computers that run Windows, for example use Microsoft's word processor, called Word, and its spreadsheet, Excel.

It was for that reason that lawyers at the Federal Trade commission toyed two years ago with the idea of breaking Microsoft into two companies, More recently, Justice Department investigators are believed to have