

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1232 (CKK)

STATE OF NEW YORK, *et al.*,

Plaintiffs

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1233 (CKK)

ORDER

In light of the recent tragic events affecting our Nation, this Court regards the benefit which will be derived from a quick resolution of these cases as increasingly significant. Accordingly, to avoid the expenditure of the parties' financial resources on litigation costs which will surely be incurred if these cases continue to be litigated, the Court will order the parties into settlement for a fixed period of time, commencing as of the date of this Order and expiring on November 2, 2001. The Court expects that during this time the parties and counsel will fully

expend and concentrate all of their resources upon resolving these cases through a fair settlement for all parties. If the cases have not been fully resolved through settlement by November 2, 2001, then the Court will proceed with the scheduling order to be addressed at the September 28, 2001, scheduling conference and entered immediately thereafter.

The parties have indicated that if the cases are to be settled they can best resolve these cases without the assistance from a mediator. It has been three months since the appellate court rendered its decision with no resolution reached by the parties. The Court will give the parties until October 12, 2001, to settle the cases on their own. However, if at the end of that time, they have not been fully successful, the parties shall submit to Chambers, on October 12, 2001, the name of an agreed-upon individual to act as facilitator/mediator to assist the parties in their efforts. If the parties cannot agree upon an individual, then the Court will appoint such an individual to act as their facilitator/mediator. Any payment due the facilitator/mediator shall be borne equally among the three parties. At ten-day intervals, without disclosing or discussing the contents of the settlement discussion, the parties shall participate in a conference call to apprise the Court of their progress in settling the cases. The Court will not entertain any requests for extensions of the deadlines.

The Court cannot emphasize too strongly the importance of making these efforts to settle the cases and resolve the parties' differences in this time of rapid national change. The claims by Plaintiffs of anticompetitive conduct by Microsoft arose over six years ago, and these cases have been litigated in the trial and appellate court for over four years. As the Court of Appeals has noted, the relevant time frame for this dispute spans "an eternity in the computer industry." The Court expects that the parties will act in good faith and will engage in an all-out effort to settle these cases, meeting seven days a week and around the clock, acting reasonably to reach a fair

resolution.

Based on the foregoing, it is this ___ day of September, 2001, hereby

ORDERED that all proceedings in the above captioned cases are stayed until November 2, 2001; and it is further

ORDERED that during this time, counsel shall focus all of their attention on the settlement of these cases; and it is further

ORDERED that the parties shall be permitted to proceed without a facilitator/mediator until October 12, 2001, and thereafter until a facilitator/mediator is appointed; and it is further

ORDERED that if no resolution is reached by October 12, 2001, on that date, the parties shall submit to Chambers the name of an agreed-upon individual to serve as a facilitator/mediator; if the parties are unable to agree upon such an individual, the Court will appoint such an individual to serve as a facilitator/mediator; and it is further

ORDERED that the parties shall participate in a conference call to Chambers on October 12, 2001, and on October 22, 2001, wherein the parties shall report the status of their negotiations to the Court.

SO ORDERED.

COLLEEN KOLLAR-KOTELLY
United States District Judge