

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1232 (CKK)

Next Court Deadline:

September 11, 2007 Status Conference

**JOINT STATUS REPORT ON MICROSOFT'S
COMPLIANCE WITH THE FINAL JUDGMENTS**

The United States of America, Plaintiff in *United States v. Microsoft*, CA No. 98-1232 (CKK), and the Plaintiffs in *New York, et. al. v. Microsoft*, CA No. 98-1233 (CKK), the States of New York, Ohio, Illinois, Kentucky, Louisiana, Maryland, Michigan, North Carolina, and Wisconsin (the "New York Group"), and the States of California, Connecticut, Florida, Iowa, Kansas, Massachusetts, Minnesota, Utah, and the District of Columbia (the "California Group") (collectively "Plaintiffs"), together with Defendant Microsoft, hereby file a Joint Status Report on Microsoft's Compliance with the Final Judgments, pursuant to this Court's Order of May 14, 2003.

I. INTRODUCTION

At the June 26, 2007, Status Conference, the Court directed the Plaintiffs to file a Status Report updating the Court on activities relating to Microsoft's compliance with the Final Judgments entered in *New York, et. al. v. Microsoft*, CA No. 98-1233 (CKK), and in *United States v. Microsoft*, CA No. 98-1232 (CKK).

The last Status Report, filed June 19, 2007, served as a six-month report, containing certain relevant information requested by the Court. Order at 1-3 (May 14, 2003). This Report is an interim report relating only to recent enforcement activities. Section II of this Report discusses Plaintiffs' actions to enforce the Final Judgments; this section was authored by Plaintiffs. Section III discusses Microsoft's efforts to comply with the Final Judgments; this section was authored by Microsoft. Neither Plaintiffs nor Microsoft necessarily adopts the views expressed by the other.

II. UPDATE ON PLAINTIFFS' EFFORTS TO ENFORCE THE FINAL JUDGMENTS

A. Section III.E (Communications Protocol Licensing)

Plaintiffs' work concerning Section III.E and the Microsoft Communications Protocol Program ("MCP") continues to center on efforts to improve the technical documentation provided to licensees. In particular, Plaintiffs, in conjunction with the Technical Committee ("TC") and Craig Hunt, the California Group's technical expert, are monitoring Microsoft's project to rewrite the technical documentation that has been described in detail in recent status reports.¹

¹ The TC is working closely with Mr. Hunt on all of these technical documentation issues. References to Microsoft working with the TC throughout this report should be taken to

Since the prior Joint Status Report, the technical documentation project has proceeded according to schedule and Plaintiffs are encouraged by the quality of the new documents. Microsoft has produced the initial availability version of Milestone 5. The TC's preliminary analysis of these documents indicates that Microsoft is maintaining the quality levels it achieved with previous milestones. As noted in previous reports, it will not be possible to draw any final conclusions about the quality of the documentation until significant additional testing is completed.

One issue worthy of mention has developed during review of the documentation. The TC discovered that a number of protocol elements included in the original documentation were no longer present in the revised documentation. The TC, however, had expected that Microsoft would discuss with the TC any such "deletions" prior to removing the relevant technical descriptions. The TC brought this issue to Microsoft's attention, and Microsoft has agreed to manually review the revised documentation to locate any additional examples of the deletion of protocol elements. Microsoft and the TC will then discuss each identified element to determine whether revisions to the new documentation are necessary.

Microsoft will deliver the "online build" of Milestone 5 on September 28, 2007. Microsoft has committed to producing, at the same time, a final set of overview documents that explain how all of the protocols work together. As these documents are essential to ensure that licensees can make full use of the documentation to effectively implement all of the communications protocols, the TC will be reviewing them closely when they are produced.

include Mr. Hunt as well.

In the prior Joint Status Report, Plaintiffs informed the Court that the TC, working in conjunction with Mr. Hunt, would review the audit that Microsoft conducted to determine whether all necessary protocols are included in the MCPP. As noted in the prior Joint Status Report, the TC retained a consulting firm to review Microsoft's protocol audit process by analyzing the procedures established by Microsoft and the manner in which Microsoft implemented those procedures. This firm submitted its report on August 29. Plaintiffs, the TC, and Microsoft are reviewing the report, and will be discussing what additional steps, if any, need to be taken to assure that all necessary protocols are included in the MCPP. The parties will report further to the Court at the status conference. The TC has also retained a second consulting firm to develop programmatic methods for searching the Windows source code to identify communications protocols that should have been considered for inclusion in the MCPP; this work is underway.

B. Section III.C, III.D and III.H (Competing Middleware and Defaults)

1. *General Activities*

Plaintiffs, with the assistance of the TC, continue to monitor developments regarding Windows Vista, Microsoft's successor to the Windows XP operating system, to assure compliance with the Final Judgments. This includes ongoing testing by the TC of the final versions of Windows Vista, Windows Media Player 11, and Internet Explorer 7 to discover any remaining middleware-related issues.

As detailed in prior Status Reports, the TC and Microsoft are both working to help ensure that middleware ISVs achieve "Vista-readiness" by taking full advantage of the default-related features in Vista. The TC has continued to focus its efforts on meeting with a range of third-

party middleware ISVs to demonstrate the tools the TC has developed that can assist the ISVs in properly registering their products in Vista. During these meetings, the TC also provides assistance with any issues that the ISVs are having with the Default Programs interface in Vista. The TC is also holding a series of meetings with leading PC OEMs to discuss issues relating to middleware, the default mechanisms in Vista, and the options available to OEMs under the Final Judgments. Companies have uniformly reported to the TC that these meetings have been extremely productive.

As noted in the previous status report, with the impending expiration of the relevant portions of the Final Judgment approaching, the TC identified a number of remaining middleware-related bugs and requested that Microsoft address these issues. A number of the proposed fixes have been provided to the TC, which is currently testing them and working with Microsoft to ensure that everything is resolved satisfactorily well in advance of the expiration of the Final Judgments. The remaining fixes requested are expected to be supplied to the TC in the coming weeks, in time for thorough testing prior to expiration of the Final Judgments.

The TC's discussions with Microsoft relating to the transition of the TC's testing methods and tools upon expiration of the middleware-related portions of the Final Judgments are continuing, and the TC believes this is progressing smoothly. Microsoft has publicly committed that it will continue to apply the middleware-related principles embodied in the Final Judgments to its products even after November. Plaintiffs continue to believe that for this commitment to prove meaningful, Microsoft must implement robust internal testing methods that provide the same level of rigor as the TC's work; otherwise, these principles will merely be aspirational in nature, and will provide little benefit to competition or the industry.

2. *Desktop Search Resolution*

Plaintiffs reported in the last status report that they had reached an agreement with Microsoft to resolve any Final Judgment concerns relating to the desktop search functionality in Windows Vista. To implement this agreement, Microsoft developed a specification, in consultation with Plaintiffs and the TC, that describes how the changes to desktop search functionality will be programmed. Microsoft has provided the TC with a test version of Windows Vista that includes the agreed-upon changes. Preliminary testing by the TC indicates that it works as expected, though of course more thorough testing will be required to confirm this initial conclusion. Microsoft will provide the necessary technical documentation to the industry describing the new default desktop search mechanism and enabling other desktop search companies to design their products to optimize their priorities on the computer and minimize any impact on performance. Microsoft has recently provided the Plaintiffs and the TC with a draft of this documentation. Microsoft expects to release the documentation to industry participants as soon as it is finalized; the documentation will be released no later than the distribution of a beta of Service Pack 1 containing the agreed-upon changes, which will take place in September.

III. UPDATE ON MICROSOFT'S COMPLIANCE WITH THE FINAL JUDGMENTS

In this section of the report, Microsoft focuses on its compliance work relating to Sections III.E and III.H of the Final Judgments. In addition, this section briefly summarizes the activities of the compliance officers under the Final Judgments, as well as the inquiries and complaints received by Microsoft since the June 18, 2007 Joint Status Report.

A. Section III.E (Communications Protocol Licensing)

1. MCPP Status Update

In total, there are 41 companies licensing Communications Protocols pursuant to Section III.E of the Final Judgments. Since the previous Joint Status Report, one additional firm, Balabit IT Security, has executed a royalty-bearing MCPP license for the Proxy/Firewall/NAT tasks. Balabit IT Security develops specialized network security solutions.² Microsoft currently is in discussions with several other prospective licensees and is continuing its extensive outreach and “evangelism” efforts to advertise and promote the MCPP. Currently, Microsoft is aware of 13 licensees that are shipping products under the MCPP.

Since the last Joint Status Report, Microsoft has continued to actively promote offers for MCPP licensees to receive Technical Account Manager support and to obtain access to Windows source code at no additional charge. To date, ten licensees have signed up with Microsoft to receive free Technical Account Manager support, and five licensees have signed up for Windows source code access. Microsoft is in contact with several other MCPP licensees who are considering signing up for one or both of these offers. In addition, 15 licensees have

² Because one of the previous MCPP licensees, Wadin Digital Technology Corporation, has ceased business operations, the total number of MCPP licensees remains at 41 (including 29 royalty-bearing licensees) despite the addition of one licensee during the reporting period.

signed the “Longhorn Server Development Agreement,” which provides licensees access to information and documentation for the forthcoming Longhorn Server product.

2. *Microsoft’s Progress in Modifying the Technical Documentation*

As of July 20, when Microsoft delivered the Initial Availability of Milestone 5 documents, all of the revised MCPP documentation was made available to licensees. The following chart details the number of documents³ that Microsoft delivered in each milestone:

Milestone	Initial Availability to Licensees	Number of Documents
Milestone 1	Delivered	31
Milestone 2	Delivered	24
Milestone 3	Delivered	38
Longhorn Milestone	Delivered	29
Milestone 4	Delivered	34
Milestone 5	Delivered	47

Since the previous Status Report, Microsoft also provided the Online Build documentation for Milestone 4 on August 10, 2007. Microsoft is on track to produce the Online Build documentation for Milestone 5 according to schedule on or before September 28, 2007.

Microsoft also is continuing its ongoing work to provide an XML markup of the technical documentation that the Technical Committee and Mr. Hunt (collectively referred to as

³ As explained in previous status reports, the precise number of documents that Microsoft planned to produce in connection with the MCPP documentation was likely to be adjusted as the documentation was being rewritten and the project moved toward completion. Accordingly, the number of documents produced as part of Milestone 5 was adjusted from 45 to 47. Future minor adjustments remain possible as Microsoft works to complete the project.

the “TC”) plan to use in connection with their internal testing efforts. Microsoft will continue to modify the XML markup as the TC’s testing work moves forward and as new information is received and changes are requested by the TC.

3. *Current Status of Microsoft’s Progress in Resolving Technical Documentation Issues (“TDIs”) through July 31, 2007*

As noted in previous Status Reports, Microsoft is working to address the TDIs in the old technical documentation in the course of rewriting the new technical documentation.

Accordingly, Microsoft will review the Online Build documentation for each Milestone as it is produced to ensure that all previously existing TDIs relating to that Milestone (including those that were previously closed and those that were not addressed in the old documentation) are addressed. Based on this review, Microsoft now has closed all of the TDIs addressed by the Milestone 1, Milestone 2, Milestone 3, and Longhorn Milestone documentation.⁴ Microsoft also has proposed resolutions for all of the TDIs addressed by the Milestone 4 documentation, which the TC is in the process of reviewing.

The current status of TDIs in the old documentation for the previous month is set forth below. Overall, the total number of outstanding old TDIs has continued to drop as Microsoft anticipated at the beginning of the rewrite project.

⁴ The content of one TDI that was originally assigned to a document delivered in Milestone 2 has been moved to a supplemental document and will be addressed as part of that release.

Old Document TDIs	As of 6/30/2007	Period Ended 7/31/2007
60-Day TDIs Submitted by the TC		
Submitted this period		0
Closed this period		21
Outstanding	55	34
Other TDIs Submitted by the TC		
Submitted this period		0
Closed this period		42
Outstanding	251	209
TC Subtotal Outstanding	306	243
TDIs Identified by Microsoft		
Identified this period		0
Closed this period		12
Outstanding	12	0
Total Outstanding	318	243

Microsoft will continue to update the Court regarding its progress in resolving TDIs from the old documentation. Moreover, the TC will continue to identify TDIs in the old documentation until the rewrite project is complete.

Given the volume and complexity of the new technical documentation, it is inevitable that additional TDIs will emerge in the newly rewritten documentation, even as TDIs in the old documentation are being resolved. The TC will identify all TDIs in the new Online Build documentation according to the three priority levels that were described in the March 6, 2007 Joint Status Report. In addition to TDIs identified by the TC, Microsoft will continue to track and report the number of TDIs that have been self-identified through Microsoft's testing efforts, as well as those submitted by licensees.

The current status of TDIs identified in rewritten documentation through March 31, 2007, is noted in the chart below.⁵

Rewritten Document TDIs	As of 6/30/2007	Period Ended 7/31/2007
Priority 1 TDIs Submitted by the TC		
Submitted this period		40
Closed this period		12
Outstanding	36	64
Priority 2 TDIs Submitted by the TC		
Submitted this period		343
Closed this period		52
Outstanding	96	387
Priority 3 TDIs Submitted by the TC		
Submitted this period		59
Closed this period		29
Outstanding	21	51
TC Submitted		442
TC Closed		93
TC Outstanding	153	502
TDIs Identified by Microsoft		
Identified this period		167
Closed this period		135
Microsoft Outstanding	177	209
TDIs Identified by Licensees		
Identified this period		0
Closed this period		0
Licensee Outstanding	0	0
Total Outstanding	330	711

⁵ The TDI numbers as of June 30, 2007, reported in this chart differ slightly from the numbers provided in the previous Status Report because the dynamic nature of synchronizing both the TC's and Microsoft's TDI databases occasionally results in categorization and exact TDI closure dates changing after the previous reporting period.

4. *Technical Documentation Testing*

a. Protocol Test Suite

Since the previous Status Report, Microsoft has continued its efforts to test the newly rewritten protocol documentation. As described in previous reports, the process for testing the documentation was designed by an internal testing team at Microsoft. To facilitate the testing process, Microsoft engaged independent vendors to conduct the tests in order to replicate the manner in which licensees are likely to use the documentation and identify areas where the documentation could be improved further.

Recent dialog between Microsoft and the TC revealed that the description of the test suite project in prior reports may have produced a misunderstanding. As Microsoft initially developed the project, Microsoft prepared test suites for various protocols or documents, sometimes referred to as “clusters.” The clusters represent a series of test processes conducted on various protocols or documents. For each cluster, testing on some documents was completed, while for other documents only part of the testing process was completed. This method was chosen to maximize the efficiency of the tests. At the end of a cluster, Microsoft delivered to the TC both completed test suites and test suites in progress up to that point. Test suite development continues for documents that are not fully completed at the end of a cluster.

Microsoft has reached an agreement with the TC so that at the end of each cluster it will now report to the TC only on documents for which the test suites were completed. Microsoft has also given the TC access to its tracking tool so that it can monitor those documents that are in the process of testing.

Since the previous report, Microsoft completed its initial testing for Cluster 2 by its target date of June 30, 2007. Microsoft reported the results of this to the TC. Overall, approximately 32 documents are now in the various phases of the testing process and the testing for Cluster 3 is scheduled to be completed by September 30, 2007.

b. Interoperability Lab

On August 30, 2006, Microsoft announced to MCPP licensees the availability, at no charge, of Microsoft's Interoperability Lab in the Microsoft Enterprise Engineering Center for testing licensee implementations of MCPP protocols. The Interoperability Lab offers direct access to Microsoft product development teams and technical support from Microsoft's engineering staff to address issues that may arise during testing. Microsoft has conducted a series of in-person visits to most licensees in order to promote the availability of these services. During the first week of June 2007, one Proxy/Firewall licensee participated in the Interoperability Lab. In addition, two licensees are working with Microsoft to plan future visits.

c. Plug-fests

As noted in previous Status Reports, Microsoft hosted its first plug-fest, which was for licensees of the Media Streaming Protocols, on December 12-14, 2006. As described previously, the File Server Protocols plug-fest took place in Redmond, Washington on April 30-May 3, and the overall feedback received by Microsoft was positive. Microsoft accommodated a request to move the date for the Authentication and Certificate services plug-fest to the week of September 17, 2007. Microsoft surveyed licensees to obtain recommendations for this plug-fest and is working to incorporate the feedback received into the agenda.

5. *Technical Documentation Team Staffing*

Robert Muglia, the Senior Vice President for Microsoft's Server and Tools Business, continues to manage the documentation effort along with additional senior product engineering team managers.

The number of people involved has grown slightly over the last month, with now approximately 630 Microsoft employees and contingent staff involved in work on the MCPP technical documentation. Given the substantial overlap between the MCPP and the European Work Group Server Protocol Program, all of these individuals devote their efforts to work that relates to both programs or that is exclusive to the MCPP.

Of these, approximately 370 product team engineers and program managers are actively involved in the creation and review of the technical content of the documentation. In addition, there are approximately 20 full-time employees and 50 contingent staff working as technical writers, editors, and production technicians. In addition, as the protocol testing effort continues, approximately 30 full-time employees and approximately 154 contingent staff and vendor staff are working as software test designers, test engineers, and test architects. Significant attention and involvement in the technical documentation and the MCPP extend through all levels of the Microsoft organization and draw upon the resources of numerous product engineering, business, technical, and legal groups, as well as company management.

B. Windows Vista and XP Related Matters

As reported in its previous supplemental status reports, Microsoft has been working cooperatively to address a number of changes requested by the TC concerning Windows XP and certain Microsoft applications, regardless of whether these requests relate to Microsoft's middleware and default obligations under Sections III.C and III.H of the Final Judgments.

As part of that effort, Microsoft has agreed to make changes to Windows XP and Windows Live Messenger. The agreed upon changes to Windows Live Messenger have been delivered in the Windows Live Messenger 8.5 beta and will be included in the public release. Changes to Internet Explorer were delivered to consumers on August 14, 2007, and changes for Windows Media Player were delivered on August 28, 2007. Microsoft plans to incorporate the changes to Windows XP into Service Pack 3 and will make its proposed changes to the code available for review by the TC in the near future.

C. Compliance Officers

Since the Initial Status Report was filed on July 3, 2003, the compliance officers have continued to ensure that newly-appointed Microsoft officers and directors receive copies of the Final Judgments and related materials (ongoing), that Microsoft officers and directors receive annual briefings on the meaning and requirements of the Final Judgments (Microsoft began annual training sessions in May and additional training sessions are proceeding), that annual certifications are completed for the most recent year (completed by December 2006), and that required compliance-related records are maintained (ongoing). In addition, the compliance officers are actively engaged in Microsoft's ongoing training programs and committed to monitoring matters pertaining to the Final Judgments.

D. Complaints and Inquiries Received by Microsoft

As of August 17, 2007, Microsoft has received 12 complaints or inquiries since the June 19, 2007 Joint Status Report. One of these complaints involved an individual who was having difficulty setting defaults on his computer. Microsoft's technical support department contacted the individual in order to address the issue. Microsoft was not able to recreate the issue and suspects that the problem was created by a computer virus or "spyware."

Dated: August 31, 2007

Respectfully submitted,

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