

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:

April 27, 2011 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

In a minute order dated March 23, 2011, 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 March 17, 2011, served as an interim report, containing information on selected activities relating to enforcement of the Final Judgments. Order at 1-3 (May 14, 2003). The current and final report is a six-month report and contains information that the Court has requested in each six-month report. Section II of this Report discusses Plaintiffs' efforts 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 working closely with Microsoft to resolve previously identified technical documentation issues ("TDIs").¹

¹The 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 include Mr. Hunt as well.

In the June 16, 2010, Joint Status Report, Plaintiffs described in detail the plan for the time between then and the scheduled end of the Final Judgments in May 2011. The plan, which contains a series of milestones, was designed to bring to an orderly conclusion the efforts of the TC and Microsoft to improve the technical documentation and to avoid last-minute surprises in the final months leading up to May 11, 2011. As part of the that plan, Plaintiffs agreed that the TC would stop submitting new TDIs as of January 1, 2011; Microsoft has also agreed to incorporate suggested improvements submitted by the TC after January 1, 2011.

As Plaintiffs described in the January 14, 2011 status report, the TC was able to identify significantly more TDIs in December 2010 than any of the parties had anticipated. As a result, on December 31, 2010, there were 6,018 active TC TDIs, many times higher than the previous peak for active TDIs. Since then, Microsoft and the TC have resolved nearly all of these TDIs, and Plaintiffs anticipate that the final April 15 milestones will be met by the time the parties are in Court.

To increase efficiency, the TC several weeks ago took over primary responsibility for addressing the outstanding TDIs relating to one subject area and is in the process of revising those documents. The TC will close all of the TDIs in these documents, continue to fine-tune the documents through the end of the Final Judgments, and then turn the documents back over to Microsoft before the Final Judgments expire. Microsoft has committed to faithfully finalize the documents provided by the TC according to its publication standards and publish the documents at the next document update cycle. As there are only 34 open TDIs relating to other documents, Microsoft has met the goals of the wind-down plan.

Plaintiffs' overall assessment is that the documents are of sufficient completeness and quality such that the Communications Protocols, as defined in the Final Judgments, are "available for use by third parties" within the meaning of Section III.E. Accordingly, Plaintiffs believe it is appropriate to allow the Final Judgments to expire on May 12, 2011.

B. Complaints

Since the prior full Status Report, filed on January 14, 2011, three third-party complaints have been received by the United States. All of these complaints were non-substantive and did not raise any issues regarding Microsoft's compliance with, or the United States' enforcement of, the Final Judgment. Each of the non-substantive complaints received a simple response acknowledging its receipt.

In March of 2011, the State Plaintiffs received a new substantive complaint relating to Section III.E. After reviewing the complaint, including meeting with the complainants, the State Plaintiffs determined that this complaint did not warrant any further action regarding Microsoft's compliance with, or the State Plaintiffs' enforcement of, the Final Judgment.

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

In this section of the report, Microsoft focuses on its compliance work relating to 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 since the March 18, 2011 Joint Status Report.

A. Section III.E (Communications Protocol Licensing)

1. MCPP Status Update

Since February 2008, the documentation for Microsoft's Communications Protocols has been available free of charge on Microsoft's website. As of this filing, documents describing protocols made available pursuant to the Final Judgments have been downloaded more than 574,000 times.

Separately, there are a total of 49 companies licensing patents for Communications Protocols through the MCPP program (which was created pursuant to Section III.E of the Final Judgments), 29 have royalty bearing licenses, 7 have fixed fee licenses, and 13 have royalty-free licenses. Microsoft understands that 24 licensees currently are shipping products. Numerous other entities may be making use of the protocol documentation that has been made available to the public on the MSDN website.²

Microsoft continues to promote offers for MCPP licensees to receive Technical Account Manager support and to obtain access to Windows source code at no additional charge. Currently, 23 licensees have elected to receive free Technical Account Manager support from Microsoft, and 6 licensees have access to Windows source code.

2. Current Status of Microsoft's Progress in Resolving Technical Documentation Issues ("TDIs") through April 15, 2011

As first reported to the Court in the June 16, 2010, Joint Status Report, the schedule agreed to by the parties between then and May 2011 is as follows:

²A number of the protocols made available to the public are not covered by any Microsoft patents and thus do not require a license. In addition, other entities may have rights to Microsoft patents through a vehicle other than MCPP, such as a broad patent cross licensing agreement.

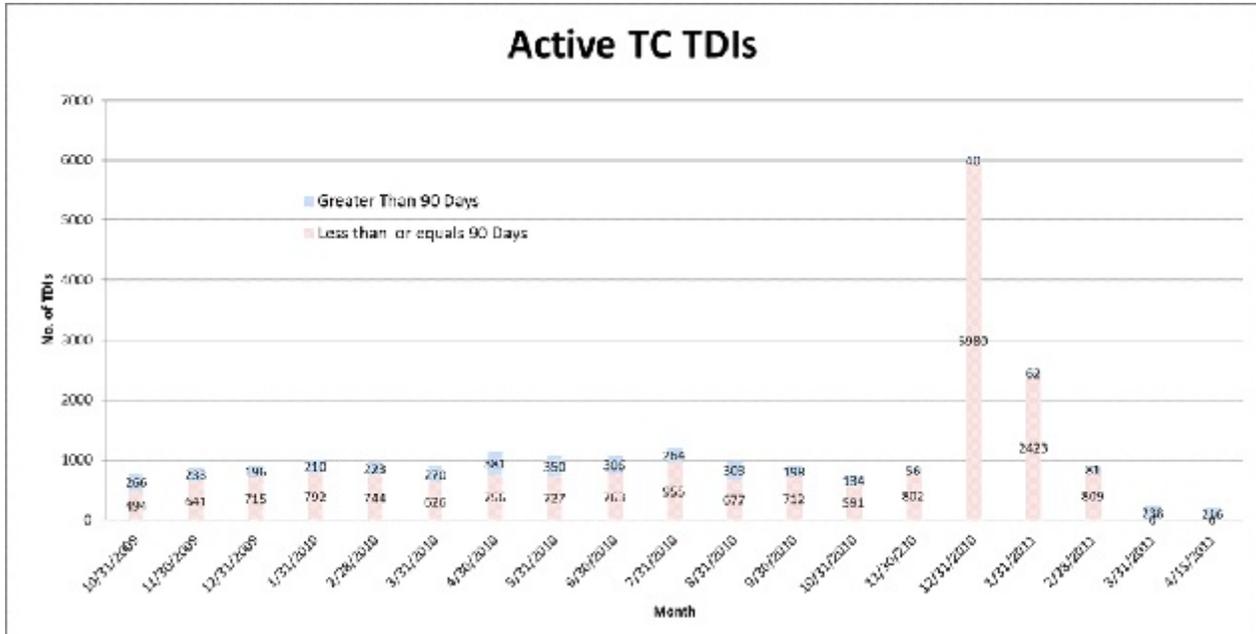
Date	Event	Status
July 1, 2010	Deadline for deciding on document re-writes	Completed
September 1, 2010	Deadline for Microsoft completion of document re-writes	Completed
October 1, 2010	Open TDIs over 180 days reduced to 25% of level of April 30, 2010 (36 TDIs)	Completed on 10/8/10
January 1, 2011	Open TDIs over 90 days reduced to 15% of level of April 30, 2010 (57 TDIs)	Completed on 12/5/10
January 1, 2011	TC stops submitting TDIs	Completed on 1/1/2011
March 15, 2011	Open TDIs reduced to 15% of level of April 30, 2010 (170 TDIs)	No Longer Being Targeted
March 15, 2011	Open Priority 1 + Priority 2 TDIs reduced to 15% of level of April 30, 2010 (139 TDIs)	No Longer Being Targeted
March 15, 2011	Open TDIs over 90 days reduced to 5% of level of April 30, 2010 (19 TDIs)	No Longer Being Targeted
April 15, 2011	Open TDIs reduced to 5% of level of April 30, 2010 (57 TDIs)	Anticipated completion by April 26, 2011
April 15, 2011	Open Priority 1 + Priority 2 TDIs reduced to 5% of level of April 30, 2010 (46 TDIs)	Anticipated completion by April 26, 2011

The current status of TDIs identified in the MCPP documentation through April 15, 2011, is noted in the chart below. However, these figures do not reflect the more recent developments discussed in the Plaintiffs' section of this report.

	As of 02/28/2011	Period Ended 04/15/2011
Priority 1 TDIs Submitted by the TC		
Submitted this period	859	0
Closed this period		627
Outstanding		232
Priority 2 TDIs Submitted by the TC		
Submitted this period	1707	0
Closed this period		1379
Outstanding		328
Priority 3 TDIs Submitted by the TC		
Submitted this period	73	0
Closed this period		72
Outstanding		1
Total TDIs Submitted by the TC		
TC Submitted	2639	0
TC Closed		2078
<i>TC Outstanding</i>		561
TDIs Identified by Microsoft		
Identified this period	233	50
Closed this period		37
<i>Microsoft Outstanding TDIs</i>		246
TDIs Identified by Licensees		
Identified this period	27	11
Closed this period		8
<i>Licensee Outstanding TDIs</i>		30
TOTAL OUTSTANDING TDIs	2899	837
<i>TC TDIs Resolved Pending Publication</i>	1836	345
Total Active TDIs (Outstanding minus Resolved Pending Publication)	1063	492

In addition to the TDIs reflected in the table above, Microsoft regularly updates the technical documentation as appropriate to reflect relevant feedback compiled through its internal tracking mechanisms.

The chart below shows that all of the remaining TDIs are greater than 90 days old.



3. *Technical Documentation Testing and Licensee Support*

Microsoft continues to test MCPP documentation that has been released since Windows 7. Microsoft also continues to make the usual resources available to assist licensees in using the technical documentation, including by providing access to support engineers and through user forums. In addition, Microsoft’s Interoperability Lab remains open and available for use by licensees.

Microsoft is planning a File Sharing Protocols plug-fest during June 20-24, 2011 and is in

planning discussions with Samba and NetApp for Interoperability Labs scheduled for September 26-30, 2011 and October 24-28, 2011 respectively.

As noted in previous status reports and discussions with the Court, Microsoft intends to continue creating, testing, supporting, and publishing technical documentation even after the Final Judgments expire in May 2011. This includes publishing revised versions of the documentation reflecting resolutions to TDIs that have been approved by the TC but not yet released to licensees due to the gap between official releases. This will include publishing the documentation prepared by the TC without any substantive changes. Also, Microsoft will endeavor to address the remaining unresolved TC TDIs. Moreover, the MCPP technical documentation will remain available for free on the Web, and Microsoft will continue to offer low cost licenses for any related Microsoft patents. Microsoft will continue to provide licensees and implementers with valuable resources as well, including online user forums, plug-fests, and interoperability labs. Microsoft will continue improving and updating the documentation by accumulating and incorporating feedback from third-party licensees and implementers. This includes feedback provided by the TC prior to the expiration of the Final Judgments.

In addition, Microsoft will continue to make available the MCPP document content pursuant to ongoing regulatory obligations in other jurisdictions. These obligations require Microsoft to make the MCPP-related content available for an additional nine years following expiration of the U.S. Final Judgments.

4. *Technical Documentation Team Staffing*

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

More than 400 Microsoft employees and contingent staff are involved in work on the MCPP technical documentation. Given the substantial overlap between the MCPP and the European Work Group Server Protocol Program and Microsoft Interoperability Program, all of these individuals' work relates to all three programs or is exclusive to the MCPP. Of these, approximately 223 product team engineers and program managers are actively involved in the creation and review of the technical content of the documentation, including periodic work on TDI resolution as well as developing new content for the next version of Windows Client and Windows Server. Because of varying areas of expertise, not all of these product team employees are working on the documentation at any given time. For example, many of the MCPP documents currently do not have any associated TDIs. In other months, these same product teams may have multiple TDIs to resolve and/or additional content to draft and spend most or all of their time on projects relating to the protocol documentation.

In addition, there are approximately 24 full-time employees and approximately 66 contingent staff working as technical writers, editors, and production technicians. Additionally, as the protocol testing effort continues, approximately 6 full-time employees and approximately 95 contingent and vendor staff work as software test designers, test engineers, and test architects. Significant attention to 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. 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, that annual certifications are completed for the most recent year, and that required compliance-related records are maintained (ongoing). In addition, the compliance officers are actively engaged in Microsoft's ongoing training programs and are committed to monitoring matters pertaining to the Final Judgments.

C. Complaints and Inquiries Received by Microsoft

As of April 18, 2011, Microsoft had received 32 complaints or inquiries since the March 18, 2011 Joint Status Report. None of these complaints is related to any of Microsoft's compliance obligations under the Final Judgments.

Dated: April 22, 2011

FOR THE STATES OF NEW YORK,
OHIO, ILLINOIS, KENTUCKY,
LOUISIANA, MARYLAND, MICHIGAN
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Respectfully submitted,

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