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: December 1, 2006 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 September 7, 2006 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).[1]

The last Status Report, filed August 30, 2006, served as an interim report, containing information on selected activities relating to enforcement of the Final Judgments. The current report is the sixth of the six-month reports requested by the Court 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;[2] 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.

[1] Plaintiffs filed previous reports on April 17, 2003, July 3, 2003, October 17, 2003, January 16, 2004, April 14, 2004, July 9, 2004, October 8, 2004, January 25, 2005, June 1, 2005, October 19, 2005, February 8, 2006, May 12, 2006, and August 30, 2006 to inform the Court as to the Plaintiffs' efforts to enforce the Final Judgments and Microsoft's efforts to comply with the Final Judgments. Plaintiffs also filed a Supplemental Joint Status Report on November 18, 2005.

[2] This report outlines Plaintiffs' enforcement efforts relating to Sections III.C, E, and H. Although Plaintiffs continue to monitor Microsoft's efforts to comply with Sections III.A, B, D, and G, Plaintiffs do not have any matters relating to those Sections to report to the Court at this time.

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 ("MCPP") continues to focus on efforts to improve the technical documentation provided to licensees. The last two Status Reports have described Microsoft's project to rewrite the technical documentation. The project requires Microsoft to follow a new overarching specification — which includes three templates for different types of protocols — agreed to between Microsoft, the Technical Committee ("TC"), and Craig Hunt, the California Group's technical adviser.[3] This project requires Microsoft to produce "initial availability" versions of the new documents to the TC and licensees in five stages, referred to as "milestones," pursuant to a specified schedule. After producing the initial availability version of each group of documents, Microsoft has ninety days to produce the final version, or "online build." During these ninety days, Microsoft will address feedback from the TC and licensees, explain to the TC how the new documents address each Technical Documentation Issue ("TDI") filed by the TC against the old documentation, mark up the documents in XML to facilitate future TC testing, and perform additional editing tasks necessary to finalize the documents.

The first set of documents — Milestone 1 — was provided in a timely fashion to the TC on October 24, 2006. The TC devoted extraordinary efforts to reviewing as many of the new documents as possible in a very short period of time and provided feedback to Microsoft to

[3] The TC is working closely with Mr. Hunt on all of these technical documentation issues. References to Microsoft working with the TC in this section should be taken to include Mr. Hunt as well.

facilitate improvement of the rewritten documents and clarification of the templates. Based on the TC's initial review of the documents, it appears that the discipline and structure inherent in using the prescribed templates has succeeded in producing documentation that is easier to use than the prior version of the documentation.

The TC's initial review of the rewritten documents, however, identified a number of cases where Microsoft interpreted or applied the template in a manner that was different from what the TC was anticipating.[4] Microsoft and the TC held a series of productive discussions regarding these issues, and these discussions are ongoing as to certain issues. Microsoft has agreed to make a number of clarifications to the specification and improvements in the documents and Microsoft's writing process. These changes will be reflected in the final versions of the Milestone 1 documents and in the initial availability documents produced for future milestones.

Additional review and testing is required before it will be possible to determine whether the new documents are complete and accurate. Two key developments over the next several months should assist in answering this question.

First, before the final release of the Milestone 1 documents, Microsoft will provide an explanation of how the new documents address each outstanding TDI. The TC will analyze this report to ensure that the TDIs have been adequately resolved. If the rewritten documents resolve a substantial majority of the old TDIs, that will be a significant step towards demonstrating that the rewrite project is succeeding.

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[4] These issues are considered "general" in nature because they are likely to apply to more than one technical document. That is, they are not issues with a particular technical document, but need to be addressed across many or all of the documents.

Second, the TC will begin using these rewritten documents in their prototype implementation work, which will be a significant barometer of the documents' quality. A key element to analyze will be the number and seriousness of new TDIs generated by the TC during this implementation work. If the TDI filing rate is substantially lower than that associated with using the old documents — and the seriousness of the new TDIs is also reduced — this would be a strong indicator that the new documentation is substantially higher in quality than the prior version.

In summary, Plaintiffs have not yet reached any conclusions about Microsoft's technical documentation rewrite project. The specification does appear to be working, in that the new documentation is easier to use and understand. As noted above, however, Microsoft needs to address the broad issues identified by the TC in both the Milestone 1 documents and in future milestones. Significant additional work by Microsoft and the TC is necessary before it will be possible to determine whether the Milestone 1 documents are complete and accurate. Plaintiffs and Microsoft also anticipate, based on past experience, that additional issues will arise as Microsoft completes subsequent milestones. Microsoft has stated that the current schedule is "aggressive" and "contains virtually no buffer." Accordingly, Microsoft's full commitment will be essential if the project is to stand any chance of producing complete and accurate documents on the schedule that Microsoft has provided to the Court.

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

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 extensive testing by the TC of

developmental builds and betas of Windows Vista and Internet Explorer 7. In the last Status Report, Plaintiffs informed the Court that a new, joint TC/Microsoft bug tracking system was being used to help ensure that Vista ships with no known issues related to its treatment of middleware under the Final Judgments. Plaintiffs are pleased to report that this system has been a success. Microsoft addressed all outstanding middleware-related bug issues prior to Vista being released to manufacturing.

As detailed in the last Status Report, the TC and Microsoft have increased their cooperation in several ways to help ensure that middleware ISVs achieve "Vista-readiness" prior to the shipment of Windows Vista. As described in more detail in Microsoft's section of this Status Report, the TC and Microsoft have continued to meet with middleware ISVs since the filing of the last Status Report. To further assist middleware ISVs, the TC has demonstrated its ISV tool, the "ISV Settings Manager," to interested ISVs that visit Microsoft's Vista-readiness lab. The TC has also made the ISV Settings Manager available for download by any interested ISV on its website at http://www.thetc.org/Downloads.html. (A screenshot of the page offering the ISV Settings Manager for download is attached to this Status Report as Exhibit 1.)

C. Complaints

Since the prior full Status Report, filed on May 12, 2006, 25 third-party complaints have been received by the United States. All of the 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 their receipt. The New York and California Groups do not believe that they have received any additional substantive complaints since the prior full Status Report.

D. Additional Activities of the TC

The TC's current fiscal year ends as of November 30. The TC has prepared its budget for the forthcoming year, and the United States and New York Group have requested the necessary funding from Microsoft.

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 August 30, 2006 Joint Status Report.

A. Section III.E (Communications Protocol Licensing)

1. *MCPP Status Update*

As described in the previous Joint Status Report, there are currently 26 MCPP licensees, 12 of whom are shipping products under the MCPP. In addition to those 26 licensees, there are seven companies that have taken advantage of the royalty-free protocol license offered on MSDN.

Since the last Joint Status Report, Microsoft has continued to 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, six 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 programs.

2. *Technical Documentation*

a. *Microsoft's Progress in Modifying the Technical Documentation*

As described in previous Supplemental Status Reports, Microsoft submitted to the TC on September 1, 2006 a revised proposed schedule according to which the technical documentation will be rewritten to conform to an overarching specification agreed upon by the Plaintiffs, the TC, and Microsoft. The proposed schedule prioritizes the delivery of the documents that are expected to be of the most immediate and greatest use to licensees, including protocols that are required for currently licensed tasks and protocols that are new or have been modified for Windows Vista and the forthcoming release of Longhorn Server.

The schedule proposed by Microsoft focuses on the "Initial Availability" release[5] of documentation to licensees in accordance with five milestones. The schedule for the Initial Availability release of the revised MCPP documentation is as follows:[6]

[5] The deliverables associated with the Initial Availability release include the initial drafting of the documentation by Microsoft engineers and programmers; creating the necessary reference material; extensive and thorough review by Microsoft engineers and architects; and editing by the Microsoft content team. The Initial Availability release of each technical document is designed to be of immediate use and benefit to licensees. TC testing and validation activity will continue, however.

[6] In total, the schedule reflects the Initial Availability release of approximately 157 separate documents covering approximately 122 distinct protocols.

Milestone	Initial Availability to Licensees	Approximate Number of Documents
Milestone 1	10/25/2006	32
Milestone 2	12/15/2006	26
Milestone 3	2/22/2007	41
Milestone 4	4/11/2007	30
Milestone 5	5/29/2007	28

The TC and Plaintiffs have informed Microsoft that it is appropriate to proceed on the basis of the schedule as proposed. Although the overall project timetable remains as previously reported, based on additional input from the engineers writing the documents, and in consultation with the TC, the number of documents scheduled to be delivered in Milestones 1, 2, and 3 has been adjusted.

In accordance with this schedule, Microsoft delivered on time the first Initial Availability release of technical documents to licensees on or before October 25, 2006, which corresponds with "Milestone 1" of the proposed schedule. Based on its work to date, Microsoft is on track to deliver the second release of technical documents on December 15, 2006, which corresponds to "Milestone 2" of the proposed schedule.[7]

[7] As described in the previous Supplemental Status Report, Microsoft also has committed to providing MCPP licensees with the documentation prepared in connection with the European Commission's Windows Server Protocol Program ("WSPP"). Microsoft notified all current MCPP licensees on September 29, 2006 that relevant portions of WSPP documentation (i.e., corresponding to documents they have licensed) will be made available to any licensee upon request. To date, three licensees have requested and received copies of the relevant WSPP documentation.

Approximately 90 days following the Initial Availability release of a document, Microsoft will make available to the TC and licensees an "Online Build" of that document for testing.[8] As previously discussed, the schedule above contains virtually no "buffer" and it is therefore conceivable that Microsoft may seek to adjust the timetable in response to unforeseen challenges and/or constraints.

b. *Current Status of Microsoft's Progress in Resolving Existing TDIs through October 31, 2006*

As the technical documentation is being rewritten, the TC is continuing to identify issues in the existing technical documentation of protocols for which they have not yet received rewritten documentation. The current status of TDIs in the existing documentation is as follows:[9]

[8] The Online Build, while not intended to be significantly different in content from the Initial Availability documentation, will reflect some additional work by Microsoft (e.g., incorporating feedback from licensees and the TC, verification that existing Technical Documentation Issues ("TDIs") have been addressed, copy editing, XML markup, etc.).

[9] As noted in previous Status Reports, Microsoft expects to address the outstanding TDIs in the course of rewriting the technical documentation. As the parties have recognized, because Microsoft is focusing its efforts on revising the technical documentation, the number of outstanding TDIs is expected to rise until revised versions of the documentation are completed.

	As of 9/30/2006	Period Ended 10/31/2006
60-Day TDIs Submitted by the TC		
Submitted this period		50
Closed this period		0
Outstanding	135	185
Other TDIs Submitted by the TC		
Submitted this period		38
Closed this period		0
Outstanding	608	646
TC Subtotal Outstanding	743	831
TDIs Identified by Microsoft		
Identified this period		2
Closed this period		0
Outstanding	110	112
Total Outstanding	835	943

3. *Technical Documentation Testing*

a. *Protocol Test Suite*

Microsoft and the TC have continued work on plans for development of an MCPP Protocol Test Suite. Microsoft has contracted with an experienced third-party vendor to explore methods for developing an experimental test suite that can serve as a basis to develop and implement a full test suite. Based on the experimental test suite, which was derived from a document for one specific protocol, Microsoft confirmed that the development of future test suites in this manner for larger numbers of documents for complex protocols will be an extremely resource-intensive and complicated process. In recognition of this, Microsoft has shifted responsibility for the Protocol Test Suite project to its existing Network Monitor and Parser team. To accommodate this organizational change, Microsoft is adding staff with experience in test architecture, test development, and program management to this team, which

now will be known as the Protocol Tools and Test Team.[10] This newly expanded team will work closely with the TC to develop a set of goals for the test suite. Microsoft expects to finalize these goals by December 1, 2006.

Because of the size and complexity of developing the Protocol Test Suite, Microsoft is exploring various approaches that are used within Microsoft and throughout the industry to evaluate technical documentation. Based on this review, Microsoft, with guidance from the TC, expects to select several alternative approaches that can be applied to each of the various technical documents. Microsoft will identify a small set of "high value" protocols and, by December 12, 2006, will develop a schedule for producing a test suite for the documentation of those protocols. Scheduling for the remaining documentation will be determined after this initial work is completed. In addition, on December 12, 2006, Microsoft will offer a number of test cases to licensees that attend the Media Streaming plug-fest, which is described below.

In addition to this work, Microsoft currently plans to capture network traffic generated by the test suites and to provide these captures to the TC for their validation project.

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 with technical support from Microsoft's engineering staff to address issues that may arise during testing. To date, no licensees have

[10] This team also has responsibility for hosting plug-fest events and overseeing interoperability labs.

responded to this announcement. Microsoft will continue its efforts to inform licensees about the availability of the interoperability lab and to encourage licensees to take advantage of this resource.

c. *Plug-fests*

Microsoft currently is in the process of planning three plug-fests, although additional events will be planned at a later date. During these events, Microsoft will provide various resources and training to licensees, including access to laboratory testing facilities, in-depth technical discussions regarding the protocols, Network Monitor and protocol parsers, Windows client-based test cases, Windows Server reference implementations, and subject matter experts. These resources will be provided at no cost to licensees. The events generally are expected to last two days, although licensees can schedule a third day by request.

The first of the currently planned plug-fests will be for the Media Streaming Protocols. To date, two licensees and the TC have signed up for this plug-fest, which is scheduled to begin on December 12, 2006. The date for the second plug-fest—for File Server Protocols—has not yet been set, though Microsoft anticipates the event taking place during the first half of 2007. Microsoft anticipates that the third plug-fest planned for Authentication and Certificate Services Protocols will be held during the second or third quarter of 2007.

4. *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.

Altogether, approximately 260 Microsoft employees and contingent staff are involved in

work on the MCPP technical documentation. Given the substantial overlap between the MCPP and WSPP, all of these 260 individuals devote their efforts to work that relates to both programs or that is exclusive to the MCPP. Of these, approximately 190 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 22 full-time employees and 22 contingent staff working as technical writers, editors, and production technicians. There also are approximately 26 other technical architects, managers, and employees from the Windows product development organization and the Competitive and Regulatory Affairs team who devote a substantial amount of time and effort to the technical documentation and the MCPP in general. 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. ISV Readiness for Windows Vista

As discussed in Microsoft's previous Supplemental Status Report, the upcoming release of Windows Vista handles middleware settings on a "per user" rather than the previous "per machine" basis. This change to the operating system necessitates that middleware ISVs change various settings in order to take advantage of the newly revised Middleware functionality in Windows Vista. Accordingly, the TC and Microsoft have expanded their cooperation in several ways to encourage middleware ISVs to achieve "Vista-readiness" prior to the shipment of Windows Vista.

To accomplish this objective, Microsoft has worked closely with the TC to notify the 17 "Key ISVs"[11] in each of the four Middleware categories—Internet browsers, media players, e-mail clients, and instant messaging—of the need to prepare their middleware applications for Windows Vista and of the various opportunities being made available to ISVs by Microsoft and the TC. One of those opportunities is an invitation to attend a Vista-Readiness Lab in Redmond, which includes hands-on access to Microsoft engineers, and private meetings with the TC.

Microsoft's outreach efforts have not been limited just to the Key ISVs, but also have focused significant attention on another 13 ISVs ("Other ISVs") that have been identified by the TC. Accordingly, Microsoft has discussed with all Key and Other ISVs the resources and opportunities available for Vista-readiness. To date, most of these 30 ISVs have been extremely responsive and have indicated that they would like to take advantage of the offered opportunities and resources. Twenty-six of the 30 ISVs, including all of the Key ISVs, have either come to the lab, scheduled a date to attend, or are in the process of scheduling a time to visit the Lab. Four of the ISVs that have chosen not to take advantage of the Vista-Readiness Lab are receiving support from Microsoft by e-mail and phone.

The status of Microsoft's and the TC's outreach efforts, by Middleware category, is described below.

1. *Internet Browsers*

Microsoft contacted all of the six Internet Browser ISVs identified by the TC. With respect to the three Key ISVs, two have visited Microsoft's Vista-Readiness Lab, and one is in

[11] The "Key" ISVs are the leading vendors in each of the four Middleware categories that, due to their position, the TC has identified as the targets for Microsoft's outreach effort.

the process of scheduling a time to visit the lab. With respect to the Other ISVs, two have visited the lab and one has declined an invitation to attend.

Two Key ISVs have proposed Vista-ready applications to the TC and Microsoft, although the TC has not yet completed its review to confirm that these applications take advantage of the new Middleware features in Windows Vista.

2. *Media Players*

Microsoft contacted all of the nine Media Player ISVs identified by the TC. With respect to the Key ISVs, all four have visited or have scheduled visits to Microsoft's Vista-Readiness Lab. Of the Other ISVs, four have visited or have scheduled a visit to the Lab and one has declined an invitation to attend.

One Key ISV has submitted a Vista-ready version of its software to Microsoft and the TC, although the TC has not yet completed its review to confirm that this application takes advantage of the new Middleware features in Windows Vista.

3. *E-mail Clients*

Microsoft contacted all the E-mail Client ISVs identified by the TC. Four of the six Key ISVs have visited or are planning to visit the Vista-Readiness lab. Microsoft is working with the remaining two Key ISVs to schedule a visit to the Lab. With respect to the Other ISVs, Microsoft is working with three to schedule visits to the Lab and another one has declined an invitation to attend.

One Key ISV has proposed a Vista-ready version of its middleware to Microsoft and the TC, although the TC has not yet completed its review to confirm that this application takes advantage of the new Middleware features in Windows Vista.

4. *Instant Messaging*

Microsoft contacted all of the Instant Messaging ISVs identified by the TC. Three of the four Key ISVs have visited or have scheduled a visit to the Vista-Readiness Lab, and Microsoft is working with the fourth Key ISV to schedule a date to visit the lab. The Other ISV has declined an invitation to attend.

Vista-ready versions of middleware have not yet been submitted by any Key ISVs to the TC for testing.

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 (annual training sessions have been held for the most recent year in March and April 2006) and complete the required certifications (completed February 2006), and that required compliance-related records are maintained (ongoing). In addition, the compliance officers are actively engaged in Microsoft's extensive and ongoing training programs and commit to monitor matters pertaining to the Final Judgments.

D. **Complaints and Inquiries Received by Microsoft**

Microsoft has received 14 complaints or inquiries since the August 30, 2006 Joint Status Report. None of these complaints or inquiries was related to any of Microsoft's compliance obligations under the Final Judgments.

Dated: November 21, 2006

Respectfully submitted,

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