

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: November 8, 2002

STIPULATION

Plaintiff United States of America (“United States”), the States of New York, Ohio, Illinois, Kentucky, Louisiana, Maryland, Michigan, North Carolina and Wisconsin (collectively, the “Settling States”) and Defendant Microsoft Corporation (“Microsoft”), by and through their respective attorneys, having agreed to the entry of this Stipulation, it is hereby stipulated and agreed that:

1. Pursuant to this Court’s November 1, 2002, Orders in *State of New York, et al. v. Microsoft* (Civil Action No. 98-1233 (CKK)) and *United States v. Microsoft* (Civil Action No. 98-1232 (CKK)), the Final Judgment in the form attached hereto (“third revised proposed Final Judgment”) may be filed and entered by the Court in this action and as to the Settling States only in *State of New York, et al. v. Microsoft* (Civil Action No. 98-1233(CKK)).

2. Microsoft's prior obligations to comply with the revised proposed Final Judgment, submitted to the Court on November 6, 2001, and the second revised proposed Final Judgment, submitted to the Court on February 27, 2002, shall continue uninterrupted under this stipulation and the third revised proposed final judgment as if the third revised proposed final

judgment was in full force and effect. Unless otherwise provided in the third revised proposed Final Judgment, Microsoft shall immediately begin complying with the third revised proposed Final Judgment as if it was in full force and effect. Where the third revised proposed Final Judgment provides that the timing of Microsoft's obligations are calculated from the date of submission to the Court of the third revised proposed Final Judgment, the time shall be calculated from November 6, 2001, the date of submission to the Court of the revised proposed Final Judgment. Subject to the foregoing, Microsoft agrees to be bound by the provisions of the third revised proposed Final Judgment pending its entry by the Court. If (a) the third revised proposed Final Judgment is not entered pursuant to the terms of this Stipulation, (b) the time has expired for all appeals of any Court ruling declining to enter the third revised proposed Final Judgment, and (c) the Court has not otherwise ordered continued compliance with the terms and provisions of the third revised proposed Final Judgment, then all of the parties shall be released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

3. The Court having previously found that the United States and Microsoft have complied with the requirements of the Tunney Act (*see* July 1, 2002, Order) and, in its November 1, 2002, Orders, having conditionally approved the second revised proposed Final Judgment as the final judgment as to the United States, Microsoft and the Settling States, the Court may enter the third revised Proposed Final Judgment, and the parallel final judgment as to the Settling States in *State of New York, et al. v. Microsoft* (Civil Action No. 98-1233(CKK)), at any time without further notice.

DATED this 5th day of November, 2002

FOR PLAINTIFF THE UNITED STATES OF AMERICA:

DEBORAH P. MAJORAS
Deputy Assistant Attorney General
Antitrust Division
United States Department of Justice
901 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 514-2401

FOR PLAINTIFFS THE STATES OF NEW YORK,
OHIO, ILLINOIS, KENTUCKY, LOUISIANA,
MARYLAND, MICHIGAN, NORTH CAROLINA
AND WISCONSIN:

JAY L. HIMES
Chief
Antitrust Bureau
Office of the Attorney General of New York
120 Broadway
New York, New York 10271
(212) 416-8282

FOR DEFENDANT MICROSOFT CORPORATION:

CHARLES F. RULE
Fried, Frank, Harris, Shriver & Jacobson
1001 Pennsylvania Avenue, NW
Suite 800
Washington, DC 20004
(202) 639-7300