

APIs controlled by Netscape, the fact that Netscape would not have marketed any platform software for Windows 95, the operating system that was destined to become dominant, would have ensured that, for the foreseeable future, too few developers would rely on Navigator's APIs to create a threat to the applications barrier to entry. In fact, although the discussions ended before Microsoft was compelled to demarcate precisely where the boundary between its platform and Netscape's applications would lie, it is unclear whether Netscape's acceptance of Microsoft's proposal would have left the firm with even the ability to survive as an independent business.

89. At the time Microsoft presented its proposal, Navigator was the only browser product with a significant share of the market and thus the only one with the potential to weaken the applications barrier to entry. Thus, had it convinced Netscape to accept its offer of a "special relationship," Microsoft quickly would have gained such control over the extensions and standards that network-centric applications (including Web sites) employ as to make it all but impossible for any future browser rival to lure appreciable developer interest away from Microsoft's platform.

**B. Withholding Crucial Technical Information**

90. Microsoft knew that Netscape needed certain critical technical information and assistance in order to complete its Windows 95 version of Navigator in time for the retail release of Windows 95. Indeed, Netscape executives had made a point of requesting this information, especially the so-called Remote Network Access ("RNA") API, at the June 21 meeting. As was discussed above, the Microsoft representatives at the meeting had responded that the haste with which Netscape received the desired technical information would depend on whether Netscape entered the so-called "special relationship" with Microsoft. Specifically, Microsoft representative J. Allard had told

Barksdale that the way in which the two companies concluded the meeting would determine whether Netscape received the RNA API immediately or in three months.

91. Although Netscape declined the special relationship with Microsoft, its executives continued, over the weeks following the June 21 meeting, to plead for the RNA API. Despite Netscape's persistence, Microsoft did not release the API to Netscape until late October, i.e., as Allard had warned, more than three months later. The delay in turn forced Netscape to postpone the release of its Windows 95 browser until substantially after the release of Windows 95 (and Internet Explorer) in August 1995. As a result, Netscape was excluded from most of the holiday selling season.

92. Microsoft similarly withheld a scripting tool that Netscape needed to make its browser compatible with certain dial-up ISPs. Microsoft had licensed the tool freely to ISPs that wanted it, and in fact had cooperated with Netscape in drafting a license agreement that, by mid-July 1996, needed only to be signed by an authorized Microsoft executive to go into effect. There the process halted, however. In mid-August, a Microsoft representative informed Netscape that senior executives at Microsoft had decided to link the grant of the license to the resolution of all open issues between the companies. Netscape never received a license to the scripting tool, and as a result, was unable to do business with certain ISPs for a time.

### **C. The Similar Experiences of Other Firms in Dealing with Microsoft**

93. Other firms in the computer industry have had encounters with Microsoft similar to the experiences of Netscape described above. These interactions demonstrate that it is Microsoft's corporate practice to pressure other firms to halt software development that either shows the potential