

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF NEW YORK, *et al.*,

Plaintiffs

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1233 (CKK)

ORDER

As the presentation of evidence and arguments draws to a close in the above-captioned case, there remain a few matters with regard to which the Court would like further clarification. In order to ensure that the parties are prepared to respond to the Court's inquiries relevant to these matters, the Court sets forth its questions below. The Court emphasizes that these questions are not intended to derail or supersede the parties' prepared arguments, but instead raise matters which the Court would like to discuss briefly with the parties before the conclusion of the proceedings in this case. As the Court has stated previously, questions posed by the Court should not be viewed as an indication of future rulings.

Accordingly, it is this 18th day of June, 2002, hereby

ORDERED that the parties shall be prepared to respond to the following inquiries during the presentation of closing arguments in the above-captioned case:

For both parties:

- Prioritize the various provisions in your own remedy proposal, indicating which provisions are integral to the proposal's effectiveness and which are less significant;

For Plaintiffs:

- If the Court rejects Plaintiffs' proposed remedy as written, what provisions in Defendant's proposed remedy would be most important for an effective remedy? Along these lines, how could Defendant's proposed remedy be modified to make its terms more acceptable to Plaintiffs?
- In their examinations of various witnesses, Plaintiffs posed questions which incorporated a number of modifications to the language of their proposed remedy. In general terms, in what areas and in what ways could Plaintiffs' remedy proposal be modified, while still preserving the ability of that proposal to accomplish Plaintiffs' goals for a remedy?

For Defendant:

- If the Court rejects Defendant's proposed remedy as written, as well as Defendant's motions for judgment as a matter of law, identify the provisions contained in Plaintiffs' proposed remedy which, if included in the Court's remedy, would prove least onerous to Defendant, yet remain effective as a remedy. Along these lines, how could Plaintiffs' proposed remedy, or portions thereof, be modified to render the proposal more acceptable to Defendant?
- As Defendant is well aware, its proposal has been criticized for "exceptions which swallow the rule." Focusing on the exceptions and/or limitations in Defendant's proposed remedy, identify those provisions which, from Defendant's perspective, are more readily susceptible to reasonable modification.

SO ORDERED.

COLLEEN KOLLAR-KOTELLY
United States District Judge