

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

IN RE MICROSOFT CORP. ANTITRUST	)	
LITIGATION	)	MDL Docket No. 1332
	)	
This document relates to:	)	Hon. J. Frederick Motz
	)	
<i>Daisy Mountain Fire District</i>	)	
<i>v. Microsoft Corp.,</i>	)	
Civil Action No. JFM-07-2851	)	
_____	)	

**[PROPOSED] ORDER CERTIFYING SETTLEMENT CLASS AND APPROVING SETTLEMENT**

WHEREAS, on \_\_\_\_\_, this Court entered an Order preliminarily approving the terms and conditions of this Settlement (as reflected in the Settlement Agreement dated May 18, 2009, together with the Appendices to the Settlement Agreement);

WHEREAS, the Settlement requires, among other things, that All Claims (as defined in the Settlement Agreement) against Microsoft be settled and compromised;

WHEREAS, this matter has come before this Court on a motion by Plaintiff and Counsel for the Settlement Class for final approval of the Settlement Agreement; and

WHEREAS, this Court, having considered all papers filed and proceedings held in connection with said motion, having held a hearing on \_\_\_\_\_, notice of the hearing having duly been given in accordance with this Court's Order dated \_\_\_\_\_, 2009, and finding no just reason for delay in entry of this Order Certifying Settlement Class and Approving Settlement ("Order of Approval");

NOW, THEREFORE, pursuant to Rule 23 of the Federal Rules of Civil Procedure, it is hereby ORDERED that:

1. The terms defined in the Settlement Agreement are incorporated in this Order.

2. This Court has jurisdiction over the subject matter of this proceeding and all parties in this proceeding, including all members of the Settlement Class (as defined in the Settlement Agreement), and all departments, subdivisions, agencies and other subsidiary organizations that are part of or operate under the authority of any member of the Settlement Class.

3. For purposes only of this Order of Approval and the Settlement contemplated by the Settlement Agreement, and pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court certifies the Settlement Class, defined as follows:

All government entities located in Arizona (excluding the federal government, foreign governments and government entities from states other than Arizona) that indirectly licensed Microsoft Operating System software and/or Microsoft Application software between May 18, 1994 and December 31, 2008 and did not obtain such software for purposes of resale.

4. This Court grants final and unconditional approval of the Settlement set forth in the Settlement Agreement and finds that the Settlement is, in all respects, fair, reasonable, and adequate to the Settlement Class under Rule 23 of the Federal Rules of Civil Procedure.

5. This Court finds and concludes that the notice given to the members of the Settlement Class complied with this Court's Order dated \_\_\_\_\_, 2009, and that the notice (including, but not limited to, the Forms of Notice and methods of identifying and giving notice to the class) was the best notice practicable under the circumstances and fully satisfies the requirements of due process, the Federal Rules of Civil Procedure, and any other applicable law or rules of the Court.

6. This Court dismisses this case with prejudice.

7. By this Order, Microsoft is expressly and irrevocably, fully and finally, released and forever discharged from All Claims by members of the Settlement Class (and their

departments, subdivisions, agencies and other subsidiary organizations that are part of or operate under the authority of any member of the Settlement Class) as provided in the release contained in section III of the Settlement Agreement. The release is attached to this Order as Exhibit A.

8. Each and every member of the Settlement Class (and its departments, subdivisions, agencies and other subsidiary organizations that are part of the Settlement Class member or operate under its authority), as well as those acting in concert with them, are permanently barred and enjoined from instituting, maintaining, prosecuting or enforcing, either directly or indirectly, all claims, demands, actions, suits and causes of action against Microsoft and/or its directors, officers, employees, attorneys, insurers or agents, whether known or unknown, asserted or unasserted, that are released under paragraph 7 above.

9. Only those members of the Settlement Class that have filed valid requests for exclusion under Section II.F of the Settlement Agreement are excluded from the Settlement Class and are not bound by the release contained in the Settlement Agreement or by paragraphs 7 and 8 above. A list of those members of the Settlement Class that have filed valid requests for exclusion is attached to this Order as Exhibit B. Any member of the Settlement Class whose name does not appear on that list failed to file a valid opt out request, and each such Settlement Class member (along with its departments, subdivisions, agencies and other subsidiary organizations that are part of the Settlement Class member or operate under its authority) is barred from asserting otherwise. For a period of four (4) years from the Effective Date of the Settlement, the Clerk of this Court shall maintain the record of those members of the Settlement Class that have filed valid opt out requests. A certified copy of that record shall be provided to Microsoft at Microsoft's expense.

10. Without affecting the finality of this judgment, the Court reserves and retains continuing and exclusive jurisdiction over this Settlement and all provisions of the Settlement Agreement, and over any and all disputes and matters of any kind relating in any way to, or arising in any way from, the Settlement Agreement, including but not limited to administration, supervision, consummation, enforcement, construction and interpretation of the Settlement Agreement or any of its provisions, and for any other necessary purposes, and including all proceedings that are not the subject of a pending appeal. If the Final Judgment entered upon approval of the Settlement in this case is reversed or overturned on appeal, then this Order of Approval and the Settlement Agreement shall have no force or effect, and the parties to the proceeding shall be restored to their respective positions existing as of the date immediately prior to the execution of the Settlement Agreement. The Settlement Class and Microsoft shall remain subject to the Court's jurisdiction for purposes of enforcing the provisions of this paragraph.

11. Microsoft shall pay attorneys' fees and costs in the amount of \$ \_\_\_\_\_ for work performed by all counsel for the Settlement Class and counsel for plaintiff in this litigation no later than 15 business days after the Date of Final Approval.

IT IS SO ORDERED.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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The Honorable J. Frederick Motz  
United States District Court Judge