

IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

ATTEST A TRUE COPY
FILED

JUN 11 2009

JIM HOOD, ATTORNEY GENERAL
ex rel. STATE OF MISSISSIPPI

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.



EDDIE JEAN CARR, CHANCERY CLERK

JN Sanders D.C.

★ Civil Action No. G2004-1542

**ORDER APPROVING SETTLEMENT AND RELEASE
AND ENTERING FINAL JUDGMENT**

WHEREAS, the parties hereto have agreed to settle this case pursuant to the terms of a Settlement Agreement dated June 11, 2009, a copy of which is attached to this Order (the "Settlement Agreement");

WHEREAS, Plaintiff, the Attorney General of the State of Mississippi, has made certain claims against Microsoft based upon alleged violations of certain state law, and Plaintiff contends that the State of Mississippi and purchasers of Microsoft software located in the State of Mississippi have suffered damages and other injuries as a result;

WHEREAS Plaintiff asserted these claims on behalf of the State of Mississippi and as *parens patrie* on behalf of all citizens, businesses and any other legal entity of the State of Mississippi who or which purchased certain of defendant Microsoft's products;

WHEREAS, Microsoft denies each and every one of Plaintiff's allegations of unlawful conduct, damages and other injuries;

WHEREAS the Settlement Agreement provides eligible purchasers ("Eligible Purchasers," as defined below) of Microsoft software in the State of Mississippi, including

citizens, businesses, and county, local and municipal governmental entities and public schools and public school districts, with the opportunity to submit claims to Microsoft for up to \$60 million in vouchers that may be redeemed for cash after claimants submit proper proof of purchase of certain qualifying hardware and software (whether published by Microsoft or another software vendor);

WHEREAS the Settlement Agreement further provides that Microsoft is to give notice to Eligible Purchasers of the claims program by internet publication and by email, where Microsoft can readily identify email addresses of Eligible Purchasers;

WHEREAS the Settlement Agreement also requires Microsoft to make certain payments to the State of Mississippi in accordance with the terms set forth therein;

WHEREAS under the Settlement Agreement, Plaintiff provides Microsoft with a release, in terms set forth therein and below, on behalf of the State of Mississippi, each State agency and department and, to the extent permitted by applicable law under his authority as *parens patriae* and under any statutory authority, each political subdivision of the State and each Eligible Purchaser with respect to certain claims set forth in the release;

WHEREAS Microsoft played no part in negotiating the fees and expenses to be paid to Plaintiff's counsel and takes no position on whether those fees and expenses are reasonable or appropriate;

WHEREAS the Settlement Agreement also calls for the parties jointly to request the Court to enter an Order and Judgment approving the settlement and release, dismissing this action, incorporating the terms of the above-described release and applying its terms to all individuals and entities who are eligible to submit claims under the Settlement Agreement;

WHEREAS the Court has reviewed the Settlement Agreement and in particular the voucher claims program and finds and concludes that the Agreement and the voucher claims program provide substantial benefits to the Eligible Purchasers as well as to the State of Mississippi;

WHEREAS this Court further finds and concludes that the notice given to the Eligible Purchasers constitutes the best practicable notice and is reasonably calculated, under the circumstances, to apprise Eligible Purchasers of the pendency of this action and the terms of the settlement, and constitutes due, adequate and sufficient notice to all persons of the terms of the settlement and the availability of the benefits under the settlement;

NOW, THEREFORE, UPON THE JOINT MOTION OF THE PARTIES HERETO, IT IS HEREBY ORDERED THAT:

1. This Court hereby approves the settlement set forth in the Settlement Agreement and finds that the Settlement Agreement is fair and reasonable.
2. "Eligible Purchasers" are hereby defined as all persons, businesses, or entities who or which reside or are located in Mississippi (other than the State of Mississippi, its agencies and departments and other than federal government entities) and who or which from and including January 1, 1996 through the date of this Order Approving Settlement and Release (the "Purchase Period"), purchased a license for MS-DOS, Windows 1.xx – 3.xx, Windows 95, Windows 98, Windows ME, Windows for Workgroups, Windows NT Workstation, Windows 2000 and/or Windows XP ("Microsoft Operating System") and/or a license for Office, Word or Excel ("Microsoft Application") for use in Mississippi and who or which did not purchase it for the purpose of resale. "Eligible Purchasers" include county, local and municipal governmental entities and public schools and public school districts that are not State entities. "Eligible

Purchasers” do not include the State of Mississippi, State agencies and departments (including any State college or university) or any federal government entity.

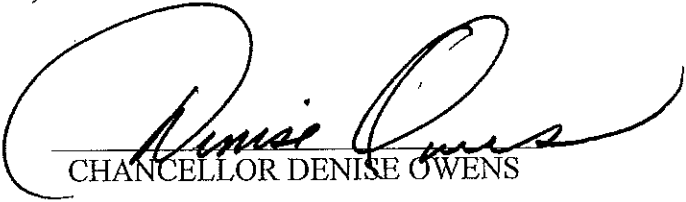
3. To the maximum extent permitted by law, Microsoft is hereby expressly and irrevocably, fully and finally, released and forever discharged from all claims, demands, actions, suits and causes of action against Microsoft and/or its directors, officers, employees, attorneys, insurers or agents, whether known or unknown, asserted or unasserted, that Plaintiff, the State of Mississippi, each State agency and department, each political subdivision of the State, and/or any Eligible Purchaser ever had, could have had, now has or hereafter can, shall or may have, relating in any way to any conduct, act or omission which was or could have been alleged in the Mississippi Action and which arise from or relate to the purchase, use and/or acquisition of a license for a Microsoft Operating System and/or Microsoft Application and where the claims, demands, actions, suits or causes of action concern or relate to any of the following: (a) antitrust (including without limitation the Sherman Antitrust Act, 15 U.S.C. § 1 et seq., and the Mississippi Antitrust Act, Miss. Code § 75-21-1 et seq.), (b) consumer protection (including without limitation, the Mississippi Consumer Protection Act, Miss. Code § 75-24-1 et seq.), (c) unfair competition, (d) unfair practices, (e) price discrimination, (f) trade regulation, (g) trade practices, and/or (h) other federal or state law, regulation or common law similar or analogous to any of the above. This release does not include claims relating to Microsoft’s conduct, acts or omissions that take place after the Purchase Period but does include any and all claims described above relating to Microsoft’s conduct, acts or omissions that occurred prior to the end of the Purchase Period.

4. This Court hereby dismisses this case on the merits, with prejudice in favor of Microsoft.

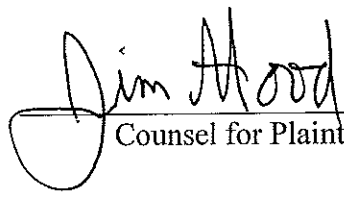
5. Without affecting the finality of this judgment, the Court hereby reserves and retains continuing and exclusive jurisdiction over all matters relating to the administration, consummation, and enforcement of the terms of the Settlement Agreement and the settlement embodied therein. If this Order Approving Settlement and Release and Entering Final Judgment is reversed or overturned on appeal, then this Order shall have no force or affect, and all negotiations, proceedings and statements made in connection therewith shall be without prejudice to the right of any persons or entities, and the parties to the proceeding shall be restored to their respective positions existing as of the date of execution of the Settlement Agreement.

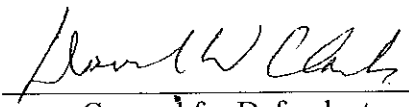
6. The Clerk shall enter Judgment dismissing this case with prejudice.

ENTERED this 11th day of June, 2009.


CHANCELLOR DENISE OWENS

Submitted by:


Counsel for Plaintiff


Counsel for Defendant

IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI

JIM HOOD, ATTORNEY GENERAL ex)	
rel. STATE OF MISSISSIPPI,)	
Plaintiff,)	
v.)	
MICROSOFT CORPORATION,)	Civil Action No. G2004-1542
Defendant.)	
)	
)	

SETTLEMENT AGREEMENT

WHEREAS, Plaintiff has made certain claims against Microsoft based upon alleged violations of certain state law, and Plaintiff contends that the State of Mississippi and purchasers of Microsoft software located in the State of Mississippi have suffered damages and other injuries as a result;

WHEREAS, Microsoft denies each and every one of Plaintiff's allegations of unlawful conduct, damages and other injuries;

WHEREAS, after arm's-length negotiations between Plaintiff and Microsoft, the parties have reached this Settlement Agreement;

WHEREAS, Plaintiff has concluded, after investigation of the facts, and after carefully considering the circumstances, that it would be in the best interests of the State of Mississippi, all State agencies and departments and all persons and entities on behalf of whom he has asserted claims in this action to enter into this Settlement Agreement; and Plaintiff considers the settlement set forth below to be fair, reasonable, adequate and in the best interests of the State of Mississippi, all State agencies and departments and those persons and entities;

WHEREAS, Microsoft has concluded that it will enter into this Settlement Agreement in order to, among other things, avoid the further expense, inconvenience, burden, uncertainty and risk of this litigation; and

NOW, THEREFORE, it is agreed by the undersigned as follows:

I. DEFINITIONS

For purposes of this Settlement Agreement, the following terms shall have the meanings set forth below.

A. "Approval Date" means the date on which the Court enters an Order substantially in the form of the Order Approving Settlement and Release and Entering Final Judgment appended hereto as Appendix B.

B. "Category I products" means all titles of software listed on Appendix A-1 hereto.

C. "Category II products" means all titles of software listed on Appendix A-2 hereto.

D. "Category III products" means all titles of software listed on Appendix A-3 hereto

E. "Claim Period" means the 60-day period commencing with the Notice

Commencement Date.

F. "Court" means the Chancery Court of Hinds County in the State of Mississippi.

G. "End of the Appeal Period" means the first date upon which all of following events have occurred:

1. The Court enters an Order Approving Settlement and Release and Entering Final Judgment substantially in the form appended hereto as Appendix B;
2. The Court enters final judgment dismissing the Mississippi Action with prejudice as provided in Section II.D below;

3. The time to appeal or seek permission to appeal or otherwise review both the Court's Order Approving Settlement and Release and Entering Final Judgment and the final judgment has expired, or, if appealed or review has been sought, the Order Approving Settlement and Release and Entering Final Judgment and final judgment have been affirmed in their entirety by the court of last resort to which such appeal or request for review has been taken and such affirmance has become no longer subject to further appeal or review.

H. "Eligible Purchasers" means all persons, businesses, or entities all persons, businesses, or entities who or which reside or are located in Mississippi (other than the State of Mississippi, its agencies and departments and other than federal government entities) and who or which, from and including the Purchase Period, purchased a license for a Microsoft Operating System and/or a license for a Microsoft Application for use in Mississippi and who or which did not purchase it for the purpose of resale. "Eligible Purchasers" include county, local and municipal governmental entities and public schools and public school districts that are not State entities. "Eligible Purchasers" do not include the State of Mississippi, State agencies and departments (including any State college or university) or any federal government entity.

I. "Holdback Amount" has the meaning set forth in Section IV.D.1 below.

J. "Microsoft" means Microsoft Corporation, its successors, assigns and subsidiaries.

K. "Microsoft Application" means the versions of Office, Excel, and Word listed on Appendices A-2 hereto.

L. "Microsoft Operating System" means the versions of Windows and MS-DOS listed on Appendices A-1 and A-3 hereto.

M. The "Mississippi Action" means *Jim Hood, Attorney General ex rel. State of Mississippi v. Microsoft Corp.*, Civil Action No. G2004-1542, pending in the Chancery Court for Hinds County in the State of Mississippi.

N. "Notice Commencement Date" means the date when the Settlement Administrator commences e-mail notice pursuant to Section IV.C.2.b below, and shall be as soon as practicable after the Approval Date.

O. "Purchase Period" means the period from and including January 1, 1996 through the Approval Date.

P. "Reversion Date" means ten (10) days after the date on which the total value of vouchers to be distributed to Eligible Purchasers has been determined by the Settlement Administrator and reported to Plaintiff and to Microsoft in accordance with Section IV.C.7 below.

Q. The "Settlement Administrator" means the person or entity selected by Microsoft to carry out the functions assigned to the Settlement Administrator in this Settlement Agreement.

R. The "Voucher Period" means one year from the issuance of the last voucher issued to any Eligible Purchaser.

II. COURT APPROVAL AND DISMISSAL WITH PREJUDICE

A. Best Efforts. Plaintiff and Microsoft agree to recommend approval of this Settlement Agreement to the Court. Plaintiff and Microsoft also agree to use their best efforts to obtain approval of this Settlement Agreement and to carry out the terms thereof. Plaintiff and Microsoft shall support the settlement embodied by this Settlement Agreement in all statements in any forum.

B. Motion for Approval. Plaintiff and Microsoft shall jointly move as promptly as practicable for entry by the Court of an Order Approving Settlement and Release and Entering Final Judgment, substantially in the form appended hereto as Appendix B, approving the settlement and release, dismissing this action with prejudice, incorporating the terms of the release set forth in Section III hereof and applying its terms to all individuals and entities who are eligible to submit claims under the Settlement Agreement.

C. Effect of Disapproval. If the Court for any reason (1) determines not to approve this Settlement Agreement; (2) does not enter the Order Approving Settlement and Release and Entering Final Judgment substantially in the form of Appendix B hereto; or (3) if the Court's approval or judgment is modified, reversed or set aside on appeal, then this Settlement Agreement terminates and becomes null and void except as otherwise provided herein.

D. Dismissal With Prejudice. Plaintiff and Microsoft hereby stipulate to the dismissal with prejudice of the Mississippi Action.

III. RELEASE

A. Release. Plaintiff hereby, on behalf of the State of Mississippi, each State agency and department, and, to the extent permitted by applicable law under his authority as *parens patriae* and under any statutory authority, on behalf of each political subdivision of the State and each Eligible Purchaser, expressly and irrevocably waives and fully, finally and forever settles and releases 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 Plaintiff, the State of Mississippi, each State agency and department, each political subdivision of the State, and/or any Eligible Purchaser ever had, could have had, now has or hereafter can, shall or may have, relating in any way to any

conduct, act or omission which was or could have been alleged in the Mississippi Action and which arise from or relate to the purchase, use and/or acquisition of a license for a Microsoft Operating System and/or Microsoft Application and where the claims, demands, actions, suits or causes of action concern or relate to any of the following: (a) antitrust (including without limitation the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, and the Mississippi Antitrust Act, Miss. Code § 75-21-1 *et seq.*), (b) consumer protection (including without limitation, the Mississippi Consumer Protection Act, Miss. Code § 75-24-1 *et seq.*), (c) unfair competition, (d) unfair practices, (e) price discrimination, (f) trade regulation, (g) trade practices, and/or (h) other federal or state law, regulation or common law similar or analogous to any of the above. This Release does not include claims relating to Microsoft's conduct, acts or omissions that take place after the Purchase Period but does include any and all claims described above relating to Microsoft's conduct, acts or omissions that occurred prior to the end of the Purchase Period.

IV. SETTLEMENT PROCEEDS

A. Settlement Proceeds. As described further below, Microsoft shall (1) pay the State of Mississippi \$28 million, (2) distribute vouchers with a face value of up to \$60 million to Eligible Purchasers who submit qualifying claims and (3) pay the State of Mississippi an additional amount ("the Reversion") to be calculated by reference to 50% of the difference between the face value of vouchers to be made available to Eligible Purchasers and the total value of vouchers actually claimed by Eligible Purchasers (described more fully in Section IV.D).

B. Initial Cash Payments. Within ten (10) days after the End of the Appeal Period, Microsoft shall:

1. pay to the State of Mississippi \$28 million in cash, which amount shall not be affected by the total amount of vouchers claimed by Eligible Purchasers; and

2. pay to the State of Mississippi an additional \$22 million in cash as a non-refundable credit against the Reversion to be paid in accordance with Section IV.D below; in the event the total value of the Reversion as determined in accordance with Section IV.C.7 below is less than \$22 million, the State shall not be required to refund any portion of the \$22 million credit described in this Section IV.B.2;

3. the payments described in this Section IV.B shall be distributed by Microsoft as follows: (a) \$40 million shall be paid into an account designated by Plaintiff and controlled by the State of Mississippi, and (b) \$10 million shall be paid to Susman Godfrey LLP -- Multi-Client Account, JPMorgan Chase Bank of Texas, 712 Main, 2nd Floor East, Houston, TX 77002, ABA #021000021, Account #00103347069.

C. Voucher Claim Program. Settlement proceeds will be distributed to Eligible Purchasers on a claims-made basis in the form of vouchers as described below.

1. Maximum Potential Value of Vouchers. The Maximum Potential Value of vouchers to be made available to Eligible Purchasers under this Settlement is \$60 million. In the event Eligible Purchasers submit valid claims for vouchers worth more than \$60 million, vouchers will be distributed on a first-come, first-served basis, with claimant priority determined by the date of receipt of the submitted claim forms. In the event particular Eligible Purchasers fail to receive vouchers as a result of the total value of claims submitted by Eligible Purchasers exceeding \$60 million, such individuals or entities shall have no further recourse against either

Microsoft or the State of Mississippi and the failure of such individuals or entities to obtain vouchers shall not affect the validity of any release provided by them in connection with the settlement. No vouchers will be issued prior to the End of the Appeal Period.

2. Notice.

a. Plaintiff and Microsoft agree that, under the circumstances, the best practicable means of notice to the Eligible Purchasers is notice by internet publication supplemented by newspaper publication as set forth below and, where Microsoft can readily identify e-mail addresses of Eligible Purchasers, by the provision of notice pursuant to Section IV.C.2.b below. Plaintiff and Microsoft agree that Microsoft will bear the cost of such notice.

b. Microsoft will not send or publish any notice without the consent of Plaintiff, but such consent shall be provided within three business days of receiving a draft of the notice from Microsoft and shall not be unreasonably withheld.

c. In addition to notice by internet publication, Microsoft will arrange for notice (which notice shall include a link to an electronic copy of a Claim Form) to be e-mailed to all identifiable Eligible Purchasers whose e-mail addresses can readily be obtained from any of the following databases: MS Sales, MSL, MOLP, WWMDB and Microsoft product support databases, including the Clarify, PSS Reporting Warehouse and PID Server databases. All e-mailed notices will contain a clear warning regarding the possibility of audit and the penalties for the submission of false information in connection with claiming and/or redeeming vouchers. At Microsoft's option, some or all of the notices referred to in this subparagraph may be mailed instead of emailed.

d. Microsoft will also cause notice to be posted, during the entire Claim Period, on an Internet Web site. The Settlement Administrator will manage the Internet

Web site. An electronic copy of a Claim Form will be available on the Web site. The Web site will also contain information on how to make claims. The e-mailed notices pursuant to Section IV.C.2.b above shall direct Eligible Purchasers to the Web site.

e. In addition to the Web site described in Section IV.C.2.c above, a copy of the notice or a link to the settlement web site will be posted on Microsoft's corporate Web site and will be linked to the "legal issues" tab or some other descriptive tab name.

f. In addition to the notice set forth above, Microsoft will cause notice to be published in the three largest (by circulation) newspapers in Mississippi.

g. Microsoft will bear the costs of notice as provided under this Section IV.C.

3. Voucher Amounts. Upon presentation of a proof of claim as set forth in Section V.A below, each Eligible Purchaser who purchased in the United States a Category I, Category II or Category III software license for use in Mississippi during the Purchase Period may obtain a voucher as follows:

a. Eligible Purchasers who purchased a license for a Category I product during the Purchase Period for use in Mississippi will receive a voucher worth \$12 for each such license.

b. Eligible Purchasers who purchased a license for a Category II product during the Purchase Period for use in Mississippi will receive a voucher worth \$5 for each such license.

c. Eligible Purchasers who purchased a license for a Category III product during the Purchase Period for use in Mississippi will receive a voucher worth \$5 for each such license.

4. Voucher Restrictions. The vouchers may be aggregated by any claimant possessing a number of any such vouchers. The vouchers are not redeemable for cash. Nor may the vouchers be presented directly to a retailer or computer manufacturer upon the purchase of the hardware or software described in Section IV.C.6 below. Each voucher issued to Eligible Purchasers shall expire one year after the date it is issued.

5. Redemption. Claimants may present the vouchers to the Settlement Administrator, together with proof of purchase (described in Section V.B. below) of any of the following hardware and software purchased after the Approval Date, to receive a cash reimbursement up to the face value of the vouchers. Claimants may make only one submission for redemption to the Settlement Administrator, but that submission may include qualifying purchases made at different times. Valid vouchers will be accepted by the Settlement Administrator if they are (1) postmarked on or before the last day of the Voucher Period, and (2) received by the Settlement Administrator within 14 days of the last day of the Voucher Period.

a. Hardware. Claimants may redeem the vouchers from the Settlement Administrator during the Voucher Period by presenting proof of purchase made after the date of this Settlement Agreement of any new personal computer or Macintosh computer, including desktop and laptop computers, and Tablet PCs ("Qualifying Hardware"). The definition of Qualifying Hardware includes the following peripheral devices: printers, scanners, monitors, keyboards and pointing devices (*e.g.*, mouse, trackball, etc.). An Eligible Purchaser whose total claim is less than \$950 may use his or her vouchers to purchase such peripheral devices regardless of whether or not the claimant also purchases a computer. All other Eligible Purchasers may use vouchers to purchase such peripheral devices only in connection with the

purchase of a computer. The definition of Qualifying Hardware excludes servers, PDAs or other hand-held devices, peripherals (such as, but not limited to, cables, speakers or other external devices) other than those expressly included above, and components (including, but not limited to, internal or external storage units, internal or external CD-ROM, DVD or other read/write devices, zip drives, tape backup or storage units, memory, video or audio cards, motherboards or CPUs).

b. Software. Claimants may redeem the vouchers from the Settlement Administrator during the Settlement Period by presenting proof of purchase made after the date of this Voucher Agreement of any non-custom client software title, including any software title not published by Microsoft, that is (a) available for sale to the general public in a standard form, (b) capable of running on any Qualifying Hardware described in Section IV.C.6.a above, and (c) is not software designed to operate on a server ("Qualifying Software"). The definition of Qualifying Software excludes custom software, software that operates on CPUs not used in Qualifying Hardware, and consulting services.

6. Determination of Actual Value of Vouchers Claimed. As soon as practicable after the Claim Period closes, the Settlement Administrator shall determine the total value of vouchers to be distributed to Eligible Purchasers and shall report that value to Plaintiff and to Microsoft simultaneously in writing.

D. Reversion to the State. In the event the total value of vouchers to be distributed to Eligible Purchasers, as determined by the Settlement Administrator in accordance with Section IV.C.7, is less than the Maximum Potential Value of such vouchers as described in Section IV.C.1 above, the State of Mississippi shall be entitled to a Reversion, to be paid by Microsoft, equal to one-half the difference between the Maximum Potential Value of the vouchers (*i.e.*,

\$60 million) and the total value of vouchers actually distributed to Eligible Purchasers as determined by the Settlement Administrator.

1. First Reversion Payment. On or before the Reversion Date, Microsoft shall make a cash payment to the State of Mississippi equal to the value of the Reversion under Section IV.D above minus (1) the \$22 million advance described in Section IV.B.2 above, and (2) up to \$5 million (the "Holdback Amount"), which shall be held by Microsoft and distributed in accordance with the terms described in Section IV.D.2 below.

2. Second Reversion Payment. At the conclusion of twelve (12) months after the Reversion Date (the "Distribution Date"), the Holdback Amount referred to in Section IV.D.1 shall be distributed as follows: Microsoft shall be entitled to retain an amount equal to any reasonable costs (including attorneys' fees) incurred as of the Distribution Date by Microsoft in connection with (1) defending the validity of the settlement (except as against any claim brought by Plaintiff or the State of Mississippi to enforce the settlement) and/or release on appeal in this proceeding, and/or (2) defending against, paying or resolving in any manner any claims within the scope of the release described in Section III above that are hereafter asserted against Microsoft. Microsoft shall pay the State of Mississippi the difference, if any, between the Holdback Amount and any such costs incurred by Microsoft.

V. PROCESS FOR CLAIMING AND REDEEMING VOUCHERS

A. Step 1. Eligible Purchasers may claim the vouchers described in Section IV.C above by sending a completed Claim Form, together with proof of qualification, to the Settlement Administrator prior to the close of the Claim Period.

1. Claim Forms. The e-mailed notice provided pursuant to Section IV.C.2.b above will include a Claim Form or a link to an electronic copy of the Claim Form to be used by

Eligible Purchasers. In addition, an electronic copy of the Claim Form will be available on the Internet Web site described in Section IV.C.2.c above, which will also contain information on how to make claims. The Claim Form will contain a clear warning regarding the possibility of audit and the penalties for the submission of false information in connection with claiming and/or redeeming vouchers. All Claim Forms will require a sworn declaration under penalty of perjury that sets forth the claimant's name, street address, telephone number, address at the time of purchase of each qualified license, either a photocopy of a valid driver's license or a social security number or a taxpayer identification number, e-mail address (optional), the quantity purchased of each type of Microsoft Operating System and/or Microsoft Application, the year in which each purchase was made, and the identity of the seller. In addition, claims submitted by businesses must include a sworn declaration under penalty of perjury that the software covered by the claim was used primarily in Mississippi. All Claim Forms will also require that claimants sign a release explicitly agreeing to the terms of the release described in Section III above. No claim for vouchers will be approved in the absence of a validly executed release.

2. Proof of Qualification (Claims For Up To Five Licenses). Eligible Purchasers may submit claims for up to five (5) licenses supported only by the sworn declaration under penalty of perjury described in Section V.A.1 above. The Settlement Administrator shall approve such claims without requiring further documentation unless there is reasonable cause to suspect that the claim is fraudulent, duplicative, invalid, or otherwise inaccurate. Any additional license claims will require documentation. The additional documented claims may be combined with the five license claims that are supported only by a sworn declaration.

3. Proof of Qualification (Customers Other Than Volume Licensing Customers). An Eligible Purchaser who submits claims for additional licenses (other than

volume licenses) beyond the five license claims described in Section V.A.2 above must support such claims by providing, prior to the close of the Claim Period, for each: (1) a sworn declaration under penalty of perjury as described in Section V.A.1 above; and (2) one of the following:

- a. the Product Identification ("PID") number; or
- b. printed information identifying the Microsoft Operating System and/or Microsoft Application purchased that may be provided with the emailed or mailed notice pursuant to Section IV.C.2.b above.

The Settlement Administrator shall approve such claims without requiring further documentation unless there is reasonable cause to suspect that the claim is fraudulent, duplicative, invalid, or otherwise inaccurate.

4. Proof of Qualification (Volume Licensing Customers). An Eligible Purchaser who licensed a Microsoft Operating System and/or Microsoft Application through Microsoft's volume licensing programs (including Open, Select and Enterprise Agreement customers) must support such claims by providing, prior to the close of the Claim Period, for each: (1) a sworn declaration under penalty of perjury as described in Section V.A.1 above; and (2) one of the following:

- a. the claimant's license agreement;
- b. license confirmations;
- c. Enterprise Agreement enrollment forms;
- d. interim true-up orders; or
- e. eOpen documentation or MVLS documentation.

The Settlement Administrator shall approve such claims without requiring further documentation unless there is reasonable cause to suspect that the claim is fraudulent, duplicative, invalid, or otherwise inaccurate.

Proof of purchase of a product upgrade license, maintenance-type program or similar license does not constitute proof of a prior purchase of the underlying license. If a claim is made for the underlying product license, separate documentation establishing the purchase of that license must be submitted. For any volume license agreement, the Mississippi claimant shall be considered to have a separate license only for the initial license(s) purchased under the volume license agreement and not for any additional upgrade licenses which the claimant was eligible to receive and install under the terms of the volume license agreement.

5. Approval. The Settlement Administrator will promptly review each claim and make a determination of the number and amount of vouchers to be issued to each claimant. The Settlement Administrator shall mail the voucher(s) for each claimant who has submitted the proof of qualification required by the introductory paragraph of Section V.A. above to the address provided by the claimant. The Settlement Administrator shall not be responsible for insuring that the claimant actually receives the voucher.

B. Step 2. To redeem any voucher for up to its face value, a claimant must submit the voucher, together with proof of purchase of Qualifying Hardware and/or Qualifying Software (as defined in Section IV.C.6 above) made after the Approval Date, to the Settlement Administrator such that it is postmarked within 14 days of the expiration of the voucher and received by the Settlement Administrator within 21 days of the end of the Voucher Period. Claimants should retain copies of their vouchers and all other documentation submitted to the Claims Administrator as proof of purchase of Qualifying Hardware and Qualifying Software.

1. Proof of Purchase. The proof of purchase must include (a) a photocopy of a receipt for the purchase of Qualifying Hardware and/or Qualifying Software, and (b) a box top or other original packing material with either a U.P.C. bar code or a proof-of-purchase mark on

it. The claimant must have purchased the Qualifying Hardware and/or Qualifying Software after the Approval Date. If the amount of the vouchers submitted with the proof(s) of purchase exceeds the purchase price of the Qualifying Hardware and/or Qualifying Software, the Settlement Administrator will not redeem the vouchers for that excess amount.

2. No Transfer. Once issued, vouchers are not transferable to, and may not be redeemed by, any person or entity other than the Eligible Purchaser to whom such vouchers were issued.

3. Approval. If the Settlement Administrator approves the submission, the Settlement Administrator shall, within 45 days of receipt of the voucher(s) and supporting documentation, mail to the claimant a check for the appropriate amount to the address provided by the claimant. The Settlement Administrator is not responsible for ensuring that the claimant actually receives the check.

C. Combined Claims. An Eligible Purchaser may, at his or her option, submit a Claim Form and proof of qualification (as described in Section V.A above) and proof of purchase (as described in Section V.B above) at the same time. If all of the submitted documentation is satisfactory, the Settlement Administrator shall issue a check to the Eligible Purchaser for the appropriate amount. However, it is possible that some or all of the claimant's submitted documentation may not be approved by the Settlement Administrator and that the claimant's claims may not be approved.

D. Settlement Claims Administration

1. The Settlement Administrator shall review the Claim Forms and proofs of purchase described in Sections V.A, V.B, and V.C above to determine whether they contain the required documentation and whether the claims are duplicative or otherwise invalid, and shall

reject any invalid claims unless Microsoft otherwise directs. Microsoft may work with the Settlement Administrator to verify the validity of claims through Microsoft's volume licensing program data or other reliable information. If Plaintiff or Microsoft disputes any claim, the Settlement Administrator may request additional documentation from the claimant.

2. In the event a Claim Form or proof of purchase described in Sections V.A, V.B, or V.C above is rejected by the Settlement Administrator, the Settlement Administrator shall send mailed written notice to the claimant at the address included on the Claim Form, with copies to Plaintiff and Microsoft.

3. The decision concerning the validity of any particular claim shall be made by the Settlement Administrator, subject to appeal by the claimant, Plaintiff or Microsoft for the Court's review and judgment, which is final for accepted claims. Before appealing a decision of the Settlement Administrator to the Court, counsel for the parties shall attempt to resolve informally any disputes over the Settlement Administrator's decision. To the extent such appeals to the Court must be made, the parties will endeavor to make all available appeals at once, to avoid, to the extent practicable, burdening the Court with multiple appeals.

4. Microsoft will advise its sales team and PSS team that all inquiries from Eligible Purchasers regarding claims procedures shall be redirected to the Settlement Administrator. Information on Claim Forms will not be made available to Microsoft or any other entity for any purpose other than administration of the claims process under this Settlement Agreement.

VI. OTHER PROVISIONS

A. No Admission. By entering into this Settlement Agreement, Microsoft does not admit any liability or wrongdoing or the truth of any of the claims or allegations in the

Mississippi Action. To the contrary, Microsoft specifically denies each and every one of the allegations of unlawful conduct and damages in the Mississippi Action. It is expressly understood and agreed that this Settlement Agreement is being entered into solely for the purpose of amicably resolving the Mississippi Action. Plaintiff agrees not to represent, publicly or otherwise, that the settlement in any way embodies, reflects, implies or can be used to infer any culpability by Microsoft or any of its directors, officers, employees, attorneys, insurers or agents.

B. No Most Favored Nation Provision. This Settlement Agreement in Mississippi will take place on the basis of the terms specified in this agreement regardless of, and will not be contingent upon, whatever else might happen in Microsoft's litigation in any other jurisdiction. Specifically, there is no "Most Favored Nation" provision.

C. Attorneys' Fees and Costs. Microsoft played no part in negotiating the fees and expenses to be paid to plaintiff's counsel and takes no position as to whether those fees and expenses are reasonable or appropriate.

D. Choice of Law. This Settlement Agreement shall be governed by and interpreted according to the substantive laws of Mississippi without regard to its choice of law or conflict of laws principles.

E. Discovery Materials.

1. All discovery materials and information (including but not limited to documents; responses to interrogatories, document requests, subpoenas or other oral or written requests; transcripts (including but not limited to deposition transcripts) of any kind and in any medium; privilege logs; and all data furnished or stored by electronic means (including but not limited to CDs, computer files, emails and attachments and tape storage units)) produced or

provided by any of the parties or non-parties either before, on or after the date of this Settlement Agreement, whether produced or provided informally or pursuant to discovery requests, shall be governed by all Confidentiality/Protective Orders in force as of the date of this Settlement Agreement or as modified below or otherwise with the consent of Plaintiff and Microsoft.

2. Plaintiff and Microsoft acknowledge and agree that within 30 days of the End of the Appeal Period, all such discovery materials and information produced by, provided by or discovered of Microsoft, or its current or former directors, officers, employees, attorneys, insurers or agents, shall be returned to Microsoft upon its request or destroyed in a manner acceptable to Microsoft. In addition, anything which incorporates, includes, references or quotes any discovery materials or information produced by, provided by, discovered of or obtained in discovery relating to Microsoft, or its current or former directors, officers, employees, attorneys, insurers or agents (including but not limited to materials or information produced by non-parties, expert work product and attorney work product) shall be returned to Microsoft or destroyed in a manner acceptable to Microsoft.

3. Plaintiff shall also cause each and every person to whom he (or his staff or counsel) have provided such materials (including but not limited to third parties such as experts and consultants) to return the materials to Microsoft or destroy such materials in a manner acceptable to Microsoft.

4. Notwithstanding the above, Plaintiff may retain, subject to all applicable confidentiality orders, one file copy of any pleadings, motions, briefs or affidavits that have been filed with the Court .

F. Execution in Counterparts. The signatories to this Settlement Agreement may execute this Settlement Agreement in counterparts, and the execution of counterparts shall

have the same effect as if all counsel had signed the same instrument. Facsimile or e-mailed signatures shall be considered as valid signatures as of the date hereof, but the original signature pages shall thereafter be appended to this Settlement Agreement and filed with the Court.

G. Integrated Agreement. This Settlement Agreement (with its appendices and expressly incorporated documents) contains the entire, complete and integrated statement of each and every term and provision agreed to by Plaintiff and Microsoft, and is not subject to any condition not provided for herein. This Settlement Agreement shall not be modified in any respect except by a writing executed by all signatories hereto. In entering into this Settlement Agreement, neither Plaintiff nor Microsoft has made or relied on any warranty or representation not specifically set forth herein.

H. Jurisdiction. The Court shall have exclusive jurisdiction over all provisions of this Settlement Agreement and over any and all disputes of any kind relating in any way to, or arising in any way out of, this Settlement Agreement.

I. Notice. Any notice, request, instruction or other document to be given by Microsoft to Plaintiff, or vice versa, shall be in writing and (a) delivered personally, or (b) sent by Federal Express or (c) sent by facsimile or email with a copy by mail.

If to Microsoft:

Steven Aeschbacher
MICROSOFT CORPORATION
One Microsoft Way
Redmond, Washington 98052
(425) 882-8080

Joseph E. Neuhaus
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
(212) 558-4000

If to Plaintiff:

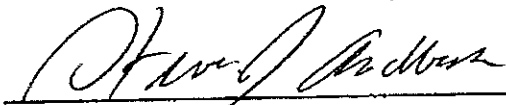
Attorney General James Hood
MISSISSIPPI ATTORNEY GENERAL
Attention: George Neville
550 High Street, Suite 1200
Jackson, Mississippi 39201
(601) 359-3680

Harry Susman
SUSMAN GODFREY LLP
1000 Louisiana, Suite 5100
Houston, Texas 77002
(713) 653-7875

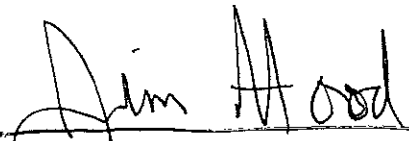
IN WITNESS WHEREOF, Plaintiff and Microsoft have duly executed this Settlement

Agreement on this 11th day of June, 2009.


AGREED to this 11th day of June, 2009.



Steven Aeschbacher
MICROSOFT CORPORATION
One Microsoft Way
Redmond, Washington 98052
(425) 882-8080



ATTORNEY GENERAL JIM HOOD
THE STATE OF MISSISSIPPI



Joseph E. Neuhaus
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
(212) 558-4000

Counsel for Microsoft Corporation

APPENDIX A-1

<i>Product Title/Edition</i>	<i>Version</i>
Windows 95	
Windows 98	
Windows 98 Second Edition	
Windows Millennium Edition	

APPENDIX A-2

The covered applications products listed below include versions licensed for use with either MS-DOS or Windows.

<i>Product Title/Edition</i>	<i>Version</i>
Office	1.0
Office	1.5
Office	1.6
Office	2.0
Office	2.5
Office	3.0
Office	3.2
Office	4.0
Office	4.1
Office	4.2
Office	4.21
Office	4.3
Office	4.5
Office	7.0
Office 95	
Office 97	
Office 2000	
Office XP	
Office Professional	1.0
Office Professional	3.0
Office Professional	4.0
Office Professional	4.1
Office Professional	4.2
Office Professional	4.21
Office Professional	4.3
Office Professional	7.0
Office 95 Professional	
Office 97 Professional	
Office 2000 Professional	
Office 2002 Professional	
Office XP Professional	
Office XP Professional Special Edition	
Office 2000 Premium	
Office Small Business	7.0
Office 97 Small Business	
Office 97.2 Small Business	

<i>Product Title/Edition</i>	<i>Version</i>
Office 2000 Small Business	
Office XP Small Business	
Word	1.0
Word	1.1
Word	1.15
Word	1.2
Word	2.0
Word	2.01
Word	3.0
Word	3.1
Word	4.0
Word	5.0
Word	5.1
Word	5.5
Word	6.0
Word	6.01
Word	7.0
Word	7.1
Word 95	
Word 97	
Word 98	
Word 2000	
Word 2002	
Home Essentials 97	
Home Essentials 98	
Works Suite 99	
Works Suite 2000	
Works Suite 2001	
Works Suite 2002	
Excel	1.0
Excel	1.1
Excel	2.0
Excel	2.1
Excel	2.2
Excel	2.21
Excel	3.0
Excel	4.0
Excel	5.0
Excel	6.0
Excel	7.0
Excel 95	

<i>Product Title/Edition</i>	<i>Version</i>
Excel 97	
Excel 2000	
Excel 2002	

APPENDIX A-3

<i>Product Title/Edition</i>	<i>Version</i>
MS-DOS	1.0
MS-DOS	2.0
MS-DOS	2.11
MS-DOS	3.1
MS-DOS	3.2
MS-DOS	3.21
MS-DOS	3.22
MS-DOS	3.3
MS-DOS	3.5
MS-DOS	4.0
MS-DOS	4.01
MS-DOS	4.2
MS-DOS	5.0
MS-DOS	6.0
MS-DOS	6.2
MS-DOS	6.21
MS-DOS	6.22
Windows	1.0
Windows	2.0
Windows	2.1
Windows	2.11
Windows	3.0
Windows	3.1
Windows	3.11
Windows	3.2
Windows for Workgroups	1.0
Windows for Workgroups	3.0
Windows for Workgroups	3.1
Windows for Workgroups	3.11
Windows 2000 Professional	
Windows NT Workstation	1.0
Windows NT Workstation	3.1
Windows NT Workstation	3.11
Windows NT Workstation	3.4
Windows NT Workstation	3.5
Windows NT Workstation	3.51
Windows NT Workstation	4.0
Windows NT Workstation	4.21
Windows XP Home Edition	
Windows XP Professional	

APPENDIX B

IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

JIM HOOD, ATTORNEY GENERAL
ex rel. STATE OF MISSISSIPPI

Plaintiff,

v.

Civil Action No. G2004-1542

MICROSOFT CORPORATION,

Defendant.

**ORDER APPROVING SETTLEMENT AND RELEASE
AND ENTERING FINAL JUDGMENT**

WHEREAS, the parties hereto have agreed to settle this case pursuant to the terms of a Settlement Agreement dated June 11, 2009, a copy of which is attached to this Order (the "Settlement Agreement");

WHEREAS, Plaintiff, the Attorney General of the State of Mississippi, has made certain claims against Microsoft based upon alleged violations of certain state law, and Plaintiff contends that the State of Mississippi and purchasers of Microsoft software located in the State of Mississippi have suffered damages and other injuries as a result;

WHEREAS Plaintiff asserted these claims on behalf of the State of Mississippi and as *parens patrie* on behalf of all citizens, businesses and any other legal entity of the State of Mississippi who or which purchased certain of defendant Microsoft's products;

WHEREAS, Microsoft denies each and every one of Plaintiff's allegations of unlawful conduct, damages and other injuries;

WHEREAS the Settlement Agreement provides eligible purchasers (“Eligible Purchasers,” as defined below) of Microsoft software in the State of Mississippi, including citizens, businesses, and county, local and municipal governmental entities and public schools and public school districts, with the opportunity to submit claims to Microsoft for up to \$60 million in vouchers that may be redeemed for cash after claimants submit proper proof of purchase of certain qualifying hardware and software (whether published by Microsoft or another software vendor);

WHEREAS the Settlement Agreement further provides that Microsoft is to give notice to Eligible Purchasers of the claims program by internet publication and by email, where Microsoft can readily identify email addresses of Eligible Purchasers;

WHEREAS the Settlement Agreement also requires Microsoft to make certain payments to the State of Mississippi in accordance with the terms set forth therein;

WHEREAS under the Settlement Agreement, Plaintiff provides Microsoft with a release, in terms set forth therein and below, on behalf of the State of Mississippi, each State agency and department and, to the extent permitted by applicable law under his authority as *parens patriae* and under any statutory authority, each political subdivision of the State and each Eligible Purchaser with respect to certain claims set forth in the release;

WHEREAS Microsoft played no part in negotiating the fees and expenses to be paid to Plaintiff’s counsel and takes no position on whether those fees and expenses are reasonable or appropriate;

WHEREAS the Settlement Agreement also calls for the parties jointly to request the Court to enter an Order and Judgment approving the settlement and release, dismissing this

action, incorporating the terms of the above-described release and applying its terms to all individuals and entities who are eligible to submit claims under the Settlement Agreement;

WHEREAS the Court has reviewed the Settlement Agreement and in particular the voucher claims program and finds and concludes that the Agreement and the voucher claims program provide substantial benefits to the Eligible Purchasers as well as to the State of Mississippi;

WHEREAS this Court further finds and concludes that the notice given to the Eligible Purchasers constitutes the best practicable notice and is reasonably calculated, under the circumstances, to apprise Eligible Purchasers of the pendency of this action and the terms of the settlement, and constitutes due, adequate and sufficient notice to all persons of the terms of the settlement and the availability of the benefits under the settlement;

NOW, THEREFORE, UPON THE JOINT MOTION OF THE PARTIES HERETO, IT IS HEREBY ORDERED THAT:

1. This Court hereby approves the settlement set forth in the Settlement Agreement and finds that the Settlement Agreement is fair and reasonable.
2. "Eligible Purchasers" are hereby defined as all persons, businesses, or entities who or which reside or are located in Mississippi (other than the State of Mississippi, its agencies and departments and other than federal government entities) and who or which from and including January 1, 1996 through the date of this Order Approving Settlement and Release (the "Purchase Period"), purchased a license for MS-DOS, Windows 1.xx – 3.xx, Windows 95, Windows 98, Windows ME, Windows for Workgroups, Windows NT Workstation, Windows 2000 and/or Windows XP ("Microsoft Operating System") and/or a license for Office, Word or Excel ("Microsoft Application") for use in Mississippi and who or which did not purchase it for

the purpose of resale. "Eligible Purchasers" include county, local and municipal governmental entities and public schools and public school districts that are not State entities. "Eligible Purchasers" do not include the State of Mississippi, State agencies and departments (including any State college or university) or any federal government entity.

3. To the maximum extent permitted by law, Microsoft is hereby expressly and irrevocably, fully and finally, released and forever discharged from 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 Plaintiff, the State of Mississippi, each State agency and department, each political subdivision of the State, and/or any Eligible Purchaser ever had, could have had, now has or hereafter can, shall or may have, relating in any way to any conduct, act or omission which was or could have been alleged in the Mississippi Action and which arise from or relate to the purchase, use and/or acquisition of a license for a Microsoft Operating System and/or Microsoft Application and where the claims, demands, actions, suits or causes of action concern or relate to any of the following: (a) antitrust (including without limitation the Sherman Antitrust Act, 15 U.S.C. § 1 et seq., and the Mississippi Antitrust Act, Miss. Code § 75-21-1 et seq.), (b) consumer protection (including without limitation, the Mississippi Consumer Protection Act, Miss. Code § 75-24-1 et seq.), (c) unfair competition, (d) unfair practices, (e) price discrimination, (f) trade regulation, (g) trade practices, and/or (h) other federal or state law, regulation or common law similar or analogous to any of the above. This release does not include claims relating to Microsoft's conduct, acts or omissions that take place after the Purchase Period but does include any and all claims described above relating to Microsoft's conduct, acts or omissions that occurred prior to the end of the Purchase Period.

4. This Court hereby dismisses this case on the merits, with prejudice in favor of Microsoft.

5. Without affecting the finality of this judgment, the Court hereby reserves and retains continuing and exclusive jurisdiction over all matters relating to the administration, consummation, and enforcement of the terms of the Settlement Agreement and the settlement embodied therein. If this Order Approving Settlement and Release and Entering Final Judgment is reversed or overturned on appeal, then this Order shall have no force or effect, and all negotiations, proceedings and statements made in connection therewith shall be without prejudice to the right of any persons or entities, and the parties to the proceeding shall be restored to their respective positions existing as of the date of execution of the Settlement Agreement.

6. The Clerk shall enter Judgment dismissing this case with prejudice.

ENTERED this _____ day of June, 2009.

CHANCELLOR DENISE OWENS

Submitted by:

Counsel for Plaintiff

Counsel for Defendant