Behind the Microsoft antitrust case: computer giants battle for markets and profits

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The finding of fact issued November 5 by US District Judge Thomas Penfield Jackson against Microsoft Corporation is a major blow to the largest US software company. Jackson upheld virtually all the contentions of the antitrust division of the Department of Justice, which brought suit against Microsoft for anti-competitive and predatory practices.

Judge Jackson's finding of fact is unequivocal about Microsoft's crude and deliberate efforts to use its monopoly position in PC operating systems to gain control over other areas of the lucrative software industry, especially those related to the Internet and e-commerce. As the *Wall Street Journal* noted in its news report, "the judge came away convinced that the software company has behaved more like a thug in its dealings with competitors and customers."

Judge Jackson wrote in his finding: "Microsoft has demonstrated that it will use its prodigious market power and immense profits to harm any firm that insists on pursuing initiatives that could intensify competition against one of Microsoft's core products. The ultimate result is that some innovations that would truly benefit consumers never occur for the sole reason that they do not coincide with Microsoft's self-interest."

The 207-page finding bristles with sharply worded assaults on the unscrupulous behavior of Microsoft Chairman Bill Gates & Co. But the judge, appointed to the federal bench by Ronald Reagan in 1981, is hardly a foe of big business. He is, on the contrary, siding with one section of corporate America against another—in this case, with Silicon Valley giants such as Sun Microsystems, Intel, Apple Computer and others, who have backed the Clinton administration's antitrust suit against Microsoft.

Executives of Netscape (now a division of AOL), IBM, Intel, Sun and Apple testified against Microsoft in the course of the trial. Rival software makers like Novell and Oracle also backed the lawsuit, as did the PC manufacturer Gateway. The two biggest PC makers, Dell and Compaq Computer, sided with Microsoft, although evidence was introduced that they too were on occasion the targets of its bullying.

While competitors provided some of the testimony summarized in the finding of fact, the most important evidence came from Microsoft itself, in internal memos and e-mail messages in which company officials discussed their tactics for destroying competitors and boasted of their frequent success. Targets ranged from Netscape, nearly bankrupted by Microsoft's free distribution of its Internet Explorer web browser, to PC makers who failed to give preferential treatment to Microsoft products, to software companies which were rivals in the production of office systems.

Judge Jackson found that Microsoft had engaged in predatory and illegal competitive behavior. Microsoft and its defenders replied that the company was only doing what any other company would do in its place. Both are correct. Were Sun, Novell or Oracle to displace Microsoft as the dominant power in the software industry, they would act no differently. Despite the official mythology of "free enterprise" and the "market", the highest goal of every capitalist firm is to attain a monopoly position, control the market rather than being controlled by it, and reap the resulting profits.

In deference to the prevailing free market ideology, both sides in this intra-corporate dispute seek to portray themselves as promoting competition and providing the most attractive choices for consumers. But the real issue is money—vast, almost incalculable amounts of money. That is what gives such an air of hypocrisy to the debate over Microsoft that has consumed the media since the judge issued his findings last Friday.

Microsoft's monopoly position has produced three of the four largest fortunes on the planet, with CEO Bill Gates worth an estimated $100 billion, cofounder Paul Allen about $40 billion, and company president Steven Ballmer worth about $20 billion. The total market capitalization of Microsoft is over $470 billion, making the company, with only 30,000 workers, worth more than General Motors, Ford, General Electric and AT&T combined. Microsoft reported annual gross profits of $7.8 billion on only $14.5 billion revenues, and its net profit rate was nearly 40 percent.

Even these sums are dwarfed by the potential revenues from a dominant position in electronic commerce using the Internet, with estimates that the market could reach $1.7 trillion annually by 2005.

Nonetheless, Ballmer presented the Microsoft position as a disinterested defense of the right to innovate and serve the public. In a column published in the November 9 *Wall Street Journal* he described Gates and Allen—the two richest men on earth—as “inspired by a simple but powerful idea: that technology could improve people's lives. Ever since then Microsoft has dedicated itself to developing the affordable, accessible software consumers tell us they want.”

Microsoft is calling on an array of big business politicians to defend it, obtaining statements denouncing the Justice Department from an array of Republican congressional leaders, including Majority Leader Dick Armey and Majority Whip Tom DeLay, House Commerce Committee Chairman Thomas Bliley, Senate Budget Committee Chairman Peter Domenici, and billionaire presidential hopeful Steve Forbes. An equally reactionary line-up hailed the finding of fact by Judge Jackson, including Senator Orrin Hatch and fundamentalist Gary Bauer, two Republican presidential hopefuls.

The split among the Republicans mirrors the split in corporate America. Armey and DeLay are both from Texas, where Dell and Compaq Computer are headquartered. Hatch is from Utah, home to Microsoft rival Novell. Another leading figure of the ultra-right, former Appeals Court Justice Robert Bork, now a paid spokesman for Netscape/AOL, wrote a column in the *Journal* explaining that his previous denunciations of antitrust laws did not apply to the Microsoft case.

Republican presidential frontrunner George W. Bush has so far been silent on the issue. Both Microsoft Chief Operating Officer Robert Herbold and Netscape's James Barksdale are members of his fundraising committee.

In the two years since the antitrust suit was filed, Microsoft has embarked on a spending spree in Washington which has given it a bipartisan stable of top officials turned lobbyists. On its payroll are former Republican National Committee Chairman Haley Barbour—whose firm received $600,000 from Microsoft last year—former Republican congressman Vin Weber, and Kerry Knott, former chief of staff to Dick Armey. Among Democrats, Microsoft now employs the former House conference leader Vic Fazio, former congressman Tom Downey, a close friend of Al Gore, and Mark Fabiani, former special counsel in the Clinton White House. The company has also hired two former heads of the antitrust division of the Justice Department to advise it on how to combat the current top antitrust lawyer, Joel Klein.

Microsoft is also aggressively defending itself in the securities market. Despite speculation that its stock would fall sharply after Judge Jackson issued his findings, there was only a minimal drop, in part at least because of heavy buying of the stock by Microsoft itself. The company has a cash hoard of $18 billion, larger than the resources which most central banks can call upon to defend national currencies.

Despite the war of words, Microsoft's market power and profits are in little danger. The Clinton administration is not engaged in systematic “trust-busting,” having given approval to more large mergers in the past seven years than in any period in American history. Gore championed the deregulation of the telecommunications industry, which has touched off a wave of such combinations, and the White House last month signed off on a measure to repeal the Glass-Steagall Act and permit the formation of gigantic financial conglomerates that would be able to combine banking, insurance and stock exchange speculation.

Press reports suggest that the Justice Department is considering seeking a court order to split Microsoft's Windows operating systems business from its role as the principal supplier of office applications such as Word, Excel, and Powerpoint. But such a plan is likely to be a bargaining position to achieve more limited objectives.

One concern articulated by a leading Senate Democrat, Charles Schumer of New York, is that too strong a sanction on the software giant could undermine the US dominance of the industry worldwide. "We could break up Microsoft,” Schumer warned, “and find the leading company in the world could be Japanese or Chinese or German."

As the *World Socialist Web Site* has explained in previous commentaries on the Microsoft case, the claim that profit-driven competition and the “free market” produce the most efficient and rational outcome is belied by any serious and honest examination of the history of the software industry.

The entire computer industry is the byproduct of enormous, socially coordinated efforts, largely subsidized and directed by governments in the United States, Britain and other major capitalist countries, especially in time of war. The first true computers were developed in the US to perform the complex calculations required for the building of the atomic and hydrogen bombs. The Internet itself is the offshoot of a computer network built by the Pentagon in the 1950s and 1960s to coordinate defense research efforts at government and university laboratories.

Microsoft did not obtain a monopoly position in software because its operating system was superior technologically. Most software industry analysts would dispute the claim that Windows is an optimum system, and it is notoriously unstable in everyday office use.

For clear technical reasons, the software industry had to standardize on some operating system to provide a common platform for the writing of applications and a common basis for the training of workers, who would otherwise have to learn a new operating system for each type of computer. Which system became the standard was determined, not by rational or dispassionate comparison of various alternatives, but through the struggle of rival capitalist concerns, in which sharp marketing practices and business connections—like Gates's early relationship with IBM—counted for much more than technical merit.

More fundamentally, monopoly is the inevitable outcome of the development of capitalist economy. Not only in software, but in every major industry, the process of capitalist accumulation leads to the consolidation of small capitals into large, with one or a handful ultimately becoming dominant.

The alternative to monopolization is not a return to the era of capitalist free competition—a perspective which is completely utopian—but the transformation of capitalist monopolies into public utilities, operated under the democratic control of the working people. Only on the basis of such a socialist perspective can the development of the economy be determined by the needs of society as a whole, rather than the selfish interests of the monopolists.