

**PLAINTIFF'S EXHIBIT**  
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Comes v. Microsoft

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**MS-GmbH OEM Report - March 1990**

**OEM Royalty Business**

Sales - is \$ 2,519k against budget of \$ 1,808k (139%). We expect to be at 169% of budget at end of FY90. All key OEMs except Schneider reported a surprising good 1st quarter of CY90 and expect the same volume as in Q4/CY89.

Siemens - Nixdorf Take-Over: - Siemens PE, the PC division, is moved into the organization of Siemens DI, mini computers and XENIX business. It is anticipated that the new company Siemens-Nixdorf will be formed from the DI division on Oct 1st (begin of Siemens' new FY). Nixdorf has changed their plan to dismiss people. Only 1600, that is 800 less than planned, will be unemployed by July 1. There is still uncertainty where the headquarter of the new company will be located, Munich or Berlin, Paderborn is out of consideration.

ALERT! DRI - has become a severe threat. They aggressively approached Aquarius (approx. 50,000 computer systems per year), Profex (25,000 computer systems) and VOBIS (100,000 systems). They also appear in the low-end market for hand-helds (Schneider Rundfunkwerke). We kicked them out at Aquarius, Profex, but VOBIS is still shipping. Schneider Rundfunkwerke is considering to go DRI, we'll take precautions.

It is mandatory to disclose DOS 5 plans to all those OEMs. Also, it will severely affect our pricing as the low-end market is more price sensitive than quality driven.

Schneider Rundfunkwerke - negotiations are done with JoachimK on CeBIT. Schneider will start to ship Works 2 after July 1. Effective October we'll have a new contract with about \$4m commitment a year. Schneider computer shipments will not grow significantly, they will stagnate on 150,000 computer systems a year but will increase quality and price of these computer systems.

Schneider & Koch - have developed nice marketing material for LAN Manager 2.0. A big networking show is planned in Munich for April which should be exploited as product launch for LAN Mgr 2.0.

New Business signed - none.

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## CeBIT Hannover Fair

We identified about 15-20 new opportunities for licensing MS-DOS and a couple of PackDOS leads. OS/2 was demonstrated by fairly all key OEMs, more or less enthusiastic. Compaq and NCR did not show any commitment for marketing OS/2. We recognized DRI being active on all level, from low-volume, low-end OEMs up to key OEMs. We need to penetrate much more aggressive the OEM DOS market.

## OEM Finished Goods Business

Sales - is significantly above budget, we achieved DM 3,938k against a budget of DM 2,780k (142%), and this is almost all new business as order entry was DM 3,460k. The OEM Mice revenues are not yet recognized because HOLY is still on credit hold. Steps are taken to solve this problem and we will recognize these revenues in April.

The market showed optimistic business development. Hardware sales is on the same level as in Q4/CY90, as OEMs reported.

IBM - will bundle Works 2 with all-PS/2 Model 30 for at least 3 months (2000-3000 units per month). We'll recognize the first shipments in April with additional sales revenues of DM 630k. PM Excel is running reasonably in spite of the printing problems. IBM ordered 600 PM Excel. The promotion bundle will be extended by 2-3 months.

IBM Austria - ordered 200 PM Excel, 50 Excel and 250 Word!

Toshiba - showed interest to bundle Works again. Biz case is DM 1m, close date April.

Packaged DOS business - sales increased significantly from 8505 DOS packages to 11,963 packages (incl 1582 DOS-Windows combo).

Status: 204 licensees (214 last month), 10,381 PackDOS shipped (7,977 last month) and 1582 DOS-Windows combination packs (528 last month).

## Hiring Status

Still open: 1 sales rep for Frankfurt (Apr 1), 1 sales rep for Munich (Apr 1).

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**OEM Financial**

**Finished Goods (in KDM)**

act	Budget	month		year to date	
		% Budget	act Budget	% Budget	
3,938	2,780	142%	27,00323,889	113%	

This result is based on an order entry of DM 3,460k and without revenues from the OEM Mouse deal with Holy. In total, this is a very good result. Together with Holy Mouse revenues and the IBM Works bundle OEM Finished Goods sales will be more than 20% above budget by end of FY90, that means growth from FY89 to FY90 will be more than 100%.

PackDOS sales was DM 1,272k (1,052k last month), DOS/Windows combo sales was DM 363k (99k), total DM 1,124k (1,635k). PackDOS revenues (incl DOS/WIN) is 42% of OEM Finished Goods sales.

**OEM Royalties (in thousands US Dollar)**

act	Budget	month		year to date	
		% Budget	act Budget	% Budget	
2,519	1,808	139%	12,4537,077	176%	

We did almost all scheduled billings. At this time we will finish this FY with sales of 169% of budget including all contracts we foresee for that time frame.

**Royalty Billing Forecast**

month	revenues	Budget	% Budget	ytd	plan	% plan
April	240	424	57%	12,693	7,501	169%
May	400	489	82%	13,093	7,990	164%
June	3,200	1,654	193%	16,293	9,644	169%

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## Account Status Changes - OEM Royalty Business

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## Siemens PE (DOS)

## System products

LAN Mgr 2.0 and OS/2 1.2 (176 release) has been shipped to them. They are going to prepare documentation for Windows 3 and OS/2 1.2 in order to ship the product as early as possible.

They need urgently TCP/IP stack for DOS, OS/2 and UNIX, but at this time we do not have an answer.

## Contract negotiations

Windows 3 prices appear high, they will probably commit 50,000 copies (100,000 computer systems total), 286 based hardware is not bundled with Windows. The uplift for Mouse driver hurts them and I'm not sure whether we can keep that position. Basic conditions and terms shall be finished by mid May. In order to get the management excited about the new products we'll make a system software presentation in 2nd half of April.

## OnLINE

They complained about contract wording and I must confess that the OnLINE agreement does not look very professional. There are too many issues that can be accepted if the contract is based upon Washington Law but it does not work in Germany.

## Comm Server

The delay of the server version is pain. We still try to convince them of the product and attempt to initiate contract negotiations.

## Next steps

- hold presentation for systems software (Windows/OS/2)
- reach an agreement in principle
- get them a copy of Comm Server and initiate the final decision round.

## Schneider Rundfunkwerke

On CeBIT we had a meeting with JoachimK and he settled all conditions and terms for the new contract. Works will be license: per system beginning July 1st, Windows 3 is per system on about 50,000 computer systems. The expected volume of computer systems is on a 150,000 units level and they anticipate no units-growth but a revenue-growth caused by higher quality of the computer systems.

## Next steps

- prepare the amendment/contracts and get the agreements signed by end of May.
- outline solid steps of OS/2 marketing (dealer concept, events...) and get first agreements in principle

## Nixdorf

## Contract

Although there are still problems with the source code for LM/X, the amendment for Windows 3 will be signed soon.

## Windows

They presented a Windows application family on CeBIT. The apps people would be glad if we can arrange regular meetings with MS-Corp in order to exchange informations on apps strategies.

## OS/2

It is important for them to focus on OS/2 since all UNIX computer systems will fade out soon. The delay of OS/2 1.2 is pain but they have verbally agreed to participate in the ESP.

## Next steps

- close the negotiated contract amendment (delay: 4 months)
- get them on the ESP

## VOBIS

Theo Lieven, GM, is blocking our attempts to initiate negotiations for a DOS contract. Meanwhile, DRI presented their further steps in DR-DOS. We have to find a way for presenting DOS 5 and to talk about contracts. But it looks like that we have to compete with DRI's pricing (< \$10 royalty).

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Next steps

- initiate contract negotiations and get an agreement in principle in April.
- close a license agreement for DOS ASAP.
- stop shipments of DR-DOS

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## Account Status Changes - Finished Goods Business

## IBM

## PM Excel Promotion

We are going to ship the next German demo package to the 5 sales regions in early April. After first problems IBM had in communication the promotion project and have PM Excel on stock, the bundle action will probably extended by 2-3 months.

## Works

They bundle Works 2.0 with all Model 30. Physically, Works will be bundled with PC-DOS. It is made sure that only higher amounts of Works/DOS can be purchased in combination with higher volume of Model 30 systems, both numbers must be equal (> 500 units per order). These combination of Model 30 systems and DOS/Works will be sold through mass volume channels like METRO.

We have received an order for 4000 packages and will ship 3000 in April and 1000 in May. It is anticipated that this bundle will run for more than 4 months if nothing serious happens. IBM's goal is to generate software revenues.

## Next steps

- continue the demo support for PM Excel promotion.
- present Windows 3 and win their commitment to market it.

## Siemens PE

## Finished Goods contract

Working on a contract proposal, the Siemens negotiator is on vacation till Mid May.

## Next steps

- introduce a PM Excel based office solution package
- close one FG distribution contract by end of May

## Commodore

Goldberger, sales manager and formerly marketing manager at Apple, has left Commodore after a short time. They bundle Windows with the PC30 out of obsolete stock in Braunschweig (from former bundle actions we did with them).

## Next steps

- get them interested in a Works bundle

## REIN Elektronik

The distribution contract is closed, order intake is increasing.

A bundle deal for Works 2 is closed, the delay of Works 2 burts.

## Next steps

- prepare introduction of the Works 2 bundle

## Toshiba

The negotiations for a Works bundle are re-activated. We'll close this deal on a lower volume (4000 over 3 months, DM 1m) in April.

## Next steps

- define marketing actions and close that deal in April

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## Review of last month goals

### March

CeBIT	-	prepare CeBIT action with all major OEMs	done
	-	attend CeBIT	done
Siemens	-	make a business proposal for Com Server	postponed
	-	get an agreement in principle to a FG agreement	postponed
	-	finalize the Windows 3 amendment for signature	postponed
Nixdorf	-	get the contract signed for LAN Manager 2.0, LM/X, Com Server and SQL Server	postponed
	-		
Schneider Rundfunkwerke	-	make a business proposal for Works 2, OS/2 and further oem licenses.	done
	-		
Schneider & Koch	-	get actions defined for an early shipment of LAN Manager 2.0.	done
	-		
VOBIS	-	win an agreement in principle to license MS-DOS	open
	-	get the MS-DOS license agreement prepared for signature	open

### Sales Calls

Account Manager	Calls	Comments
Manfred Schindler	36	
Roland Rock	64	
Peter Prikryl	62	
Jürgen Weidenhausen	56	
Total	218	3.5 heads 62 calls per head

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3-Month Goals

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April

- Siemens
  - make a business proposal for Com Server
- Nixdorf
  - get the contract signed for LAN Manager 2.0, LM/X, Com Server and SQL Server
- Schneider Rundfunkwerke
  - prepare contract for signature.
- IBM-Austria, NCR Austria
  - prepare IFABO
- VOBIS
  - reach agreement in principle on a DOS contract and have DR-DOS stopped
  - get the license agreement for DOS executed

May

- Schneider & Koch
  - get LAN Manager 2.0 shipped
- Siemens
  - make a info tour through all branch offices (5)
  - get an agreement in principle to a FG agreement
  - finalize the Windows 3 amendment for signature

June

- Schneider & Koch
  - get LAN Manager 2.0 launched
- Siemens, Nixdorf
  - get their commitment to ship OS/2 1.2 before Sep 1

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