From: Bill Gates

Sent: Saturday, July 20, 2002 9:23 AM

To: Jim Allchin

Cc: Steve Ballmer

Subject: RE: Windows and dealing with blocks from the patent pools or IP blocks

Its impossible for me to address this in an abstract form

I won't agree to it as a general proposition – it violates our basic role.

However I am willing to agree to SPECIFIC cases where we have to surrender to this because we can't find another way.

This is dangerous since it could cause more problems for us in the future.

So please reframe this in terms of the specific things you want to do this way – MPEG2? MP3 ripping?

We should discuss each of them. I agree we may need to make a few exceptions.

---- Original Message ----
From: Jim Allchin
Sent: Friday, July 19, 2002 8:21 AM
To: Bill Gates
Cc: Steve Ballmer
Subject: Windows and dealing with blocks from the patent pools or IP blocks

As you know there have been a few Windows principles that have served us well through the years (e.g., no royalties on Windows, all apps can use any APIs). On our progressive innovation and therefore commoditization path (open for all developers) when we run into someone's IP that is charging a royalty we either buy the rights or design a way so that we get the basic rights for Windows and other niche/higher level rights remain with the IP holder. They often see this as good if they see our support as helpful to them getting more business. In the cases where we can't get a deal we move on and innovate around the IP and compete. This has worked best where the companies that have the IP actually have a real (profit) business outside of the patent pool. This strategy has served us well, but it is extremely hard in some certain IP rich areas where there is government standardization, etc.

For certain technology areas I think we need to modify our principle because I think Windows is going to get hurt if we don't. The gist of the idea is that we do some deals where we limit the field of use to Microsoft software and other ISVs may have to pay a royalty to use the technology

A classic example is DVD support. The experience we have today with Windows XP with DVD is just not good. If the OEMs ship the support, they pay the royalty, but they also ship a separate viewer which is like a cancer in some cases where they add all sorts of things to the system. And even though the codec, etc. is then installed on the system for WMP, it doesn't matter since the installed DVD player gets control when a DVD is detected. In the case that it is an upgrade of an old Windows product we detect that we need the DVD code and we give the user a choice of where to buy them. They are typically $20+ and include all sorts of chuck that again take over parts of the system. The generic problem doesn't end with DVD support (which obviously isn't going to go away no matter how good we make WMV). We face the problem often with CD patent pools where they have control in a serious way and we got there late. Yes, we could just pay the royalty and include it in Windows, but I think there is a better approach in some cases.

In the cases where we think our code (OS or apps) will be the primary user of the technology, then instead of paying a royalty we might be able to do a deal where there is a a flat fee (or no fee), but include in the system a

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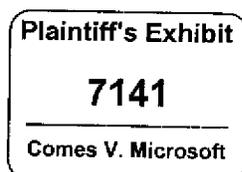
way so that ISV apps are required to have a cert to use the technology.   In something like the DRM space we might say that Microsoft is covered and 3rd party apps if they relate to non-audio/non-video (not sure how to define these, but ...), but 3rd party apps are required to pay if they use the technology for audio/video uses.   This is just to represent there is a continuum of possibilities for how the license could be done   This would require a standardized cert/authorization capability for the system.

No matter what Microsoft would continue to innovate in the areas -- just like we have done with WMV/WMA. However, it puts us in control of these (often) CE components that we have to deal with one way or another without letting OEMs or 3rd parties mess around causing confusion and complexity for our users. It also will probably reduce our costs that would be required in many cases to close deals in the DRM space, etc   It is a risk if the technology becomes consequential in the future.   The goal would be minimize this approach -- with a GVP (me) signoff.

I have told the team to start executing down this path.   If you disagree, please let me know ASAP.

jim

12/28/2004