

# Media Update

**RE:  
IOWA COURT CASE  
Comes vs. Microsoft, Inc.**

January 8, 2007

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## Coverage Notes:

1. Court sets up procedure for Plaintiffs to post trial exhibits on a public website. Temporary site address is: <http://www.iowaconsumercase.com>.
2. Witness testimony: Microsoft forces unreliable software on users by bundling it with Microsoft's Windows operating system and Internet Explorer browser.
3. After agreeing to support Sun's Java technology, Microsoft tried to undermine Java by spreading coercive tactics.

**The Court allows Plaintiffs to post exhibits from the *Comes* trial on a web site. Site is immediately up and running in temporary form at <http://www.iowaconsumercase.com>.**

Judge Rosenberg ruled today that Plaintiffs may maintain a web site in order to provide the public with access to daily court transcripts, exhibits, and other information from the *Comes* trial. The Court's ruling states that any document may be published on the website three days after it has been admitted into evidence.

Plaintiffs have set up a web site at <http://www.iowaconsumercase.com>. The web site currently has transcripts only. Exhibits and further information will be loaded this week, when they become available for viewing by the public. A permanent website is expected to be set up by the week of January 21<sup>st</sup>.

**Software technology expert Ronald S. Alepin testifies that Microsoft forced unreliable software on users and used coercive tactics to defeat Sun's Java cross-platform developer technology.**

The testimony of software technology expert Ronald S. Alepin resumed on Monday, January 8, 2006. Following is a summary of Mr. Alepin's testimony:

1. **Microsoft forced an unsafe and unreliable Active Desktop software on users, by bundling it with Windows and Internet Explorer.**

Alepin explained that in the late 1990s, Microsoft forced its Active Desktop software on users by bundling and tying it to Microsoft's Windows and Internet Explorer. Active Desktop, he said, was bloated and unreliable and there was no justification for bundling it with other software components. Alepin testified that the presence of Active Desktop bundled with Internet

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Explorer delayed the ability of many users to obtain live feeds for five years, before Microsoft finally implemented the technology. Alepin stated that these and other tactics restricted innovation and choice for consumers.

**2. After agreeing to support Sun’s Java technology, Microsoft tried to undermine Java by spreading fear, uncertainty and doubt, and by using other tactics.**

Alepin testified that Microsoft also reduced choices for developers. For example, Microsoft initially embraced Sun’s Java technology by entering into a licensing agreement with Sun and otherwise agreeing to support Java. Microsoft then wrote its own extensions (called J++), which “baited” developers into tying Java applets to Windows. This locked developers into the Windows platform by increasing the difficulty of porting Java applications to non-Windows operating systems.

Java subsequently came out with its next version of Java, version 1.2. Microsoft’s Ben Slivka told Bill Gates that there was “no fucking way” Microsoft would support Java version 1.2. Slivka further noted that version 1.2 had “Java Foundation Classes” (i.e. dialogue boxes with portable Application Programming Interfaces), which Slivka said “we’re going to be pissing on at every opportunity.” Alepin testified that this effort to disparage and marginalize Java was yet another example of Microsoft sowing “fear, uncertainty and doubt” about a rival’s product, and thereby extinguishing it.

Alepin testified that these and other Microsoft tactics limited the ability of developers to easily and inexpensively write applications for platforms other than Windows.

**Case background:**

*Comes v. Microsoft* is an Iowa state court class action brought by consumers, small businesses, and other indirect purchasers of Microsoft software products. Plaintiffs allege that from May 18, 1994 through June 30, 2006, Microsoft engaged in illegal monopolization and other anticompetitive conduct in the markets for operating systems, word processing, spreadsheets, and office suite software. Plaintiffs contend that Microsoft charged higher prices than it would have charged had it not engaged in the anticompetitive conduct. Plaintiffs also contend that Microsoft’s conduct caused its operating systems software to be more vulnerable to security breaches. Plaintiffs seek damages for their injuries. Trial is expected to continue until the spring of 2007.

**About the firms:**

Roxanne Conlin & Associates P.C. is owned by Roxanne Barton Conlin, a Plaintiffs’ attorney whose practice is focused on personal injury and civil rights cases. Ms. Conlin is a former President of the Association of Trial Lawyers of America and a member of the Inner Circle of Advocates. She is co-editor of a 6-volume treatise, *ATLA’s Litigating Tort Cases*, published by West Publishing Company (June, 2003). She has also served as United States Attorney for the Southern District of Iowa.

Zelle, Hofmann, Voelbel, Mason & Gette LLP is a national dispute resolution and litigation law firm with offices in Boston, Dallas, Los Angeles, Minneapolis, San Francisco and Washington, D.C. The Zelle Firm handles complex litigation and disputes on a national and international basis. The Firm has about 85 attorneys and represents both defendants and plaintiffs in its trial and dispute resolution practice. The Firm’s broad litigation experience includes antitrust, banking, business torts, class action, commercial, employment, environmental, ERISA, financial services, insurance coverage, intellectual property, mass tort, mold claims, personal injury, product liability, professional liability, reinsurance, securities, subrogation third-party recovery, unfair business practice and unfair competition litigation. Co-Lead Counsel Rick Hagstrom has successfully pursued Microsoft in two

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The following information was provided by Wixted Pope Nora Thompson & Associates (WPNT). WPNT is working on behalf of Plaintiffs to assist with media inquiries. Questions regarding the *Comes v. Microsoft* case can be directed to Eileen Wixted or Jim Hibbs at 515.226.0818.

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other class actions. In 2004, Rick, as co-lead counsel, was successful in reaching a settlement with Microsoft of \$182 million on behalf of Minnesota businesses and consumers. In 2006 on behalf of Wisconsin businesses, consumers, school districts, and governmental entities, Rick and co-lead counsel reached a \$224 million settlement with Microsoft. In 2005, Rick was honored as a Minnesota Attorney of the Year.

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