

Media Update

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

February 1, 2007

Contact: Eileen Wixted 515-240-6115
Jim Hibbs 515-201-9004
Office 515-226-0818

Coverage Notes:

1. **Bill Gates videotaped deposition posted to the web.**
www.iowaconsumercase.com
2. **Testimony of Theo Lieven, former CEO of one of Europe's largest computer manufacturers, concludes.**

Coverage Details:

1. **Plaintiffs' improved web site includes Microsoft Chairman and CEO Bill Gates videotaped deposition.** www.iowaconsumercase.com

Plaintiffs have completed the upgrade to their public information web site, www.iowaconsumercase.com. Besides an improved format, the web site now offers videotaped testimony that has been presented at trial.

Currently available are the videotaped testimony of Microsoft's Chairman and CEO Bill Gates, and the videotaped testimony of Digital Research's former Chairman and CEO Richard Williams. The video is available in streaming format. Additional videotaped testimony will be uploaded over the next few weeks.

2. **Theo Lieven, former CEO of one of Europe's largest original equipment manufacturers, concludes his testimony.**

Vobis co-founder and former Chief Executive Officer Theo Lieven concluded Wednesday. Mr. Lieven testified about numerous tactics Microsoft used to force Vobis, one of Europe's largest original equipment manufacturers ("OEMs"), to stop shipping DR DOS. DR DOS was a direct competitor of Microsoft's MS-DOS operating system.

Although Vobis wanted to offer its customers a choice between DR DOS and MS-DOS, Microsoft threatened Vobis with large price increases if Vobis would not agree to exclusionary license provisions. Microsoft also introduced incompatibilities into Windows that affected users of DR DOS.

Lieven also recounted a demand from Microsoft that Vobis withdraw an advertisement comparing the different features of DR DOS and MS-DOS. Lieven testified that numerous price increases for Microsoft products forced Vobis to raise prices or reduce the quality of its machines to maintain its profit margins.

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Mr. Lieven recounted the difficulties he encountered in the fall of 1994, after Microsoft stopped requiring computer manufacturers to pay Microsoft for every computer manufactured, even if it did not have Windows on it. Mr. Lieven, on behalf of Vobis entered into a contract to ship a different operating system called OS/2 Warp which he thought was much better than MS-DOS.

Once the contract was announced, Microsoft retaliated by first demanding an audit of all of Vobis accounts. Microsoft then denied Vobis necessary material to ship computers during the holiday season and finally imposed a huge price increase if Vobis insisted on allowing its customers the choice of computer operating systems. In order to save his business, which was the largest computer manufacturer in Germany; Mr. Lieven finally agreed to demands and paid 3-million dollars to settle the audit with Microsoft.

Lieven stressed the importance of offering choice to consumers. Microsoft's insistence that Vobis make upfront payments for Microsoft products had the effect of locking Vobis in to selling only Microsoft products to the exclusion of all other operating system suppliers. When asked by Microsoft's counsel whether Lieven would open up Vobis retail stores to other computer companies, Lieven replied that if Vobis were a monopolist, European law would demand it. Lieven's testimony wrapped up Wednesday.

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 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.