Market Roundup

July 8, 2005

Microsoft Pays IBM $775 Million in Anti-Trust Settlement

By Jim Balderston

Microsoft and IBM announced this week that they have settled outstanding anti-trust claims with the payment of $775 million to IBM from Microsoft, as well as a $75 million line of credit toward the deployment of Microsoft software at IBM. The settlement is the latest to come from the *United States v. Microsoft* anti-trust trial, which found that Microsoft had engaged in discriminatory pricing and overcharges. The settlement also will preclude IBM from seeking damages from claims related to its server business or seeking damages from any such claims incurred prior to June 30, 2002. Additionally, Microsoft will release any anti-trust claims.

In the press release announcing this settlement, a Microsoft official noted that the company had been settling a number of cases with different companies, and this latest would allow Microsoft to move forward. Certainly Microsoft has been busy on the legal front, and is not completely finished in this regard. The amount of the settlement, and the fact it is with IT giant IBM, indicates that times have indeed changed and Microsoft is going to have to play a different tune in the coming years.

Simply put, Microsoft does not enjoy the dominant position it once did. No longer is the desktop the sole source of computing, or connectivity for that matter. Today, a variety of smart connected devices are providing much of the service that desktop computers once exclusively offered, with many if not most of these devices independent of Microsoft software. Furthermore, alternatives to not only desktops but desktop operating environments are continuing to flourish. Given the new realities of the competitive landscape, and the emergence of countries like China on the IT map, Microsoft finds itself increasingly forced to play nice with competitors it used to treat with disdain in the past. While the various legal machinations against the company have had their part in forcing a change in behavior at Redmond, we suspect that in reality it is market forces that are shaping this new, kinder, gentler approach from Microsoft. Legal remedies tend to trail market realities in most cases, and we suspect that even if Microsoft is able to shed the remaining legal concerns it will still be forced to play more gently on a new and very different playing field.

Determination of Relevance: IBM eServer iSeries

By Clay Ryder

Earlier this week IBM announced two new members have joined its eServer iSeries senior management team. Bob McCormick has been named VP, Channels for SMB, a new position reporting to Marc Lautenbach. IBM stated one of the reasons for Mr. McCormick's selection was his experience in channels and his strong relationships with Business Partner executives. In addition, Bill Donohue has joined the iSeries team as VP, Worldwide Sales, eServer iSeries, reporting to Mark Shearer. Mr. Donohue was formerly with the Americas organization, as VP, pSeries Ssales, and was selected in part due to the twelve consecutive quarters of market share IBM gained in the UNIX market under his tenure. The appointments are effective immediately.

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Executive changes come and go and in general are not something that we cover, lest we become the Entertainment Weekly of the analyst industry. However, these latest announcements combined with the bevy of iSeries investments both financial and human made over the past several months are illustrative of a much larger reality. Simply put, IBM views the iSeries platform as worthy of putting up a good competitive fight. Given the iSeries' unique position in the marketplace as the mainframe for SMBs, not to mention its heritage as the server that sits in the corner and just works, we believe that the iSeries has much to offer an industry that is increasingly fixated on inexpensive x86 or high-end UNIX solutions. The Charter for iSeries Innovation, reinvigorated channel initiatives, and the transition of the platform onto the capable POWER5 architecture are all examples of the substantial investment Big Blue is making in the iSeries. It is clear that IBM believes, and we agree, that there is room in the market for a product like the iSeries; not one focused on the past glory that was AS/400, but rather one that is a sharply packaged, state-of-the-art, high-performance consolidation platform for the SMB opportunity.

So why, the contrarian asks, did iSeries grow only 1% in Q1 2005? We are quick to point out that this modest growth came after a previously sustained contraction in sales; hence it represents a notable correction in trajectory. Perhaps the greatest challenge iSeries faces is its previous success, i.e., its unrelenting association with the AS/400. Until a couple of years ago, we saw little indicating that anyone, including IBM, viewed the iSeries as anything modern, let alone state-of-the-art, Internet savvy, Java capable, or just plain hip. Turning this tide will take time as market momentum requires significant effort to overcome. The new POWER5 platform combined with improved packaging and pricing are all steps in the right direction as are the many highly public human resources applied. But the simple fact remains that cultivating alternatives in an increasingly commoditized market is challenging, even for the best and brightest. Thus, the imperative remains that Big Blue continue its financial and human investment in iSeries while also capturing the mindset of a very satiated market filled with x86 and RISC ennui. Regardless of the eventual outcome, it is clear that IBM views iSeries as a ship that will not go down without a fight. In this time of rapid technological obsolescence and market consolidation, this degree of commitment to a platform is laudable, if not — like the platform itself — unique.

Security Measure or Consolidation of Power?

By Susan Dietz

Earlier this week, assistant secretary at the National Telecommunications and Information Administration (NTIA), Michael D. Gallagher, stated that the agency had decided it would continue overseeing the operations of the Internet Corporation for Assigned Names and Numbers (ICANN) for the foreseeable future. When ICANN was first formed in the late 1990s its role was envisioned for the purpose of overseeing the 250 or so domain names that were currently in use, and the U.S. Department of Commerce was appointed to oversee the agency and then step aside by September 2006 as ICANN grew to become a multinational body. Predictably, this latest announcement has set off a round of reactions from around the world given the NTIA presentation's position as well as its liberally riddled imagery and quotes from President Bush. As of this writing, ICANN has been silent regarding the announcement.

When scientists develop a powerful tool, the natural and often immediate reaction from governments is to try to gain exclusive control of that tool for the purpose of protecting their populace. The Internet is no exception, given its DoD and ARPA beginnings, and ICANN, after the dissolving of the NSFNet in 1995, represents the most public statement of direction that the U.S. government was going to get out of its role of guardian of the Internet. Based in California and originally seen as a U.S. institution, ICANN has worked hard for the past few years to become accepted globally and open up the registration of names and numbers to a multitude of competitive registrars worldwide, all while maintaining the navigational integrity of the interconnected networks we know today as the Internet. But to the international community, this week's not-so-surprising announcement has damaged the perception of ICANN's independence and neutrality and to many has landed ICANN firmly back under the thumb of the United States government. Although the DoC cannot exert absolute control, since the thirteen root servers remain in private hands, the perception of a U.S. power grab cannot be minimized.

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Nevertheless, we see this development not so much as a means to stabilizing the Internet, as proposed by the NTIA presentation, but instead a step backwards with the unfortunately distinct possibility of compromising the functional integrity of the Internet. While the U.S. plays "keep-away," it may not be too long before others seek to develop an alternative to ICANN, which would effectively fracture the interconnection of networks that make up the Internet of today. Given the level of hostility towards the current U.S. administration in many sectors of the globe, there are those who might be willing to overlook the shortsightedness of splintering the Internet in order to "get back" in some way at a government that they view negatively. The potential scenario is that in the future, typing in one web address could yield many different web sites depending upon the location of the user. Thus the system that eventually thrived as the master of the free exchange of information and ideas could conceivably become so divided as to be almost worthless. And in a global economy that depends upon the Internet to facilitate an ever larger portion of its trading, such a scenario would have significant intended and unintended consequences.

Trojan Wipes Symbian Phones Clean

By Jim Balderston

A new Trojan horse affecting Symbian Series 60 Smart Phones that can create a complete data loss within the device has been discovered in the wild. The Doombot.A Trojan contains a worm that transmits a steady stream of MSM messages, draining the battery within an hour to the point where the device cannot be rebooted. As a result, the device has to be reformatted causing a loss of all stored data. The Trojan horse is spread by people downloading ringtones or games that have not been approved or issued by service providers. Users are unaware of the Trojan's activities until they note the loss of battery power.

While viruses targeting mobile devices are not new, the number of outbreaks continues to increase as the devices become more prevalent around the world. Given that these devices can now be customized with games and various ringtones — i.e., for all intents and purposes programmed — it is no surprise that they are being targeted and infected at an ever growing rate. Any suggestion that this is a passing fad or train of events is not borne out by history. Typically the first appearances of viruses on a particular device or operating environment is the opening shot of a never-ending battle between the virus writers and their targets.

There are a number of antivirus programs available for a wide range of mobile devices, and there are many warnings against downloading programs that are not verified as being safe. Nonetheless, people still seek "cool" programs for their devices while not ascertaining what risks might be involved. Managing antivirus programs on a smart mobile device is probably more hassle than most users want to indulge in, even if doing so is less cumbersome than actually downloading and installing the programs themselves. As we have seen in so many other instances in the past, the threat of viruses and Trojans on mobile devices will rise to the level that has been seen on virtually every other computing platform to date. At some point, people will realize that they must take the same care to protect themselves against mobile viruses as they do with their desktops. There may still be a significant number of people not running antivirus software on their desktop machines, but we suspect that when their acquaintances learn of such folly, they are shamed into making themselves more safe by plunking down a few dollars (or Euros) to close that particular door. Such it will be with mobile devices, as users will increasingly be asked what AV program they are running on their mobile devices, with those answering "none" being told in no uncertain terms that they are simply asking for trouble that they will invariably be forced to confront in the form of a unbootable device. Word to the wise.

EU Seeks to Unify Music Licensing

By Joyce Tompsett Becknell

The European Union has indicated it is readying new plans for streamlining music license procedures. The current procedures are complex, with each country having its own system. If a company wants to sell music online to European consumers it has to negotiate royalties with a different group in each country. Those who hold the rights in a country may not deal directly with a royalty collector in any other country, and royalty collectors cannot create pan-European services. The EU plans to begin public consultation early this month,

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and then drive a formal proposal for the autumn. It appears that decision-makers are interested in music stores along the lines of Apple's iTunes, and would like an EU-wide license that would permit the commercial use of music across member nations. Finally, recommendations are leaning toward creating cross-border royalty collectors or rights managers that could represent the interests of artists and rights holders throughout the EU.

Currently if one has an iPod and one travels a bit, one may discover an affinity for a local piece of music that is not accessible in one's home country. If one then goes to the iTunes store, one discovers that the only music one can purchase is music available in the home country... and of course much of the music of one's country isn't available, although one can search for it and listen to thirty seconds of it. Credit cards are not usable outside their home country either. For consumers, the ability to shop in a pan-European store could mean the first step toward having similar prices for music on-line, and perhaps eventually in stores as well. This could be one small step for Brussels but one big step for European consumers. Better prices for consumers could help with digital piracy as well, since when prices go down consumers can purchase more. CDs routinely cost 30-150% more in Europe than they do in the U.S. for example, and of course people purchase more CDs in the U.S. than in Europe. Changes would be good for artists and businesses as well as for consumers. An artist now must pay a portion to each collection agency in each country. By uniting into one contract, fewer hands would have to be paid, and artists would have fewer contracts to manage. Also, fewer agencies would also be more powerful and could have greater balancing force against the record companies.

The field of digital rights management and intellectual property rights has become more complex in a world where music can be digitally downloaded in seconds. While most people wouldn't dream of walking out of a store with a disc they hadn't paid for, many feel no qualms about downloading music free. Artists should be paid for their work, but consumers are frustrated at paying for music that works only with certain programs, on certain devices, or certain media, or paying double the price they would pay simply because of their geography. If they purchase the same music — say in CD, record, or MP3 — they have to pay again each time and this isn't right either. The ability to purchase and to move goods freely across borders should be fair for both consumers and artists. Working to simplify licensing procedures is an important first step in correcting a complex situation with many interested parties.

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