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Microsoft Threatened With EU Fines

By AP/RAF CASERT

BRUSSELS, Belgium — The European Union threatened Microsoft Corp. on Thursday with fines as high as \$4 million a day, claiming the software company was still not offering a fair deal to rivals seeking to make their products more compatible with Windows.

Microsoft said the EU Commission's demands were not reasonable. "We believe we have been fair in setting" prices for the information, said Microsoft General Counsel Brad Smith. "It is hard to see how the Commission can argue that even patented innovation must be made available for free," he said in a statement.

The EU complained that three years after a landmark antitrust ruling to open up the market, the world's largest software maker still refused to cooperate. "This is a company which apparently does not like to have to conform with antitrust decisions," said EU Commission spokesman Jonathan Todd.

Under a 2004 antitrust ruling by the European Union, Microsoft had to disclose complete and accurate interface documentation on reasonable and nondiscriminatory terms, allowing its competitors to interoperate with Windows PCs and servers.

Under a so-called "statement of objections" released Thursday, the EU's executive Commission said there was "no significant innovation" in the requested information. It also rejected 1,500 pages of submissions by Microsoft over the past three months and said Microsoft's price proposals were unreasonable. "I am therefore again obliged to take formal measures to ensure that Microsoft complies with its obligations," EU Antitrust Commissioner Neelie Kroes said in a statement.

Smith complained Microsoft had asked for feedback half a year ago and only on Thursday received a reply thinly veiled in a threat. "We're disappointed that this feedback is coming six months later and in

its present form, but were committed to working hard to address the Commission's Statement of Objections," said Smith.

He added "the findings appear to be an attempt to regulate the pricing of our intellectual property rights on a global basis," something which would go beyond the jurisdiction of the European Commission.

Microsoft has four weeks to reply to the Commission after which the EU could impose fines going as high as \$4 million a day, Todd said.

Work group servers are designed to let numerous users share and exchange information on projects so that groups of workers located near or far from their offices can collaborate on joint projects. "The royalty demands are intended to force every competitor out of the market," said Simon Awde, the chairman of the European Committee for Interoperable Systems, a group of Microsoft rivals.

At a hearing last year, EU regulators used evidence from IBM Corp., Novell Inc., Oracle Corp. and Sun Microsystems Inc. on systems compatibility. None of those companies are currently involved in the legal battle, although they are members of two broad industry coalitions — ECIS and the Software & Information Industry Association — that back the Commission.

Microsoft is challenging the EU's original 2004 antitrust order at the EU's Court of First Instance. The 2004 antitrust order found the company broke competition law for abuse of a dominant position and fined the software maker a record \$613 million.

"It is the first time we have been confronted by a company which has failed to comply with an antitrust decision," said Todd. "We are in unknown territory."

"We don't want to be in a situation where ten years after an antitrust decision, they still are not in compliance," said Todd, adding the "vast majority of the information" provided to the software competitors was "not innovative."

To remedy Microsoft's antitrust abuse, the EU ordered the company to sell a copy of Windows without its media player software and told it to share communications code and information with rivals to help them develop server software that works smoothly with Microsoft's ubiquitous Windows desktop operating system.

EU regulators fined Microsoft another 280.5 million euros (\$371 million) last July for failing to supply the "complete and accurate" interoperability required.