

# Don't Pick On A Toothless Tiger

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By Richard Miniter

No-one understands the Microsoft case better than US Senate Majority Leader Trent Lott. Lott implies that the Washington political class, especially the Democratic Party which controls the White House, hated to see these computer geeks become billionaires without writing them checks or making them board members. Aside from Vice-President Al Gore's specious claim that he invented the internet, America's political leaders have played virtually no role in the technological revolution that has transformed the global economy until now.

Thanks to America's archaic anti-trust laws, the self-styled Solons will get to play starring roles in the world's most important drama.

A chorus of Microsoft critics have praised the wisdom of Judge Jackson's findings. It is important to remember that Jackson is one of the few federal judges not to have e-mail. Assistant Attorney-General Joel Klein, who led the prosecution team, has neither e-mail nor even a computer on his desk. He reportedly writes everything out longhand and has it typed up by his secretary.

Perhaps the leading Microsoft critic outside of the Government is former federal judge Robert Bork, who boasts that he has never been online and relied entirely on a young researcher's notes to attack the internet in his best-selling book, *Slouching Towards Gomorrah*. While a judge doesn't have to know how to fix a car to decide a case of car theft, it is hard to believe that a jurist who has never driven could ably adjudicate a car accident. Knowing whom to believe requires some personal experience.

Bear this in mind when reading Judge Jackson's finding of fact that certain browsers cannot work on Microsoft's operating system or that a browser can, in Bork's summary of the judge's finding, commandeer the enormous advertising revenues from websites. Any web hound knows that these statements are untrue.

Then there's the old chestnut that it is impossible for users to uninstall Microsoft's browser on Windows 98. It's false but even if it were true, so what? It is exceedingly easy to install competing browsers, as any computer user knows.

The judge argues that Microsoft's admittedly aggressive business tactics crippled its competition. He ignores that Microsoft's largest competitor in the browser market, Netscape, says that it never lost its majority market share and was recently sold for more than \$4.3 billion a value many times higher than Netscape enjoyed before Microsoft entered its market. Apple, which has its own operating system, is reporting its strongest growth in sales and profits in almost a decade.

What's more, Microsoft is something of a toothless tiger. Judge Jackson said Microsoft tried to force Apple to abandon its multi-media playback software. When Apple refused, all Microsoft could do was roar. Microsoft tried to pressure IBM to stop supplying its SmartSuite program with

its computers, the judge notes. IBM shrugged. Even tiny competitors like Concentric and EarthLink ignored Microsoft's demands that they stop using Netscape Navigator.

Indeed, the only companies that seemed to listen to Microsoft are equipment makers like Compaq, who were paid lavishly to add Microsoft's products to their own. Judge Jackson is largely at a loss to describe who has been harmed by Microsoft's behaviour, writes Yale law professor George L. Priest.

If Microsoft's competitors haven't been harmed, perhaps consumers have. Even this case seems hard to make. Microsoft's products have become cheaper and better every year just like every other software maker's. And certainly, Microsoft has not failed to innovate.

The last refuge of the critics is the claim that Microsoft is a monopoly. This is an abuse of the English language. Until *US v Microsoft*, English speakers knew what a monopoly was. Microsoft never controlled the entire market for any computer programs, as even its critics admit.

Instead they argue that Microsoft's operating system was so popular that 90 per cent of computer users bought it, earning market share that amounts to a monopoly. Even the 90 per cent figure is incorrect. If one adds Apple and other computer makers, the figure is closer to 79 per cent. A large market share, to be sure, but not a monopoly.

And even if Microsoft is a monopoly, it won't be for long. Gateway Computers recently announced a new line of computers that run no Microsoft software at all. Dell has announced similar plans. Sun Microsystems' CEO, Scott McNealy, predicts that fewer than half of the computers accessing the internet in 2002 will run Microsoft Windows. PalmPilot and cellphones also offer web access without Microsoft's programs.

By the logic of the Microsoft case, both WordStar and MultiMate were ``monopolies" in the early 1980s in the word-processing market. Both are gone today.

Microsoft may join them replaced not by a better company, but by an increasingly ambitious band of government lawyers who don't even have e-mail. Will we be better off then?

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