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## Jury Rules Against Microsoft in Patent Case

By JOHN MARKOFF

SAN FRANCISCO, Aug. 11 — A federal jury awarded a former University of California researcher \$521 million today in a lawsuit against Microsoft that asserted its Explorer Web browser infringed a patent for sending software applications over the Internet.

The lawsuit, which was filed in 1999 by Michael Doyle, now a Chicago businessman and founder of Eolas Technologies Inc., and the University of California, had sought \$1.2 billion. The plaintiffs asserted that the invention had been crucial in permitting Microsoft to compete against the Netscape Navigator Web browser, now owned by AOL Time Warner Inc.

A Microsoft spokesman, Jim Desler, said that the company planned to appeal and that the court had not permitted the jury to consider information on the validity of the patent filed in 1994.

"There has been no infringement," Mr. Desler said. "These features were developed by our own engineers based on our pre-existing technology."

A lawyer for Mr. Doyle said Eolas and the University of California had not decided whether they would try to enjoin Microsoft from shipping either its Explorer browser or the Windows operating system, but that was still an option.

"We are going to defend the jury verdict," said Martin R. Lueck of Robins, Kaplan, Miller & Ciresi, a law firm based in Minneapolis, that was instrumental in the State of Minnesota's successful battle in winning damages from the tobacco industry.

He said that Eolas had chosen to sue Microsoft and not other companies with similar technology because of its significant market share.

"If you look at Microsoft right now, you're talking about someone who has 90 percent of the browser market," Mr. Lueck said. "Taking on Microsoft is a big task, that's enough of a job at one time."

The patent, No. 5,838,906, which was granted in November 1998, describes a system that allows a software browser to execute a remotely stored program.

In 1993, while Mr. Doyle was working as an adjunct professor at the University of California at San Francisco, he and several colleagues developed an interactive 3-D medical visualization demonstration.

Microsoft had tried to argue during the trial that there was significant earlier software technology that predated Mr. Doyle's invention.

Microsoft called on another researcher, Pei Wei, who in the 1990's developed a technology called Viola at the Experimental Computing Facility at the University of California at Berkeley. The company argued that the Viola work predated Mr. Doyle's invention, but the judge ruled that the jury could not consider that issue in weighing the patent violation question.

Mr. Doyle and Mr. Wei have publicly disputed whose technology came first in Internet postings dating from 1995. Mr. Wei wrote at the time that a version of the Viola program publicly released in 1991 had the ability to transfer application software over a network.

The award was based on a calculation of \$1.47 for each copy of Windows sold from the time the patent was granted until September 2001.

Eolas and the university had been asking for \$3.50 for each copy of Windows, an amount that Microsoft lawyers said was absurd.