



Model Courts of Justice 2022

# U.S. District Court for the District of Columbia

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Handbook

**MODEL COURTS OF JUSTICE 2022****UNITED STATES DISTRICT COURT FOR THE DISTRICT  
COURT OF COLUMBIA****HANDBOOK****THE CASE OF*****UNITED STATES of AMERICA v. MICROSOFT CORPORATION******MONOPOLIZATION of OPERATING SYSTEM MARKET UNDER THE SHERMAN ACT*****A. PROCEDURAL STAGE**

In the case before the Court, advocates of the United States of America represent the Plaintiff Party while the Microsoft Corporation is the Defendant Party. The Secretariat of Model Courts of Justice has decided on the following implementation in order to create a simulation atmosphere for the discussion on the merits of the case:

**Any challenges against the jurisdiction of the Court or the admissibility of the case shall be overruled by the Secretariat. Parties to the case are expected to acknowledge the Jurisdiction of the Court.**

**B. COMPOSITION OF THE COURT**

United States District Court for the District Court of Columbia shall be composed of one President Judge, one Vice-President Judge, Judges, two Plaintiffs, and two Defendants.

The roles of the members of the Court shall be explained in written and oral proceedings.

**C. WRITTEN PROCEEDINGS: MEMORIAL & COUNTER-MEMORIAL**

Written Proceedings start with the submission of the Memorial of the Plaintiff Party to the Secretariat of Model Courts of Justice 2022 via [ucdc@modelcj.org](mailto:ucdc@modelcj.org). The Secretariat shall then send it to the Defendant Party who is expected to write and submit a Counter-Memorial in

accordance with the Rules of the Court. Detailed information regarding the deadlines shall be duly announced by the responsible Under-Secretary-General.

A memorial is a pleading that is submitted by the Plaintiff which contains a statement of the relevant facts and law and the prayer; on the other hand, a counter-memorial is also a pleading that is submitted by the Defendant which contains an admission or denial of the facts stated in the memorial, additional facts, a statement of law in answer, (if deemed necessary) observation the statement of law in the memorial and lastly a prayer.

In Model Courts of Justice 2022, the procedure of replies will not be applied. A Memorial and a Counter-Memorial differ by the content however, the form of pleadings is essentially the same.

### **1. Sample Memorial/Counter-Memorial:**

**United States Court for the District Court of Columbia**

## ***UNITED STATES of AMERICA v. MICROSOFT CORPORATION***

**Memorial of the Plaintiff Party/Counter-Memorial of the Defendant Party**

### **INTRODUCTION**

*A brief summary of the situation on the case in the Defendant State will be given in this section. Different approaches of the Plaintiff's Memorial and the Defendant's Counter-Memorial will be appreciated with the references to key developments in the country on the topic of the case.*

### **JURISDICTION**

***Both parties are expected to state their acceptance on the Jurisdiction of the Court based on the Antitrust Civil Process Act in this part. Challenges against the Jurisdiction of the Court will be overruled by the Secretariat at this stage.***

### **FACTS**

*Facts found relevant to the case by the Parties will be mentioned in this section with the historical development of the case provided in the Study Guide of the United States District Court for the District Court of Columbia. Bear in mind that this section will compose the factual bases of legal arguments. Defendant Party may challenge what is provided and propose their own claims.*

### **APPLICABLE LAW**

*In this part, the legal basis for official claims regarding the case will be given. Parties may refer to multilateral or bilateral treaties, agreements, conventions, declarations, customary law, principles of law, relevant domestic law and regulations, case-law of the District Court for the District Court of Columbia with the other domestic, regional or international courts, legal literature by scholars or international organizations and so on. Participants are not limited to the applicable law that is given in the study guide, especially the case law is well-accepted as an applicable law and evidence.*

### **CLAIMS**

*In this section, parties are expected to make a synthesis of the facts and the applicable law while they are finally stating their official claims. The facts should be explained with the law. Defendant Party may challenge what is provided and propose their own claims.*

### **PRAYER**

*A submission contains the request of the parties from the Court to act and decide in their favour; parties to the case should briefly describe what conclusion they hope the Court will reach.*

**Submitted respectfully,**

**on behalf of the**

**The United States of America / Microsoft Corporation**

**by**

**(names of the advocates)**

### **D. ORAL PROCEEDINGS**

## 1. Advocates

*“...The Chamber may, inter alia, invite the parties to produce documentary evidence and decide to hear as a witness or expert...”*

Parties are expected to submit material evidence before the Court. The Secretariat of Model Courts of Justice 2022 shall ensure that all of the Judges and the Advocates receive the materials during the Conference. In order to ensure this procedure, **the Advocates are expected to hand-in their materials that will be presented before the Court, to the Secretariat, before the Conference.** Detailed information regarding the deadlines shall be duly announced by the responsible Under Secretary-General. Such materials may include maps, conventions, agreements, treaties, declarations, customary international law documents, documents on the principles of law, former case-law, doctrines and teachings or any other visuals which would aid the presentation of the case.

## 2. Judges

### a. Remarks for the Preparation to Oral Proceedings:

The Secretariat finds the objectivity of the Judges towards the case to be very important. Therefore Judges are recommended to read the Study Guide carefully. Within due time before the Conference, the Secretariat will provide all of the Judges the Memorial and the Counter-Memorial. **We strongly recommend the Judges to not to make any additional research with regards to material evidence.** However, doing extra readings on the sources of law mentioned in the Study Guide, the Memorial or the Counter-Memorial would be in your benefit.

All in all, the Judges are expected to evaluate evidence material, obtain expert statements, listen to and thoroughly question Parties **and then** come to a conclusion on the prospective Judgment. In other words, as opposed to Advocates who need to make a strong preparation before the Conference; **the Judges have to save their full concentration to the sessions.**

The Secretariat allows the Judges to call upon three legal experts before the Court. Legal Experts will be responsible for their statements during Oral Proceedings. Detailed profiles of the Legal Experts will be given by the Secretariat.

## 3. Court Clerk

The Court Clerk shall take copious notes of the sessions. He/she needs to be careful in this mission; as, in case any of the Judges misremember the statements of Experts or speeches of the Parties, the truth shall lie in the Report. By also taking the oaths of all Members and Experts, the Registrar's role is to ensure the credibility of the Oral Proceedings. The Registrarist here fore asked to read the Study Guide, the Memorial and the Counter-Memorial carefully; in order not to confuse terms and names in the Report. The Report shall be the basis of Sections II and III of the Judgment, while also aiding the precise reflection of the Deliberations.

#### **4. Sample Judgment:**

### **UNITED STATES DISTRICT COURT FOR THE DISTRICT COURT OF COLUMBIA**

#### **Judgment on the Case of**

*United States of America v. Microsoft Corporation*

#### **Date of the Judgment**

**President Judge: (Name and Surname)**

**Vice President Judge: (Name and Surname)**

**Judges: (Names and Surnames)**

**Advocates of the Plaintiff Party, on behalf of the Government of United States (Names and Surnames)**

**Advocates of the Defendant Party, on behalf of the Microsoft Corporation (Names and Surnames)**

#### **I. HISTORY OF THE CASE**

*Under this chapter, a brief summary of the case should be written, previous developments regarding the case such as the date and the institution of proceedings before the Court should be mentioned. Brief information about the situation in the Defendant State regarding the case topic would be appreciated.*

#### **II. SUBMISSIONS OF THE PLAINTIFF PARTY**

*This section will be a summary of the Plaintiff's Memorial, Evidence Material and Expert Statements (including Defendant's cross-examination). The focus shall be the prayer of the Plaintiff.*

### **III. SUBMISSIONS OF THE DEFENDANT PARTY**

*This section will be a summary of the Defendant's Memorial, Evidence Material and Expert Statements (including the questioning by Judges). The focus shall be the prayer of the Defendant.*

### **IV. APPLIED LAW**

*Since the legal grounds are crucially important for the decision, the Court must determine the applicable law. Any legal ground applied by the Court shall be summarized in this section. If the Court decides to disregard a source of law presented by Parties, the reasons shall be indicated here.*

### **V. STATEMENT OF FACTS**

*The evidence presented and the witness statements that form the material ground of the verdict will be indicated here. The Court is free to disregard any piece of evidence or testimony; the reason shall be given in this section.*

### **VI. DECISION**

*This section makes a synthesis of the Facts and Applied Law and gives the final decision of the Court on the case. This section constitutes the core of the Judgment. This part is expected to be detailed and to continue with the phrase **"the Court considers that"** followed by an explanation thereby. After the Court comes to a conclusion, it needs a phrase before stating the decision such as **"the Court concludes that"** should be written at the beginning of the main decision as a commencement phrase and the rest of the decision should be clear, precise and expected to be a whole sentence. If there is more than one decision, any other one should also be in the same format except the beginning since it is sort of an oppositional decision to the first. The final decision shall be in the following format:*

For these reasons,

United States District Court for the District Court of Columbia, with

1. JUDGES (surnames of the Judges in the Majority) and JUDGES (surnames of the Judges Dissenting)/Unanimously
  2. Finds
  3. JUDGES (surnames of the Judges in the Majority) and JUDGES (surnames of the Judges Dissenting)/Unanimously
  4. Decides
  5. JUDGES (surnames of the Judges in the Majority) and JUDGES (surnames of the Judges Dissenting)/Unanimously
  6. Rejects
- JUDGES (surnames of the Judges in the Majority) and JUDGES (surnames of the Judges Dissenting)/Unanimously

#### **DISSENTING OPINION OF JUDGE 1**

*If there are Judges in the minority, disagreeing with the Court; he/she may write a dissenting opinion.*

#### **CONCURRING OPINION OF JUDGE 2**

*If there are Judges in the majority; who have arrived to the same conclusion with the majority but on different grounds; he/she might write a concurring opinion.*

#### **DECLARATION OF JUDGE 3**

*The Judges in the majority may make a declaration on how they assume the Judgment should be perceived and what should be kept in mind in the meantime; may write a declaration.*

## **REMINDER FOR ALL PARTICIPANTS**

Participants of Model Courts of Justice 2022 are kindly reminded that plagiarism in the Memorials or the Judgment shall not be tolerated by the Secretariat.

Parties are recommended the Oxford Referencing System in their submissions. Yet, the Secretariat is comfortable with any other method that is found to be more efficient by the participants as long as the Memorial is consistent in itself. A bibliography shall be appreciated.

As for evidence material, the sources must be shown in order not to face an objection of immaterial by the Opposing Party or to eliminate the risk of the Judges to disregard the evidence.

The Secretariat is fully aware of the fact that the writing process of the Judgment in the Conference can be stressful. Therefore the Secretariat shall not seek a list of references. The evidence materials need not be referenced; yet a clear indication that those segments belong to the presented cases is necessary. The Court must give references to case-law and is recommended the Oxford Referencing System. Yet, the Secretariat is comfortable with any other method that is found to be more efficient by the participants as long as the Judgment is consistent in itself.