UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| UNITED STATES OF AMERICA,<br><br>PLAINTIFF,<br><br>V.<br><br>MICROSOFT CORPORATION,<br><br>DEFENDANT. | C.A. NO. 98-1232 |
| STATE OF NEW YORK, ET AL.,<br><br>PLAINTIFFS,<br><br>V.<br><br>MICROSOFT CORPORATION,<br><br>DEFENDANT. | C.A. NO. 98-1223 |
| MICROSOFT CORPORATION,<br><br>COUNTERCLAIM-PLAINTIFF,<br><br>V.<br><br>DENNIS C. VACCO, ET AL.,<br><br>COUNTERCLAIM-DEFENDANTS. | JANUARY 13, 1999<br>WASHINGTON, D.C. |

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TRANSCRIBED DEPOSITION EXCERPTS

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GOVERNMENT EXHIBIT 1457
PENGAD-Bayonne, N.J.

1 (DEPOSITION EXCERPTS OF SEAN SANDERS.)

2 Q. OKAY. YOU TALKED ABOUT, I GUESS, A

3 TREND IN THE MARKET, THAT NETWORKING NEEDS WERE

4 BECOMING MORE INTERNET-BASED. AM I RECALLING

5 YOUR TESTIMONY CORRECTLY?

6 A. CORRECT.

7 Q. COULD YOU ELABORATE ON THAT A LITTLE

8 BIT, THAT PHENOMENON IN THE MARKET.

9 A. OKAY. THE INTERNET HAS BECOME

10 ESSENTIALLY A VERY LARGE NETWORK, AND IT IS THE

11 NETWORK OF ALL NETWORKS. AND NOVELL'S CORE

12 BUSINESS HAD BEEN IN CREATING SOFTWARE OPERATING

13 SYSTEMS FOR WHAT WE CALLED LOCAL AREA NETWORKS,

14 WHICH WERE KIND OF A LITTLE MORE SMALLER AND

15 SELF-CONTAINED. AND IT BECAME CLEAR THAT PEOPLE

16 WERE INTERESTED AND DESIRING TO EXPAND THEIR

17 NETWORK TO INTERFACE WITH LARGER NETWORKS, AND AS

18 SUCH, THAT--THAT MEANT THAT WE NEEDED TO MAKE

19 SOME MODIFICATIONS TO HOW OUR PRODUCTS WORKED AND

20 TRY TO WORK WITH SOME OF THE INTERNET TYPES OF

21 SYSTEMS.

22 SO, WE BEGAN TO LOOK AT WAYS TO

23 INCORPORATE THOSE KIND OF TECHNOLOGIES WITH OUR

24 PRODUCT PRODUCTS SO NOVELL-BASED PRODUCTS,

25 SPECIFICALLY NETWARE-BASED PRODUCTS, COULD

1 FUNCTION AND WORK MUCH MORE SEAMLESSLY WITH
2 NETWORKS SUCH AS THE INTERNET, AS WELL AS ALLOW
3 US TO CREATE STILL SMALLER, SELF-CONTAINED
4 NETWORKS THAT INCORPORATED INTRANET TYPES OF
5 TECHNOLOGIES.
6 Q. YOU REFERRED DURING THAT ANSWER TO
7 LOCAL AREA NETWORKS. ARE THEY ALSO REFERRED TO
8 AS LAN'S?
9 A. YES.
10 Q. DID--THIS TREND THAT YOU JUST DESCRIBED
11 IN THE MARKET, WHEN--WHEN DID THAT BECOME
12 NOTICEABLE? WHEN DID NOVELL NOTICE THAT THIS WAS
13 GOING ON?
14 MS. ROTH: OBJECTION. LACK OF
15 FOUNDATION.
16 BY MR. PEPPERMAN:
17 Q. IF YOU CAN, ANSWER MY QUESTION.
18 A. I JOINED THE COMPANY IN 1995, AS I
19 MENTIONED, AND BY THAT TIME IT WAS BECOMING--IT
20 WAS--I WOULD SAY THAT THAT WAS THE TALK IN THE
21 HALLS. BEFORE THAT TIME, I CANNOT SAY.
22 Q. OKAY. ARE BOTH NETWARE AND
23 INTRA-NETWARE SERVER OPERATING SYSTEM PRODUCTS?
24 DO YOU CONSIDER THEM TO BE?
25 A. YES.

1 Q. WHAT IS A SERVER OPERATING SYSTEM?
2 COULD YOU GIVE SORT OF A GENERAL DEFINITION THAT
3 MAYBE A LAY JUDGE WOULD UNDERSTAND.
4 A. SURE.
5 A SERVER OPERATING SYSTEM IS A SPECIAL
6 SET OF SOFTWARE PROGRAMS THAT RUNS ON
7 A--GENERALLY A DEDICATED PC THAT MANAGES THE
8 RESOURCES OF A NETWORK OF COMPUTERS AND ALLOWS
9 THOSE VARIOUS OTHER NETWORKED COMPUTERS TO SHARE
10 RESOURCES WITH EACH OTHER.
11 Q. ARE NETWARE AND INTRA-NETWARE BOTH
12 32-BIT OPERATING SYSTEMS?
13 A. YES.
14 (EXCERPT.)
15 Q. WOULD IT BE ACCURATE TO SAY THAT BOTH
16 OPERATING SYSTEMS RUN ON INTEL-COMPATIBLE
17 COMPUTERS?
18 A. YES.
19 (EXCERPT.)
20 Q. WERE THERE ANY FEATURES IN THE--IN
21 NETWARE 3.2 THAT HAVE ANY RELATIONSHIP TO THE
22 INTERNET?
23 MS. ROTH: OBJECTION. VAGUE.
24 THE WITNESS: YES.
25 BY MR. PEPPERMAN:

1 Q. WHAT WERE THOSE FEATURES?

2 A. IN THE NETWARE 3.2 PRODUCT, WE INCLUDED

3 NETSCAPE NAVIGATOR, WHICH IS A BROWSER--A

4 SOFTWARE BROWSER PRODUCT THAT PEOPLE CAN USE TO

5 BROWSE THE INTERNET, THE WORLD WIDE WEB

6 SPECIFICALLY.

7 Q. WAS THAT THE FIRST ONE OF THE 3.X

8 VERSIONS OF NETWARE TO INCLUDE A BROWSER?

9 A. YES.

10 Q. SO, NONE OF THE PRIOR 3.X VERSIONS HAD

11 A BROWSER?

12 A. CORRECT.

13 Q. AND YOU SAID THE SPECIFIC BROWSER

14 THAT'S INCLUDED IS NETSCAPE NAVIGATOR?

15 A. CORRECT.

16 Q. IS THERE A SEPARATE CHARGE FOR THAT WEB

17 BROWSER, OR IS IT PART OF THE--THE OVERALL PRICE

18 FOR NETWARE 3.2?

19 A. IT IS INCLUDED IN THE PRICE FOR NETWARE

20 3.2.

21 (EXCERPT.)

22 Q. DOES NETWARE 4.11 COME WITH A BROWSER?

23 A. NETWARE 4.11, I BELIEVE, DOES NOT.

24 MR. PEPPERMAN: I'D LIKE TO MARK AS

25 SANDERS EXHIBIT 4 A DOCUMENT ENTITLED,

1 "INTRA-NETWARE FEATURES COMPARISON."
2 (EXHIBIT 4 WAS MARKED.)
3 (A DISCUSSION WAS HELD OFF THE RECORD.)
4 BY MR. PEPPERMAN:
5 Q. MR. SIR, HAVE YOU SEEN THIS DOCUMENT
6 BEFORE?
7 A. YES.
8 Q. IS THIS ALSO FROM NOVELL'S WEB SITE?
9 A. YES, IT IS.
10 Q. CAN YOU DESCRIBE WHAT THIS IS DOCUMENT
11 IS.
12 A. CERTAINLY. THIS DOCUMENT COMPARES
13 SOME--SOME FEATURE DIFFERENCES BETWEEN OUR
14 NETWARE FAMILY OF PRODUCTS, SPECIFICALLY NETWARE
15 3.2, NETWARE 4.1, NETWARE 4.11, AND
16 INTRA-NETWARE, AND IT HAS A LIST OF FEATURES ON
17 IT AS WELL WHETHER--SOME INFORMATION AS TO
18 WHETHER OR NOT THAT SPECIFIC FEATURE CAN BE FOUND
19 IN THE PARTICULAR VERSION OF NETWARE.
20 (EXCERPT.)
21 Q. OKAY. THIS DOCUMENT, AT LEAST,
22 INDICATES THAT A NETSCAPE BROWSER IS INCLUDED
23 WITH NETWARE 4.11?
24 A. IT DOES INDICATE THAT.
25 Q. DOES THAT REFRESH ANY RECOLLECTION OF

1 YOURS?

2 A. TO BE HONEST, I--NO. I DON'T DOUBT

3 THAT.

4 HERE AGAIN, I THINK IT'S A CASE--IF--I

5 CERTAINLY KNOW THAT IT IS--WITH INTRA-NETWARE

6 WITH--AS I MENTIONED EARLIER, EVEN--EVEN I

7 SOMETIMES GET CONFUSED AS TO WHAT EXACTLY WE

8 INCLUDED IN NETWARE 4.11, AND THAT WAS INCLUDED

9 IN INTRA-NETWARE.

10 (EXCERPT.)

11 Q. YOU TESTIFIED EARLIER ABOUT COMPETITORS

12 TO NOVELL'S PRODUCTS.

13 IS WINDOWS 95 A COMPETITIVE PRODUCT TO

14 ANY OF NOVELL'S PRODUCTS?

15 A. NO.

16 Q. IS WINDOWS 98 A COMPETITIVE PRODUCT TO

17 ANY OF NOVELL'S PRODUCTS?

18 A. NO.

19 Q. WHY DO YOU NOT CONSIDER WINDOWS 95 OR

20 WINDOWS 98 TO BE COMPETITIVE PRODUCTS?

21 A. WINDOWS 95 AND WINDOWS 98 ARE DESKTOP

22 OPERATING SYSTEMS. WE DO NOT DEVELOP, MARKET OR

23 SELL DESKTOP SYSTEMS CURRENTLY. WE DEVELOP,

24 MARKET AND SELL SERVER OPERATING SYSTEMS OR

25 NETWORK OPERATING SYSTEMS WHICH ARE--IT'S A

1 DIFFERENT CLASS OF A SOFTWARE PROGRAM.
2 Q. HOW WOULD YOU DESCRIBE THAT CLASS?
3 A. WELL, A--A NETWORK OPERATING SYSTEM OR
4 SERVER OPERATING SYSTEM IS A SPECIAL SET OF
5 COMPUTER PROGRAMS THAT RUNS ON A--A SPECIAL
6 COMPUTER THAT ALLOWS FOR THE MANAGEMENT AND
7 ADMINISTRATION OF GENERALLY COMMONLY SHARED
8 NETWORKED RESOURCES, WHICH COULD INCLUDE ACCESS
9 TO OTHER NETWORKS, ACCESS TO COMMONLY USED
10 SOFTWARE PROGRAMS AND ACCESS TO COMMONLY USED AND
11 SHARED DATA FILES AND OTHER INFORMATION LIKE
12 THIS.
13 I WOULD CONTRAST THAT TO A DESKTOP
14 OPERATING SYSTEM WHICH, AGAIN, IS A SPECIAL SET
15 OF COMPUTER PROGRAMS THAT ALLOWS FOR THE
16 MANAGEMENT OF--IT SPECIFICALLY FOCUSES ON THE
17 MANAGEMENT OF THE RESOURCES--COMPUTING RESOURCES
18 THAT A SPECIFIC END USER WOULD USE ON THEIR
19 DESKTOP PC. SO IT ALLOWS THEM TO KIND OF--BEHIND
20 THE SCENES IT DOES SOME MANAGEMENT OF THE
21 PHYSICAL COMPUTER SUCH AS MANAGING THE MEMORY,
22 THE DISK DRIVE AND SOME OF THE OTHER TECHNICAL
23 ASPECTS THAT ARE INCLUDED WITHIN THE BOX. BUT IT
24 ALSO PROVIDES A--KIND OF A--GENERALLY A FRIENDLY
25 FRONT END TO THE SYSTEM THAT THE USER CAN

1 MANIPULATE TO BETTER USE THEIR SOFTWARE PROGRAMS
2 AND THE RESOURCES THAT ARE GENERALLY THERE
3 SPECIFIC TO THE DESKTOP.
4 IT CAN ALSO PROVIDE ACCESS OR HELP
5 ABILITY ACCESS TO NETWORKED RESOURCES, BUT IT
6 USUALLY DOES NOT MANAGE THOSE RESOURCES. THOSE
7 RESOURCES ARE MANAGED BY THE NETWORK OPERATING
8 SYSTEM.
9 (EXCERPT.)
10 Q. WHEN A USER INSTALLS THE INTRA-NETWARE
11 PRODUCT, DO THEY HAVE A CHOICE OF WHETHER TO
12 INSTALL THE NETSCAPE NAVIGATOR?
13 A. YES, THEY DO.
14 Q. CAN THEY CHOOSE NOT TO INSTALL NETSCAPE
15 NAVIGATOR AT ALL?
16 A. THEY CAN.
17 (EXCERPT.)
18 Q. DO YOU KNOW WHY NOVELL HAS CHOSEN TO
19 MAKE JVM AND JDK AVAILABLE TO ITS CUSTOMERS?
20 A. YES, I DO. NOVELL IS A STRONG
21 PROPONENT OF THE BUSINESS VALUE OF JAVA AND HOW
22 IT IS SOMETHING THAT CAN BE OF GREAT VALUE TO OUR
23 CUSTOMERS. IT ESSENTIALLY IS--PROVIDES THE
24 BENEFIT OF AN APPLICATION-RUNNING ENVIRONMENT
25 THAT WOULD ALLOW PEOPLE TO RUN APPLICATIONS

1 INDEPENDENT OF ANY KIND OF OPERATING SYSTEM OR
2 CPU TYPE OF RESTRAINTS THEY MAY CURRENTLY BE
3 FACING.
4 SO THIS WOULD HELP US, NOVELL'S
5 COMPANY, BE ABLE TO RUN A MUCH LARGER SET OF
6 SOFTWARE OF SERVER-BASED APPLICATIONS ON
7 NOVELL-BASED SERVERS THAN WE CURRENTLY OFFER,
8 WHICH WOULD MAKE OUR PRODUCTS SUBSEQUENTLY MUCH
9 MORE DESIRABLE IN THE MARKETPLACE.
10 Q. WHY WOULD THE AVAILABILITY OF MORE
11 APPLICATIONS THAT RUN ON NOVELL SOFTWARE HELP
12 NOVELL IN THE MARKETPLACE?
13 A. THE MARKETPLACE AND CUSTOMERS ARE--ARE
14 GENERALLY IN BUYING SOLUTIONS TO HELP THEM WITH
15 THEIR BUSINESS CHALLENGES AND PROBLEMS AND THEIR
16 PROCESSES. AND GENERALLY THE SOLUTION IS THE
17 SOFTWARE APPLICATION THAT HELPS THEM WITH THAT
18 PROBLEM.
19 SO THEY OFTEN TEND TO--TO LOOK AT
20 BUYING THE SPECIFIC SOFTWARE APPLICATION THAT
21 WILL WORK FOR THEM AND THEN--WILL THEN BUY THE
22 OPERATING SYSTEMS AND HARDWARE ON WHICH
23 THAT--THAT SOFTWARE APPLICATION WILL RUN. SO, IF
24 THAT APPLICATION IS NOT AVAILABLE ON A
25 NETWARE-BASED--IF THERE IS NOT A NETWARE-BASED

1 VERSION OF THAT APPLICATION, THEN WE PROBABLY
2 WOULD NOT BE IN THE RUNNING FOR THAT CUSTOMER TO
3 END UP BUYING A NETWARE OPERATING SYSTEM FOR THEM
4 TO RUN THEIR APPLICATION.
5 IF THERE IS A MUCH LARGER FAMILY OF
6 APPLICATIONS FROM WHICH TO CHOOSE FROM THAT RUN
7 ON NETWARE, SUCH AS APPLICATIONS THAT ARE--THAT
8 ARE BUILT USING JAVA, THEN SUDDENLY THE
9 MARKETPLACE WILL--WELL, THE NUMBER OF
10 APPLICATIONS THAT RUN ON NETWARE COULD GROW
11 SUBSTANTIALLY, AND SUBSEQUENTLY, WE COULD TEND
12 TO--TEND TO REALIZE A LOT POPULAR BUSINESS FROM
13 PEOPLE WHO END UP BUYING A JAVA-BASED APPLICATION
14 THAT RUNS ON NETWARE, AND ESPECIALLY IF WE CAN
15 TUNE AND MAKE NETWARE A MUCH MORE EFFICIENT AND
16 RESPONSIVE OPERATING SYSTEM FOR RUNNING
17 JAVA-BASED APPLICATIONS.
18 Q. HOW DOES THE DESIRE FOR A LARGER FAMILY
19 OF APPLICATIONS THAT RUN ON NOVELL OPERATING
20 SYSTEMS RELATE TO NOVELL'S DECISION TO MAKE THE
21 JAVA VIRTUAL MACHINE AND JDK AVAILABLE TO ITS
22 CUSTOMERS?
23 A. WELL, AS I MENTIONED, NOVELL WOULD
24 STAND TO BENEFIT FROM INCREASED NETWARE SALES
25 WITH A PROLIFERATION OF JAVA-BASED APPLICATIONS,

1 AND ONE OF THE THINGS WE'VE DONE IS TRY TO MAKE
2 SURE THAT OUR NETWARE-BASED OPERATING SYSTEM AND
3 THE TOOLS THAT WE HAVE TO HELP IT RUN JAVA
4 ARE--WELL, WE WERE TRYING TO BE AS FRIENDLY TO
5 HOSTING JAVA-BASED APPLICATIONS AND FOR THE
6 DEVELOPMENT OF JAVA-BASED APPLICANTS AS WE CAN.
7 WE CAN DO THAT BY OPTIMIZING THE WAY THAT THE
8 JAVA VIRTUAL MACHINE RUNS ON NETWARE. THE JAVA
9 VIRTUAL MACHINE IS ESSENTIALLY YET ANOTHER
10 SOFTWARE LAYER THAT ALLOWS PEOPLE TO RUN
11 JAVA-BASED APPLICATIONS AND TO HELP THEM--PROVIDE
12 THEM THE TOOLS THAT THEY COULD USE TO YET BUILD
13 AND DEVELOP AND TO--FOR OPTIMIZATION OF ANY OTHER
14 JAVA APPLICATIONS THAT THEY MIGHT WANT TO
15 DEVELOP.
16 Q. IS THE WIDESPREAD DISTRIBUTION OF JAVA
17 VIRTUAL MACHINES IMPORTANT TO NOVELL?
18 A. IT WOULD HELP--I WOULD SAY IT WOULD
19 HELP NOVELL, YES.
20 (EXCERPT.)
21 Q. BOTH MR. KLEIN AND MS. ROTH ASKED YOU
22 SOME QUESTIONS ABOUT THE RELATIONSHIP AMONG THE
23 VARIOUS COMPONENTS OF NOVELL'S OPERATING SYSTEM
24 PRODUCTS, FOR EXAMPLE, WHETHER THOSE PRODUCTS
25 COULD BE UNINSTALLED OR WHETHER THE USER HAD A

1 CHOICE TO INSTALL THEM OR NOT AND WHAT THE EFFECT
2 WOULD BE OF UNINSTALLING THOSE COMPONENTS.
3 DO YOU REMEMBER THOSE LINE (SIC) OF
4 QUESTIONS?
5 A. YES.
6 Q. IN ANSWERING THOSE QUESTIONS, WERE YOUR
7 ANSWERS DIRECTED TO THE TECHNICAL
8 RELATIONSHIP--WITHDRAWN.
9 WERE YOUR ANSWERS DIRECTED TO
10 EXCLUSIVELY NOVELL PRODUCTS?
11 A. YES.
12 Q. YOU WEREN'T ATTEMPTING TO CHARACTERIZE
13 MORE GENERALLY WHAT THE RELATIONSHIPS ARE AMONG
14 THE VARIOUS COMPONENTS OF OTHER OPERATING SYSTEM
15 PRODUCTS, WERE YOU?
16 A. NO, I WAS NOT.
17 (EXCERPT.)
18 Q. WHY DOES NOVELL GIVE END USERS THE
19 OPTION OF CHOOSING WHETHER TO INSTALL CERTAIN
20 COMPONENTS OF THE INTER-NETWARE--INTRA-NETWARE
21 PRODUCT?
22 A. SOME USERS DO NOT HAVE DESIRE TO USE
23 ALL OF THE FUNCTIONALITY THAT COMES IN THE ENTIRE
24 BUNDLE THAT IS INTRA-NETWARE, AND AS SUCH, WE
25 PROVIDE THEM WITH THE OPTION TO MAKE THOSE

1 DECISIONS AS TO WHAT THEY WOULD CHOOSE TO USE AND
2 NOT TO USE.
3 Q. WHAT IS THE BASIS FOR YOUR TESTIFYING
4 THAT SOME CONSUMERS DO NOT WANT TO USE SOME OF
5 THE FUNCTIONALITY INCLUDED IN INTRA-NETWARE?
6 A. MARKET RESEARCH THAT HAS BEEN CONDUCTED
7 TO--WITH CUSTOMERS TO FIGURE OUT WHAT KIND OF
8 NEEDS THEY HAVE AND HOW THEY WOULD LIKE TO BE
9 ABLE TO USE THEIR NETWORKING SOLUTIONS.
10 Q. IS IT YOUR UNDERSTANDING THAT THERE ARE
11 CUSTOMERS WHO DO NOT WANT TO USE NETSCAPE
12 NAVIGATOR?
13 A. YES.
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