WINDOWS DESKTOP FAMILY AGREEMENT
04/30/96 NEGOTIATION MEETING

ATTENDEES:

MS	IBM
MARK BABER	GARRY NORRIS
WOLF STRUSS	MARTY AVALLONE
	DEAN DUBINSKY
	DIANA ROMERO

RECAP OF PROGRESS TO DATE

WINHEC
TECHED
GAMES CONFERENCE
WINDOWS SEMINAR
WINDOWS NT REVIEWERS WORKSHOP
HARP PROGRAM
SYSTEMS TO WOLF, MARK & TOM
KIRKLAND STAFFING (X86)
OTM - APTIVA & CDT
- MS INTERVIEWING FOR 2 POSITIONS
- NOT INTERVIEWING FOR SERVER AND MOBILE POSITIONS UNTIL WE EXECUTE AGREEMENTS

NT - WILL BE PREINSTALLED ON CROSSFIRE
ARE WE BUYING THE SYSTEM BOARD WITH NEW P6 CHIP SET FROM INTEL? (ADD'L LEADTIME)
NT IN SERVERGUIDE
NT ON AS/400 (MS - DRIVE SHARING OR TRULY PARTITIONING FOR NT?)

APTIVA - WIN 95 ONLY, ENCARTA, PLUS, CREATIVE WRITER
MOBILE - WIN 95 ONLY

L. BIFANO MET WITH P. MORITZ RE POWER
STEVE MILLS - PORTING OF MIDDLE WARE TO NT
WIN32 APIs WILL GO TO MVS

BURGER/SILVERBERG MEETING ON INTERNET SECURITY
PC WEEK ARTICLE

COMMUNICATIONS:
N. LAUTENBACH MEMO
JOACHIM ONLY HAS SEEN MEMO
WON'T SHOW IT TO ANYONE ELSE BECAUSE THEY DON'T FEEL IT DEMONSTRATES MS SUPPORT (VS APPLE); THEY THINK IT UNDERPLAYS THE THINGS WE'VE DONE WITH/FOR MS INTELLECTUAL PROPERTY
MARK DRAFTED A MEMO TO JOACHIM THAT INCLUDES ALL OF IBM'S COMMITMENTS
JOACHIM SENT THAT TO EVERY VP WORLDWIDE

PENGAD-Bayonne, N.J.
GOVERNMENT EXHIBIT
2180

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WON'T DISTRIBUTE ANYTHING TO MS FIELD SALES
SHOULD BE NATURAL MATCH BETWEEN MS AREA SALES & IBM TERRITORIES. WE SHOULD SEND NOTES TO OUR FIELD ORG ON THEIR RESPECTIVE ORGs IN OTHER CO'S
PUT TOGETHER A LETTER FROM TONY TO JOACHIM COVERING ALL CURRENT ITEMS (DEAN ?)

IBM & WIN 95 / IBM & WIN NT ITEMS
CRN 4/1 ARTICLE ON IBM BECOMING SOLUTION PROVIDER
CRN 3/4 ARTICLE ON IBM TURNING UP VOLUME (RE IBM/MS)
INFOWORLD 3/18

OS/2 & SMARTSUITE (MS QUESTION)
CDT - SAS ON EXISTING SYSTEMS
MOBILE - SAS ON EXISTING SYSTEMS
SS - MOBILE DROPS CD IN BOX FOR HIGH END, COUPON FOR LOW END
CDT COUPON IN BOX

IBM'S EXPECTATIONS

STRESS COOPERATION
INTERESTED IN FAMILY AGREEMENT
IF T'S & C'S & PRICING COMBINED ARE BETTER THAN OUR EXISTING AGREEMENTS WE'LL MOVE
WE WANT TO WORK WITH MS TO WORK ON T'S & C'S

MS EXPECTATIONS

WE START PUTTING IBM O PARITY WITH OTHER OEMS FROM A MS PERSPECTIVE
MOVE TO 96 TEMPLATE THAT OTHER ARE MOVING TOWARD

ENSURE THAT IBM IS IN POSITION TO SHIP NT 4.0 ON DAY IT'S AVAILABLE

INTERNAL GOALS TO GET AGR. EXECUTED
JUNE 1

NT 4.0 SCHEDULED FOR JUNE
WILL DEPEND ON CURRENT BETA GOING OUT TODAY

NT SUMMIT MEETING 5/14-15; CENTERS AROUND LAUNCH OF NT 4.0
CDT INVITED; MS TALKING TO MOBILE
INTEL ONLY CONSIDERED NOW. THE LAUNCH WILL INCLUDE MORE THAN INTEL.

WHEN MS REFERS TO NT 4.0 THEY ONLY MEAN WORKSTATION. THEY DON'T VIEW NT SERVER AS AN OEM PRODUCT. ONLY A FEW OEMS WILL BE ABLE TO PREINSTALL (IBM IS ONE OF THEM)

TIMELINE

NEGOTIATIONS:

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CLOSE BY 6/1
WILL OFFER INDUCEMENTS TO SIGN BY 6/1 (IN EXECUTIVE REVIEW)

MAY 1	INITIAL DISCUSSIONS
MAY 3	FULL KNOWLEDGE OF ISSUES
MAY 6	INCENTIVES FROM MS
MAY 13	BACK TO TABLE (MONDAY)
MAY 13-17	BLOCK FOR NEGOTIATIONS
MAY 15	MARK AND WOLF WORKING WITH FRAN O'SULLIVAN
MAY 15	EXECUTIVE REVIEW
MAY 17-27	MARK ON VACATION
MAY 20-24	WHITTLE DOWN ISSUES
MAY 23-27	GARRY ON VACATION
MAY 27-31	DRIVE FOR CLOSURE
JUNE 1	WDF SIGNED & SEALED

EFFECTIVE DATES

MDA-96
SHOULD BE EFFECTIVE WHEN WDF IS EFFECTIVE (7/1)
MS--IF THE EFFECTIVE DATE IS MOVED FOR IBM, IT WILL BE MOVED FOR ALL OEMS
CURRENT MDA REDUCTION APPLIES TO ENTIRE WDF PRODUCTS

MDA 95--THEY WERE TRYING TO GET A NEW PRODUCT SEEDED IN THE MARKET
MDA96--MS NOT WILLING TO PAY FINANCIAL PRICE TO SEED MARKET (NOT NECESSARY)
THIS TIME AROUND MS WANTS TO SEE PERFORMANCE BEFORE GIVING DISCOUNT

IBM--IT'S NOT IN OUR BEST INTEREST FINANCIALLY TO GO TO WDF BECAUSE OF OUR $9 WIN 3.11 ROYALTY
MS NEEDS TO MAKE IT MORE FINANCIALLY ATTRACTIVE FOR US

MS--46.60 IS NOT OUT OF PARITY WITH ANY OEM EXCEPT COMPAQ (NOT DEC & HP).
MS WOULD MATCH COMPAQ IF WE MADE THE SAME COMMITMENT THAT COMPAQ DID.

WIN 3.11 IS NOT AN OPTION UNDER THE SELECT AGREEMENT

IBM NEEDS TO RETAIN OUR LOW ROYALTY ON WIN 3.11
MS THINKS WE WOULD WANT TO MOVE TO WDF AGR FOR WIN NT.

OUR NT VOLUMES ARE UNDER 500K FOR 12 MONTHS
SLOW RAMP FOR NT
WIN 95 VOLUMES ARE SIGNIFICANT

WE NEED MORE FINANCIAL INCENTIVE TO MOVE OFF OF THE $9 WIN 3.11 ROYALTY
MS WILL TAKE THIS REQUEST BACK TO THEIR MGMT.

IF IT DOES NOT MAKE SENSE FOR US TO MOVE TO WDF, OUR ALTERNATIVE WOULD BE TO HAVE SEPARATE AGREEMENTS FOR EACH PRODUCT.

- NO MDA ROYALTY REDUCTION
- NO VOLUME AGGREGATION
- WE COULD COME BACK TO RENEGOTIATE WDF AGREEMENT IN FUTURE

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IF OUR WIN 95 AGREEMENT EXPIRES IN SEPTEMBER. OUR MDA 95 EXPIRES THEN THEY WILL NOT EXTEND OUR MDA 95

ONE INCENTIVE TO GO TO WDF IS THE EXTENSION OF THE MDA 95.

OUR REQUEST IS TO MAKE MDA 96 EFFECTIVE ON EFFECTIVE DATE OF WDF AGR.
MS WILL TAKE REQUEST TO THEIR MGMT.

NT 4.0 IS BIGGEST DRIVING FORCE FOR IBM TO GO TO WDF AGR.
ROYALTY IS AS STATED IN WDF EXHIBIT FOR 3.51
AGGREGATION OF OUR VOLUMES IS ANOTHER REASON TO MOVE
WE'D PAY HIGHER ROYALTIES IF WE SHIPPED SEPARATELY.

PRICE FOR NT INCREASED FROM EARLIER QUOTE DUE TO NEW PRICE GUIDELINE WHICH INCLUDES NT 4.0

ALTERNATIVES TO MOVING TO WDF AGR.:

1.
- WIN 95 AGR. WILL EXPIRE 9/30
- EXTEND TERM WITH NEW TEMPLATE TERMS
- NEW ROYALTY WILL BE IN $62 RANGE
- NO MDA APPLICABLE

NO PLANS FOR A NEW PRODUCT RELEASE OF WIN 95
ALL NEW OPKS & VERSIONS FALL UNDER CURRENT PRODUCT RELEASE

NASHVILLE WILL BE ADD ON TO NT WORKSTATION 4.0 & WINDOWS 95
WILL HAVE ITS OWN TERMS AND ROYALTY

MS SEES RAISING OUR WIN 3.11 ROYALTY INCREASE AS AN INDUCEMENT TO SHIP WINDOWS 95 (VS. WIN 3.11)

WHY WOULDN'T MS OFFER AN MDA THAT PUSHES IBM TO MOVE TO A 32 BIT O/S (MODIFIED MDA FOR WIN 95 AND/OR NT)

IBM ASKED MS TO CARRY TO MGMT. THE POSSIBILITY OF DOING A DIFFERENT MDA FOR W95 AND NT FOR IBM IF WE DON'T GO TO WDF AGR.

DISCUSSION OF UPGRADING FROM WIN 3.11 TO NT 4.0. BIG CUSTOMER CONCERN - COMM. CUSTOMERS RELUCTANT TO BUY WIN 95 SYSTEMS BECAUSE THERE IS GREAT DIFFICULTY IN UPGRADING FROM W95 TO NT 4.0.

NT IS STILL SCHEDULED FOR RELEASE IN JUNE.

- HAVE TO NEGOTIATE A NEW AGR/EXHIBIT FOR NT 4.0 IF WE DON'T DO WDF AGR.
  THIS WOULD BE DRAFTED OFF THE CURRENT WINDOWS 95 AGR.
  ATTACH THE WINDOWS NT EXHIBIT TO OUR CURRENT WINDOWS 95 AGR.

WOULD MS CONTEMPLATE A NT 4.0 ROYALTY OF $127 – WHAT IS THE VOLUME PRICE GRID?
MS WILL LOOK INTO. USE 250 - 600K FOR 12 MONTH PERIOD.

MS WILL NOT ALLOW SERVERGUIDE FOR NT 4.0. WILL THEY ALLOW SMART START?
MARK CANNOT ADDRESS; HE DOESN'T MANAGE COMPAQ.

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MS CONTRACT PERIOD IS FOR 12 MONTHS CAN WE HAVE LONGER TERMS? NO - DUE TO DOJ DECREE. CAN WE REQUEST LONGER TERM?
ISSUE FOR PETER
PER CONSENT DECREE, MS CAN GIVE TERMS - ONE YEAR TERM PLUS GIVE OEM OPTION TO EXTEND FOR ONE YEAR OR ONE YEAR FROM CALENDAR QUARTER CONTAINING EFFECTIVE DATE.
MS'S POLICY IS TO GIVE ONE YEAR TERM ONLY.

- MS DOS - WE SHIP UNDER DSP SOMETIMES (PACKAGED PRODUCT)
  COMPLEMENTARY PRODUCTS & ISSC
  LICENSE AGR. EXPIRES 9/30/96
  NEED NEW AGREEMENT/EXTENSION

- NT POWER WORKSTATION
  - INCLUSIVE IN FAMILY AGREEMENT IF WE GO TO WDF
    SAME PRICE AS INTEL PLATFORM
    CAN'T PROTECT ROYALTY BECAUSE OF THE LOW VOLUMES
    IN SEPARATE WINDOWS NT AGR IF WE GO THAT ROUTE

- NT 4.0 SERVER - INTEL & POWER
  - WILL BE NEW AGREEMENT
  - NEW AGR IS IMMINENT
  - NO ENCRYPTION WILL BE ALLOWED
  - MARK DOESN'T KNOW ABOUT SMART START
  - ONLY ON PER SYSTEM BASIS - PREINSTALLED
  - SERVER FEELS LIKE THEY'RE BEING FORCED TO PREINSTALL, NO SERVER GUIDE, RAID SYSTEMS ARE SOLD WITHOUT BEING FULLY POPULATED; PREINSTALLED IMAGE IS BLOWN AWAY WHEN THE SYSTEM IS POPULATED; SERVER NEEDS A MECHANISM TO PROVIDE NT 4.0 TO CUSTOMERS WITHOUT IT BEING PREINSTALLED; TALKED TO PAUL B. ABOUT A BIOS LOCK
  - *MARK–DOESN'T BELIEVE MS WILL FORCE PREINSTALLATION; THEY WILL FORCE PER SYSTEM DISTRIBUTION.*
    MS WILL TAKE THIS ISSUE BACK FROM RESOLUTION
  - *MS WILL LET US KNOW IF ANY OEM WILL HAVE THE ABILITY FOR ENCRYPTION*

MS WILL NOT INCLUDE NT SERVER IN THE WDF AGR.
ONLY OFFERED TO FEW OEMS (SIZE, SOPHISTICATION, PRESENCE IN INDUSTRY, MAJOR SERVER PLAYER)
WE WON'T GET BENEFIT OF VOLUMES (IN WDF AGR.)

UMBRELLA AGREEMENT

IBM REQUEST TO STRUCTURE AGREEMENT WITH NEW PROPOSED ROYALTIES, AGGREGATED VOLUMES, WITH EXISTING TERMS FROM EXISTING AGREEMENTS.

KEEP TERMS OF "OLD" AGREEMENTS FOR PAST PRODUCTS. HAVE NEW TERMS FOR FUTURE PRODUCTS.

THIS WOULD ELIMINATE A LOT OF OUR ISSUES

OUR LIST INCLUDES ALL OF THE ISSUES WE'RE CURRENTLY AWARE OF

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THIS LIST DOES NOT INCLUDE POWER ISSUES – WE WON'T COVER POWER IN THIS MEETING.

MS WANTS TO KNOW WHAT WIN 3.11 TERMS WE CAN'T LIVE WITHOUT.

MS DOESN'T HAVE A PROBLEM WITH AN UMBRELLA AGREEMENT, ASSUMING WE CAN COVER EACH PARTY'S ISSUES.

MS ISSUES WITH CURRENT WIN 3.11 AGR:
MONTHLY ROYALTY PAYMENT & REPORTING
THIRD PARTY INSTALLERS/REPLICATORS

MS WANTS TO GO THROUGH WIN 3.11 ISSUES INDIVIDUALLY

MS WILL NOT ALLOW SUBLICENSING FOR NT (POWER) IN THE FUTURE. REASON - LACK OF VOLUMES/BUSINESS CASE.

SOURCE FOR WINDOWS 95. MARK WON'T COMMENT ON WHETHER ANY OEM HAS ACCESS TO WINDOWS 95 SOURCE.

IT WOULD BE EXTREMELY DIFFICULT TO GO BACK AND MAKE OUR EXISTING PRODUCTS FIT THE WINDOWS 95 BUSINESS MODEL.

GO TO MS-WDF.DOC FOR ISSUE DETAIL.

UMBRELLA DISCUSSION WITH PETER MILLER PRESENT

MARTY EXPLAINED OUR RATIONALE
- WHOLE BUSINESS INFRASTRUCTURE BASED ON WIN 3.11 AGR T'S & C'S

WIN 3.11 TERMS REMAIN THE SAME.
ROYALTIES CHANGE (INCREASE)

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AGENDA

* IBM'S EXPECTATIONS

* MICROSOFT'S EXPECTATIONS

* TIMELINE

  - NEGOTIATIONS
  - EXECUTIVE REVIEWS
  - FAMILY AGREEMENT EXECUTION & EFFECTIVE DATES
  - MDA EFFECTIVE DATES

* ISSUES

  - GENERAL

    RATIONALE FOR FAMILY AGREEMENT
    ALTERNATIVES IF IBM & MS CANNOT AGREE ON FAMILY AGREEMENT
    TERMS FOR NT POWER PRODUCTS
    TERMS FOR NT SERVER PRODUCTS

* GROUNDRULES FOR DISCUSSION OF SPECIFIC ISSUES