GOVERNMENT EXHIBIT 323
PENGAD-Bayonne, N.J.

From: Candace Grisdale
Sent: Saturday, May 30, 1998 2:30 PM
To: Bengt Akerlind; Gayle McClain
Cc: Dale Watanabe; Brian Fujiwara; Lars Boesen; John Kalkman
Subject: RE: NEC, Gateway back Navigator

HP we've known was close to NSCP but each time we've asked them of their plans, they have said they do not want to carry the burden of two browsers, unless the customer segment demands it. My team is focused on keeping ears to the ground on it. No indications they are serious about this but this certainly alerts us. We'll keep you posted.

—Original Message—
From: Bengt Akerlind
Sent: Saturday, May 30, 1998 2:01 PM
To: Candace Grisdale; Gayle McClain
Subject: FW: NEC, Gateway back Navigator

I was aware of PB/NEC position. Not so about GW (who is Brownigg..?) nor HP (we all know about kayak.. what is behind the "HP discussions", Candace?).

thanks

—Original Message—
From: Natalie Ayres
Sent: Tuesday, May 26, 1998 4:30 AM
To: Bengt Akerlind
Subject: FW: NEC, Gateway back Navigator

In case you have not seen this yet.....

—Original Message—
From: Martin Gregory
Sent: Tuesday, May 26, 1998 10:46 AM
To: Natalie Ayres; Roy Thompson
Subject: NEC, Gateway back Navigator

NEC, Gateway back Navigator

By Stephanie Miles <mailto:stephaniem@cnet.com>, Michael Kanellos <mailto:michaelk@cnet.com>, and Dan Goodin <mailto:dang@cnet.com>

Staff, CNET NEWS.COM

May 22, 1998, 3:15 p.m. PT

update Two major PC manufacturers, NEC <http://www.nec.com/> and Gateway 2000 <http://www.gateway.com/> have broken ranks with Microsoft <http://www.microsoft.com/> by quietly allowing certain customers to configure computers with Netscape Communications' <http://www.netscape.com/> Navigator on Windows 98 machines and are planning larger-scale programs to make Navigator more accessible to all their customers.

Microsoft has allegedly used its overwhelming dominance in PC operating systems to compel PC makers to install its Internet Explorer Web browser to the exclusion of Netscape, according to state and federal antitrust lawsuits filed earlier this week. Indeed, many of the major manufacturers offer only IE as a browser to their customers.

Almost all PC makers ship a number of models with IE only, according to sources close to Netscape, including Compaq Computer <http://www.compaq.com/>, Dell Computer <http://www.dell.com/>, Hewlett-Packard <http://www.hp.com/>, Toshiba <http://www.toshiba.com/>, Acer <http://www.acer.com/>, AST <http://www.ast.com/>, and Micron <http://www.micron.com/>.

HP, who currently only offers Netscape on its Kayak workstation line, is "reevaluating and giving some

serious consideration," to using Navigator throughout its line of PCs and notebooks, according to company sources. "There are discussions throughout HP about this opportunity and everyone has given it some serious consideration," one source said.

In Japan, Sony and Fujitsu are the only major PC makers which install Navigator in machines destined for retail stores, according to Japanese business daily *Nihon Keizai Shimbun*. Hitachi will consider installing Navigator if customers demand the product, and Toshiba said it will make a decision based on competitors' moves.

At CompUSA <http://www.compusa.com/> stores in the San Francisco Bay area, only a few of the top-tier vendors offer consumer models with Navigator, with the preponderance of systems coming with IE only.

"If you are a PC vendor, are you going to risk your relationship with the OS [and Microsoft]?" said Peter Jackson, president and CEO of Intraware <http://www.intraware.com/>, a systems integration firm. PC makers "are dealing with fractional margins to begin with, so are they going to go out on a limb and anger Redmond?", he asked, referring to the Redmond, Washington-based company.

In depositions taken a few weeks ago, NEC and Gateway executives testified that in certain instances they have already taken advantage of a stipulation between the DOJ and Microsoft allowing PC makers the option of removing IE from Windows 95, and are interested in removing IE in Windows 98 when requested by customers. The testimony is cited in the Justice Department's <http://www.usdoj.gov/> motion for a preliminary injunction blocking the release of Windows 98.

John Kies, an executive in the notebook division of NEC who is referred to in the DOJ deposition as J. Kies, testified that NEC wants to provide corporate notebook customers with a choice of browsers. "Our corporate customers...are very specific about what software applications...that their end users use on their notebook computers. They do not like to have choice forced upon them, but would rather choose themselves which ones they use," Kies testified.

In fact, if larger corporate customers demand Navigator, NEC will presently configure the systems with the Netscape browser, according to sources within the company. "We are providing them with the most choices that we can provide by not including a browser and letting them select whichever browser best fits their needs," Kies testified.

NEC will launch a program making it easier for their notebook customers to get Navigator after Windows 98 comes out, company sources said. The company may also make it easier for corporate consumers to get Navigator on the desktop. Currently, NEC will install Netscape for free and delete IE from Windows 95 for select customers upon request.

Gateway executive Rick Brownrigg, named in the motion as R. Brownrigg, testified that Gateway "would like the flexibility to give its customers a choice of Internet access providers as part of the PC boot-up sequence, and in the process offer those users a choice of browsers when they register," according to the filing.

Although it is not presently offering Navigator as an option to either its corporate or individual customers, Gateway will change that policy shortly. In late June or early July, coinciding with the June 25 launch of Windows 98, the South Dakota company will begin installing Navigator on all its systems, according to company sources.

Gateway's decision to begin offering Navigator when it ships Windows 98 makes sense, said Abhishek Gami, an analyst at William Blair and Associates <http://www.wmblair.com/>, because the integrated IE browser in Windows 98 may turn off some customers. A PC maker "doesn't benefit from excluding a user," Gami said.

Gateway has also "inquired whether it may have the freedom to remove at least (and perhaps more than) the Internet icon from the desktop for customers who may prefer a different browser," Brownrigg testified. That request was denied by Microsoft, according to the Justice Department.

This is not the first time PC makers have attempted to break rank with Microsoft, as exhibits filed with the Justice Department's October action demonstrate. Other examples include:

In June of 1996, Compaq removed the Internet Explorer and Microsoft Network icons and a directory of

Internet service providers. The company quickly reversed itself after Microsoft sent a letter </SpecialFeatures/0,5,15619,00.html> saying it would terminate Compaq's Windows 95 license if the items were not immediately restored.

Micron Electronics <http://www.micron.com/> also "determined that removing the Internet Explorer icon and code from Windows 95 would be desirable in order to enhance its customers' satisfaction," according to a deposition </SpecialFeatures/0,5,15615,00.html> filed by one of its executive. Microsoft denied the request.

According to another exhibit </SpecialFeatures/0,5,15618,00.html> from Gateway, company representatives "on several occasions" asked for permission to remove the Internet Explorer icon. It also wanted to customize the channel bar on Microsoft's active desktop to suit the individual tastes end users. Microsoft denied both requests.

Martin Gregory (marting@microsoft.com)
Embedded Systems Business Manager
+44 (0)118 909 3842