Rick Frederking (LCA)

From: Ajay Sikka
Sent: Tuesday, October 15, 1996 8:49 AM
To: Bill Snyder
Subject: FW: Amendment #1

Here is the draft from Craig

-----Original Message-----
From: craig@spry.com [SMTP:craig@spry.com]
Sent: Tuesday, October 15, 1996 8:47 AM
To: Ajay Sikka
Subject: Amendment #1

Ajay;

Here's my cut with changes marked. Let me know how it is. I really need to get this done today or tomorrow.

Thanks

Amend-Final4.doc

Craig

GOVERNMENT EXHIBIT 810

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AMENDMENT #1
TO INTERNET EXPLORER
SOURCE LICENSE & DISTRIBUTION AGREEMENT

This Amendment #1 to the Internet Explorer Source License & Distribution Agreement (the "Amendment #1") is entered into and effective as of _____ (the "Amendment Date") by and between **MICROSOFT CORPORATION**, a Washington corporation located at One Microsoft Way, Redmond, WA 98052 ("Microsoft") and **COMPUSERVE INCORPORATED**, an Ohio corporation located at 5000 Arlington Center Blvd., Columbus, Ohio 43220, and including its wholly owned subsidiaries and affiliates, and specifically including SPRY, Inc. and its parent corporation (collectively, "CompuServe").

Recitals

Microsoft and CompuServe have entered into an Internet Explorer Source License & Distribution Agreement with an "Effective Date" of December 6, 1995, under which Microsoft granted CompuServe license rights to the Windows 95 version of Microsoft's Internet Explorer product (the "Agreement").

Microsoft and CompuServe have entered into a Promotion & Distribution Agreement effective June 3, 1996, for the distribution of CompuServe client access software with Microsoft's Windows 95 (the "Promotion Agreement"). Section 4.1 of the Agreement is superseded by Section 3.1 of the Promotion Agreement only during the Term of the Promotion Agreement.

The parties wish to amend the Agreement to grant CompuServe rights to the Apple Macintosh, Windows 3.xx and Windows NT versions of Microsoft's Internet Explorer product as well as other related Microsoft technology.

The parties agree to amend the Agreement as follows:

Amendment

1. Section 1.1. Section 1.1 of the Agreement is amended to read as follows:

   "Internet Explorer" shall mean Microsoft's Internet Explorer browser software for the Windows 95, Windows 3.xx, Windows NT and Apple Macintosh operating system platforms, which software is based upon Microsoft code and third party software including NCSA Mosaic and Spyglass Mosaic software and modified by Microsoft.

2. Section 1.2. Section 1.2 of the Agreement is amended to read as follows:

   "IE Code" shall mean all object and source code of Internet Explorer; and including successor or replacement versions thereof separately released by Microsoft as a browser product during the Term, which includes, but is not limited to, version's 2.x and 3.x. "IE Code" shall not include other versions of Internet Explorer incorporated into or made a part of Microsoft System Products; provided, however, that to the extent previously released by Microsoft as a separate browser product, versions of Internet Explorer code shall be considered IE Code whether or not incorporated into a Microsoft System Product. A complete listing of current and anticipated future versions of IE Code, including which code is provided in source and object form and which is provided in object form only, is set forth in Exhibit A of the Agreement and Exhibit A-1 of this Amendment #1.

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3. Section 1.4. Section 1.4 of the Agreement is amended to read as follows:

"Licensed Software" shall mean the IE Code, the IE Tools and the Stack/Dialer Code.

4. Section 1.15. A new Section 1.15 is added to the Agreement as follows:

"Stack/Dialer Code" shall mean the object code only form of stack and dialer code, as described in Exhibit A-1. The provisions of the Agreement regarding source code licensing shall not apply to the Stack/Dialer Code either separately or as part of the definition of Licensed Software.

5. Section 4.1. Section 4.1 of the Agreement, which is superseded by Section 3.1 of the Promotion Agreement only during the term of the Promotion Agreement, is amended to read as follows:

Primary Browser. During the Term, CompuServe shall ship the Internet Explorer as its primary World Wide Web browser software client for the Windows 95, Windows 3.xx, Windows NT and Apple Macintosh platforms, it being understood that CompuServe shall not be restricted from licensing any other World Wide Web browser from any other parties.

6. Section 4.4. A new Section 4.4 of the Agreement is added as follows:

Tracking . For purposes of Microsoft tracking its royalty obligations to third parties, within thirty (30) days following the end of each calendar quarter, CompuServe shall provide to Microsoft an accounting of the total number of copies of non-Windows 95 versions of Internet Explorer (i) distributed by CompuServe during the quarter and (ii) newly or initially used by CompuServe customers during the quarter. A "non-Windows 95 version of Internet Explorer" means a Macintosh, Windows 3.xx or Windows NT (other than the Windows 95 version which works on Windows NT 4.0) version of Internet Explorer.

At Microsoft's expense, CompuServe shall allow a mutually acceptable independent third party, which shall be bound to keep all information confidential, to audit and analyze relevant records of CompuServe to ensure compliance with this Agreement. Any such audit shall be permitted within thirty (30) days of the CompuServe's receipt from Microsoft of a written request to audit, during normal business hours, at a time mutually agreed upon. Audits shall occur no more frequently than annually, shall not interfere unreasonably with CompuServe's business activities and shall be conducted at CompuServe's facilities.

7. Other Terms. Except as expressly amended above, all other terms of the Agreement shall continue in full force and effect, including, but not limited to Section 3, Ownership. Except as otherwise provided, the terms in this Amendment shall have the same meaning as set forth in the Agreement.

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IN WITNESS WHEREOF, the parties have entered into this Amendment #1 as of the Amendment Date written above.

MICROSOFT CORPORATION	**COMPUSERVE, INC.**
By (Sign)	By (Sign)
Name (Print)	Name (Print)
Title	Title
Date	Date

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EXHIBIT A-1

FURTHER DESCRIPTION OF INTERNET EXPLORER CODE & STACK/DIALER CODE

I. Internet Explorer Code

A. Macintosh Version.
Source code to the Microsoft Internet Explorer browser for Macintosh and the associated ISP sign-up program.
Object code for mail and any other ancillary programs that may be included as a part of Microsoft's standard Internet Explorer Macintosh client.

B. Windows 3.xx Version.
Source code to the 16-bit Microsoft Internet Explorer browser for Windows 3.xx and the associated ISP sign-up program.
Object code for mail and any other ancillary programs that may be included as a part of Microsoft's standard Internet Explorer Windows 3.xx client.

C. Windows NT Versions.
Source code to the 32-bit Microsoft Internet Explorer browser for Windows NT 4.0.
Object code for Microsoft Internet Explorer 1.5 for Windows NT 3.51.

Object code for all foregoing versions in any and all languages~~French, German and Spanish~~ if and when available.
Also included is object code to Microsoft's Internet Explorer Distribution Kit which provides automated customization and packaging modifications to the foregoing versions of Microsoft Internet Explorer.

II. Stack/Dialer Code

Windows 95: Object code to the Windows 95 stack and dialer. Microsoft will also provide the necessary scripting API's, or alternatively the necessary source code access, to allow CompuServe to make necessary modifications to network support functions.
Windows NT: Object code to the Windows NT stack and dialer. Microsoft will also provide the necessary scripting API's, or alternatively the necessary source code access, to allow CompuServe to make necessary modifications to network support funtions.
Windows 3.xx: Object code for the stack and dialer that are included as a part of Microsoft's standard Internet Explorer Windows 3.xx client, only as part of Internet Exporer itself, no separate distribution is permitted.

Macintosh: Object code for the stack and dialer only as part of Internet Explorer itself; no separate distribution of the stack and dialer is permitted without CompuServe getting permission directly from Apple.

Localized Versions: Microsoft will provide the foregoing Stack/Dialer Code in any and all languages available.

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