UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

----------x

UNITED STATES OF AMERICA,
Plaintiff,
-against-
MICROSOFT CORPORATION,
Defendant.

Civil Case No.
98-1232 (TPJ)

----------x

CERTIFIED COPY

STATE OF NEW YORK, ex rel.
Attorney General DENNIS C. VACCO,
et al.,
Plaintiffs,
-against-
MICROSOFT CORPORATION,
Defendant.

Civil Case No.
98-1233 (TPJ)

----------x

July 14, 1998
3:10 p.m.

HIGHLY CONFIDENTIAL

Videotape deposition of CURTIS SASAKI, taken by Defendants, pursuant to notice dated June 10, 1998, at the offices of Sun Microsystems, Inc., 901 San Antonio Road, Palo Alto, California, before Sarah Brann, a Certified Shorthand Reporter within and for the State of California.

CONFIDENTIAL

A P P E A R A N C E S

UNITED STATES DEPARTMENT OF JUSTICE
Attorneys for Plaintiff United States of America
450 Golden Gate Avenue, Room 10-0101
San Francisco, California 94102

BY: STEVEN C. HOLTZMAN, ESQ.
SANDY ROTH, ESQ.

STATE OF NEW YORK OFFICE OF ATTORNEY GENERAL
Attorneys for Plaintiff New York et al.
120 Broadway
New York, New York 10271-0332

BY: ALAN R. KUSINITZ, ESQ.

SULLIVAN & CROMWELL
Attorneys for Defendant Microsoft
125 Broad Street
New York, New York 10004

BY: THEODORE EDELMAN, ESQ.

ROGERS & WELLS LLP
Attorneys for Sun Microsystems
200 Park Avenue
New York, New York 10166

BY: JAMES C. EGAN, JR., ESQ.
MICHAEL C. NAUGHTON, ESQ.

DAY, CASEBEER LLP
Attorneys for Sun Microsystems
20400 Stevens Creek Boulevard, Suite 700
Cupertino, California 95014

BY: DAVID J. ESTRADA, ESQ.

ALSO PRESENT:

CHARLES SABIA, Videographer
Action Legal Video

JONAS SVEDLUND, Summer Associate
Sullivan & Cromwell

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein that filing and sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed and sworn to before any officer authorized to administer an oath with the same force and effect as if signed and sworn to before the Court.

Q. And because terminology tends to get us always bogged down, just tell us, if you will, what you mean when you talk about an operating system for

computers.

A. How I define it is, it provides a kernel which controls how things are managed in terms of memory. It also controls the I/O functionality, such as talking to a network, talking to your keyboard, displaying things on the screen. So, that's called device drivers.

So, all of that is what I would consider as the operating system, as well as a set of API's which are on top, which application developers write to. But that box is what I consider the OS.

Q. I am just noting it down. I am sure I will forget this, but at least we have it written.

Okay. In your view, then, what distinguishes an operating system from other computer software?

A. That's the only piece of the software that actually directly talks to the different interfaces on, in the hardware, such as your video controller or your network controller. Everything kind of works through that layer.

MR. EDELMAN: Q. If I have a JavaOS machine, a machine that runs JavaOS, is that a substitute for a machine that runs Windows 95, for example?

MS. ROTH: Objection. Vague as to substitute.

MR. KUSINITZ: You can answer if you can.

THE WITNESS: Substitute? It's a different operating system. We didn't target it to be a replacement.

MR. EDELMAN: Q. What was it targeted to do?

A. We were trying to define a new set of customers that required lower cost of ownership, security, and less network management.

Q. Why is the Java platform ideal for the Internet?

A. The concept was that, as an application developer, you can write your application that can run on JavaOS or, as well as other operating systems that supported the Java platform. And with the ubiquity of the Internet, we felt that was a very important trend.

Q. Turn to page eight of 13, if you will, please, sir. Do you see roughly in the middle of the page this bold heading "Network Protocol Suite"?

A. Yes.

Q. Beneath that do you see the paragraph that says, "JavaOS includes a large suite of network protocols, all written in the Java programming language

These protocols include the basic transport and routing mechanisms specified by the TCP, UDP, IP, and ICMP standards. JavaOS uses both NDS and NIS for looking up host names and supplying user names and passwords used during login." Do you see that?

A. Yes.

Q. Would you turn, please, to page three of four? And do you see the fourth full paragraph, the one beginning "Network Classes"?

A. Yes.

Q. It says, "Network Classes in JavaOS, also written in Java, include industry-standard networking protocols such as TCP/IP, UDP, and ICMP for basic transport and routing."

A. Yes.

Q. What is DHCP?

A. Dynamic host configuration protocol.

Q. And what is that?

A. It performs a very similar functionality.

Q. Is that an Internet technology?

MS. ROTH: Objection. Vague as t 'et technology.

MR. EDELMAN: Q. Go ahead,

A. Yes.

Q. And what is SNMP?

A. It's a network management protoco

Q. Simple network management protocol? Is that what that is? And what does that do?

A. It helps you manage your network.

Q. Is that an Internet technology?

MS. ROTH: Objection. Vague as to Internet technology.

THE WITNESS: Yes.

MR. EDELMAN: Q. And would you consider these to be network protocols?

A. Yes.

MS. ROTH: Objection. Vague.

MR. EDELMAN: Q. Why does Sun include these Internet technologies in the JavaOS operating system?

A. In order to easily connect up clients to servers that connect to the Internet.

Q. Okay. And have these technologies been included in JavaOS since the first stage, first iteration, whatever the right term is, of that software?

MS. ROTH: Objection. Vague as to that software.

MR. EDELMAN: Q. You understand I am referring to JavaOS?

A. Yes. It was included in JavaOS 1.0.

Q. Okay. Does JavaOS include a Web browser?

MS. ROTH: Objection. Vague as to "include."

THE WITNESS: No.

MR. EDELMAN: Q. Are you familiar with something called HotJava?

A. Yes.

Q. What is HotJava?

A. HotJava is an application that performs Web browsing functionality written in Java.

Q. Are you familiar with something called HotJava Views?

A. Yes.

Q. What is that?

A. It's an application that performs e-mail, calendaring, employee data base, and includes the browser functionality.

MR. EDELMAN: Q. Are you familiar with the term "bundle"?

A. Yes.

Q. Okay. Are there any plans to bundle a Web browser with JavaOS?

MR. EGAN: I am going to object to the form of the question.

MR. EDELMAN: Q. Go ahead, sir.

A. The product JavaOS ships to our licensees. Our licensees can also license the browser technology, and it's up to them to decide whether or not they include it in their product or not.

Q. Just correct me if I am wrong. Does that mean that HotJava and HotJava Views are browsers, or how would you say it?

MR. KUSINITZ: Objection to form.

THE WITNESS: They both have browser functionality.

MR. EDELMAN: Q. Okay. And just so we are clear now, are they part of JavaOS?

A. No.

Q. Are they shipped with JavaOS?

MS. ROTH: Objection. Vague as to "shipped with."

MR. EDELMAN: Q. Go ahead, sir.

A. Again, we don't -- we ship our technology to our licensee partners. They decide whether or not to include or not include.

Q. What did you do to prepare for the deposition today?

A. I met with our attorney, just to go over what a deposition was like, since I had never been in one.

Q. Did you meet with anyone else?

A. I met with the Justice Department.

Q. Okay. When you say you met with the Justice Department, do I take it you met with certain representatives --

A. Attorneys.

Q. Do you know their names?

A. Not all of them.

Q. Do you see them here?

A. Yes.

Q. Are all of those people you met with here now?

A. Yes.

Q. Did you meet with anyone else?

A. No.

Q. Did you meet with any representative of the State Attorneys General?

A. Yes, here.

Q. Mr. Kusinitz. You are pointing to

Mr. Kusinitz. How many representatives did the Justice Department send to visit you?

A. I don't know exactly. I think just one, but I am not sure.

Q. The person that you recall --

A. Ann.

Q. Ann.

A. Sorry? Is that your name?

MS. ROTH: That would be me.

MR. EDELMAN: Ann is a nice name.

Q. Where did this meeting take place?

A. Here.

Q. Here in this room?

A. Yes.

Q. Was anyone else, other than the one individual you indicated, present?

A. No.

Q. How long was the meeting?

A. I think two and a half, about two and a half hours.

Q. It's going to be a lot more than your deposition, probably, so that's good.

Did you ask for that meeting?

A. No.

Q. You testified a little bit about how browsers are distributed a little while ago. And I just want to go back and clarify that.

How do customers, your licensees, acquire browsers from you?

A. Okay. Our licensees have a choice. They can license JavaOS, and they have a choice from Sun of HotJava or HotJava Views. Once they license it, they have access to a secure Web site to download that code.

Q. Is the browser part of the operating system?

A. No. It's separate.

Q. When -- are -- does the price of a JavaOS product include a browser?

A. No, it does not.

Q. Are there separate prices for browsers?

A. That's correct.

Q. Did you say you have 36 licensees for the JavaOS?

A. Yes.

Q. Of those 36 licensees, how many of those JavaOS licensees are also licensing a browser from Sun?

A. There's 21 licenses of HotJava browser and one for HotJava Views.

Q. I want to take a minute and focus your attention on the language towards the bottom of the message that says, "Would it be possible to start up a Java application other than HotJava, immediately after booting (and logging in) a Java station? This would help us in setting up an event where 50 Java stations will be running an application but are not allowed to have Internet access."

Are you aware of whether, of what the answer to that question is?

A. Yes.

Q. What is the answer to that question?

A. The answer is yes, it is possible to do that. We had actually created an applet that made this a lot easier, so you can pick very easily what application was the main one that ran.

Q. I want to take a look at, have you take a look at the top of the message where it says, "I think that if this is not possible now, it ought to be a supported, documented option in future. Many corporate customers will, I believe, want to restrict their users' access to the Web in the same way."

Do you think that's an accurate statement?

A. Yes.

Q. On what do you base your answer?

A. Getting the feedback from corporate customers.

Q. What have customers told you?

A. That, again, many of them did not want their employees to have access to Web browsing.

Q. Do any particular customers come to mind?

A. FTB, the florist.

Q. FTB?

A. It's the Florist Trade Bureau, I think it's called. That was one. Several universities that I talked to also had similar requests.

Q. When you say similar requests, what were they requesting?

A. To be able to put their application as the main application that came up immediately and not have browsing.

Q. You testified that the browser is distributed separately from the JavaOS. Is it also possible for a user of the JavaOS to remove the browser once it's installed?

A. Well, it depends on the actual deployment. Because the applications are loaded on the server, the system administrator can decide which user gets access to a browser versus maybe a different application.

So, the end user doesn't really control, but

Govt.

the system administrator within a company can decide you have browsing access, versus the next user might only have the call center applications instead.

Q. I just want to make sure I understand. The end user cannot decide whether to remove the browser.

A. If the end browser is a company, the system administrator of that company can decide. But the end, I guess, person using the network computer doesn't really decide.

Q. Is it possible for the system administrator to actually uninstall the code for the browser?

A. Yes.

Q. If the system administrator does remove the code for the browser, will it have any impact on the functionality of the JavaOS other than removing browsing capability?

A. If there is another application -- there has to be a main application. Otherwise, the user doesn't really have an application to run. But you can remove the browser and not affect JavaOS.

Q. Let me be clear. Let's say JavaOS has eSuite running on it. If you remove the browser, will JavaOS still function?

A. Yes.

Q. How important is it to Sun when you are trying to license the JavaOS to customers to have applications available to run on the JavaOS?

MR. EDELMAN: Object to the form.

THE WITNESS: Very important.

MS. ROTH: Q. Why is that very important?

A. Without having a base line of applications, a lot of customers who would have considered your product might not, unless they know there is a base suite of software available.

Q. When you say a base suite of software, can you explain what you mean by that?

A. Key productivity applications which you might see in Microsoft Office, for example.

Q. Does Microsoft Office run on the JavaOS?

A. No.

Q. Is the Java virtual machine distributed in anything other than browsers?

A. Yes.

Q. What else is it distributed in?

A. JavaOS includes a Java virtual machine.

Q. Does Solaris include a Java virtual machine?

A. I believe so.

Q. Well, let me ask you generically, could an operating system such as Windows or Solaris or OS/2 include a Java virtual machine?

A. Yes.

Q. So, again, is it a fair characterization to say that the Java virtual machine can be distributed either through a browser or an operating system?

A. Yes.

Q. Is making applications run cross platform important to the success of the JavaOS?

A. We believe so, yes.

Q. And why is that?

A. Because it allows companies to take the same application that they might run on any desktop system and say you can run that same application on top of these network computers.

Q. Is the distribution of the Java virtual machine through browsers important to Sun Microsystems?

A. Yes.

Q. Why is that?

A. Because it has a very high distribution, so the number of users who receive that is very important.

Q. Okay. Referring you to your testimony on cross-examination regarding whether something, whether uninstalling a browser would affect the functionality of JavaOS, was your testimony limited to JavaOS, as opposed to any other operating system?

A. Yes.

Q. And so, for example, your testimony didn't

relate at all to any impact of such an endeavor on Windows; is that right?

A. I answered my question purely on JavaOS.

CURTIS SASAKI