UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

- - - - - - - - - - - - - - - - - -X
UNITED STATES OF AMERICA,   :

      PLAINTIFF,   :

    V.   : C.A. NO. 98-1232

MICROSOFT CORPORATION,   :

      DEFENDANT.   :
- - - - - - - - - - - - - - - - - -X
STATE OF NEW YORK, ET AL.,   :

      PLAINTIFFS,   :

    V.   : C.A. NO. 98-1223

MICROSOFT CORPORATION,   :

      DEFENDANT.   :
- - - - - - - - - - - - - - - - - -X
MICROSOFT CORPORATION,   :

      COUNTERCLAIM-PLAINTIFF,   :

    V.   :

DENNIS C. VACCO, ET AL.,   :

      COUNTERCLAIM-DEFENDANTS.   : JANUARY 13, 1999
- - - - - - - - - - - - - - - - - -X WASHINGTON, D.C.

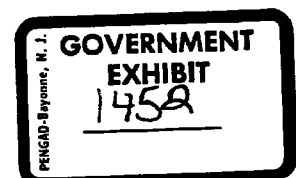VOLUME 37-B

TRANSCRIBED DEPOSITION EXCERPTS

COURT REPORTER: DAVID A. KASDAN, RMR
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1   (DEPOSITION EXCERPTS OF ERIC BOZICH.)

2   Q.   DID--DID MICROSOFT PROPOSE THAT US WEST

3   IN ANY WAY LIMIT ITS DISTRIBUTION OF OTHER

4   BROWSERS?

5   MR. FESSEL: OBJECTION. FORM.

6   THE WITNESS: NO, OUR--OUR DISCUSSION

7   WAS NOT REALLY AROUND--THE UNDERSTANDING BETWEEN

8   BOTH MICROSOFT AND NETSCAPE WITH USWEST.NET WAS

9   THAT IN THE IDEAL SETTING, OUR DESIRE WAS TO BE

10   ABLE TO OFFER THE CUSTOMERS THE CHOICE. AND WE

11   HAD SOME SPECIFIC GOALS AND OBJECTIVES AND SOME

12   TECHNICAL REQUIREMENTS AND WHATNOT, AND THOSE

13   WERE OUR FILTERS IN DOING THAT.

14   BUT IN OUR DISCUSSIONS WITH MICROSOFT,

15   THEY COMPLETELY UNDERSTOOD THAT WE INTENDED,

16   PLANNED, AND WOULD SHIP MULTIPLE BROWSERS. THAT

17   WAS NEVER REALLY A POINT OF DISCUSSION, THAT IN

18   ANY WAY OUR RELATIONSHIP WITH THEM WOULD PRECLUDE

19   US FROM SHIPPING NETSCAPE. IT JUST--WE DEALT

20   WITH IT UP FRONT, AND IT WAS NEVER REALLY A TOPIC

21   OF DISCUSSION.

22   Q.   WHY DID US WEST WANT TO OFFER CUSTOMERS

23   A BROWSER CHOICE?

24   A.   WELL, THERE ARE--THERE ARE A LOT OF

25   THINGS THAT GO INTO A CONSUMER OR

BUSINESSPERSON'S DECISION ABOUT WHAT INTERNET

SERVICE PROVIDER THEY'RE GOING TO USE, AND THERE

ARE CUSTOMERS THAT HAVE A PREFERENCE, A STRONG

PREFERENCE FOR ONE OVER THE OTHER. AND WE WOULD

PREFER TO HAVE--TO NOT HAVE THAT BE AN OBSTACLE

OR BARRIER IN ANY WAY TO SOMEONE SELECTING US AS

THEIR SERVICE PROVIDER.

   (EXCERPT.)

   Q. DO YOU HAVE AN ESTIMATE AS TO HOW LONG

IT WOULD TAKE A USER TO DOWNLOAD NETSCAPE

COMMUNICATOR?

   MR. FESSEL: OBJECTION TO THE FORM.

   THE WITNESS: OKAY. WELL, WE ACTUALLY

DID SOME STUDIES ON THAT. WE'VE LOOKED AT

DOWNLOADING THE BROWSER. DEPENDING ON EXACTLY

WHAT THE CONFIGURATION IS, IT'S IN THE ORDER OF

13 TO 15 MEGABYTES OF DATA IN A COMPRESSED SORT

OF, YOU KNOW, AS SMASHED DOWN AS YOU CAN GET IT

FORM.

   AND THAT TAKES ON THE ORDER OF 45

MINUTES. THERE ARE A LOT OF VARIABLES INVOLVED.

IF YOU HAVE A 28-EIGHT-EIGHT MODEM, WHICH IS VERY

COMMON, YOU'RE LOOKING AT ABOUT A 45-MINUTE

DOWNLOAD AS OUR ESTIMATE. THE BEST-CASE SCENARIO

MIGHT BE, YOU KNOW, 25 MINUTES. WORST-CASE

SCENARIO COULD BE HOURS.

Q.   IS THAT 45-MINUTE AVERAGE DOWNLOAD BASED ON STUDIES FROM THE RESIDENTIAL MARKET WHERE PEOPLE MIGHT HAVE COPPER WIRE?

A.   IT'S JUST OUR ADVANCED TECHNOLOGIES LAB BUILT SOME CD'S, YOU KNOW. THEY BUILT SOME OF THE CONFIGURATIONS THAT WE WOULD SHIP ON THE CD, AND THEY PUT IT ON THE SERVER, AND THEY DOWNLOADED IT. IT WASN'T VERY SCIENTIFIC. WE JUST DID IT AND TRIED IT, AND WE KIND OF SET THE--WE FIGURED THE MEDIAN WOULD BE ABOUT 45 MINUTES, AND THAT'S A LOT. A LOT CAN HAPPEN IN 45 MINUTES.

Q.   DO YOU KNOW WHAT SORT OF LINES THE ADVANCED TECHNOLOGY LAB USED IN DOWNLOADING IT?

A.   THEY WERE REALLY ATTEMPTING TO SIMULATE KIND OF A BASIC CUSTOMER ENVIRONMENT WHERE IT WOULD BE A (SIC) ANALOG PHONE LINE AND 28-EIGHT-EIGHT MODEM AND A 486 PC OR MAYBE, LIKE, A 75 MEGAHERTZ OR HUNDRED MEGAHERTZ PENTIUM AND JUST STARTED DOWNLOADING SOME FILES, AND IT WAS--TOOK A LONG TIME.

Q.   DO YOU HAVE ANY ESTIMATE AS TO WHETHER DOWNLOADS OF BROWSERS ARE ALWAYS SUCCESSFUL?

MR. FESSEL: OBJECTION TO THE FORM.

1   THE WITNESS: I REALLY DON'T HAVE

2   ANY--ANY STATISTICS OR STUDIES TO DRAW ON. BUT

3   JUST FROM OUR EXPERIENCE IN SOME OF THE TESTING

4   THAT WE'VE DONE, IT'S NOT COMMON FOR A DOWNLOAD

5   OF THAT SIZE TO BE SUCCESSFUL THE FIRST TIME. I

6   WOULD SAY IN THE MAJORITY OF USERS OR THE

7   MAJORITY OF OUR ATTEMPTS IN SORT OF OUR LITTLE,

8   YOU KNOW, UNIVERSE, SOMETHING GOES WRONG.

9   SOMETHING HAPPENS, AND YOU HAVE TO START OVER.

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