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.

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TRANSCRIBED DEPOSITION EXCERPTS

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(DEPOSITION EXCERPTS OF BILL L. VEGHTE.)

Q.   OKAY. DOES THIS SENTENCE, "WE NEED TO THINK HARD ABOUT HOW HARD WE WELD IE 4 INTO MEMPHIS," DOES THAT SUGGEST THAT YOU WERE CONSIDERING THE POSSIBILITY OF NOT INCLUDING IE 4 WITH MEMPHIS, AS YOU CAN RECALL TODAY?

A.   IE VERSION FOUR?

Q.   WELL, I THINK THE TERM IE--I'M USING WHAT'S IN THE E-MAIL HERE THAT YOU WROTE, IE 4.

A.   YES.

Q.   SO, THAT WAS A--YOU WERE CONSIDERING AT THAT TIME WHETHER OR NOT IE 4 SHOULD BE DELIVERED WITH MEMPHIS?

A.   IE 4 VERSUS IE 3?

Q.   YES.

A.   CORRECT.

Q.   OKAY. AND WHAT WERE THE FACTORS THAT WERE GOING INTO YOUR THINKING AS TO WHETHER OR NOT IE 4 SHOULD BE WITH MEMPHIS?

A.   WE HAD A SET OF HARDWARE NEEDS--USB, FOR EXAMPLE--THAT OUR HARDWARE PARTNERS SUCH AS INTEL, COMPAQ, NEC FELT WERE VERY, VERY IMPORTANT TO GET OUT TO THE MARKETPLACE.

IE 4 WAS STILL UNDER DEVELOPMENT AS WAS WINDOWS 98, AND THERE WAS SORT OF WHEN WOULD THE

PRODUCTS BE READY. SO, WE HAD A VERY DIFFICULT DECISION TO MAKE, WHICH IS DELIVERING AND JUMP-STARTING OUR HARDWARE PLATFORM CAPABILITIES VERSUS THE NEEDS THAT OUR SOFTWARE PARTNERS HAD WITH IE 4.

SO IT WAS--IT WAS A DIFFICULT DECISION BECAUSE YOU HAVE HARDWARE PARTNERS SAYING, "WE NEED USB. WE NEED USB." AND WE HAVE OUR SOFTWARE PARTNERS SAYING, "HEY, THERE'S GREAT CAPABILITIES IN IE 4. WE WANT IE 4." SO THAT WAS A TIMING ISSUE THAT WE HAD TO THINK THROUGH.

Q. SO, DAVID COLE WAS DEVELOPING INTERNET EXPLORER 4 AS OPPOSED TO YOUR GROUP DEVELOPING HARDWARE ADVANCES?

A. CORRECT.

Q. AND THEY WERE ON DIFFERENT TIME SCHEDULES?

A. THEY WERE TRYING HARD TO SYNC THEM, BUT OFTEN OPERATING SYSTEMS TAKE A LONG TIME TO DEVELOP AND RELEASE.

Q. WELL, WOULD IT BE FAIR TO SAY THAT IN FEBRUARY OF 1997, THEN, A DECISION HAD NOT YET BEEN MADE AS TO WHETHER IE 4 WOULD BE INCLUDED WITH MEMPHIS?

A. I DON'T RECALL EXACTLY THE DATE IN

1   TERMS OF WHEN THAT DECISION--WHEN WE SORT OF MADE

2   THAT DECISION.

3   (EXCERPT.)

4   Q.   DO YOU KNOW WHETHER MICROSOFT EVER

5   RELEASED TO PEOPLE OUTSIDE OF THE COMPANY A

6   VERSION OF WINDOWS 98 THAT DID NOT INCLUDE IE 4?

7   A.   I'M SORRY.   THE QUESTION ONE MORE TIME

8   WAS--

9   Q.   DID YOU EVER RELEASE--DID MICROSOFT

10 EVER RELEASE TO PEOPLE OUTSIDE OF THE COMPANY A

11 VERSION OF WINDOWS 98 THAT DID NOT INCLUDE IE 4

12 SHELL?

13   A.   YES.

14   WAIT A MINUTE.   YOU--

15   Q.   IE 4--I'M SORRY.   IE 4, PERIOD.

16   A.   YES.

17 (EXCERPT.)

18   Q.   YOU MENTIONED THAT DEVELOPERS WHO WOULD

19 HAVE LIKELY RECEIVED THIS PARTICULAR VERSION OF

20 WINDOWS 98 WERE DEVELOPERS THAT WERE BETTING ON

21 THE RELEASE OF WINDOWS 98.

22   WHAT DO YOU MEAN BY THAT?

23   A.   USB, FOR EXAMPLE, WAS A KEY ISSUE FOR

24 THEM, AND WE NEEDED--OR WDM AUDIO, RIGHT, WHERE

25 PEOPLE WERE TRYING TO WRITE AUDIO DRIVERS FOR NT,

1 AND SO THOSE EARLY SERVICES WERE IMPORTANT TO

2 THEM TO LOOK AT THE INTERFACES AND LOOK AT THE

3 DESIGNS AND CORRESPONDING FOR ACPI.

4 PEOPLE WERE BUILDING MOTHERBOARDS AND

5 BUILDING BIOS'S, AND THEY WANTED TO GET AN EARLY

6 LOOK AT WHAT THOSE CAPABILITIES AND WHAT THAT

7 ARCHITECTURE MIGHT LOOK LIKE, BUT, YOU KNOW, IN

8 VERY EARLY SORT OF PROTOTYPE STAGES.

9 (EXCERPT.)

10 Q. OKAY. YOU THEN SAY, "HOW MUCH BROWSER

11 SHARE DO WE EXPECT TO GAIN BY DOING THIS WHEN

12 MOST OF OUR BROWSER SHARE COMES FROM OEM, WINDOWS

13 RETAIL PRODUCT, AND BUNDLE DEALS WITH AOL?"

14 WHAT ARE YOU THINKING ABOUT IN THAT

15 SENTENCE?

16 A. I'M THINKING ABOUT DISTRIBUTION OF

17 INTERNET EXPLORER.

18 Q. ARE YOU SUGGESTING HERE THAT IE 5

19 SHOULD NOT BE DISTRIBUTED AT ALL?

20 A. NO.

21 Q. IS IT YOUR VIEW THAT IE 5 SHOULD NOT BE

22 DISTRIBUTED AT ALL AS A SEPARATE STAND-ALONE

23 PRODUCT?

24 A. IN THIS SPECIFIC TO THIS MAIL THREAD?

25 Q. PERHAPS NOT SPECIFIC TO THIS MAIL

THREAD. I MEAN MORE GENERALLY.

A.   SO, TODAY?

Q.   YES.

A.   NO.

Q.   WHY DO YOU THING IT'S STILL IMPORTANT TO SHIP IE 5 AS A SEPARATE PRODUCT?

A.   BECAUSE THERE WILL BE A CLASS OF CUSTOMERS THAT MAY WANT TO GET THOSE CAPABILITIES WITHOUT UPGRADING THEIR OPERATING SYSTEM. THERE'S A CLASS OF CUSTOMERS OR OF PARTNERS THAT WANT TO ENSURE THAT THOSE CAPABILITIES ARE MORE BROADLY AVAILABLE THAN SIMPLY TO THOSE CUSTOMERS THAT BUY WINDOWS 98.