UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, PLAINTIFF, V. MICROSOFT CORPORATION, DEFENDANT.	C.A. NO. 98-1232
STATE OF NEW YORK, ET AL., PLAINTIFFS, V. MICROSOFT CORPORATION, DEFENDANT.	C.A. NO. 98-1223
MICROSOFT CORPORATION, COUNTERCLAIM-PLAINTIFF, V. DENNIS C. VACCO, ET AL., COUNTERCLAIM-DEFENDANTS.	JANUARY 13, 1999 WASHINGTON, D.C.

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TRANSCRIBED DEPOSITION EXCERPTS

COURT REPORTER: DAVID A. KASDAN, RMR
MILLER REPORTING CO., INC.
507 C STREET, N.E.
WASHINGTON, D.C. 20003
(202) 546-6666

GOVERNMENT EXHIBIT 1454
PENGAD-Bayonne, N.J.

1 (DEPOSITION EXCERPTS OF JAMES A. FRASCA.)
2 Q. WILL YOU PLEASE DESCRIBE FOR ME IN
3 GENERAL TERMS WHAT LUCENT'S BUSINESS IS.
4 A. LUCENT IS IN MANY BUSINESSES. IN
5 GENERAL, I WOULD SAY WE ARE IN THE BUSINESS OF
6 MAKING THE THINGS THAT MAKE COMMUNICATIONS WORK,
7 WHICH IS TELECOMMUNICATIONS EQUIPMENT.
8 Q. SOUNDS LIKE A MARKETING MOTTO.
9 A. YES.
10 Q. LET'S GET MORE SPECIFIC, THEN. CAN YOU
11 TALK ABOUT SORT OF WHAT THE BUSINESS IS OF THE
12 INFERNO VENTURE.
13 A. THE BUSINESS OF THE INFERNO VENTURE IS
14 TO SELL THE INFERNO OPERATING SYSTEM.
15 Q. IS IT ALSO TO DEVELOP?
16 A. YES.
17 Q. IT WAS TO DEVELOP AND NOW IT IS TO
18 LICENSE AND MARKET?
19 A. LICENSE, CORRECT.
20 Q. HAS LUCENT DEVELOPED ANY OTHER
21 OPERATING SYSTEM PRODUCTS OTHER THAN INFERNO?
22 A. UNIX.
23 (EXCERPT.)
24 Q. DID LUCENT DEVELOP INFERNO SORT OF FROM
25 THE GROUND UP?

1 A. COULD YOU BE MORE SPECIFIC WHAT YOU
2 MEAN BY GROUND UP.
3 MR. ZANG: OBJECTION.
4 Q. SURE. IT IS NOT SOMETHING THEY TOOK
5 OVER OR LICENSED FROM ANOTHER COMPANY.
6 A. CORRECT.
7 Q. THE IDEA WAS LUCENT'S, THE ARCHITECTURE
8 WAS LUCENT'S, THE DEVELOPMENT PROCESS WAS
9 LUCENT'S?
10 A. YES.
11 (EXCERPT.)
12 Q. HOW LONG DID IT TAKE FOR LUCENT TO
13 DEVELOP INFERNO FROM THE FORMATION OF THE INFERNO
14 VENTURE UNTIL THE FIRST COMMERCIAL RELEASE OF
15 INFERNO?
16 A. APPROXIMATELY A YEAR.
17 Q. IF YOU LOOK BACK AT EXHIBIT 2, THE
18 TIMELINE SAYS THAT INFERNO VERSION 1.0 WAS
19 RELEASED IN MARCH OF '97.
20 A. YES.
21 Q. DO YOU KNOW IF THAT IS CORRECT?
22 A. YES, THAT IS CORRECT.
23 Q. SO, THE VENTURE WAS FORMED IN MAY OF
24 '96. IT WAS RELEASED IN MARCH OF '97?
25 A. YES.

1 Q. APPROXIMATELY TEN MONTHS. TEN MONTHS.
2 (EXCERPT.)
3 Q. JUST FOR THE RECORD, INFERNO VERSION
4 2.0 WAS RELEASED IN NOVEMBER OF '97; IS THAT
5 CORRECT?
6 A. YES.
7 (EXCERPT.)
8 Q. YOU TALKED ABOUT THE APPLICATION SUITE
9 BEING ENHANCED IN VERSION 2.0. CAN YOU TELL ME
10 WHAT THE APPLICATION SUITE IS, PLEASE.
11 A. OUR APPLICATION SUITE CONSISTS OF A WEB
12 BROWSER, E-MAIL CLIENT DIRECTORY APPLICATION,
13 SOME DEMO PROGRAMS AND SAMPLE APPLICATIONS.
14 (EXCERPT.)
15 Q. CAN YOU PURCHASE A VERSION OF INFERNO
16 THAT DOESN'T HAVE THE WEB BROWSER IN IT?
17 A. YES.
18 Q. HAS ANYONE EVER DONE THAT?
19 A. YES.
20 Q. CAN INFERNO BE USED AS A DESKTOP
21 OPERATING SYSTEM?
22 A. CAN YOU DEFINE WHAT "DESKTOP OPERATING
23 SYSTEM" MEANS?
24 Q. SURE.
25 I MEAN IT AS SORT OF A SINGLE-USER

1 OPERATING SYSTEM AS OPPOSED TO A NETWORK OR
2 SERVER SYSTEM.
3 A. YOU CAN RUN APPLICATIONS ON IT. THE
4 REASON WHY I ASK FOR A FURTHER CLARIFICATION IS
5 THE DESKTOP IS VERY BROAD STATEMENT. AND COULD
6 MEAN SOMETHING TO ONE PERSON AND SOMETHING
7 DIFFERENT TO ANOTHER PERSON.
8 Q. LET ME TRY IT A DIFFERENT WAY. CAN YOU
9 RUN INFERNO NATIVELY ON A MICROPROCESSOR?
10 A. YES.
11 Q. WHAT DOES IT MEAN TO RUN INFERNO
12 NATIVELY?
13 A. WHAT IT MEANS TO RUN NATIVELY, IT IS
14 THE ONLY OPERATING SYSTEM RUNNING OR IT IS THE
15 LOWEST-LEVEL OPERATING SYSTEM RUNNING ON THAT
16 PARTICULAR PROCESSOR.
17 Q. SO, IS IT FAIR TO SAY WHEN INFERNO IS
18 RUNNING NATIVELY, IT IS RUNNING AS A STAND-ALONE
19 OPERATING SYSTEM?
20 A. YES.
21 Q. IT CAN DO THAT ON A PERSONAL COMPUTER?
22 A. YES, IT CAN.
23 (EXCERPT.)
24 Q. IS IT AN ACCURATE STATEMENT TO SAY THAT
25 INFERNO RUNS ON INTEL-COMPATIBLE PC'S?

1 A. YES.
2 (EXCERPT.)
3 Q. SURE. DOES THE INFERNO OPERATING
4 SYSTEM INCLUDE ANY INTERNET-RELATED TECHNOLOGIES?
5 MR. ZANG: OBJECTION.
6 Q. YOU CAN ANSWER.
7 A. INTERNET-RELATED TECHNOLOGIES?
8 Q. YES.
9 A. YES.
10 Q. WHICH INTERNET-RELATED TECHNOLOGIES ARE
11 INCLUDED IN THE OPERATING SYSTEM?
12 A. OKAY. THE INTERNET-RELATED
13 TECHNOLOGIES WOULD BE A PROTOCOL TCP/IP, AND SOME
14 OF THE SECURITY FEATURES, FUNCTIONALITY.
15 (EXCERPT.)
16 Q. WAS PROVIDING INTERNET CONNECTIVITY A
17 PART OF LUCENT'S STRATEGY FOR INFERNO?
18 A. YES.
19 Q. ARE THOSE INTERNET TECHNOLOGIES, THE
20 ONES WE JUST TALK ABOUT, INCLUDED IN THE PRICE OF
21 INFERNO?
22 A. YES.
23 Q. LUCENT DOESN'T CHARGE SEPARATELY FOR
24 THOSE INTERNET TECHNOLOGIES?
25 A. NO.

1 (EXCERPT.)

2 Q. DID LUCENT INCLUDE THOSE TECHNOLOGIES,

3 IN PART, TO ENABLE USERS TO CONNECT TO THE

4 INTERNET?

5 A. YES.

6 (EXCERPT.)

7 Q. SURE. WAS THERE CONSUMER DEMAND FOR

8 INTERNET CONNECTIVITY IN OPERATING SYSTEMS?

9 A. YES.

10 Q. DID LUCENT PERCEIVE THERE WAS OEM

11 DEMAND FOR INTERNET CONNECTIVITY IN OPERATING

12 SYSTEMS?

13 A. YES.

14 (EXCERPT.)

15 Q. DID LUCENT PERCEIVE THERE WAS

16 COMPETITIVE PRESSURE TO INCLUDE INTERNET

17 CONNECTIVITY IN ITS OPERATING SYSTEM?

18 A. YES.

19 (EXCERPT.)

20 Q. IN 1996 AND 1997, WHEN LUCENT WAS

21 DEVELOPING AND RELEASING INFERNO, WERE OTHER

22 OPERATING SYSTEM DEVELOPERS BEGINNING TO BUNDLE

23 INTERNET TECHNOLOGIES IN THEIR OPERATING SYSTEMS?

24 A. YES.

25 (EXCERPT.)

1 Q. DOES INFERNO INCLUDE A DISTRIBUTED WEB
2 BROWSER?
3 A. NOT COMMERCIAL.
4 Q. WHAT DO YOU MEAN, "NOT COMMERCIAL"?
5 A. WE HAVE A PROTOTYPE.
6 Q. IS IT FOR FUTURE RELEASE OF INFERNO?
7 IS THAT WHAT YOU MEAN BY PROTOTYPE?
8 A. IT IS NOT CURRENTLY IN OUR PRODUCT
9 PLANS.
10 Q. WHY DON'T YOU DESCRIBE FOR ME WHAT THE
11 PROTOTYPE WEB BROWSER IS.
12 A. WHAT THE PROTOTYPE WEB BROWSER IS, IT
13 IS THREE-TIER ARCHITECTURE CONSISTING OF
14 COMMUNICATIONS LAYER, PARSING ENGINE, THEN A GUI
15 HANDLER OR RENDERER. USING OUR TECHNOLOGY, WE
16 ARE ABLE TO DISTRIBUTE PIECES OF THAT PROCESSING
17 THROUGHOUT THE NETWORK EITHER ON HOSTS OR OTHER
18 CLIENT.
19 Q. IS THERE ANY KIND OF WEB BROWSER THAT
20 COMES BUNDLED WITH INFERNO?
21 A. YOU CAN BUY INFERNO WITH A WEB BROWSER,
22 WITHOUT THE WEB BROWSER.
23 (EXCERPT.)
24 Q. HOW WOULD YOU DIFFERENTIATE INFERNO THE
25 PRODUCT FROM INFERNO THE OPERATING SYSTEM?

1 A. INFERNO THE OPERATING SYSTEM CONSISTS
2 OF OUR VIRTUAL MACHINE, OUR KERNEL AND DEVICE
3 DRIVERS, NETWORKING PROTOCOL, SECURITY PROTOCOLS.
4 AND THE WEB BROWSER AND ANYTHING ELSE THAT I
5 WOULD CALL AN APPLICATION RESIDES ABOVE OUR
6 VIRTUAL MACHINE.
7 Q. IS IT FAIR TO SAY THAT THE WEB BROWSER
8 COMES BUNDLED WITH INFERNO?
9 A. IT CAN BE BOUGHT WITH INFERNO THE OS.
10 Q. DOES THE WEB BROWSER COME WITH INFERNO
11 THE PRODUCT?
12 A. COULD YOU REPHRASE.
13 Q. SURE.
14 IF YOU BUY INFERNO 2.0, DO YOU GET A
15 WEB BROWSER WITH IT?
16 A. YOU CAN GET IT WITH A WEB BROWSER.
17 (EXCERPT.)
18 Q. WHEN YOU BUY INFERNO 2.0 OR LICENSE IT,
19 IF THAT IS THE PROPER WORD, IS THERE AN
20 ADDITIONAL FEE FOR THE WEB BROWSER?
21 A. WITH THIS PARTICULAR PACKAGE, THE $100
22 INCLUDES THE WEB BROWSER.
23 (EXCERPT.)
24 Q. WHY DID LUCENT INCLUDE A WEB BROWSER
25 WITH INFERNO VERSION 2.0?

1 A. WE INCLUDED A WEB BROWSER BECAUSE THE
2 MARKET OR APPLICATIONS OR USES OF INFERNO, IN
3 SOME INSTANCES, REQUIRED WEB ACCESS.
4 Q. DID LUCENT PERCEIVE THERE TO BE
5 CONSUMER DEMANDS FOR A WEB BROWSER IN AN
6 OPERATING SYSTEM?
7 A. LUCENT THOUGHT THERE WAS NEED FOR A WEB
8 BROWSER. OUR VIEW IS THE WEB BROWSER IS PART OF
9 THE APPLICATION SUITE, NOT THE OPERATING SYSTEM.
10 (EXCERPT.)
11 Q. DID LUCENT PERCEIVE THERE WAS DEMAND
12 FROM OEM'S FOR WEB-BROWSING APPLICATIONS FOR
13 OPERATING SYSTEMS?
14 A. YES.
15 Q. WAS THE INCLUSION OF WEB BROWSING AS A
16 COMPONENT OF INFERNO 2.0 A RESPONSE TO
17 COMPETITIVE PRESSURES FROM OTHER OPERATING SYSTEM
18 DEVELOPERS?
19 A. YES.
20 (EXCERPT.)
21 Q. DO YOU KNOW WHETHER OEM'S ARE FREE,
22 UNDER LUCENT'S LICENSE AGREEMENTS, TO MODIFY
23 INFERNO WITHOUT LUCENT'S PERMISSION?
24 A. NO. THEY ARE NOT ALLOWED TO MODIFY
25 INFERNO.

1 Q. WHY NOT?

2 A. WE DON'T WANT VARIANTS OF INFERNO

3 GETTING OUT INTO THE MARKETPLACE AND MAKING THE

4 PRODUCT CONVERGE.

5 Q. SORRY, MAKING THE PRODUCT...

6 A. SORRY, WRONG WORD. DIVERGE. THANK

7 YOU.

8 Q. WHY DON'T YOU WANT THAT?

9 A. BECAUSE ONCE THE PRODUCT DIVERGES, THEN

10 WE COME OUT WITH FURTHER RELEASES, YOU WILL HAVE

11 COMPATIBILITY ISSUES.

12 Q. DO YOU KNOW IF INFERNO IS COPYRIGHTED

13 BY LUCENT?

14 A. YES.

15 (EXCERPT.)

16 Q. WHAT IS THE LICENSING FEE FOR THE

17 INFERNO PRODUCT.

18 A. THAT DEPENDS. IT DEPENDS ON QUANTITY

19 AND A LOT OF OTHER CONDITIONS.

20 Q. DOES THE BROWSER PLAY ANY ROLE IN THE

21 PRICING OF THE LICENSING FEE?

22 A. YES, OR THE LACK OF.

23 Q. SORRY. IF A CUSTOMER WANTED TO LICENSE

24 THE INFERNO PRODUCT WITHOUT THE BROWSER, DO THEY

25 GET A LOWER FEE?

1 A. IN ALL THE LIKELIHOOD THEY WOULD. EACH
2 CONTRACT IS NEGOTIATED SEPARATELY IN TERMS OF
3 FEATURE AND PRICES AND DELIVERY SCHEDULES.
4 (EXCERPT.)
5 Q. WOULD LUCENT LICENSE TO A HARDWARE OEM
6 A VERSION OF THE INFERNO PRODUCT WITHOUT THE
7 BROWSER IF THE OEM WANTED TO DISTRIBUTE A
8 THIRD-PARTY BROWSER?
9 A. YES.
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