1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF COLUMBIA

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5 UNITED STATES OF AMERICA,)
6 Plaintiff,)
7 vs.) No. CIV 98-1232(TPJ)
8 MICROSOFT CORPORATION,)
9 Defendant.)
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11 DEPOSITION OF MAL RANSOM, a Witness
12 herein, taken on behalf of the Paintiff at 10:15
13 A.M., Friday, August 7, 1998, at 6041 Variel Street,
14. Woodland Hills, California, before Katherine Gale,
15 CSR, RPR, pursuant to Subpoena.
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DEPARTMENT OF JUSTICE
AUG 10 1998
ANTITRUST DIVISION
SAN FRANCISCO OFFICE

23 REPORTED BY:
Katherine Gale,
24 CSR 9793
Our File No. 1-48475
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19 Q Roughly how many consumer machines does
20 Packard Bell ship per year?
21 A A million and a half is a rounded-off
22 number.
23 Q Okay.
24 And what operating system is
25 preinstalled on Packard Bell's consumer machines?

1 A Windows 98.

2 Q Any other operating systems

3 preinstalled on Packard Bell?

4 A No.

5 Q Why does Packard Bell preinstall 100

6 percent of its machines with Windows 98?

7 MR. LACOVARA: Objection. Misstates

8 the witness's testimony.

9 MS. GIULIANELLI: Does Packard Bell

10 preinstall 100 percent of its consumer machines with

11 Windows 98?

12 A Yes, we do.

13 Q Why?

14 A It's the only viable choice.

15 Q What do you mean by that?

16 A There's no other operating system

17 that's been presented to us that has the richness,

18 the compatibility with software that's on the market

19 today. There's no other choice that's been presented

20 to us.

21 Q Has Packard Bell preinstalled Windows

22 on 100 percent of its machines -- did it preinstall

23 Windows on 100 percent of its machines last year,

24 Windows 95?

25 A Yes.

1 Q What about the year before?
2 A We installed Windows 95 from
3 approximately September of 1995. And before that we
4 installed Windows 3.11, I mean going back to DOS.
5 The Microsoft solution has been the solution that
6 we've bundled as our operating system.
7 Q You talked about the compatibility of
8 applications. Could you describe what you mean for
9 the record by that and its significance?
10 A That appropriate -- well, that there
11 are appropriate applications, be they games or
12 edutainment or reference that are -- that work with
13 the operating system. That's a major factor for us
14 in the consumer business that consumers can go buy
15 solutions that match with our operating system. And
16 Windows has really become a worldwide standard in
17 that regard.
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5 Q What effect, if any, has the
6 availability of other applications had on the
7 commercial viability of other operating systems?
8 MR. LACOVARA: Objection. Form. Lacks
9 foundation.
10 Q BY MS. GIULIANELLI: Do you understand
11 the question?
12 A I do.
13 Q You can answer it.
14 A The only specific example I have is a
15 few years ago -- "a few" being, I think, four -- we
16 considered the OS/2 operating system. And we looked
17 at it, they were trying to make a push at the
18 consumer market. And the big problem with it is we
19 needed OS/2 plus Windows because OS/2 did not have
20 the compatibility. OS/2 was an operating system and
21 worked fine on the systems, but you needed Windows
22 for the compatibility of all the applications. So it
23 didn't make any sense resourcewise -- and by
24 "resource" I don't mean just double-charging but the
25 resources of the machine to have two operating

1 systems on it. So that's the only one we actually
2 looked at a few years ago.
3 Q And why was Packard Bell considering
4 OS/2 in the first place at the time?
5 A Because we always look at the viable
6 options. I mean if someone presented us with
7 something that they felt was viable, we would examine
8 it as a possibility.
9 Q Has somebody other than OS/2 presented
10 Packard Bell with something that they thought was
11 viabile in the past four or five years?
12 A No.
13 Q And is the existence of other
14 commercially viable options important to Packard
15 Bell?
16 A Yes.
17 Q Why?
18 A Well, because again, there's if there's
19 a product with a competitive advantage or a price
20 advantage, frankly, we would certainly consider it.
21 But it has not been presented to us.
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9 Q Could you describe for the record what
10 effect, if any, the lack of applications for OS/2 had
11 on your decision, then, to -- whether or not to
12 license it?
13 MR. LACOVARA: Objection. Asked and
14 answered.
15 Q BY MS. GIULIANELLI: Do you understand
16 the question?
17 A Yeah. And I really think I have
18 responded to it, is that I couldn't with OS/2 go
19 attach a considerable amount of consumer applications
20 to it without Windows. So what OS/2 -- what IBM
21 offered me was a Windows license at basically the
22 same price that we were paying Microsoft directly.
23 And I couldn't see the viability in -- why would I do
24 that? It -- it doubled -- it just used too much
25 system resource. There was just no purpose behind

1 it.

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9 Q BY MS. GIULIANELLI: In your previous
10 depositions you've testified that Packard Bell has
11 never separately preinstalled Netscape Navigator on
12 its machines; is that correct?
13 A That's correct.
14 Q Was --
15 A You're using Packard Bell as Packard
16 Bell NEC; correct?
17 Q Correct, I am.
18 A We are in our Versa notebooks loading
19 Netscape Navigator.
20 Q Right. And the Versa notebook -- could
21 you describe what NEC is doing with its Versa
22 notebook line?
23 A Yes. In our Versa notebook line, we
24 provide a CD which is a restorer CD that has a lot of
25 things that are loaded on the system. If you should

1 dump some software, you could restore it.
2 On that CD we have added both browsers.
3 So a commercial customer who buys a Versa notebook
4 computer can make a choice of whether they want
5 either one. So it's not loaded on the system, it's
6 on this install CD that you just slip into the
7 machine and you make the choice.
8 Q When you say it's not loaded on the
9 system, do you mean that neither browser is loaded on
10 the system?
11 A On the hardware, that's correct. This
12 is a commercial application. And typically our
13 commercial customers don't want or don't necessarily
14 want access to the Internet or browser loaded on
15 their employees' machines, so they've got the choice
16 of what they do.
17 Q And they get the choice of which
18 browser to preinstall in addition?
19 A That's correct. That's correct.
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10 Q And I'm asking whether Netscape has
11 ever approached Navigator or -- excuse me, whether
12 Netscape has ever approached Packard Bell with an
13 offer to preinstall Navigator.
14 A Yes, they did.
15 MS. GIULIANELLI: And just for the
16 record, so that you know, this is on page 29 of the
17 March 19, 1998 deposition.
18 MR. LACOVARA: Thank you.
19 Q BY MS. GIULIANELLI: And at that time
20 did Packard Bell seriously consider preinstalling
21 Navigator?
22 A Yes.
23 Q And did Packard Bell decide to
24 preinstall Navigator at that time?
25 A No.

1 Q At that time did Packard Bell see the
2 viability of having two browsers on its machine?
3 A No, we did not.
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15 Q I think in your earlier deposition you
16 testified that if commercial customers come to
17 Packard Bell NEC and say they run a proprietary
18 operating system where they run Unix, Packard Bell
19 will ship the operating system of their choice on its
20 computers; is that correct?
21 A Absolutely. Yes. That is correct.
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3 Q If Netscape -- you testified earlier

4 this morning that you did some comp -- Packard Bell

5 did some comparisons between Netscape Navigator and

6 the web browser functionality of Windows; is that

7 correct?

8 A Correct.

9 Q And you concluded, I believe, that

10 there was not a great deal of difference in quality

11 as you measured quality; is that correct?

12 A I -- yes. What I really mean to say,

13 and I think I did say at that time, I don't remember

14 my exact words, were that there was no appreciable

15 difference or advantage to consider loading a

16 different browser.

17 Q And if Navigator had -- if Packard Bell

18 NEC had perceived Navigator to be significantly

19 better to provide significant advantages over

20 Internet Explorer, would Packard Bell have been more

21 likely to include it on its machines?

22 A Yes.

23 Q If customers made clear to Packard Bell

24 NEC that there was significant demand for Navigator,

25 would the company be more likely to include

1 Navigator?

2 A Absolutely.

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20 Q Has Microsoft ever prevented Packard

21 Bell NEC from preinstalling Netscape Navigator on its

22 machines?

23 A No.

24 Q Has Microsoft ever prevented Packard

25 Bell NEC from shipping operating systems other than

1 Windows on any Packard Bell NEC machines?

2 A No. The specific agreement requires

3 that we ship an operating system.

4 Q You can't ship naked machines?

5 A Correct.

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16 Q BY MR. LACOVARA: You testified earlier
17 in response to the Department of Justice questions
18 that on the Versa line of notebook computers, I
19 believe, there's a separate diskette on which
20 Netscape Navigator is and also something you called
21 Internet Explorer; is that correct?
22 A Correct.
23 Q And do you know what it is, that is,
24 the Internet Explorer piece of what's on that floppy?
25 A It's only an assumption that it's IE

1 4.0 as a separate product. I don't know that for a
2 fact because we started doing this during the Windows
3 95 age. I am not up to date on what Versa is doing
4 today. I just -- it's not part of my responsibility.
5 Q At any time have you known what code or
6 files or functions resided on that diskette, the
7 diskette that you shipped separately with the Versa
8 line computers?
9 A Me, no.
10 Q Was it your understanding that at the
11 time -- I take it that on the Versa line the Internet
12 Explorer icon was deleted from the Desktop as well;
13 is that correct?
14 A That is my understanding.
15 Q Do you have any understanding of what
16 needs to be done to delete the icon from the Desktop?
17 A I have no idea.
18 Q And do you have any understanding of
19 what gets deleted in terms of the Windows code base
20 when the icon is deleted from the Desktop?
21 A I have no knowledge.
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2 Q BY MS. GIULIANELLI: How much better --
3 given that Internet Explorer is already preinstalled
4 on the machine, how much better would Netscape
5 Navigator have to be in your opinion in order for
6 Packard Bell to also install that?
7 MR. LACOVARA: Objection. Lacks
8 foundation.
9 THE WITNESS: There would have to be
10 some definable, discernable difference or advantage
11 or a major commercial difference in doing it. And
12 I'm going to -- I'm going to go on with that.
13 Because I've -- in our first interview which was
14 before the depositions -- we had another encounter
15 before this, is I made a statement that Navigator has
16 never come to us and made us any sort of a business
17 proposition that made sense for us. But certainly if
18 they or someone else were to bring us a business
19 proposition in the way of financial remuneration or
20 whatever, we would certainly consider it. But from a
21 business standpoint and a look-and-feel standpoint,
22 we haven't seen the reason to consider a change.
23 Q BY MS. GIULIANELLI: So for instance,
24 Netscape would have to pay Packard Bell some sort of
25 a bounty in order for Packard Bell to consider

1 loading it?

2 MR. LACOVARA: Objection. Leading.

3 THE WITNESS: I think it's beyond a

4 bounty. I like to build more long-term

5 relationships. But certainly a bounty could be part

6 of that.

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