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. :
----------X WASHINGTON, D.C.
FEBRUARY 23, 1999
2:09 P.M.
(P.M. SESSION)

VOLUME 59

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE THOMAS P. JACKSON
UNITED STATES DISTRICT JUDGE

1 CONVERSATION, IT WAS AN E-MAIL.

2 Q. SO, IN EACH OF THE CASES WHERE YOU REPORTED ON A

3 MEETING OR A CONVERSATION, YOU WOULD HAVE SENT AN E-MAIL

4 TO YOUR SUPERIORS AT MICROSOFT; CORRECT?

5 A. YES, BEYOND, YOU KNOW, "MET WITH APPLE YESTERDAY; IT

6 WAS FINE."

7 Q. IF IT WAS JUST THAT, YOU WOULD DO IT ORALLY. IF IT

8 WAS SOMETHING MORE, YOU WOULD SEND AN E-MAIL?

9 A. YES, THAT'S TRUE. I WAS JUST TRYING TO BE VERY

10 CLEAR.

11 Q. I APPRECIATE THAT.

12 NOW, MR. ENGSTROM, AT SOME POINT YOU DELETED ALL

13 OF YOUR E-MAILS RELATING TO ANY CONVERSATIONS OR MEETINGS

14 THAT YOU HAD WITH APPLE THAT OCCURRED PRIOR TO THE END OF

15 MAY OF 1998; CORRECT?

16 A. NO. WHAT I DO IS I DELETE MAIL THAT IS TWO MONTHS

17 OLD ON A REGULAR BASIS BECAUSE I WORK ON A HARD DISK ON A

18 LAPTOP. THE MACHINE IS FAIRLY OLD, THE REASON FOR THAT

19 BEING I TEND TO TEST THE SOFTWARE MY GROUP IS PRODUCING,

20 AND I LIKE TO MAKE SURE THAT IT RUNS ON WHAT A CUSTOMER'S

21 MACHINE IS TYPICALLY TO BE. SO, AS A ROUTINE BASIS, I

22 DELETE ALL MAIL, YOU KNOW, TWO MONTHS OLD.

23 Q. IT'S THE CASE, ISN'T IT, THAT NO E-MAIL AUTHORED BY

24 YOU THAT REPORTS ON ANY MEETINGS OR ANY CONVERSATIONS WITH

25 APPLE BEFORE THE END OF MAY 1998 WAS PRODUCED TO THE

1 GOVERNMENT AS PART OF THIS LITIGATION?

2 A. I'M NOT SURE OF THAT, ONE WAY OR THE OTHER.

3 Q. ARE YOU AWARE OF ANY E-MAILS REPORTING ON

4 CONVERSATIONS OR MEETINGS WITH APPLE THAT WERE PRODUCED

5 BEFORE MAY, THE END OF MAY, 1998?

6 A. NO, I'M NOT AWARE OF ANY.

7 Q. AND YOU DON'T REFER TO OR ATTACH ANY IN YOUR WRITTEN

8 DIRECT TESTIMONY, DO YOU, SIR?

9 A. NO.

10 Q. NOW, IN YOUR TESTIMONY YOU STATE THAT OVER TIME YOU

11 HAVE ENGAGED IN DISCUSSIONS WITH APPLE AND WITH OTHER

12 DEVELOPERS OF MULTIMEDIA SOFTWARE CONCERNING WHAT YOU CALL

13 "STANDARDIZATION"; IS THAT RIGHT?

14 A. YES.

15 Q. AND ONE OF THE COMPANIES THAT YOU'VE TALKED TO OVER

16 TIME ABOUT MULTIMEDIA SOFTWARE IS INTEL; CORRECT, SIR?

17 A. YES.

18 Q. IN FACT, YOU'VE HAD DISCUSSIONS WITH INTEL ABOUT

19 SUN'S JAVA MULTIMEDIA API'S, HAVE YOU NOT?

20 A. YES.

21 Q. AND SUN'S JAVA MULTIMEDIA API'S ARE A JAVA-BASED FORM

22 OF MULTIMEDIA TECHNOLOGY THAT, IN SOME WAYS, ACCOMPLISHES

23 SIMILAR THINGS TO MICROSOFT'S MULTIMEDIA TECHNOLOGY OR

24 APPLE'S MULTIMEDIA TECHNOLOGY; IS THAT GENERALLY TRUE?

25 A. IT'S GENERALLY TRUE. I'M ACTUALLY NOT SURE HOW THEY