

# **Exhibit 36**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

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IN RE MICROSOFT CORP.  
ANTITRUST LITIGATION

This Document Relates to:  
*Novell, Inc. v. Microsoft Corporation,*  
Civil Action No. JFM-05-1087

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) MDL Docket No. 1332  
) Hon. J. Frederick Motz  
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~~PROPOSED~~ SCHEDULING ORDER

This scheduling order is being entered pursuant to Local Rule 103.9. Any inquiries concerning the schedule should be directed to my chambers, not to the Clerk's Office. **The schedule will not be changed except for good cause.**

This case is subject to electronic filing. Please familiarize yourself with the procedures for electronic filing available at [www.mdd.uscourts.gov](http://www.mdd.uscourts.gov). You must use the electronic filing system for filing documents with the Clerk and sending case related correspondence to chambers. **When you electronically file a document that, including attachments, is 15 pages or longer, you also must provide a paper copy of the document and a paper copy of the notice of electronic filing.** The paper copy should be sent to the Clerk's Office, not directly to my chambers.

## I. DEADLINES

Deadline for filing amended pleadings and moving for joinder of additional parties	March 5, 2008
Novell's collateral estoppel motion due	April 11, 2008
Microsoft's collateral estoppel opposition due	April 25, 2008
Novell's collateral estoppel reply due	May 9, 2008
Close of fact discovery	March 6, 2009
Novell's Rule 26(a)(2) disclosures re: experts	April 24, 2009
Microsoft's Rule 26(a)(2) disclosures re: experts	June 5, 2009
Deadline for requests for admissions	September 16, 2009
Novell's rebuttal Rule 26(a)(2) disclosures re: experts	July 7, 2009
Rule 26(e)(2) supplementation of responses	August 5, 2009
Close of expert discovery	August 21, 2009
Submission of status report	August 21, 2009
Dispositive pretrial motions deadline	October 7, 2009
Deadline to File Responses to Dispositive Motions	November 13, 2009
Deadline to File Replies to Dispositive Motions	December 14, 2009
Hearing on Dispositive Motions	March 12, 2010 at 9:30 a.m.

## II. DISCOVERY

### A. Initial Disclosures

Fed. R. Civ. P. 26(a)(1) disclosures need not be made.

**B. Discovery Conference**

This action is exempted from the requirements of the first sentence of Fed. R. Civ. P. 26(d) and from Fed. R. Civ. P. 26(f). However, you are encouraged to confer with one another immediately in order to (a) identify the issues and (b) establish a cordial professional relationship among yourselves.

**C. Procedure**

All the provisions of Local Rule 104 apply, including the following:

a. All discovery requests must be served in time to assure that they are answered before the discovery deadline. An extension of the deadline will not be granted because of unanswered discovery requests.

b. The existence of a discovery dispute as to one matter does not justify delay in taking any other discovery. The filing of a motion to compel or a motion for a protective order will not result in a general extension of the discovery deadline.

c. No discovery materials, including Rule 26(a)(2) disclosures, should be filed with the court.

d. Motions to compel shall be filed in accordance with Local Rule 104.8 and applicable CM/ECF procedures.

e. Please be familiar with the Discovery Guidelines of this Court which are Appendix A to the Local Rules. Appendix D contains guidelines for form discovery requests and confidentiality orders that may be helpful to you.

**D. Deposition Hours**

Each side shall be limited to 500 hours of depositions of fact witnesses (including parties). (If you agree to another number of deposition hours and notify me of your agreement, you may consider your agreement approved unless you hear from me to the contrary within 10 days.) Any colloquy engaged in by counsel shall be counted against his/her client's deposition time.

**III. DISCOVERY LIMITATIONS**

**A. Interrogatories.**

The number of interrogatories will be limited to 50, including subparts.

**B. Requests for Admissions.**

The number of requests for admissions will be limited to 100.

**C. Document Productions.**

Privileged documents created after the filing of the Complaint may be excluded from privilege logs.

**IV. STATUS REPORT**

The parties shall file on the day of the discovery deadline, August 21, 2009, a status report covering the following matters:

- a. Whether discovery has been completed;
- b. Whether any motions are pending;
- c. Whether any party intends to file a dispositive pretrial motion;
- d. Whether the case is to be tried to a jury or non-jury and the anticipated length of trial;
- e. A certification that the parties have met to conduct serious settlement negotiations; and the date, time and place of the meeting and the names of all persons participating herein;
- f. Whether each party believes it would be helpful to refer this case to another judge of this court for a settlement or other ADR conference, either before or after the resolution of any dispositive pretrial motion;
- g. Whether all parties consent, pursuant to 28 U.S.C. § 636(c), to have a U.S. Magistrate Judge conduct any further proceedings in this case; and
- h. Any other matter which you believe should be brought to the court's attention.

**V. DISPOSITIVE PRETRIAL MOTIONS**

If more than one party intends to file a summary judgment motion, the provisions of Local Rule 105.2.c apply.

After motions and responses thereto have been filed, I will advise you if a hearing is to be scheduled.


## VI. ATTORNEYS' FEES

In any case where attorneys' fees may be sought by the prevailing party, counsel must be familiar with the provisions of Local Rule 109.2 and the Rules and Guidelines for Determining Lodestar Attorneys' Fees in Civil Rights and Discrimination Cases which are Appendix B to the Local Rules.

## VII. COMPLIANCE WITH LOCAL RULES AND CM/ECF PROCEDURES

The court will demand compliance with the Local Rules and CM/ECF procedures. If you need to obtain a copy of the Local Rules or the CM/ECF procedures, they are available on our website at [www.mdd.uscourts.gov](http://www.mdd.uscourts.gov).

Signed this 5<sup>th</sup> day of February, 2008

  
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J. Frederick Motz  
United States District Judge