

Exhibit 37

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

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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JOINT STATUS REPORT RE: SCHEDULING ORDER

Pursuant to this Court's letter of January 14, 2008, the parties have conferred regarding a proposed scheduling order. Although the parties have been unable to agree to a schedule at this time, they have agreed to proposed resolutions of two issues that require the Court's approval. Resolution of these issues is expected to facilitate further discussions between the parties regarding an appropriate schedule.

First, the parties propose to modify slightly Paragraph 19 of the Amended Stipulated Protective Order Re Competitor Cases Incorporating The Novell Amendment, as approved by the Court on June 24, 2005. The proposed modification would delete the words "inadvertent" and "promptly" from the paragraph's first sentence, which, as amended, would read as follows:

The production in the course of discovery in the Competitor Cases of any document or information (whether designated as confidential or not) shall not be deemed to waive whatever attorney-client privilege, work product protection or other privilege or immunity that would otherwise attach to the document or information produced or to other documents or other information, as long as the producing party or person, after discovery, notifies the other party or parties of the claim of privilege or other protection or immunity.

The last two sentences of Paragraph 19 would remain intact. This amendment is expected to facilitate document discovery between the parties and eliminate potential discovery disputes down the road. A proposed order reflecting the amendment is attached as Exhibit A.

Second, the parties would like to discuss with the Court an issue involving a related case, *Comes v. Microsoft Corp.*, No. CL82311, that was pending in the Iowa District Court for Polk County. Pursuant to a prior agreement between Novell and Microsoft (attached here as Exhibit B), Novell advised Microsoft of its intent to access documents and other information contained in databases maintained by plaintiffs' counsel in *Comes*, once the suspension of proceedings in this case is lifted. These databases contain millions of documents from Microsoft and other third parties that have been fully coded and that are fully searchable. Reproduction of these databases from Microsoft and third parties would take months of work at enormous expense. As will be explained in detail during the January 25 telephone conference, Novell seeks this Court's assistance in implementing the parties' prior agreement concerning access to materials in other consumer or competitor cases in which Microsoft is a defendant. A proposed order requested by Novell, which Microsoft opposes, is attached as Exhibit C. Novell has informed Microsoft that once Novell is able to review these documents and other related information in *Comes*, Novell will be in a better position to evaluate the volume and duration of discovery that will be required here. Novell thus requests that the Court postpone the entry of a schedule until Novell has obtained and reviewed the *Comes* documents or, alternatively, that the Court enter the scheduling order requested by Novell. Microsoft believes that the Court should enter the scheduling order requested by Microsoft now subject to any modification Novell might ask in the future based on good cause shown.

In any event, the parties' current proposals for a scheduling order with divergent proposed dates are included within the form of the Court's scheduling order attached here as Exhibit D.

January 24, 2008

Respectfully submitted,

By: /s/ Steven L. Holley
Steven L. Holley

By: /s/ Jeffrey M. Johnson
Jeffrey M. Johnson (Bar No. 09328)

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Attorneys for Novell, Inc.

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

IN RE MICROSOFT CORP.
ANTITRUST LITIGATION

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

MDL Docket No. 1332
Hon. J. Frederick Motz

[PROPOSED] ORDER

Upon consideration of the parties' stipulated request to amend the Amended Stipulated Protective Order Re Competitor Cases Incorporating The Novell Amendment, as approved on June 24, 2005, it is hereby

ORDERED that the protective order in this case is amended as follows:

The first sentence of Paragraph 19 is amended to read: "The production in the course of discovery in the Competitor Cases of any document or information (whether designated as confidential or not) shall not be deemed to waive whatever attorney-client privilege, work product protection or other privilege or immunity that would otherwise attach to the document or information produced or to other documents or other information, as long as the producing party or person, after discovery, notifies the other party or parties of the claim of privilege or other protection or immunity."

Signed this __ day of January, 2008

J. Frederick Motz
United States District Judge

EXHIBIT B

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

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Writer's Direct Dial: (202) 775-4726
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July 14, 2005

BY EMAIL

David Tulchin, Esq.
Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004

Re: In Re Microsoft Antitrust Litigation, MDL Docket No. 1332

Dear David:

We received Joseph Reilly's response to our letter of July 12 and have revised the "composite" agreement to address your final concern by adding the language suggested by Joe in Condition 6 below. Accordingly, our agreement is as follows:

The parties agree that Novell may access Documents produced by Microsoft, other third parties or otherwise available in the Competitor Cases, Consumer Cases and in state court cases raising allegations of fact similar to those in the Competitor and Consumer cases (capitalized terms herein as defined in the Protective Order entered in this action by Judge Motz) (collectively the "Related Cases") from the various plaintiffs' counsel in the Related Cases under the following conditions:

(1) The first date upon which Novell may request such Documents shall be the date upon which Novell serves upon Microsoft its written response to Microsoft's first Request for Documents provided, however, this condition precedent is waived by Microsoft if its First Request for Documents is not served on Novell within ten days of this letter.

(2) Novell shall promptly advise Microsoft of any and all requests for Documents it makes to plaintiffs' counsel in the Related Cases.

(3) Within ten business days of receiving any such Documents, Novell shall advise Microsoft with a written list of the documents obtained (by production number or other identifying information) and from whom the documents were obtained.

(4) Upon request by Microsoft, but only to the extent not already in Microsoft's possession, Novell will provide Microsoft with a copy of any Documents that Novell obtains from such plaintiffs' counsel at Microsoft's expense.

(5) Novell agrees that the confidentiality protections afforded all such Documents will be observed (unless the Protective Order entered in this case specifies that particular documents are to be accorded some different treatment) and that the

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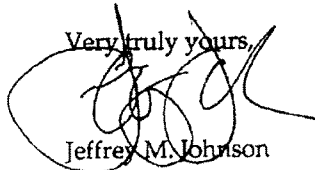
David Tulchin, Esq.
July 14, 2005
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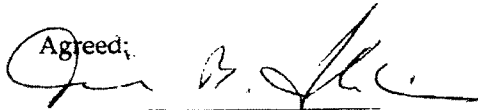
notice and objection provisions in ¶ 12 of the Protective Order with respect to third parties shall be observed for Documents produced in cases covered by that Protective Order as well as for Documents produced in other Related Cases.

(6) Microsoft and Novell reserve all rights to object to the use of any Documents on any grounds, including but not limited to challenging the use of particular Documents in this case on the ground that such use is prohibited or restricted under federal law, other than on the ground that such Documents (except for transcripts or other recordings of depositions) were not directly produced in this action. In the event that Novell is unable to gain access to any such Documents through the various plaintiffs' counsel, Novell reserves its right to seek such access from Microsoft and/or from third parties.

(7) Nothing herein shall limit or otherwise waive Novell's rights to seek Documents from Microsoft or other third parties that were not produced by Microsoft or other third parties in the Related Cases.

Please indicate Microsoft's acceptance of this agreement by co-signing this letter below and returning a copy to me. At Joe's suggestion I have continued with the protocol of setting up the signature block in blank.

Very truly yours,

Jeffrey M. Johnson

Agreed:


Name: **David B. Tulchin**
on behalf of Microsoft Corp.

cc: Bruce Holcomb
Joseph Reilly

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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[PROPOSED] ORDER

As the Court stated in Pretrial Order No. 1:

It is desirable to the maximum extent possible, to avoid duplication of discovery proceedings. To that end, counsel in the Consolidated Action shall take all reasonable and necessary steps to coordinate discovery and other proceedings as much as possible so that the proceedings in related cases pending in state courts are coordinated as much as possible with proceedings in this Consolidated Action. . . . Counsel for the parties in the Consolidated Action and any coordinated actions shall confer and cooperate with each other as necessary to avoid cumulative or duplicative discovery and shall coordinate to the extent reasonably possible.

Consistent with these obligations, the parties agreed by letter dated July 14, 2005 to provide plaintiff access to documents and other information produced to and maintained by counsel in prior and pending Competitor or Consumer cases, as well as state court cases raising similar allegations of fact. Novell has informed the Court that such documents are potentially available from plaintiffs' counsel in *Comes v. Microsoft Corp.*, No. CL82311 (Polk Cty., Iowa). Novell also has informed the Court that the protective order in *Comes* prevents plaintiffs' counsel from providing documents and work product to Novell. For its part, Microsoft does not believe that it is necessary or appropriate to modify the protective order in *Comes* because final

judgment has been entered in that case. Novell can obtain the documents produced by Microsoft to the plaintiffs in the *Comes* case in Iowa from Microsoft directly. Novell points out, however, that the databases in question contain millions of documents from Microsoft and other third parties. These databases are fully coded and are fully searchable. Reproduction of these databases from documents provided by Microsoft would not contain the entire collection of relevant documents and would require months of work at enormous expense.

Under the circumstances, and after consideration of the parties' joint status report, including Microsoft's opposition to any modification of the protective order in the *Comes* action, their written agreement for access to discovery materials from related cases, and Pretrial Order No. 1, the Court orders Microsoft to take all reasonable steps that are necessary to have modified the protective order in *Comes* such that it will allow plaintiffs' counsel there to provide Novell the access to documents and other information agreed to by the parties.

Signed this ___ day of January, 2008

J. Frederick Motz
United States District Judge

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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[JOINTLY PROPOSED] SCHEDULING ORDER
[WITH COMPETING PROPOSED DATES]

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. 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

	<u>Proposal by Microsoft</u>	<u>Proposal by Novell</u>
Deadline for filing amended pleadings and moving for joinder of additional parties	February 15, 2008	March 5, 2008
Close of fact discovery	September 12, 2008	March 6, 2009
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
Novell's Rule 26(a)(2) disclosures re: experts	September 19, 2008	April 24, 2009
Microsoft's Rule 26(a)(2) disclosures re: experts	November 14, 2008	June 5, 2009
Deadline for requests for admissions	December 5, 2008	September 16, 2009
Novell's rebuttal Rule 26(a)(2) disclosures re: experts	December 15, 2008	July 7, 2009
Close of expert discovery	January 16, 2009	August 21, 2009
Rule 26(e)(2) supplementation of responses	January 16, 2009	August 5, 2009
Submission of status report	January 16, 2009	August 21, 2009
Dispositive pretrial motions deadline	February 13, 2009	October 7, 2009
Deadline to File Responses to Dispositive Motions	March 13, 2009	November 13, 2009
Deadline to File Replies to Dispositive Motions	March 27, 2009	December 14, 2009

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 [*Microsoft's proposal: 120 hours; Novell's proposal: 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 [*Microsoft's proposal: 25; Novell's proposal: 50*], including subparts.

B. Requests for Admissions.

The number of requests for admissions will be limited to [*Microsoft's proposal: 50; Novell's proposal: 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, [*Microsoft's proposal: January 16, 2009; Novell's proposal: 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.

Signed this ___ day of January, 2008

J. Frederick Motz
United States District Judge