

FILED  
CLERK, U.S. DISTRICT COURT

14 MAY 98 PM 2:57

DISTRICT OF UTAH  
IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH - CENTRAL DIVISION

U.S. DISTRICT COURT

MAY 08 1998  
RECEIVED CLERK

CALDERA, INC.,

**ORDER**

Plaintiff,

No. 2:96 CV 0645B

Vs.

Judge Dee V. Benson  
Magistrate Judge Ronald N. Boyce

MICROSOFT CORPORATION,

Defendant.

WHEREAS, the motion (the "Motion") of Microsoft Corporation ("Microsoft") to compel Novell, Inc. ("Novell") to comply with Microsoft's document subpoena of July 10, 1997 (the "July Subpoena"), came on for a second hearing before the Court on April 14, 1998; and

WHEREAS, the Court has considered the arguments and evidence of the parties and of Novell submitted in connection with the Motion;

NOW THEREFORE, good cause having been shown, it is hereby ordered that:

By no later than May 5, 1998,

1. Novell shall search for and produce all materials within its possession, custody, or control concerning the sales, marketing, or promotion of DR DOS or Novell DOS; if no further materials are identified, Novell shall provide an affidavit identifying where was searched, what was looked for, and, if it is the case, that no further documents were identified.

188

2. Novell shall make available for Microsoft's inspection and copying in Provo, Utah, those materials (i) identified from the approximately 100 boxes of responsive materials Novell recently obtained from its facilities in Hungerford, England, and (ii) identified from the boxes of materials identified as relating to the UNIX business.

3. Microsoft shall formulate and provide to Novell forthwith any search queries for Novell to execute in the database index of its archives to retrieve materials responsive to the July Subpoena, and Novell shall promptly conduct those searches and communicate the results thereof to Microsoft.

4. Novell shall provide to Microsoft the identities of any parties that offered to purchase the so-called "DR DOS business" from Novell.

5. Novell shall search for and produce all accounts receivable or other materials concerning any license amounts paid or to be paid to Novell by OEMs that were, in turn, paid or are set to be paid by Novell to Caldera in connection with the Asset Purchase Agreement. To comply with this paragraph, Novell will forward accounts receivable information describing payments to Caldera, Inc. ("Caldera"). Microsoft shall inform Novell of any reasonable backup that it requires relating to this paragraph.

6. Novell shall search for and produce the document authored by Sue Nageotte and discussed at pages 31-33 of the transcript of the hearing.

7. Novell shall search for and produce documents related to the 1994 Consent Decree between Microsoft and the Department of Justice and the 1994 Undertaking

between Microsoft and DG-IV, provided that such documents relate to business decisions made on or after July 15, 1994.

8. Novell shall search for and produce all materials concerning its review of and efforts to monitor the pricing of MS-DOS.

9. To the extent Novell has not already done so, Novell shall search for and produce all documents concerning any analysis by Novell or Digital Research, Inc. ("DRI"), of the functionality of MS-DOS. Microsoft has previously identified engineers whose files should be among those searched for in response to this request. Novell shall notify Microsoft when that search has been completed.

10. Novell shall provide Microsoft with an index of the results of Novell's key-word searches of its archives for the names Terry Holbrook, Willie Donahoo, Coleman Barney and Bruce Law, and shall make available for inspection and copying by Microsoft the materials and documents identified in that index.

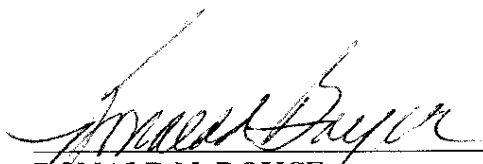
11. Novell shall describe for Microsoft in writing the nature and extent of its search for materials concerning the predecessor(s) to its strategic relations and business development groups, including its efforts to contact Duff Thompson and Joe Firmage.

12. Unless the Court has required Novell to provide the following information in an affidavit, to the extent that Novell is unable to locate any materials for which the Court has ordered it to search, Novell shall send Microsoft a letter identifying where it searched and what it looked for and stating that no such materials were located.

IT IS SO ORDERED.

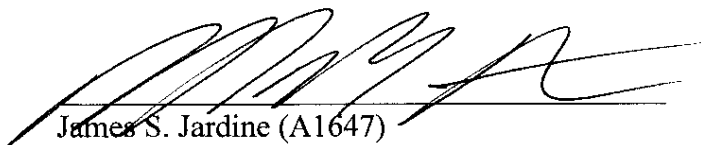
Dated this 17 day of May, 1998.

BY THE COURT:



RONALD N. BOYCE  
United States Magistrate Judge

Presented by:



James S. Jardine (A1647)  
Mark M. Bettilyon (A4798)  
RAY, QUINNEY & NEBEKER  
Deseret Building, Suite 400  
79 South Main Street  
Salt Lake City, Utah 84111  
(801) 532-1500

*Attorneys for Defendant  
Microsoft Corporation*

*Of Counsel:*

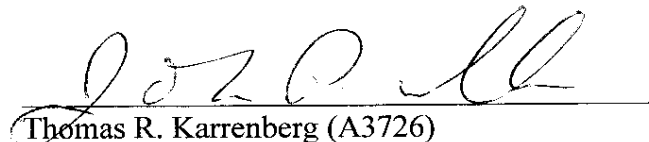
Richard J. Urowsky  
Steven L. Holley  
Richard C. Pepperman, II  
SULLIVAN & CROMWELL  
125 Broad Street  
New York, New York 10004-2498  
(212) 558-4000

Michael H. Steinberg  
SULLIVAN & CROMWELL  
444 South Flower Street  
Los Angeles, California 90071  
(213) 955-8000

James R. Weiss  
PRESTON GATES ELLIS &  
ROUVELAS MEEDS  
1735 New York Avenue, N.W.  
Washington, D.C. 20006  
(202) 628-1700

William H. Neukom  
Thomas W. Burt  
David A. Heiner, Jr.  
Steven J. Aeschbacher (A4527)  
MICROSOFT CORPORATION  
One Microsoft Way  
Redmond, Washington 98052  
(206) 882-8080

APPROVED AS TO FORM:

A handwritten signature in cursive script, appearing to read "Thomas R. Karrenberg", is written over a horizontal line.

Thomas R. Karrenberg (A3726)  
John P. Mullen (A4097)  
ANDERSON & KARRENBERG  
50 West Broadway, Suite 700  
Salt Lake City, Utah 84101  
(801) 534-1700

*Attorneys for Novell, Inc.*

407034

klh

United States District Court  
for the  
District of Utah  
May 15, 1998

\* \* MAILING CERTIFICATE OF CLERK \* \*

Re: 2:96-cv-00645

True and correct copies of the attached were mailed by the clerk to the following:

Mr. Max D Wheeler, Esq.  
SNOW CHRISTENSEN & MARTINEAU  
10 EXCHANGE PLACE  
PO BOX 45000  
SALT LAKE CITY, UT 84145-5000  
FAX 9,3630400

Stephen D. Susman, Esq.  
SUSMAN GODFREY LLP  
1000 LOUISIANA STE 5100  
HOUSTON, TX 77002-5096

Charles R. Eskridge III, Esq.  
SUSMAN GODFREY LLP  
1000 LOUISIANA STE 5100  
HOUSTON, TX 77002-5096  
FAX 8,713,6543357

Ralph H. Palumbo, Esq.  
SUMMIT LAW GROUP  
1505 WESTLAKE AVE STE 300  
SEATTLE, WA 98109

Parker C. Folse III, Esq.  
SUSMAN GODFREY LLP  
1201 THIRD AVE STE 3090  
SEATTLE, WA 98101

James S. Jardine, Esq.  
RAY QUINNEY & NEBEKER  
79 S MAIN ST  
PO BOX 45385  
SALT LAKE CITY, UT 84145-0385  
PFAX 9,5327543

Richard J. Urowsky, Esq.  
SULLIVAN & CROMWELL  
125 BROAD ST  
NEW YORK, NY 10004

William H. Neukom, Esq.  
MICROSOFT CORPORATION  
BLDG 8S/2078  
ONE MICROSOFT WAY  
REDMOND, WA 98052

James R. Weiss, Esq.  
PRESTON GATES ELLIS & ROUVELAS MEEDS  
1735 NEW YORK AVE NW  
WASHINGTON, DC 20006

Michael H. Steinberg, Esq.  
SULLIVAN & CROMWELL  
444 S FLOWER ST STE 1200  
LOS ANGELES, CA 90071

Jim F Lundberg, Esq.  
NOVELL INC  
A270  
1555 N TECHNOLOGY  
OREM, UT 84057  
FAX 8,801,2287077

Mr. Thomas R Karrenberg, Esq.  
ANDERSON & KARRENBERG  
50 W BROADWAY STE 700  
SALT LAKE CITY, UT 84101  
FAX 9,3647697