EXHIBIT D

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

JOE COMES; RILEY PAINT, INC., an Iowa Corporation; SKEFFINGTON'S FORMAL WEAR OF IOWA, INC., an Iowa Corporation; and PATRICIA ANNE LARSEN; Plaintiffs, vs. MICROSOFT CORPORATION, a Washington Corporation, Defendant.	NO. CL82311 TRANSCRIPT OF PROCEEDINGS VOLUME XXXVII

COPY

The above-entitled matter came on for trial before the Honorable Scott D. Rosenberg and a jury commencing at 8:15 a.m., January 24, 2007, in Room 302 of the Polk County Courthouse, Des Moines, Iowa.

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10303

Microsoft was doing testing and reported to Novell some bugs so that Novell could fix them; correct?

A. Yes. It had to do with, again, our Lanalyser product. And I doubt that Microsoft had a competing product.

Q. Right. So Microsoft had a competing product to Lanalyser --

A. No. I said I don't think they did.

Q. All right. Okay. I hear your testimony.

A. Okay.

Q. But what Microsoft noticed was that in the engineering that Novell had done, there was a misuse of something called V86 MMGR_Set_Mapping info call, right?

A. Are you referring to the next paragraph down, Microsoft was debugging a problem and noticed the following misuse of whatever. And wanted to make sure you guys got this information, here's the e-mail from the Windows 95 developer at Microsoft.

Okay. It seemed like the Microsoft representative was being responsive to a bug issue.

10304

Q. Right. And here's an example of Microsoft proactively and without any obligation helping out Novell; correct?

A. Conceded. One time.

Q. Well, you say one time.

A. I don't know.

Q. You certainly weren't in the engineering group. You don't know how many times it happened?

A. Right.

Q. Okay. Fair enough.

MR. TULCHIN: May I approach the witness, Your Honor?

THE COURT: You may.

Q. I'm showing you Defendant's Exhibit 6773. And this is a document that was produced in litigation by Novell.

Do you see that, sir?

A. No. How would I know --

Q. Can you tell that by the production numbers NOV 25, et cetera.

A. Oh, okay. Or is that November 25th? Maybe it could be Novell. I don't know.

Q. And you see at the top it refers to Dave Miller 10-16-95, five big bugs.

10305

Do you see that?

A. Correct.

Q. And Dave Miller is the fellow you talked about at Novell?

A. Yes.

MR. TULCHIN: We offer Exhibit 6773, Your Honor.

MS. CONLIN: No objection.

THE COURT: Admitted.

Q. This is a one-page document. And under the name and the date, Dave Miller 10/16/95, it says five big bugs.

Do you see that?

A. Yes, I do.

Q. Have you ever seen this document before?

A. Possibly. But it -- you know, it's not marked. It's not on Novell letterhead. I don't know if it's from Dave Miller to whomever. It's kind of confusing.

Do you see what I'm saying? It goes Dave thinks the August 21 letter went out from DRB, and the DRB reference is to me undoubtedly.

But, again, I don't know who sent this

10306

or -- you know, there's not enough information to figure that out.

Q. I hear you, Mr. Bradford, but my only question was whether you had seen this before.

A. Possibly.

Q. Well, did you see it in the last week, for example?

A. Counsel for the class may have shown it to me, but I don't recall it, again, in specifics.

Q. All right. Well, let's look at the first paragraph of the text that's on the screen.

And it says, Dave -- and reading it today, that looks like a reference to Dave Miller?

MS. CONLIN: Objection, Your Honor. I think, in fact, that the record will reflect something quite different.

THE COURT: He may answer if he can.

A. I have no idea.

Q. Okay. And it says, Dave thinks the August 21 letter went out from DRB.

And that was a letter that went from Novell to Microsoft, an August 21st letter.

I think we already -- we may have looked at. Or maybe we didn't. I don't remember.

A. I don't remember either.

Q. Okay. There are too many dates floating around.

A. There was a letter that Bob Frankenberg sent to, I believe, someone at Microsoft -- it probably was Bill Gates -- and it might have been August 21 of this year.

Q. Of '95?

A. Yes, of 1995, that's right. I'm sorry.

Q. Right. And this reference says DRB and others believe that this bug deal is a big deal, but the apps people do not.

Do you see that, sir?

A. I do see that.

Q. Dave thinks it's mostly our fault. When we found bugs, we didn't press MS -- that's Microsoft; right?

A. Uh-huh.

Q. -- to fix them.

Now, do you recall in 1995 that apps people at Novell didn't think that these five

bugs that had been found were a big deal?

A. No, I don't recall that.

Q. Do you recall hearing any of the engineers say it's mostly our fault, Novell's fault, because when we found bugs, we didn't press Microsoft to fix them?

A. No, I didn't hear that.

Q. Do you know, sir, whether or not Novell had betas to the Windows 95 operating system prior to the time that Windows 95 was released to the market?

A. I don't know that for sure.

Q. Well, you did testify on direct, didn't you, that Novell got some betas?

A. We got some betas. Many betas we did not get.

So you're referring to a specific Windows 95 beta. Give me a time frame. Give me a date. Give me a document that might refresh my recollection, and that might help me.

Q. Well, let's just start with this.

For the year '95, January 1st, '95, up until the issuance of Windows 95, on your anniversary, August 24th of that year, did

Novell during that period receive betas to the Windows 95 product?

A. I don't know.

Q. All right. If we can look at the next paragraph.

The important matter in Dave's mind was when Microsoft censored the beta releases we got.

Do you see that?

A. Yes, I do.

Q. Now, is that a reference to you or to Dave Miller, or do you know?

A. The important matter in Dave's mind was when Microsoft censored the beta releases we got. He has a letter proving it.

I have no idea.

Q. And then let's look at the next sentence after that.

Dave's conclusion is that our problems came from inept engineers.

Do you know if that was a conclusion that was expressed by Dave Miller or by you, Dave Bradford, or someone else?

A. It's certainly not a conclusion I would have drawn, but -- so I don't know if

it's Dave Jones or Dave Smith. I have no idea. The document really doesn't help me figure that out.

Q. And going back to the second paragraph which I started with and then I skipped over.

The last sentence of that paragraph says, but the big problem is that we have dragged our feet on the development of the Win 95 client. We fumbled development.

Now the we there refers to Novell, does it not, as far as you can tell?

A. Again, this letter -- there's no -- I hate to use a legal term, but there's no foundation for it. You can't tell who it's from, et cetera. It appears to have reference to Novell.

Q. And certainly the Dave Miller and the five big bugs, that's all about Novell; right? You remember --

A. Right.

Q. -- the August 31st letter that we did look at which referred to the five big bugs?

A. Right.

Q. And this document, Exhibit 6773, contains the statement the big problem is that