

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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 UNITED STATES OF AMERICA, :  
 :  
 PLAINTIFF, :  
 :  
 V. : C.A. NO. 98-1232  
 :  
 MICROSOFT CORPORATION, :  
 :  
 DEFENDANT. :

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 STATE OF NEW YORK, ET AL., :  
 :  
 PLAINTIFFS, :  
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 V. : C.A. NO. 98-1223  
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 MICROSOFT CORPORATION, :  
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 DEFENDANT. :

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 MICROSOFT CORPORATION, :  
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 COUNTERCLAIM-PLAINTIFF, :  
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 V. :  
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 DENNIS C. VACCO, ET AL., :  
 :  
 COUNTERCLAIM-DEFENDANTS. : JANUARY 13, 1999  
 ----- -X WASHINGTON, D.C.

VOLUME 37-B

TRANSCRIBED DEPOSITION EXCERPTS

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1 (DEPOSITION EXCERPTS OF RAYMOND SOLNIK.)

2 Q. WAS THE BUNDLING OF NETSCAPE SOFTWARE  
3 ON OEM'S--WAS THE FACT THAT NETSCAPE'S SOFTWARE  
4 WAS BUNDLED THROUGH OEM'S AN IMPORTANT  
5 CONSIDERATION IN SBCIS'S DECISION TO ENTER INTO  
6 THE AGREEMENT WITH NETSCAPE?

7 A. YES.

8 Q. AND WHY WAS THAT?

9 A. WELL, FIRST OF ALL, BY THE WAY, ANOTHER  
10 MAJOR CHANNEL OF DISTRIBUTION FOR THEM IS ISP'S.  
11 I FORGOT TO MENTION THAT ONE. IT'S  
12 IMPORTANT--THE DEGREE TO WHICH NETSCAPE WAS  
13 BUNDLED ON PC'S WAS IMPORTANT, BECAUSE IT IS OUR  
14 BELIEF THAT A LARGE NUMBER OF INTERNET  
15 SUBSCRIBERS SIGN UP FOR THEIR SERVICE UPON  
16 PURCHASING A NEW PC, OR WILL CHOOSE THE POINT IN  
17 TIME WHERE THEY BUY A PC TO SIGN UP FOR AN  
18 INTERNET SERVICE.

19 AND SO, TO THE EXTENT THEIR SOFTWARE IS  
20 ON A PC AND WE ARE ONE OF THE ISP'S OFFERED,  
21 THAT'S AN ATTRACTIVE MEANS FOR US TO ACQUIRE  
22 INTERNET CUSTOMERS.

23 (EXCERPT.)

24 Q. DO YOU PERSONALLY HAVE ANY INFORMATION,  
25 SINCE THE TIME THAT SBCIS HAS ENTERED INTO ITS

1 AGREEMENT WITH NETSCAPE, WHAT'S HAPPENED TO  
2 NETSCAPE'S ABILITY TO BUNDLE ITS CLIENT SOFTWARE  
3 THROUGH OEM'S?

4 MR. FESSEL: OBJECTION TO THE FORM.

5 MR. EPSTEIN: ANSWER THE QUESTION, IF  
6 YOU UNDERSTAND IT.

7 THE WITNESS: YOU KNOW, IN AUGUST OF  
8 '96, NETSCAPE WAS BUNDLED ON A BUNCH OF PC'S, AND  
9 A NUMBER OF COMPANIES' PC'S, AND HAD FORECASTS  
10 FOR PARTICIPATING IN THAT TYPE OF DISTRIBUTION  
11 THAT WERE HIGH.

12 WE, AT ONE POINT, ENVISIONED REQUIRING  
13 THEM, OR INCLUDING IN OUR CONTRACT WITH THEM  
14 ENSURING THAT THEY GOT ACCESS TO AND BUNDLED ON  
15 PC'S, AGAIN, WITH OUR PRIMARY OBJECTIVE OF  
16 GETTING A BIG DISTRIBUTION FOR OUR INTERNET  
17 SERVICE.

18 AND SO, DID THEY EVER IMPLEMENT OR  
19 ACHIEVE WHAT WE WOULD HAVE BEEN HAPPY WITH, KIND  
20 OF AS WE TALKED EARLIER ABOUT OUR RELATIVE  
21 HAPPINESS WITH MOMENTS IN THE RELATIONSHIP? NO.

22 DO I SPECIFICALLY UNDERSTAND WHY THEY  
23 COULDN'T GET ON PC'S? NOT NECESSARILY, BUT WE  
24 WERE NOT PLEASED WITH THEIR INABILITY TO GET ON,  
25 BUNDLED ON PC'S AND GET THAT DISTRIBUTION CHANNEL

BIGGER.

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