

# **Exhibit 12**

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

DEPOSITION OF:  
BRADFORD STRUSS

January 14, 2009  
9:07 a.m.

VIDEOTAPED DEPOSITION BEFORE JOSEPH  
ALBANESE, JR., a Certified Shorthand Reporter,  
Certification Number 533, at K&L Gates, 925 4th  
Avenue, Suite 2900, Seattle, Washington, on  
Wednesday, January 14, 2009, commencing at 9:30 in  
the morning, pursuant to notice.

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A L S O P R E S E N T:

Vincent Falcetano, video specialist

1 is there a protocol -- strike that.

2 Did that phrase, documenting an  
3 API, have a particular meeting within Microsoft  
4 during the time period?

5 A. It means they were published as part of,  
6 sort of, the official API specification for  
7 product release.

8 Q. What's the difference between it  
9 being a published API and an unpublished API?

10 A. Published API is something that we can  
11 tell software development, hey, these are safe to  
12 write to, we have tested this extensively, and you  
13 can count on -- ideally you can count on support  
14 and future release. We sort of kind of bedded or  
15 figured out, okay, this is the right direction, at  
16 least for the near term, so you can hopefully  
17 count on that support.

18 Whereas something that's not  
19 documented is something that either something just  
20 used internally by the operating system or is  
21 something that, you know, isn't fully functioning  
22 or isn't half baked, you know.

23 Q. Okay. And you wouldn't advise  
24 and ISV to rely on unpublished extensions, would  
25 you?

1           A.       We would not, no.

2           Q.       Did you ever make or were you  
3 aware of any promises made to WordPerfect to  
4 publish extensions that were not published in  
5 pre-releases?

6           A.       I don't recall specifically, no.

7           Q.       Let me bring it to a specific.

8           A.       Okay.

9           Q.       Are you aware of any discussions  
10 with WordPerfect where you or somebody within your  
11 group told WordPerfect that they could expect the  
12 publication of namespace extension APIs?

13          A.       In the pre-release days, you know,  
14 obviously David Cole talked about those, so at  
15 that point in time it was probably expected that  
16 those APIs would be documented. I don't recall  
17 specifically saying, these APIs would be  
18 documented on at this point in time.

19          Q.       Do you have any recollection of  
20 any other discussions regarding that topic between  
21 '93 and the Gates decision in October '94?

22          A.       Again, I'm a little foggy. I know  
23 there's a point in time where when we decided not  
24 to document them, we were proactive going out to  
25 ISVs, or we were about to do that, we were

1 proactive going out to ISVs, telling them that  
2 there's been a change in plans, which frequently,  
3 you know, pre-release operating systems, the team  
4 is pushing forward, shipping a schedule, you know,  
5 what's going to be in the product, changes, right,  
6 and that's sort of something we try and help  
7 developers understand also, is that, hey -- I  
8 think they understand the nature of pre-released  
9 software, is that, hey, our intentions are this,  
10 but things can change between now and then, in the  
11 matter of shipping something on time.

12 Q. Did developers rely on you to  
13 give them the most accurate and most up-to-date  
14 information about Microsoft's plans for the Win 95  
15 release?

16 A. Leading software developers that we  
17 worked one on one with, yes, that was part of our  
18 role, as well as documenting -- the documentation  
19 that would come out as part of the pre-releasees  
20 that they received.

21 So there's a whole set of  
22 information, but definitely our goal was to keep  
23 them informed about changes in product strategy.

24 Q. Okay. So WordPerfect -- strike  
25 that.

1                   In your dealings with  
2 WordPerfect, your expectation was to give them  
3 information about the upcoming release that they  
4 could rely on, is that correct?

5           A.       That's correct.

6           Q.       Do you have recollection of Lotus  
7 having plans to use namespace extensions during  
8 this time period, between '93 and the Gates  
9 decision in '94?

10          A.       I do not, no.

11          Q.       I just want to caution you, let  
12 me finish my questions, it's not for me, it's for  
13 him. Okay.

14                   Let me give you the next one,  
15 which is Exhibit 3. MX 4086171 through 79.

16                   (Whereupon, STRUSS 3 is received  
17 and marked for identification.)

18          Q.       You recall -- strike that.  
19 Do you recognize this document?

20          A.       Yes, I do.

21          Q.       And what is it?

22          A.       It's a -- the main part of the document  
23 is an application that Tammy Steele, somebody who  
24 works for my group wrote about how to create a  
25 great Chicago Windows 95 application, and it's

1 also an e-mail to Brad Chase about things we felt  
2 were ways to write a Windows 95 application.

3 Q. And is this -- strike that.

4 Did you provide this document to  
5 WordPerfect, to your recollection?

6 A. I don't recall specifically providing to  
7 that -- to them, but I'm sure we did.

8 Q. Okay. And is this the type of  
9 information that you were conveying to WordPerfect  
10 in and around this time frame?

11 A. Yes.

12 Q. Did WordPerfect express an  
13 interest in being a well integrated Chicago  
14 application?

15 MR. HOLLEY: At this time?

16 Q. At this time.

17 A. I don't recall specifically. I mean, I  
18 know they were interested in finding out as much  
19 about Chicago as they could. I don't -- yes.

20 Q. And did they reveal to you plans  
21 to have a product, an application, a word  
22 processing application that would be run natively  
23 on Chicago?

24 A. Yes. I mean, for example, David Cole  
25 e-mail references that they are interested in