

# **Exhibit 33**

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

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IN RE MICROSOFT CORP.	)	
ANTITRUST LITIGATION	)	
	)	MDL Docket No. 1332
	)	
Novell, Inc. V. Microsoft	)	Hon. J. Frederick
Corporation,	)	Motz
	)	
Civil Action No. JFM-05-1087	)	
	)	

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DEPOSITION OF: David Acheson

November 19, 2008 \* 8:15 a.m.

Location: Ray, Quinney & Nebeker  
86 North University Avenue, Suite 430  
Provo, Utah 84601

Reporter: Diana Kent, CSR, RPR, CRR  
Notary Public in and for the State of Utah  
Videographer: Ryan Reverman, CLVS

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A P P E A R A N C E S

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1 would come along and say, "You can name it as long as  
2 you want. The name of the document can be as long as  
3 you want." And so -- but it had to integrate with  
4 Word Perfect, right? Our documents had to be able to  
5 work in the Soft Solutions software.

6 So that's another reason, sorry that's a  
7 long answer, that's another reason why law firm  
8 users, for example, would want to choose Word Perfect  
9 as their word processor as opposed to competitors,  
10 Ami Pro or Word, because we were better integrated  
11 with folks like Soft Solutions. We worked with the  
12 folks at Lexis, we worked with the folks at West to  
13 make sure that whatever solutions they had that you  
14 could tie a word processor in with, that our stuff  
15 would be compatible.

16 Q. Going back to your work history at Word  
17 Perfect and Novell, did you continue to sell  
18 primarily to law firms after the merger?

19 A. I did. And -- yeah, I'll just answer that  
20 way. Yes, I did.

21 Q. Did your clientele change at all -- strike  
22 that.

23 Did you also begin to sell more to other  
24 types of clients after the merger?

25 MS. VISHIO: Objection. Form.

1 A. I did not. I was asked to, but I didn't.

2 Q. Who asked you to?

3 A. My management. So Brad Jackman, Ron  
4 Hines. Brad Jackman was the original Word Perfect  
5 guy. Ron Hines became Brad's boss after the Novell  
6 merger. And so Ron worked with Brad to have Brad get  
7 us, as Enterprise Account Directors, to sell  
8 differently.

9 Q. What do you mean by "sell differently"?

10 A. To sell Netware. To see what we could do  
11 in terms of getting Netware -- Netware sales  
12 accomplished within our customers.

13 Q. What was Netware?

14 A. Netware was the operating system that  
15 Novell had built and was selling. That was their  
16 main product.

17 Q. And why did you decline to sell Netware?

18 MS. VISHIO: Objection. Form.

19 A. I didn't decline to sell Netware. I did  
20 make vigorous statements about the fact that, A, I  
21 didn't know anything about Netware. It was too  
22 complicated, too technical, and that there were  
23 resellers who were selling into my law firms already  
24 that were doing the Netware sale. And it was more of  
25 a channel model than what we had been doing at Word

1 Perfect, which was a direct large customer sales  
2 model. So personally I didn't feel technically  
3 qualified to sell Netware. And emotionally I had no  
4 tie to Netware. And -- yeah, I'll just say that.

5 Q. Were you the only sales person who was  
6 asked to sell Netware after the -- sorry, the only --  
7 strike that.

8 Were you the only Legacy Word Perfect  
9 sales person who was asked to sell Netware after the  
10 merger?

11 MS. VISHIO: Objection, form.

12 A. No, I was not. All of the sales people  
13 with Word Perfect were asked to start selling  
14 Netware.

15 Q. And you said that it was a different -- it  
16 was sold into a different sales channel?

17 MS. VISHIO: Objection to form.

18 A. Yes, it was. It was sold -- it was sold  
19 into a channel. So -- and I'm trying to think of who  
20 the resellers were. I think I can remember a little  
21 bit. Ingram Micro is a name that comes to mind. So  
22 Ingram was a big reseller, a partner of Novell's,  
23 that Novell would sell the Netware product into  
24 Ingram. Ingram would call and place an order with  
25 their Novell sales person, and then Novell would send

1 the software to Ingram's warehouse. And then Ingram  
2 was responsible for working with what you might call  
3 mom and pop shops, right? "Hi, I'm David Acheson's  
4 networking or IT store in Provo, Utah." And I would  
5 work with Ingram to place my orders. And then I  
6 would go out and I would sell to companies in Provo,  
7 right? As large as I could, or a niche that I was  
8 in.

9 Q. And how is that different from how Word  
10 Perfect would sell?

11 A. What we did in our Enterprise Account  
12 Director team was to actually go for direct sales.  
13 So I would, again, call Ed DeLorenzo at Sherman &  
14 Sterling and work directly with the customer, and I  
15 would work to get a contract with Shearman & Sterling  
16 that was a direct contract between Shearman &  
17 Sterling and Word Perfect. I was --

18 So to clarify, I wasn't working with  
19 somebody who was then turning around and selling. I  
20 wasn't selling them Word Perfect and then expecting  
21 them to go out and sell it to law firms. I did do a  
22 little bit of that with a company in New York,  
23 actually a couple of companies where they were --  
24 what did we call them? We called them -- I can't  
25 remember. But basically they were the middlemen. So

1 they are what I just described, which is they had law  
2 firms as their vertical market that they would go  
3 after and they would go into law firms and say, "We  
4 can do everything for you in terms of automation;  
5 your word processing, your document management." And  
6 so I would work with them a little bit. I had great  
7 relationships with them, but they didn't focus on  
8 Word Perfect as much as I needed them to. And it was  
9 easy for me to go directly to the large law firms and  
10 they would buy directly from me.

11 So there was no competition or no  
12 animosity between me and these middlemen vendors that  
13 focused on the legal market. And I worked with them  
14 as much as I could. And had there been greater  
15 opportunities, I certainly would have given them more  
16 attention. But there was enough for me to do with  
17 getting clients on my own.

18 Q. Could you explain what you mean by the  
19 term "vertical market."

20 A. Yes. It is where you take all the  
21 companies in the world and you categorize them and  
22 you say -- so for example, Proctor & Gamble, does  
23 that fall into a vertical market of manufacturing or  
24 does it fall into a vertical market of consumer  
25 products? Ford Motor Company, does that fall into

1 the financial vertical market or does that fall into  
2 a manufacturing, automotive vertical market? So you  
3 can do that with every -- practically every company.  
4 You can say a restaurant, what do they fall into? Do  
5 they fall into the financial industry or the medical  
6 industry or health care? No. They fall into  
7 customer service or an even more discrete vertical,  
8 if you want to break it down further, they fall into  
9 hospitality.

10 Q. Why did you leave Novell?

11 MS. VISHIO: Objection. Form.

12 A. I left Novell because -- for several  
13 reasons. One of the reasons was that I didn't see a  
14 future for myself. I didn't see a career. And I  
15 wasn't happy with the lack of career options. I  
16 didn't like the management, and so I didn't like the  
17 way in which I was being managed, and I didn't like  
18 the lack of focus, the lack of what I felt would have  
19 been appropriate focus on applications that I felt  
20 like I could do well. So that's one reason why I was  
21 open to leaving Novell.

22 I got two job offers in whatever that was,  
23 June of 1995. One was from Microsoft to go and work  
24 for their product management team for Word Perfect.  
25 And I believe that, as I remember, I was going to do