

From: David Bradford
To: INTERNET.MIME."shill@scmlaw.com"
Date: 2/28/97 5:09pm
Subject: Caldera vs. Microsoft -Reply

Steve:

Good to hear from you again! Sorry we missed you in hawaii. We were on Maui the whole time. Here's my response to the three issues you raised:

1. Voluntary disclosure of the Due Diligence materials is probably the best route. But my gut feel is that there will not be alot. Let Microsoft know that we are willing to comply without subpoena. SHERISE--do I have files on the Digital Research acquisition? Please bring them to my office so that I can go through them and send stuff to Mr. Hill.

2. I received some minimal response--I will forward on what I received.
This will include Board Minutes in which DOS was discussed. I have given it to Sherise to mail to you.

3. We will be happy to cooperate with you regarding interrogatories. Let us know what you need.

I will be out the week of March 3rd for most of the week.

drb

>>> steve hill <shill@scmlaw.com> 02/28/97 03:21pm >>>
David,

We have started reviewing Microsoft's documents and they ours. As Rod Parker puts it, their documents contain a lot of good sound bites, many from Bill Gates.

I have three matters to discuss with you:

First, during the initial phase of discovery we agreed to provide Caldera's documents relative to the acquisition of the DOS business from Novell. The only nonprivileged document we have is the agreement itself. MS has asked whether we have memos, due diligence materials, board minutes, correspondence, etc., from Novell. I indicated we did not as Novell and Caldera were at arm's length with respect to the transaction. I said I thought they may have to subpoena those documents but would inquire as to whether Novell would voluntarily make the documents available. I believe voluntary production may be simpler but that is obviously your call. I would appreciate your advice on this. I am traveling to Germany next Tuesday and will be out the balance of the week. I would like to try to connect with you before I leave.

Second, I know you sent out an email to the various sales offices a few weeks ago. Did you receive any response? Also, there are a few other categories of documents we need to discuss, including the documents relating to Novell's acquisition of DRI, and documents relating to merger discussions between Novell and Microsoft.

Finally, Microsoft served Caldera earlier this week with interrogatories relating to the issue of proper venue. Under Judge Benson's order,

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Microsoft is entitled to serve interrogatories and then may follow up with depositions of Novell and Caldera employees and/or former employees, as needed. The more thorough our interrogatory answers are, the less follow up will be necessary. We will attempt to answer the interrogatories as completely as possible but may need some additional information from Novell. I am attaching a set of the interrogatories solely for your information at this point. Once I have reviewed them with Bryan Sparks, I will get back to you as to the information we lack.

I hope you and your family are well, and that you had a great vacation. The weather was perfect in Kauai all but one day, and romance was in the air.

The reason I called before I left was to see whether you would be interested in a trip to the Doral Open. We have a lot of passes, and I was hoping we might be able to arrange to go together. As it turns out, this trip to Germany came up so it wouldn't have worked out anyway. Maybe St. George as an alternative . . .

Talk to you soon,

Steve

CC: SCROSBY

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