

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE

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July 28, 2011

Memo To Counsel Re: Microsoft Corp. Antitrust Litigation
MDL 1332

Novell, Inc. v. Microsoft Corp.
Civil No. JFM-04-1045

Dear Counsel:

This will confirm the matters we discussed during the telephone conference held yesterday (as supplemented by my subsequent conversations with members of the Clerk's Office in Salt Lake City).

1. Approximately 150 prospective jurors will be asked to come to the courthouse in Salt Lake City to fill out a questionnaire before trial. Kris Porter, Chief of the Jury Section of the Clerk's Office in Salt Lake City, believes that it would be better if the prospective jurors came in on October 5, 2011, rather than October 12th as we discussed. The reason for their suggestion is that in Salt Lake City many persons take a vacation during the week of October 10, 2011 pursuant to what is locally known as the "School Holiday." Unless I hear from you to the contrary on or before August 5, 2011, I will assume that the October 5th date is all right with you.

2. The Clerk's Office can make two copies of the jury questionnaires, one for each side. I hope that perhaps we can hold a telephone conference on the record sometime during the week of October 10, 2011 to discuss any proposed strikes for cause so that the selection process on October 17th can go smoothly. In that regard, if we believe that we can select a jury from less than the number of prospective jurors who pass the questionnaire screening, I would suggest that we initially call that lesser number in. I have found (as I am sure you have found as well) that the greater the number of jurors present, the longer the selection process is.

3. Ms. Porter advised me that it would be fine if we sent the proposed jury questionnaire to her in mid September, after our pretrial conference on September 14th.

4. The Clerk's Office in Salt Lake City will immediately give me a password and send me notices of ECF "hits" of the documents you file in Utah. As we discussed, you may consider that I have approved your joint stipulation regarding the admissibility of business records. I will formally approve the stipulation after I have received an ECF password.

5. The trial schedule that you propose, from 8:30 to 1:30 with two breaks, is fine with me and the Clerk's Office in Salt Lake City.

6. You will submit proposed voir dire questions and a proposed jury questionnaire on September 8, 2011. As previously set, the pretrial conference will be held in Baltimore on September 14, 2011 at 4:30.

7. The briefing schedule proposed in Mr. Johnson's letter of July 20, 2011 (document 135) is approved.

8. A hearing on the collateral estoppel motion will be held on September 27, 2011 at 2:15 pm. A hearing on the motions in limine will be held on October 7, 2011 at 2:15 pm. Both hearings will be held in Baltimore.

9. We will try to sit as many Fridays as possible in Salt Lake City. I will let you know at the pretrial conference the Fridays on which I must return to Baltimore. I now know that I have to be in Baltimore on Friday, October 21, 2011. Further, as I believe I have previously advised you, we will not sit at all during the week of October 31, 2011 because of a previous commitment I have.

I believe that these are all the matters that need to be confirmed now. If there are any additional matters that I have forgotten that you think should be confirmed now, please let me know on or before August 5, 2011.

Very truly yours,

/s/

J. Frederick Motz
United States District Judge

cc: Aaron Paskins, USDC, District of Utah
Kris Porter, USDC, District of Utah
Ruth Schriock, USDC, District of Utah
Louise York, USDC, District of Utah