

DEPOSITION SUMMARY — TOPIC-INDEXED

United States v. Microsoft Corp., No. 98-1232 (D.D.C.)

Deposition of William H. Gates III · Taken August 27, 1998, Redmond, WA · Examination by David Boies, Esq. · Prepared by ClearDepo from the public record

TOPIC INDEX

- § 1 — Operating-system market share
- § 2 — Java as a competitive threat
- § 3 — Apple negotiations and Sun
- § 4 — Mac Office 97 as negotiating leverage
- § 5 — Intuit and Netscape

§ 1 — Operating-system market share

The witness denied any understanding that Joachim Kempin, the executive responsible for OEM sales, had endeavored in 1996 to determine Microsoft's share of operating systems sold to hardware manufacturers. Directed to the internal analysis headed "x86 OS Analysis for Fiscal Year '96" — which states "All other competitive licenses, less than 5%" — the witness denied any understanding that Microsoft's share of x86 operating systems was in the vicinity of 95 percent. **FLAG** — non-recall of the company's own market position despite a contemporaneous internal analysis stating it. (pp. 30–31)

§ 2 — Java as a competitive threat

The witness drew a repeated distinction between "Java the language" and "Java runtime activities": *"The Java runtime activities are a competitive threat... Java itself is not."* He placed his awareness of the runtime threat "by late '96." (pp. 280–292)

Examined on Mr. Slivka's record of the witness's own question — *"How do we wrest control of Java away from Sun?"* — the witness answered, "I don't think I would have put it that way," conceding an "issue about the popularity of Sun's runtime APIs versus our runtime APIs." Asked about the phrase "Java schism" in his June 1997 email, the witness described "a distinction between pure Java apps and where they get their runtime bits." **FLAG** — the language/runtime distinction is the witness's construction; the contemporaneous emails treat Java as a unitary threat.

§ 3 — Apple negotiations and Sun

The witness described 1997 discussions with Steve Jobs on browser, Java, and business terms, and denied direct involvement in undermining Sun through Apple. Confronted with Government Exhibit 365 — his own email of August 8, 1997, asking "Do we have a clear plan on what we want Apple to do to undermine Sun?" — the witness answered: *"I don't remember."* **IMPEACHMENT FLAG** — non-recall as to the meaning of the witness's own written words, sent eleven months before the deposition. (pp. 298–335)

§ 4 — Mac Office 97 as negotiating leverage

Government Exhibit 368 (June 27, 1997) states: *"The threat to cancel Mac Office 97 is certainly the strongest bargaining point we have."* The witness characterized this as an internal debate over product updates and patent-licensing negotiations rather than coercion of Apple. Not denied. (pp. 315–324)

§ 5 — Intuit and Netscape

Asked whether Microsoft tried to get Intuit to agree not to enter marketing or promotion agreements with Netscape, the witness answered: *"I don't know."* Asked whether Netscape's browser was a means of distributing Java APIs, the witness gave a qualified answer: "There were APIs in Netscape browser some of which under some definition of Java APIs you'd call Java APIs."

ADMISSIONS INDEX

Java runtime a competitive threat "by late '96" — admitted (pp. 280–292)
GX 365 "undermine Sun" email — "I don't remember" (pp. 298–335)
GX 368 Mac Office leverage — recharacterized, not denied (pp. 315–324)
~95% x86 OS share, early 1996 — understanding denied (pp. 30–31)
Intuit–Netscape restriction — "I don't know"

Prepared from the publicly released excerpts of this transcript (U.S. v. Microsoft public record) for demonstration. Client deliverables carry the matter caption, your format preference, and full page:line citations throughout.