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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

NOVELL, INC.,

Plaintiff,

-v.-

MICROSOFT CORPORATION,

Defendant.

MICROSOFT'S MEMORANDUM
CONCERNING THE COURT'S
OCTOBER 4, 2011 COLLATERAL
ESTOPPEL RULING

Civil No. 2:04 CV 1045
Honorable J. Frederick Motz

October 5, 2011

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Microsoft submits this memorandum to address certain of the issues raised in the Court's October 4, 2011 Memo to Counsel concerning Novell's August 8, 2011 renewed motion seeking collateral estoppel (the "October 4 Collateral Estoppel Ruling").¹

First, regardless of whether particular Findings of Fact were "critical and necessary" to the judgment affirmed in the Government Case, none of the Findings of Fact that relate to "conduct Microsoft directed toward Netscape and Java" are properly "admissible to show motive, intent, preparation, plan, and knowledge under Rule 404." (October 4 Collateral Estoppel Ruling at 1.) The exceptions to Rule 404's general principle (that character evidence is not admissible to prove a defendant's propensity to engage in the challenged conduct) cannot apply here, where the Findings of Fact at issue pertain to later conduct directed at other competitors that did not begin until after all of the alleged conduct directed at WordPerfect and Quattro Pro between October 1994 and June 1995 already took place.² Notably, Novell conceded in a brief filed with this Court yesterday that "Rule 404(b) does not apply at all" to evidence concerning Microsoft's conduct directed at Netscape and Sun.

Second, even if the Court gives collateral estoppel effect to some or all of the Findings of Fact pursuant to the October 4 Collateral Estoppel Ruling, the Court should not absolve Novell of its burden to prove each element of its claim, in accordance with well-established law and the Court's March 30, 2010 decision on Microsoft's motion for summary judgment. Thus, it would be inconsistent with the Court's prior decision and clear error to allow

¹ Capitalized terms not defined herein have the same meaning as set forth in Microsoft's August 22, 2011 Memorandum in Opposition to Novell's Renewed Motion Seeking Collateral Estoppel (Docket #72) ("Microsoft's Opposition").

² According to findings in the Government Case, the earliest Microsoft conduct upon which liability was based took place after March 12, 1996. *United States v. Microsoft Corp.*, 84 F. Supp. 2d 9, 105 ¶ 388 (D.D.C. 1999).

Novell to “meet its burden of proof” by proving only “damage causation” resulting from the conduct on which liability was affirmed in the Government Case. (*See* October 4 Collateral Estoppel Ruling at 2.)³

Rather, as the Court correctly set forth in the March 30, 2010 decision on Microsoft’s motion for summary judgment, Novell cannot prevail in this action unless it proves, among other things, that the three allegedly anticompetitive acts directed at WordPerfect and Quattro Pro harmed those products and also contributed significantly to maintenance of Microsoft’s monopoly in the PC operating system market.

I. The Findings of Fact in the Government Case are Not Admissible Under Federal Rule of Evidence Rule 404(b).

The October 4 Collateral Estoppel Ruling set forth the Court’s “preliminary views” on the admissibility of certain Findings of Fact as to which the Court “tentatively” concluded that collateral estoppel is appropriate.⁴ The Court stated that “facts relating to conduct Microsoft directed toward Netscape and Java . . . will be admissible to show motive, intent, preparation, plan, and knowledge under Rule 404.” (October 4 Collateral Estoppel Ruling at 1.) The Court should reconsider this view. As Novell itself concedes, Rule 404(b) does not apply, and thus does not make these Findings of Fact admissible at trial.

³ The conduct at issue in the Government Case did not begin to have any effect on Netscape Navigator and Sun’s Java technology until well after the alleged acts at issue in this action—indeed, until after Novell sold WordPerfect and Quattro Pro to Corel on March 1, 1996. (*See* Microsoft’s Opposition at 8-11, 15-17.) As a result, Novell did not own WordPerfect and Quattro Pro when any competitive harm resulting from that conduct occurred. Thus, Novell could not possibly prove that it was damaged as a result of conduct at issue in the Government Case, even if it could somehow demonstrate that conduct directed at Netscape Navigator and Sun’s Java technology had a spillover effect on WordPerfect and Quattro Pro—a very strange concept that Novell has not alleged in its Complaint nor articulated anywhere else to date.

⁴ This included Findings of Fact as to which Novell had *never* sought collateral estoppel when it made its motion for collateral estoppel in 2008.

First, Novell admits that Rule 404(b) “does not apply at all” to evidence about Microsoft’s conduct directed at Netscape and Sun. In a brief filed on October 4 in opposition to Microsoft’s motion *in limine* to exclude evidence of Microsoft’s conduct toward Netscape and Sun, Novell contended that “Microsoft’s citation to Rule 404(b) is wrong. Rule 404(b) does not apply at all because Microsoft’s conduct at issue in the Government Case raises issues that are intrinsic to Novell’s case.”⁵ (Novell’s October 4, 2011 Memorandum in Opposition to Microsoft’s Motion *in Limine* to Exclude Evidence of Microsoft’s Conduct Toward Netscape and Sun (Docket #177) (“Novell’s Netscape and Sun Mem.”) at 14.)

Second, Novell’s view that Rule 404(b) does not “apply at all” to evidence concerning Microsoft’s conduct directed at Netscape and Sun is entirely correct. Rule 404(b) of the Federal Rules of Evidence prohibits a party from using “[e]vidence of other . . . wrongs, or acts . . . to prove the character of a [party] in order to show action in conformity therewith.” FED. R. EVID. 404(b). Evidence of a party’s “character” is excluded because it “is of slight probative value and may be very prejudicial.” FED. R. EVID. 404(a) advisory committee’s note. As a result, Novell could not rely on Rule 404(b) to seek admission of Findings of Fact concerning Microsoft’s conduct directed at other companies in a later time period in order to

⁵ Novell assertion that these Findings of Fact are “intrinsic” to its claim because “Microsoft’s conduct that injured other applications and ISVs, such as Netscape and Sun, is relevant in this case to determining whether the entirety of Microsoft’s anticompetitive conduct harmed competition” (Novell’s Netscape and Sun Mem. at 15) is entirely at odds with the holdings of this Court and the Fourth Circuit that allowed Novell’s claim to proceed to trial. Novell’s claim does not turn on whether Microsoft’s conduct directed at third parties “harmed competition” generally; Novell is a private plaintiff, not a federal agency with authority to police anticompetitive conduct in the marketplace generally. Rather, as discussed below (*see* pp. 10-11, *infra*), Novell must prove that “the conduct that *harmed its software applications* contributed significantly to Microsoft’s monopoly in the PC operating system market.” *Novell*, 699 F. Supp. 2d at 750 (emphasis added); *see also Novell, Inc. v. Microsoft Corp.*, 2011 WL 1651225, at *7 (4th Cir. May 3, 2011) (whether “*Microsoft’s actions toward Novell* were a significant contributor to anticompetitive harm in the PC operating system market” is the issue “appropriate for trial”) (emphasis added).

prove Microsoft's character or propensity to engage in anticompetitive behavior. *See In re High Fructose Corn Syrup Antitrust Litigation*, 295 F.3d 651, 664 (7th Cir. 2002) (evidence that company's former executives were convicted of price fixing held inadmissible to show in subsequent civil case that company had "propensity to violate the law"); *see also* (Microsoft's Opposition at 42 (citing cases)).

Rule 404(b)'s exception to the general prohibition against character evidence does not permit the admissibility of the Findings of Fact at issue here. Under Rule 404(b), although "[e]vidence of other . . . acts is not admissible to prove the character of a [party] in order to show action in conformity therewith . . . [i]t may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." FED. R. EVID. 404(b). In applying Rule 404(b):

courts must go beyond the label to insure that in each case the purpose for which the evidence is claimed to be relevant is in fact beyond the scope of the exclusionary rule. Particularly to be deplored is what might be called the 'smorgasbord' approach to analysis . . . in which the court simply serves up a long list of permissible uses without any attempt to show how any of them are application to the case at hand.

22 CHARLES ALAN WRIGHT & KENNETH W. GRAHAM, JR, FEDERAL PRACTICE AND PROCEDURE § 5240 (1978). Rather, the party seeking to admit evidence under Rule 404(b) "must precisely articulate the purpose of the proffered evidence," and such evidence is "admissible under Rule 404(b) only if . . . that relevance does not depend on a defendant likely acting in conformity with an alleged character trait." *United States v. Commanche*, 577 F.3d 1261, 1266-67 (10th Cir. 2009) (citations omitted); *see also United States v. Youts*, 229 F.3d 1312, 1318-19 (10th Cir. 2000) (district court erred by admitting evidence of defendant's attempted and actual thefts that occurred two and three years later where prosecutor's purpose for admission was to show

defendant's "intent" and "court failed to articulate the specific purpose for the evidence and the inferences to be drawn therefrom").

Novell cannot demonstrate any permissible purpose for using Findings of Fact that concern Microsoft's conduct directed at Netscape and Sun. That conduct occurred *after* the three alleged acts at issue in this action and *after* Novell sold WordPerfect and Quattro Pro to Corel, so it cannot possibly demonstrate Microsoft's motive, intent, plan or knowledge to engage in the three allegedly anticompetitive acts directed at WordPerfect and Quattro Pro that occurred much earlier (between October 1994 through June 1995).

By way of example, Findings of Fact 213, 161, 339, 214 and 239 (all of which were tentatively given collateral estoppel effect in yesterday's ruling) concern Microsoft's conduct directed at Netscape that "began" in the "spring of 1996" when Microsoft "force[d] OEMs to accept a series of restrictions on their ability to reconfigure the Windows 95 desktop and boot sequence." (Finding of Fact 213.) Thereafter, in August 1996, "Microsoft bound Internet Explorer to Windows 95 by placing code specific to Web browsing in the same files as code that provided operating system functions." (Finding of Fact 161.) "[B]etween the fall of 1997 and the spring of 1998," Microsoft entered into "dozens of 'First Wave' agreements" in which Microsoft "promised to give preferential support, in the form of early Windows 98 and Windows NT betas, other technical information, and the right to use certain Microsoft seals of approval, to important ISVs that agree to certain conditions" relating to Internet Explorer. (Finding of Fact 339.) In fact, Finding of Fact 214 would provide the jury with the text of "a letter that the manager of research and development at Hewlett-Packard sent to Microsoft in March 1997" that was "[e]mblematic of the reaction among large OEMs." Similarly, Finding of Fact 239 states that, although "[b]efore 1996, Navigator enjoyed a substantial and growing

presence on the desktop of new PCs,” “[b]y January 1998, Kempin could report to his superiors at Microsoft that, of the sixty OEM sub-channels . . . , Navigator was being shipped through only four” and “[b]y the beginning of January 1999, Navigator was present on the desktop of only a tiny percentage of the PCs that OEMs were shipping.”

None of this conduct directed at Netscape Navigator and Sun’s Java technology between 1996 and 1998 could possibly show that Microsoft possessed anticompetitive intent or “knowledge” or had an anticompetitive “plan” or “preparation” to execute on such a plan months and years earlier. The conduct at issue in this action—withdrawing support for the namespace extension APIs in a beta version of Windows 95, not granting Novell an exemption to the requirements of the Windows 95 logo licensing program, and not including support for custom print processors in Windows 95—took place between October 1994 and June 1995. There are insuperable chronology problems in seeking to use later conduct to demonstrate the motivation for conduct that preceded it.

For example, in *Coletti v. Cudd Pressure Control*, 165 F.3d 767 (10th Cir. 1999), the Tenth Circuit affirmed the trial court’s decision to exclude evidence of defendant’s termination of other employees, at a later time period, to prove defendant had discriminatory intent in firing plaintiff or a “pattern and practice of retaliatory discharge,” not only because evidence of later events was “unreliable” and “overly prejudicial,” but also because evidence “about later events is even less relevant and of less probative value than evidence of prior bad acts generally, because the logical relationship between the circumstances of the character testimony and the employer’s decision to terminate is attenuated.” *Id.* at 777. Here, the logical relationship between Microsoft’s conduct directed at Netscape and Sun in 1996 to 1998 to its alleged conduct directed at WordPerfect and Quattro Pro from 1994 to 1995 not only requires the

impermissible inference that Microsoft acted in an earlier time period in conformance with its anticompetitive conduct in a later time period, but the posited connection is far too attenuated to have any probative value.

In any event, even if evidence of Microsoft's conduct toward Netscape and Sun had some relevance to Microsoft's alleged motive or intent in relation to competitors such as Novell under Rule 404(b), that evidence should still be excluded as unfairly prejudicial under Federal Rule of Evidence 403 if "its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues." *Curtis v. Oklahoma City Public Schools Board of Education*, 147 F.3d 1200, 1217 (10th Cir. 1998). Indeed, the risk of unfair prejudice from introducing this evidence to show Microsoft's prior intent, motive or knowledge with respect to Novell is heightened here because in an antitrust case "the relevant intent—intent to harm one's rival—is impossible to distinguish from the intent to behave competitively in a broad range of situations." 2 PHILLIP E. AREEDA & HERBERT HOVENKAMP, ANTITRUST LAW ¶ 311d (3d ed. 2007). All competitors intend to hurt one another in the sense that they want all the business they can get—an intent that is not only lawful, but one that the antitrust laws encourage. "The mere intention . . . to exclude competition . . . is insufficient to establish specific intent to monopolize by some illegal means. To conclude otherwise would contravene the very essence of a competitive marketplace which is to prevail against all competitors." *Blair Foods, Inc. v. Ranchers Cotton Oil*, 610 F.2d 665, 670 (9th Cir. 1980) (internal citation omitted); *see also Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 488 (1977) ("The antitrust laws, however, were enacted for 'the protection of competition,' not competitors") (citation omitted). Thus, Rule 404(b) provides no basis for admitting any Findings of Fact concerning Microsoft's conduct directed at Netscape Navigator and Sun's Java technology.

II. Novell Must Not be Permitted to Use Collaterally Estopped Findings of Fact as a Means of Avoiding Its Burden to Prove Each Element of Its Claim.

The October 4 Collateral Estoppel Ruling noted “that certain elements of plaintiff’s claims . . . are uncontested in this litigation, *e.g.*, that Microsoft had monopoly power in the operating system market and that it engaged in anticompetitive conduct to maintain that monopoly. Of course, I am not now deciding that by satisfying these elements plus damage causation, Novell would meet its burden of proof.” (October 4 Collateral Estoppel Ruling at 1-2).⁶

As an initial matter, “Microsoft does not contest that it had a monopoly in the PC operating system market in the relevant period of June 1994 to March 1996,” and thus Novell need not prove Microsoft’s monopoly power in the relevant market. (*See* Microsoft’s Proposed Final Jury Instruction 20 (Docket #145-3 at 30).) Of course, that monopoly was lawfully obtained and even Roger Noll does not disagree. (Sept. 10, 2009 Deposition of Roger Noll at 79:25-81:16, attached as Ex. A to the Declaration of Steven L. Holley, executed October 5, 2011.) Microsoft also does not contest (although it is immaterial to this action) that it engaged in twelve specific acts found to be anticompetitive in the Government Case between the spring of 1996 (after March 1, 1996) and 1998. (Microsoft’s Opposition at 8-11 (citing *United States v. Microsoft Corp.*, 84 F. Supp. 2d 9, 105 (D.D.C. 1999).) But Novell cannot recover under Section 2 of the Sherman Act for acts directed at Netscape and Sun (or Lotus or other companies). It is Novell’s burden to prove each element of the claim asserted in Count I of the

⁶ Microsoft of course contests—vigorously—that “it engaged in [any relevant] anticompetitive conduct to maintain its operating system monopoly.” The Court no doubt recognizes that fact but was referring to the conduct in the Government Case in a time period not relevant to this action.

Complaint, as this Court explicitly held in its March 2010 denying Microsoft’s motion for summary judgment.⁷

First, in the Court’s 2010 decision on Microsoft’s motion for summary judgment, the Court first analyzed whether the three allegedly anticompetitive acts directed at WordPerfect and Quattro Pro fit within the limited exception provided in *Aspen Skiing Co. v. Aspen Highlands Skiing Corp.*, 472 U.S. 585 (1985), to the general principle that a company—even a monopolist—has no duty to cooperate with its competitors. *Novell*, 699 F. Supp. 2d at 745-47. Novell’s complaints about the three acts at issue—Microsoft’s decision (a) to withdraw support for the namespace extension APIs in Windows 95, (b) not to grant Novell an exemption from the requirements of the Windows 95 logo licensing program, and (c) not to include custom print processor functionality in Windows 95—are all predicated on the argument that Microsoft had a duty to provide its intellectual property and/or product design specifications to Novell on the terms that Novell dictated. Although the Court recognized that “a monopolist generally has a right to refuse to cooperate with a competitor,” it nevertheless believed that a jury should decide whether Novell’s allegations fit within the limited exception provided in *Aspen Skiing*. *Id.* at

⁷ Novell has no standing to complain about or obtain damages for conduct that harmed Netscape or Sun in the Government Case—even if Novell could somehow prove that such conduct harmed WordPerfect and QuattroPro in some attenuated fashion not alleged in the Complaint. *See, e.g., Kloth v. Microsoft Corp.*, 444 F.3d 312, 323-24 (4th Cir. 2006). “Congress did not intend the antitrust laws to provide a remedy in damages for all injuries that might conceivably be traced to an antitrust violation.” *Associated Gen. Contractors of California, Inc. v. California State Council of Carpenters*, 459 U.S. 519, 534 (1983) (citation omitted); *see Tal v. Hogan*, 453 F.3d 1244, 1258 (10th Cir. 2006) (antitrust standing requirements “excludes secondary or remote injuries, such as those suffered by companies that desire to obtain a subcontract from a company injured by an antitrust violation”). On the contrary, Novell escaped summary judgment based specifically on allegations of conduct directed at its products that harmed competition in the PC operating system market. *Novell, Inc. v. Microsoft Corp.*, 2011 WL 1651225, at *5 (4th Cir. May 3, 2011) (“we anchored our standing analysis in Novell’s ability to articulate discrete antitrust harms to its office productivity applications, though those products did not themselves compete with operating systems”) (citation omitted).

745-47. Under the narrow *Aspen Skiing* exception, Novell must prove at trial (a) that each of Microsoft's three allegedly anticompetitive acts constituted the termination of a pre-existing and profitable relationship between the parties, and (b) that each of those acts lacked any valid business justification.

Second, the Court addressed, at pages 747-750 of 699 F. Supp. 2d, the causation standard that applies to Novell's claim. The Court first noted that to prove a monopolization claim under Section 2 of the Sherman Act, a plaintiff "must prove not only that the defendant's conduct was anticompetitive, but also that it caused anticompetitive harm in the relevant market." *Novell*, 699 F. Supp. 2d at 747-48. The Court explained that, "[i]n most § 2 cases, this analysis hinges on whether the exclusionary conduct harmed competition in the market in which the plaintiff was competing with the defendant." *Id.* at 748. However, "in this case," the Court held that "Novell's unique § 2 theory makes the inquiry more complicated: Novell must prove that the specific Microsoft conduct which caused injury to Novell's applications also caused anticompetitive harm in the *PC operating system market*." *Id.* (emphasis in original). Novell did not challenge that decision at the time or on appeal.

Although the Court denied the prong of Microsoft's motion for summary judgment based on Dr. Noll's deposition testimony, it did so on the grounds that "Dr. Noll's proposed testimony raises a genuine issue of fact regarding whether the conduct directed at Novell was a significant contributor to anticompetitive harm in the PC operating system market." *Id.* at 749. In other words, the Court was careful to adhere to its decision that the "conduct directed at Novell" must have been a "significant contributor" to harm in the relevant market. The Court also limited the potential relevance of any allegedly anticompetitive conduct directed at competitors other than Novell, explaining that "Novell has no obligation to create some

‘hypothetical market place,’ in which none of the other ISVs or applications *had been weakened* by anticompetitive conduct.” *Id.* (emphasis added). Novell now ignores the temporal aspect of this sentence (*i.e.*, any “weakening” after the fact is not pertinent) as well as the temporal aspect of a later sentence in the same paragraph: that Novell must prove at trial “that the conduct that harmed its software applications contributed significantly to Microsoft’s monopoly in the PC operating system market considering all the characteristics of *that market at the time*, including the condition of other ISVs and applications.” *Id.* at 749-50 (emphasis added). The Court further stressed that “Novell cannot piggy-back on the anticompetitive harm caused by conduct directed at third parties without actually showing the conduct which injured its applications had an anticompetitive impact as well.” *Id.* at 750.

In sum, conduct in a *later* time period cannot be used to show that the market “had been weakened” when (*i.e.*, “at the time”) the allegedly anticompetitive acts directed at WordPerfect and Quattro Pro took place.

Thus, at trial “Novell must prove that the specific Microsoft conduct which caused injury to Novell’s applications also caused anticompetitive harm in the *PC operating system market*.” *Novell*, 699 F. Supp. 2d at 748 (emphasis in original). As a matter of logic and this Court’s 2010 ruling on Microsoft’s motion for summary judgment, the jury cannot award damages to Novell because of the conduct described in the Findings of Fact. That would allow Novell to piggy-back on later conduct in other markets directed at other competitors without actually proving that Microsoft engaged in any anticompetitive conduct directed at WordPerfect and Quattro Pro during the period Novell owned them. *See Novell*, 699 F. Supp. 2d at 750; *see also Brunswick Corp.*, 429 U.S. at 489 (the harm alleged by a plaintiff in a Section 2 case must “flow[] from that which makes defendant[’s] acts unlawful”); *Four Corners Nephrology Assocs.*,

P.C. v. Mercy Med. Ctr. of Durango, 582 F.3d 1216, 1225 (10th Cir. 2009) (“To succeed in a claim for monopolization or its attempt, [plaintiff] must show not only that he was harmed by [defendant’s] conduct, but that the injury he suffered involved harm to competition.” (citation omitted)).

Third, under the Court’s 2010 decision, Novell must prove “that the conduct that harmed its software applications contributed significantly to Microsoft’s monopoly in the PC operating system market.” *Novell*, 699 F. Supp. 2d at 750; *see also Covad Commc’ns Co. v. Bell Atl. Corp.*, 201 F. Supp. 2d 123, 131-32 (D.D.C. 2002) (“the conduct must make a significant contribution to maintenance of its monopoly power”); 3 PHILIP E. AREEDA & HERBERT HOVENKAMP, *ANTITRUST LAW* ¶ 650c (3d ed. 2011) (“[t]he *plaintiff has the burden* of pleading, introducing evidence, and presumably proving by a preponderance of the evidence that reprehensible behavior has *contributed significantly* to the achievement or maintenance of the monopoly”) (emphasis added).

In fact, when applying the “contributed significantly” standard, this Court noted that the lower standard of “reasonably capable of significantly contributing” standard (a standard alluded to in the October 4 Collateral Estoppel Ruling) only applies in government equitable enforcement actions. *Novell*, 699 F. Supp. 2d at 748 (quoting *Microsoft*, 253 F.3d at 80). By contrast, in “an action for [treble] money damages” by a private party such as Novell, the Court correctly held that “the plaintiff needs to show that the conduct at issue contribut[ed] significantly to a defendant’s continued monopoly power.” *Id.* (quoting *Microsoft Corp.*, 253 F.3d at 80). This is the standard that Novell must satisfy at trial in order to prevail on its claim.

CONCLUSION

Rule 404 does not permit introduction of evidence—or any Findings of Fact given collateral estoppel effect—about Microsoft’s conduct directed at Netscape or Java after the time Novell sold the two products that, according to its Complaint, were harmed by Microsoft’s allegedly anticompetitive conduct.

In addition, under this Court’s prior rulings, Novell must prove that (a) the three allegedly anticompetitive acts directed at WordPerfect and Quattro Pro fall within the limited exception articulated in *Aspen Skiing* to a monopolist’s “right to refuse to cooperate with a competitor,” *Novell*, 699 F. Supp. 2d at 745, (b) caused harm to WordPerfect and Quattro Pro during the period in which Novell owned these applications, *id.* at 750, and (c) that those same three allegedly anticompetitive acts “contributed significantly to Microsoft’s monopoly in the PC operating system market.” *Id.* at 750.

Dated: October 5, 2011

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of October, 2011, I caused a true and correct copy of the foregoing MICROSOFT'S MEMORANDUM CONCERNING THE COURT'S OCTOBER 4, 2011 COLLATERAL ESTOPPEL RULING to be filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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