

**General Docket
Tenth Circuit Court of Appeals**

Court of Appeals Docket #: 12-4143 Nature of Suit: 3410 Antitrust Novell v. Microsoft Corporation Appeal From: United States District Court for the District of Utah - Salt Lake City Fee Status: Fee Paid	Docketed: 08/10/2012 Termed: 09/23/2013
Case Type Information: 1) civil 2) private 3) -	
Originating Court Information: District: 1088-2 : 2:04-CV-01045-JFM Court Reporter: Kelly Hicken, - Court Reporter: Becky Janke, - Court Reporter: Laura Robinson, - Court Reporter: Patti Walker, - Court Reporter: R. Edward Young, - Trial Judge: J. Frederick Motz, -, Senior U.S. District Judge Date Filed: 11/12/2004 Date NOA Filed: 08/10/2012	
Date Rec'd COA: 08/10/2012	
Prior Cases: None	
Current Cases: None	
Panel Assignment: Not available	

NOVELL, INC. Plaintiff - Appellant	<p>David Boies Direct: 914-749-8200 Email: dboies@bsflp.com [NTC Retained] Boies, Schiller & Flexner Firm: 914-749-8200 333 Main Street Armonk, NY 10504</p> <p>Maralyn M. English Direct: 801-322-9173 Email: mme@scmlaw.com [NTC Retained] Snow, Christensen & Martineau Firm: 801/521-9000 10 Exchange Place, 11th Floor P.O. Box 45000 Salt Lake City, UT 84145-5000</p> <p>R. Bruce Holcomb Email: holcomb@adamsholcomb.com [NTC Retained] Adams Holcomb 1875 Eye Street, NW, Suite 810 Washington, DC 20006</p> <p>Jeffrey M. Johnson Direct: 202-420-4726 Email: johnsonj@dicksteinshapiro.com [NTC Retained] Dickstein Shapiro 1825 Eye Street, NW Washington, DC 20006</p> <p>Samuel Kaplan Direct: 202-274-1163 Email: skaplan@bsflp.com</p>
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v.

MICROSOFT CORPORATION
Defendant - Appellee

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AMERICAN ANTITRUST INSTITUTE
Amicus Curiae

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NOVELL, INC.,

Plaintiff - Appellant,












v.

MICROSOFT CORPORATION,

Defendant - Appellee.








AMERICAN ANTITRUST INSTITUTE,

Amicus Curiae.

08/10/2012	<input type="checkbox"/> 	[9992107] Civil case docketed. Preliminary record filed. DATE RECEIVED: 08/10/2012 Docketing statement due 08/24/2012 for Novell, Inc. Transcript order form due 08/24/2012 for Maralyn M. English. Notice of appearance due on 08/24/2012 for Microsoft Corporation and Novell, Inc. [12-4143]
08/22/2012	<input type="checkbox"/>	[9995095] Notice of appearance submitted by David B. Tulchin for Appellee Microsoft Corporation for court review. Certificate of Interested Parties: Yes. Served on 08/22/2012. Manner of Service: ECF/NDA. [12-4143] --[Edited 08/22/2012 by SLS to remove PDF file from docket entry.] DBT
08/22/2012	<input type="checkbox"/> 	[9995141] Notice of appearance filed by Mr. David Bruce Tulchin for Microsoft Corporation. CERT. OF INTERESTED PARTIES: y. Served on 08/22/2012. Manner of Service: FedEx. [12-4143]
08/23/2012	<input type="checkbox"/>	[9995304] Notice of appearance submitted by Steven L. Holley for Appellee Microsoft Corporation for court review. Certificate of Interested Parties: No. Served on 08/23/2012. Manner of Service: ECF/NDA. [12-4143] [Edited to remove PDF as pleading has been filed as of 8/23/12]--[Edited 08/23/2012 by NA] SLH
08/23/2012	<input type="checkbox"/> 	[9995317] Notice of appearance filed by Mr. Steven L. Holley for Microsoft Corporation. CERT. OF INTERESTED PARTIES: n. Served on 08/23/2012. Manner of Service: ECF/NDA [12-4143]
08/23/2012	<input type="checkbox"/> 	[9995456] Docketing statement filed by Novell, Inc.. Served on 08/23/2012. Manner of Service: ECF/NDA. [12-4143] JMJ
08/23/2012	<input type="checkbox"/> 	[9995462] Acknowledgment of transcript order filed by Mr. Jeffrey M. Johnson for Novell, Inc.. Transcript ordered: See filed document.. Served on: 08/23/2012. Manner of Service: ECF/NDA. [12-4143] JMJ
08/23/2012	<input type="checkbox"/>	[9995463] Notice of appearance submitted by Adam S. Paris for Appellee Microsoft Corporation for court review. Certificate of Interested Parties: No. Served on 08/23/2012. Manner of Service: ECF/NDA. --[Edited 08/23/2012 by BV - To delete the attachment; entry filed.] [12-4143] ASP
08/23/2012	<input type="checkbox"/>	[9995467] Minute order filed - Transcript order form due 09/06/2012 for Kelly Hicken, Becky Janke, Laura Robinson, Patti Walker and R. Edward Young. (Multiple court reporters listed on transcript order form). (Text Only - No Attachment) [12-4143].
08/23/2012	<input type="checkbox"/> 	[9995469] Notice of appearance filed by Mr. Adam S. Paris for Microsoft Corporation. CERT. OF INTERESTED PARTIES: n. Served on 08/23/2012. Manner of Service: ECF/NDA. [12-4143]
08/24/2012	<input type="checkbox"/>	[9995787] Notice of appearance submitted by Jeffrey M. Johnson and James R. Martin for Appellant Novell, Inc. for court review. Certificate of Interested Parties: Yes. Served on 08/24/2012. Manner of Service: ECF/NDA. [12-4143] --[Edited 08/24/2012 by AT to remove PDF as pleading was filed on 8/24/12.] JMJ
08/24/2012	<input type="checkbox"/>	[9995789] Notice of appearance submitted by Miriam R. Vishio for Appellant Novell, Inc. for court review. Certificate of Interested Parties: No. Served on 08/24/2012. Manner of Service: ECF/NDA. [12-4143] --[Edited 08/24/2012 by SLS to remove PDF file from docket entry.] JMJ
08/24/2012	<input type="checkbox"/>	[9995797] Notice of appearance submitted by John E. Schmidlein for Appellant Novell, Inc. for court review. Certificate of Interested Parties: No. Served on 08/24/2012. Manner of Service: ECF/NDA. [12-4143]--[Edited 08/24/2012 by KLP to delete the attachment; entry filed.] JMJ
08/24/2012	<input type="checkbox"/>	[9995798] Notice of appearance submitted by R. Bruce Holcomb for Appellant Novell, Inc. for court review. Certificate of Interested Parties: No. Served on 08/24/2012. Manner of Service: ECF/NDA. [12-4143] [Edited to remove PDF as pleading has been filed as of 8/24/12]--[Edited 08/24/2012 by NA] JMJ
08/24/2012	<input type="checkbox"/> 	[9995811] Notice of appearance filed by John E. Schmidlein for Novell, Inc. CERT. OF INTERESTED PARTIES: n. Served on 08/24/2012. Manner of Service: ECF/NDA and FedEx. [12-4143]
08/24/2012	<input type="checkbox"/> 	[9995829] Notice of appearance filed by Miriam R. Vishio for Novell, Inc. CERT. OF INTERESTED PARTIES: n. Served on 08/24/2012. Manner of Service: ECF/NDA, FedEx. [12-4143]
08/24/2012	<input type="checkbox"/> 	[9995840] Notice of appearance filed by Mr. Jeffrey M. Johnson for Novell, Inc. and James R. Martin for Novell, Inc.. CERT. OF INTERESTED PARTIES: y (Most of the Parties listed are or were counsel of record). Served on 08/24/2012. Manner of Service: ECF/NDA. [12-4143]
08/24/2012	<input type="checkbox"/> 	[9995851] Notice of appearance filed by R. Bruce Holcomb for Novell, Inc.. CERT. OF INTERESTED PARTIES: n. Served on 08/24/2012. Manner of Service: ECF/NDA [12-4143]
08/24/2012	<input type="checkbox"/>	[9995869] Notice of appearance submitted by Max D. Wheeler, Maralyn M. English for Appellant Novell, Inc. for court review. Certificate of Interested Parties: No. Served on 08/24/2012. Manner of Service: ECF/NDA. [12-4143] --[Edited 08/24/2012 by AT to remove PDF as pleading was filed on 8/24/12.] MME
08/24/2012	<input type="checkbox"/> 	[9995882] Notice of appearance filed by Ms. Maralyn M. English and Mr. Max D. Wheeler for Novell, Inc.. CERT. OF INTERESTED PARTIES: n. Served on 08/24/2012. Manner of Service: ECF/NDA. [12-4143]
08/28/2012	<input type="checkbox"/>	[9996524] Notice of appearance submitted by Sharon L. Nelles for Appellee Microsoft Corporation for court review. Certificate of Interested Parties: No. Served on 08/28/2012. Manner of Service: ECF/NDA. [12-4143] --[Edited 08/28/2012 by AT to remove PDF as pleading was filed on 8/28/12.] SN

08/28/2012	<input type="checkbox"/>	[9996582] Notice of appearance filed by Ms. Sharon Nelles for Microsoft Corporation. CERT. OF INTERESTED PARTIES: n. Served on 08/28/2012. Manner of Service: ECF/NDA. [12-4143]
08/28/2012	<input type="checkbox"/>	[9996688] Notice of appearance submitted by James S. Jardine Justin T. Toth John W. Mackay for Appellee Microsoft Corporation for court review. Certificate of Interested Parties: No. Served on 08/28/2012. Manner of Service: ECF/NDA. [12-4143]--[Edited 08/29/2012 by KLP to delete the attachment; entry filed.] JSJ
08/29/2012	<input type="checkbox"/>	[9996748] Notice of appearance filed by Mr. James S. Jardine, Mr. John Wendell Mackay and Mr. Justin Toth for Microsoft Corporation. CERT. OF INTERESTED PARTIES: n. Served on 08/29/2012. Manner of Service: ECF/NDA. [12-4143]
09/11/2012	<input type="checkbox"/>	[10000174] Filed notice record is complete. Served on 09/11/2012. Appellant's brief and appendix due on 10/22/2012 for Novell, Inc. [12-4143]
09/14/2012	<input type="checkbox"/>	[10001695] Notice of Mediation Conference filed by the Tenth Circuit Mediation Office. Case is referred for mediation conferencing; conference scheduled for Friday, September 28, 2012 at 10:00 a.m. Mountain Daylight Time. Please review the attached Notice for additional information. [12-4143]
09/18/2012	<input type="checkbox"/>	[10002544] Notice of appearance submitted by David Boies & Joshua Schiller for Appellant Novell, Inc. for court review. Certificate of Interested Parties: No. Served on 09/18/2012. Manner of Service: ECF/NDA. [12-4143]--[Edited 09/18/2012 by AT to remove PDF as pleading was filed on 9/18/12.] JIS
09/18/2012	<input type="checkbox"/>	[10002585] Notice of appearance filed by Mr. Joshua I. Schiller and Mr. David Boies for Novell, Inc. CERT. OF INTERESTED PARTIES: n. Served on 09/18/2012. Manner of Service: ECF/NDA. [12-4143]
09/18/2012	<input type="checkbox"/>	[10002646] Notice of appearance submitted by Samuel Kaplan for Appellant Novell, Inc. for court review. Certificate of Interested Parties: No. Served on 09/18/2012. Manner of Service: ECF/NDA. [12-4143]--[Edited 09/18/2012 by KLP to delete the attachment; entry filed.] SK
09/18/2012	<input type="checkbox"/>	[10002668] Notice of appearance filed by Mr. Samuel Kaplan for Novell, Inc. CERT. OF INTERESTED PARTIES: n. Served on 09/18/2012. Manner of Service: ECF/NDA and Federal Express. [12-4143]
09/19/2012	<input type="checkbox"/>	[10002846] Admissions letter sent. Response date set to 10/19/2012 for Joshua I. Schiller. [12-4143]
09/19/2012	<input type="checkbox"/>	[10003067] Notice of appearance submitted by Stuart Singer for Appellant Novell, Inc. for court review. Certificate of Interested Parties: No. Served on 09/19/2012. Manner of Service: ECF/NDA. [12-4143]--[Edited 09/19/2012 by SLS to remove PDF file from docket entry.] SHS
09/19/2012	<input type="checkbox"/>	[10003111] Notice of appearance filed by Mr. Stuart H. Singer for Novell, Inc. CERT. OF INTERESTED PARTIES: n. Served on 09/19/2012. Manner of Service: ECF/NDA, FedEx. [12-4143]
09/28/2012	<input type="checkbox"/>	[10005917] On the court's own motion and pursuant to 10th Cir. R. 33.1, order filed by (CLK) extending time to file appellant's brief until 11/21/2012. Appellant's brief and appendix due on 11/21/2012 for Novell, Inc. Appellee's brief due 01/23/2013 for Microsoft Corporation. Reply brief due 02/22/2013 for Novell, Inc. [12-4143]
10/01/2012	<input type="checkbox"/>	[10006144] Motion filed by Appellant Novell, Inc. for attorney John E. Schmidlein to withdraw as counsel.. Served on: 10/01/2012. Manner of service: ECF/NDA. [12-4143] JMJ
10/01/2012	<input type="checkbox"/>	[10006231] Order filed by Clerk of the Court granting Attorney John E. Schmidlein's motion to withdraw as counsel for the appellant. Served on 10/01/2012. [12-4143]
11/05/2012	<input type="checkbox"/>	[10016364] Motion filed by Appellant Novell, Inc. to file an oversize brief 26500 words long. Served on: 11/05/2012. Manner of service: ECF/NDA. [12-4143] JMJ
11/06/2012	<input type="checkbox"/>	[10016761] Order filed by Judges Kelly and Gorsuch denying appellant's motion to file over-length filed by Appellant Novell, Inc. Served on 11/06/2012. [12-4143]
11/07/2012	<input type="checkbox"/>	[10017131] Motion filed by Appellant Novell, Inc. to file an oversize brief 21500 words long. Served on: 11/07/2012. Manner of service: ECF/NDA. [12-4143] JMJ
11/09/2012	<input type="checkbox"/>	[10017866] Order filed by Judges Kelly and Gorsuch denying Appellant's Renewed Motion for Leave to File Over-Length Principle Brief. Served on 11/09/2012. [12-4143]
11/21/2012	<input type="checkbox"/>	[10021322] Motion filed by Novell, Inc. to seal Volume XXIV of the Joint Appendix. Served on: 11/21/2012 Manner of service: ECF/NDA. [12-4143]--[Edited 11/21/2012 by KLP to correct the event. The motion is not sealed.] JMJ
11/21/2012	<input type="checkbox"/>	[10021391] Appellant/Petitioner's brief filed by Novell, Inc.. 7 paper copies to be provided to the court. Served on 11/21/2012 by ECF/NDA. Oral argument requested? Yes. [12-4143] JMJ
11/21/2012	<input type="checkbox"/>	[10021587] Order filed by Clerk of the Court provisionally granting appellant's motion for leave to file portions of the joint appendix under seal [10021322-2]. The ultimate propriety of keeping it under seal is referred to the panel on the merits. Served on 11/21/2012. [12-4143]
11/26/2012		

	<input type="checkbox"/>	[10022072] Certificate of service filed by Mr. Jeffrey M. Johnson for Novell, Inc.. Document served: Joint Appendix (hard copy, served via Federal Express Standard Overnight). Served on 11/21/2012. Manner of Service: US mail. [12-4143] JMJ
11/26/2012	<input type="checkbox"/>	[10022093] joint Appendix filed by Appellant Novell, Inc. Original and 1 copy. Appendix pages: 16,706. Number of volumes: 24. (Volume 24 is provisionally SEALED.) Hardcopy only. Served on 11/21/2012. Manner of Service: FedEx. [12-4143]
11/26/2012	<input type="checkbox"/>	[10022095] Minute order filed - Appellee's brief now due 01/23/2013 for Microsoft Corporation. (Deadline set per Circuit Mediation's 9/28/12 letter/order.) (Text Only - No Attachment) [12-4143]
01/23/2013	<input type="checkbox"/>	[10038098] Appellee/Respondent's brief filed by Microsoft Corporation. 7 paper copies to be provided to the court. Served on: 01/23/2012. Manner of service: email, ECF/NDA. Oral argument requested? Yes. [12-4143] DBT
01/24/2013	<input type="checkbox"/>	[10038589] Minute order filed - Appellant's optional reply brief now due 02/22/2013 for Novell, Inc. (Text Only - No Attachment) [12-4143]
02/08/2013	<input type="checkbox"/>	[10043633] Stipulated notice of availability for the May argument calendar filed by Appellant Novell, Inc. Served on: 02/07/2013. Manner of service: email. [12-4143] --[Edited 02/08/2013 by SLS to correct docket event and text to reflect that this is a letter/notice rather than a motion to appoint counsel.] JIS
02/22/2013	<input type="checkbox"/>	[10047663] Appellant/Petitioner's reply brief filed by Novell, Inc.. 7 paper copies to be provided to the court. Served on 02/22/2013. Manner of Service: ECF/NDA. [12-4143] JMJ
03/04/2013	<input type="checkbox"/>	[10049987] Calendar notice sent to counsel. Arguments to be held on 05/06/2013 at 9:00 a.m. in Courtroom II of the Byron White United States Courthouse, Denver, CO. Counsel is required to go to http://www.ca10.uscourts.gov under the argument calendar tab to obtain an important notice regarding calendared cases and required forms. The calendar acknowledgment form must be completed and filed with the clerk via Electronic Case Filing within 10 days of today's date. [12-4143]
03/04/2013	<input type="checkbox"/>	[10050182] Oral Argument Acknowledgment Form filed by. Served on 03/04/2013. Manner of Service: ECF/NDA. [12-4143] JIS
03/06/2013	<input type="checkbox"/>	[10050807] Oral Argument Acknowledgment Form filed by Microsoft Corporation. Served on 03/06/2013. Manner of Service: ECF/NDA. [12-4143] DBT
05/06/2013	<input type="checkbox"/>	[10068945] Case argued by David Boles for Appellant and by David Tulchin for Appellee; Submitted to Judges Kelly, Gorsuch and Holmes. [12-4143]
05/23/2013	<input type="checkbox"/>	[10075085] Motion filed by Appellant Novell, Inc. to release the oral argument recording. Served on: 05/23/2013. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes.--[Edited 05/23/2013 by BV motion cited as deficient on 05/23/13.] [12-4143] JIS
05/23/2013	<input type="checkbox"/>	[10075106] Notice of deficient motion received from Appellant Novell, Inc. Attorney motion to release oral argument recording [10075085-2] . Type of deficiency: No disclosure of opponent's position. Served on 05/23/2013. Manner of Service: email. Corrected motion due 06/03/2013 for Novell, Inc. [12-4143]
05/29/2013	<input type="checkbox"/>	[10076418] Motion filed by Appellant Novell, Inc. to release the oral argument recording. Served on: 05/29/2013. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [12-4143] JIS
06/10/2013	<input type="checkbox"/>	[10080162] Order filed by Judges Kelly, Gorsuch and Holmes granting Attorney motion to release oral argument recording. Served on 06/10/2013. [12-4143]
09/23/2013	<input type="checkbox"/>	[10110498] Order filed by Judges Kelly, Gorsuch and Holmes [as found in the court's opinion] granting motion to seal portions of the joint appendix. [Text only entry. No document attached.] [12-4143]
09/23/2013	<input type="checkbox"/>	[10110500] Affirmed. Terminated on the merits after oral hearing. Written, signed, published. Judges Kelly, Gorsuch (authoring) and Holmes. Mandate to issue. [12-4143]
09/23/2013	<input type="checkbox"/>	[10110504] Judgment for opinion filed. [12-4143]
09/27/2013	<input type="checkbox"/>	[10112194] Motion filed by Appellant Novell, Inc. to extend time to file petition for rehearing until 10/22/2013. Served on: 09/27/2013. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [12-4143] JMJ
09/30/2013	<input type="checkbox"/>	[10112365] Order filed by Judges Kelly, Gorsuch and Holmes granting appellant's motion to extend time to file petition for rehearing. The petition for rehearing shall be served and filed on or before October 22, 2013. Served on 09/30/2013. [12-4143]
10/22/2013	<input type="checkbox"/>	[10118541] Petition for rehearing en banc filed by Novell, Inc.. Original and 12 copies. Served on 10/22/2013. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [12-4143] JMJ
10/22/2013	<input type="checkbox"/>	[10118568] Petition for panel rehearing filed by Novell, Inc.. 12 copies. Served on 10/22/2013. Manner of Service: email. [12-4143]

10/29/2013	<input type="checkbox"/>	[10120360] Notice of appearance submitted by Richard Brunell for American Antitrust Institute Amicus Curiae for court review. Certificate of Interested Parties: No. Served on 10/29/2013. Manner of Service: email. [12-4143] --[Edited 10/29/2013 by SLS to remove PDF file from docket entry.] RMB
10/29/2013	<input type="checkbox"/>	[10120366] Amicus Curiae brief submitted by American Antitrust Institute. 12 paper copies to be provided to the court. Served on 10/29/2013. Manner of Service: email, US mail. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [12-4143] [Edited to remove PDF as pleading has been filed per the court's order of 11/1/13-- Edited 11/01/2013 by NA] RMB
10/29/2013	<input type="checkbox"/> 	[10120522] Notice of appearance filed by Mr. Richard M. Brunell for American Antitrust Institute. CERT. OF INTERESTED PARTIES: n. Served on 10/29/2013. Manner of Service: email. [12-4143]
10/29/2013	<input type="checkbox"/>	[10120943] Amicus Brief in support of appellant's petition for rehearing en banc received from American Antitrust Institute, but not filed pending ruling from the court. Original and 12 copies. Served on 10/29/2013. Manner of Service: US mail, email. [12-4143] [Edited to remove PDF as pleading has been filed per the court's order of 11/1/13-- Edited 11/01/2013 by NA]
10/29/2013	<input type="checkbox"/> 	[10121619] Amicus Curiae brief filed by American Antitrust Institute. Original and 12 copies.. Served on 10/29/2013. Manner of Service: US mail, email. [12-4143]
11/01/2013	<input type="checkbox"/> 	[10121621] Order filed by Judges Kelly, Gorsuch and Holmes denying petition for rehearing and denying petition for rehearing en banc filed by Appellant Novell, Inc. The clerk shall show the "Brief of Amicus Curiae American Antitrust Institute Supporting Plaintiff-Appellant's Petition for Rehearing En Banc" as filed as of the date of tender. [12-4143]
11/12/2013	<input type="checkbox"/> 	[10123888] Mandate issued. [12-4143]
01/27/2014	<input type="checkbox"/> 	[10144211] Supreme Court order extending time to file a petition for a writ of certiorari to 2/28/14. [12-4143]
03/04/2014	<input type="checkbox"/> 	[10154346] Petition for writ of certiorari filed by Inc. Novell on 02/27/2014. Supreme Court Number 13-1042. [12-4143]
04/28/2014	<input type="checkbox"/> 	[10170656] Supreme Court order dated 04/28/2014 denying certiorari filed by Novell, Inc. [12-4143]

- Documents and Docket Summary**
- Documents Only**

Include Page Numbers

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