

Bill Gates to Testify at Novell Antitrust Trial

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This week, Novell Inc. and Microsoft Corp. began what is expected to be an eight-week antitrust jury trial in a Utah federal court. Opening statements took place Tuesday, October 18. In 2004, Novell sued Microsoft claiming Microsoft violated U.S. antitrust laws. Novell originally brought six claims, but five of the claims have been dismissed by Judge J. Frederick Motz. The trial in Utah addresses this final claim.

The issue is whether Microsoft, while holding monopoly power in the PC operating system market, took actions to try to squeeze out Novell's place among independent software vendors using its monopoly. One claim is that Microsoft employed unlawful tactics to increase its monopoly power, like delaying release of Windows 95 to keep Novell's WordPerfect word processing program and Quattro Pro spreadsheet application from gaining a place in the market.

According to news reports, Microsoft attorneys argue that Novell is responsible for its own failings, and that antitrust law does not require people to design their products to the whims or demands of other companies. Bill Gates is expected to testify this week about business decisions regarding the release of Windows 95. Novell's strongest evidence is an email Gates sent in 1994, in which Gates told developers to "wait until we have a way to do a high level of integration that will be harder for [the] likes of Notes, WordPerfect to achieve, and which will give Office a real advantage." Gates will likely take the stand to answer what will certainly be tough questions from Novell about this email. In a statement, Gates said the issue was not about shutting out competitors but about fostering innovation.

Originally, the case was transferred by an MDL panel from Utah to the District of Maryland for combined pretrial proceedings in front of Judge Motz with other cases relating to Microsoft. The case is now back in the Utah federal court for trial, and Judge Motz has been appointed to try the case there.

Novell is seeking \$500 to \$1.2 billion in compensation for this particular antitrust claim. Gates will only be one of many who will testify in this trial, but his testimony is of course highly anticipated. To read more about the case, click here:

<http://www.pcmag.com/article2/0,2817,2394952,00.asp#fbid=dpgxGqLISsX>

<http://abcnews.go.com/Technology/wireStory/novell-microsoft-utah-trial-windows-95-14769519>