

Meeting
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DLA CONSIDERATIONS

- * LONG TERM - 16 years ?
- * SCOPE -- EXPAND SCOPE TO DEVELOPMENT & LICENSING AGREEMENT TO INCLUDE ADDITIONAL PRODUCTS LIKE DOS, WINDOWS, ETC.
- * RIGHTS TO DERIVATIVE WORKS OF PRODUCTS DEVELOPED UNDER DLA
- * NEW MANAGEMENT AND DEVELOPMENT PROCESS - *similarly in a separate document*
- * GENERAL ROYALTY PRINCIPLES -- EXCEPTIONS FOR SPECIFIC PRODUCTS
 - EQUITABLE INVESTMENT/RETURN
 - PER COPY ROYALTY BY EACH PARTY ON ITS SALES
 - ROYALTY SPLIT BASED ON AGREED DEVELOPMENT INVESTMENT SPLIT
 - OVER-RUNS FOR AGREED FUNCTION ARE SHARED 50/50
 - EACH PARTY HAS WILDCARDS FOR DELTA FUNCTION UP TO X%;
 - EXCESS REQUIRED IN BASE PRODUCT PAID BY REQUESTER
 - DELTA FUNCTION NOT IN BASE = DERIVATIVE WORK
 - ROYALTIES NETTED AND PAID QUARTERLY
- * OTHER ROYALTY CONSIDERATIONS
 - DERIVATIVE WORKS
 - OTHER MACHINE ARCHITECTURES
 - ZERO NET FLOW PROVISION
 - DEVICE DRIVERS
 - PAID UP LICENSE
- * INTELLECTUAL PROPERTY CONSIDERATIONS
 - OBJECT CODE COPYRIGHT
 - DISCLOSURE RIGHTS TO SOURCE CODE
 - RIGHT TO LICENSE SOURCE CODE TO 3rd PARTIES
 - RIGHT OF 1st REFUSAL TO PARTICIPATE IN DEVELOPMENT OF DERIVATIVE WORKS OF DLA PRODUCTS
 - ROYALTIES PAID BY MARKETER OF SUCH DERIVATIVE WORKS
 - EXPAND PATENT RIGHTS & IMMUNITIES
 - *a full separate patent cross-license?*
 - *Trademarks - attribution? ownership?*
 - * REQUIRE JOINT ATTRIBUTION ON DLA PRODUCTS
 - *"developed by ..."*

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DLA CONSIDERATIONS

COMMITMENT

* CURRENT JDA

- COMMITMENTS ARE ONE RELEASE AT A TIME
- PHASE II DOCUMENT ASSIGNS DEVELOPMENT RESPONSIBILITIES
- IBM MAY TERMINATE PHASE DOCUMENT W/O LIABILITY

* CONSIDERATIONS -- LENGTH & SCOPE

- TEN YEARS FOR STRUCTURE & PROCESS - TERMINABLE AT WILL
- SURVIVABILITY
 - INTELLECTUAL PROPERTY RIGHTS
 - ROYALTIES
 - RIGHTS & PROCEDURES TO DERIVATIVE WORKS
 - ETC.
- PHASE II RELEASE BY RELEASE...LENGTH OF DEVELOPMENT CYCLE
- TERMINATION AT WILL PRIOR TO SPEC APPROVAL - FOR CAUSE AFTER SPEC APPROVAL
 - RESOURCES/FUNDING
 - OBJECTIVES/SPECS
 - REMEDIES FOR NOT MEETING SCHEDULES

* DERIVATIVE WORKS OF DLA PRODUCTS

- RIGHT OF FIRST REFUSAL AND ROYALTIES
 - IF REFUSING PARTY LATER DESIRES TO LICENSE, DEVELOPER IS ENTITLED TO % REIMBURSEMENT OF DEVELOPMENT
 - COMPATIBLE EXTENSIONS (NOT DLA PRODUCTS)
 - TREATED AS DERIVATIVE WORKS(?)
 - TO BE SPECIFIED

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DEVELOPMENT & LICENSING AGREEMENT

DLA MANAGEMENT

- DLA MANAGEMENT BOARD
 - CO-CHAIRLED BY DESIGNATED EXECUTIVE FROM EACH COMPANY (HANRAHAN, BALLMER)
 - REPRESENTATION FROM THE FOLLOWING JOINT BOARDS
- JOINT REQUIREMENTS PLANNING BOARD (REISWIG)
 - OPPORTUNITY
 - STRATEGY
 - JOINT DEVELOPMENT
 - AFFORDABILITY
 - REQUIREMENTS
- JOINT ARCHITECTURE BOARD (LOUCKS)
 - TECHNOLOGY SELECTION
 - SYSTEM STRUCTURE
 - TECHNICAL PRIORITIES
- JOINT BOARD FOR MARKETING SUPPORT (NEUPERT)
 - POSITIONING
 - TRAINING
 - BRIEFINGS
 - PROMOTIONS (ADVERTISING, BUSINESS SHOWS, ISV SUPPORT...)
- DLA DEVELOPMENT (MARITZ, KARNES, ETC.)
 - STRUCTURED BY PRODUCT/SUBSYSTEM
 - MANAGED BY A SINGLE EXECUTIVE FROM DEVELOPING COMPANY RESPONSIBLE TO DLA MANAGEMENT BOARD
 - RESPONSIBILITY FROM PRODUCT ARCHITECTURE THRU SYSTEM TEST & DOCUMENTATION
 - STAFFED BY ONE OR BOTH COMPANIES AS REQUIRED/AGREED
 - DEVELOPMENT WITHIN OBJECTIVES DEFINED BY JAB/JRPB
 - DEVELOPMENT PROCESS & TOOLS DEFINED BY COMMON PROCESS/TOOLS GROUP
 - RESPONSIBLE FOR MAINTENANCE AND FIELD SUPPORT

NOT COVERED UNDER DLA (EACH PARTY DOES INDEPENDENTLY)

- PRODUCT SALES, PRICING, DISCOUNT STRUCTURE
- CUSTOMER CALLS
- ADVERTISING
- BUSINESS SHOWS
- ISV SUPPORT
- TECHNICAL SUPPORT (CUSTOMER & ISV)

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DEVELOPMENT RESPONSIBILITY

* DEVELOPMENT "OWNER" INCORPORATES REQUIREMENTS OF LICENSEE

* DEVELOPMENT PRODUCT MANAGEMENT

- PRODUCT & MARKET REQUIREMENTS
- PRODUCT/SUBSYSTEM ARCHITECTURE
 - PRODUCT/SUBSYSTEM STRUCTURE
 - INTERFACE DEFINITION
 - COMPONENT DEFINITION
 - PRODUCT ARCHITECTURE DOCUMENT
 - INTERFACE TO SYSTEM ARCHITECTURE
- DESIGN (DESIGN SPEC = TECHNICAL REFERENCE MANUAL)
- CODING & UNIT TEST
- COMPONENT TEST
- SYSTEM TEST
- DOCUMENTATION
- ISV TECHNICAL SUPPORT
- NATIONAL LANGUAGE SUPPORT AND TRANSLATION

* PROGRAM MANAGEMENT

- PLAN MANAGEMENT
- ANNOUNCEMENT CYCLE
- INTERFACE TO HARDWARE DEVELOPERS
- TECHNICAL PLANNING
- PROJECT OFFICE
- OEM ADAPTATION
- TESTING
- MANUFACTURING
- REQUIREMENTS

* PROCESS/TOOLS GROUP

- DEFINE/DOCUMENT DEVELOPMENT PROCESS
- DEVELOP/MAINTAIN DEVELOPMENT TOOLS

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PRODUCT SCOPE/PROPOSED DEVELOPMENT RESPONSIBILITY

		----- HEADCOUNT -----		
		<u>CUR IBM</u>	<u>CUR MS</u>	<u>TGT</u>
<u>MICROSOFT</u>				
--	DOS	60-70	10-15 \	<100
--	WINDOWS	8	70 /	
--	SE (INCLUDING PORTABLE)	600-700	250-350	500-600
--	PM			
--	DOS, WINDOWS, OS/2 TOOLKITS			
		660-770	260-365 +OEMs 330-435	600-700
<u>IBM AUSTIN</u>				
--	LAN/DISTRIBUTED SERVICES	100-125	175-200	200-250
--	DATABASE COMMUNICATIONS	700-800	10-20 +OEMs	400-500
--	SHELL	50-100	10-15	50-75
--	CUA			
		850-1025	195-235 +OEMs	650-825
<u>TBD</u>				
--	DISTRIBUTED PM			
--	LM/X			
--	PM/X			
--	DM/X			
--	CM/X			
--	OOPS			
--	MULTIMEDIA			
--	TOOLKIT EXTENSIONS			

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DOS SUMMARY

* CURRENT STATUS

- STANDALONE AGREEMENTS
 - RELEASE BY RELEASE
 - NO AGREEMENT FOR FUTURES
 - USUALLY ONE PARTY DEVELOPS
- RIGHTS
 - OWNED BY PARTY THAT WROTE CODE
 - IBM HAS RIGHT TO DISTRIBUTE OBJECT CODE ONLY
 - IBM DOES NOT HAVE RIGHT TO DISTRIBUTE SOURCE OF ORIGINAL OR DERIVATIVE WORKS
 - MS HAS RIGHT TO DISTRIBUTE SOURCE TO OEM'S INCLUDING IBM DERIVATIVE WORKS
- ROYALTY
 - RECENT RELEASES: ONE TIME PAID UP FEE (NOMINAL)
 - \$15/DOS LICENSE IF MS BASIC DISTRIBUTED OUTSIDE ROM
 - ONE-TIME PER PLATFORM CHARGE TO DISTRIBUTE FOR NON-INTEL x86 HARDWARE
- NO LOGO RIGHTS
- PATENT COPYRIGHT INDEMNITIES ARE TOO LIMITED

* IBM'S INTERESTS & CONCERNS

- DOS SHOULD BE UNDER DLA; PHASE I/II CONCEPT LIKE OS/2
- MICROSOFT PRIMARY DEVELOPER(?)
 - ^{same} WOULD AGREE ON TARGET RESOURCES (SMALL EFFORT)
 - IBM SYSTEMS SHOULD BE REFERENCE HARDWARE
 - OEM ADAPTATION WOULD BE SEPARATELY RESOURCED
 - DEVICE DRIVERS FOR REFERENCE HARDWARE SHOULD BE INCLUDED IN BASE DEVELOPMENT
 - IBM ROM-DOS AND ROM-SHELL WOULD HAVE TO BE INCLUDED
- ELIMINATE ROM-BASIC ROYALTY
- NOMINAL ONE-TIME CHARGE FOR NEW VERSIONS, < \$350K
- GUARANTEE IBM RIGHT TO FUTURE RELEASES UNDER SIMILAR TERMS
- REQUIRE ATTRIBUTION (joint)

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WINDOWS SUMMARY

* CURRENT LICENSE AGREEMENT

- MICROSOFT DEVELOPS
- VERSION 2.x: \$12/9 COMMERCIAL ROYALTY, \$3 EDUCATION
- IBM HAS RIGHT TO DISTRIBUTE ORIGINAL AND DERIVATIVE WORKS IN OBJECT CODE ONLY
- LICENSE TO SOURCE CODE FOR IBM INTERNAL USE ONLY
- BOTH HAVE RIGHTS TO PRODUCE DERIVATIVE WORKS
- FUTURE RIGHTS TO 3.x EQUAL TO MOST-FAVORED CUSTOMER

* CURRENT VERSION 2.x VPA

- IBM DISTRIBUTES MS MANUFACTURED PACKAGES
- IBM PAYS \$25 FOR 286, \$45 FOR 386
- MS CAN RAISE PRICE ON 45 DAY'S NOTICE

* IBM INTERESTS & CONCERNS

- INCLUDE UNDER NEW DLA
- INCLUDE WIN 2.X AND WIN 3.0
- MICROSOFT PRIMARY DEVELOPER
 - TARGET RESOURCES (SMALL EFFORT)
 - REFERENCE HARDWARE
 - DEVICE DRIVERS
- ROYALTIES (LICENSE)
 - \$9/UNIT COMMERCIAL TO MS; \$3/UNIT EDUCATION TO MS
 - NOT TO EXCEED 10% OF RETAIL
 - MOST-FAVORED CUSTOMER PROVISION
 - WHAT IF COMBINED W/DOS
 - WHAT IF SHIPPED W/HARDWARE
 - MICROSOFT ROYALTY TO IBM FOR EXCESS WINDOWS SALES
- VOLUME PURCHASE AGREEMENT
 - COMMERCIAL & EDUCATION SCALES
- FUTURE RELEASES

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OS/2 SE/PORTABLE/LAN

* CURRENT JDA FOR SE

- IBM & MICROSOFT JOINTLY DEVELOP
- COMMIT RELEASE BY RELEASE
- ROYALTIES
- IBM PAYS \$30.50
- MS CREDITS \$15.50 (ZERO NET FLOW FROM MS)
- BOTH PARTIES HAVE RIGHTS TO DISTRIBUTE OBJECT
- SOURCE CODE DISTRIBUTION SUBJECT TO RESTRICTIONS

* CURRENT LAN MANAGER LICENSE AGREEMENT

- MS DEVELOPS BASE CODE
- IBM SEPARATELY DEVELOPS ENHANCEMENTS
- MS LICENSES ITS BASE TO IBM
- SEPARATE AMENDMENT FOR EACH RELEASE
- NO RIGHT TO FUTURE WORK
- SOURCE CODE: IBM INTERNAL USE ONLY
- DERIVATIVE WORKS: IBM CAN PREPARE AND DISTRIBUTE IN OBJECT CODE
- IBM NOT REQUIRED TO LICENSE ENHANCEMENTS TO MS
- ROYALTIES
- IBM PAYS MS \$350/250/200 BASED ON VOLUME (\$15K/25K CUMULATIVE)
- IBM ALSO PAYS A ONE TIME PAYMENT PER RELEASE, e.g. \$200K

* IBM INTERESTS & CONCERNS

- SE, PORTABLE AND LAN UNDER DLA
- DEVELOPMENT SPLIT
- MS DEVELOPS, TESTS SE, PM AND RELATED TOOLS
- IBM DEVELOPS, TESTS LAN, SE SHELL, CUA AND RELATED TOOLS
- UNIQUE HARDWARE ADAPTATION AND TESTING IS SEPARATE
- ROYALTIES
- ZERO FLOW
- PER-COPY ROYALTIES FOR EACH PRODUCT
- EQUITABLE RETURN FOR INVESTMENT
- JOINT ATTRIBUTION

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OS/2 ES SUMMARY

* CURRENT AGREEMENT

-- NONE

* REPACKAGE EE (MINUS SE & CLIENTS)

-- ES SINGLE USER
- PRE-REQ SE

mid - 70 / could slip --

-- ES SERVER
- PRE-REQ SE & LAN MGR

-- IBM DEVELOPMENT

* DISTRIBUTION -- MS/OEM/BOTH?

-- TESTING
-- UNIQUE ADAPTATION?
-- ENHANCEMENTS?

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KEY COMMON OBJECTIVES

- * PROVIDE BROADEST BASE OF COMMON SYSTEM SOFTWARE IN THE INDUSTRY
- * MAKE OS/2 THE MOST SUCCESSFUL OPERATING SYSTEM IN THE INDUSTRY
- * MAINTAIN EFFECTIVE JOINT CONTROL OF PRODUCT DIRECTION
 - INVESTMENT LEVEL
 - PRODUCT CONTENT
 - DESIGN DIRECTION
- * EQUITABLE INVESTMENT, EQUITABLE RETURN OVER LIFE OF DLA
 - 50/50 TOTAL DEVELOPMENT INVESTMENT
 - MAINTAIN BALANCED INTEREST IN LARGE POTENTIAL OS/2 REVENUE
- * LOWER TOTAL INVESTMENT
- * FOSTER COMMON OBJECTIVES & MINIMIZE POTENTIAL FOR CONFUSION OF ISV'S AND CUSTOMERS
- * SYNERGISTIC INVESTMENT STRATEGY FOR OPERATING SYSTEMS
 - DERIVATIVES
 - EXTENSIONS
- * STREAMLINE DECISION PROCESS
- * IMPROVE DEVELOPMENT EFFICIENCY

Handwritten notes:
 Not 4 - means 50/50.
 ...
 ...

Handwritten notes:
 * (some differences) - ...
 * ...
 * ...
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PROPOSED TARGET EXPENDITURES
(NOT INCLUSIVE OF TRANSLATION)

		----- HEADCOUNT -----		
		<u>CUR IBM</u>	<u>CUR MS</u>	<u>TGT</u>
--	DOS	60-70	10-15 \	<100
--	WINDOWS	0	70 /	
--	SE (INCLUDING PORTABLE)	\ >	600-700	250-350
--	PM			
--	DOS, WINDOWS, OS/2 TOOLKITS			
--	LAN/DISTRIBUTED SERVICES	100-125	175-200	200-250
--	DATABASE	\	700-800	10-20
--	COMMUNICATIONS			
--	SHELL	\	50-100	10-15
--	CUA			
		-----	-----	-----
		1500-1800	450-600	1200-1500
			+OEMS	
			525 -	
			670	
<u>TBD</u>				
--	DISTRIBUTED PM			
--	LM/X			
--	PM/X			
--	DM/X			
--	CM/X			
--	OOPS			
--	MULTIMEDIA			
--	TOOLKIT EXTENSIONS			

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