

I N T E R O F F I C E M E M O R A N D U M

Doc. No: 056402  
Date: 24-May-1993 01:57pm DST  
From: RUSS GULLOTTI @MKO  
GULLOTTI  
Dept: U.S. AREA  
Tel No: 264-6209

TO: See Below

Subject: BELL ATLANTIC

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I have recently been made aware of our circumstances with Bell Atlantic regarding a legal claim that we may have against them which goes back to the 1990 theft of Digital piece parts and equipment for some services businesses that are part of Bell Atlantic.

Apparently, Marty Hoffman had been handling this personally with the Bell Atlantic Chief Counsel. If my facts are correct, nothing substantive came from their discussions, i.e., Digital has taken no legal action nor has any resolution around proper compensation for Digital been agreed upon.

We may have already reached some statutes of limitation that may apply to certain aspects of our potential claim against Bell Atlantic. I believe this calls for some repic planning and decision making.

I would like to have the account team propose a business solution whereby we get some business commitments from Bell Atlantic which might serve as compensation to our company. Our current rate of business with Bell Atlantic has dropped dramatically over the past three years from more than \$20M in FY90 to something less than \$10M this year. If we can ramp that back up through an acceptable business agreement, then perhaps we can resolve our potential claim without having all the ugliness that goes with the publicity, concern in other RBOCS about Digital, etc.

I propose that Al Hall be the leader of this effort in the United States given his status of Territory Business Unit Manager for our Telecommunications industries and I further propose that Ed Lucente, due to his personal relationship with Ray Smith, the CEO of Bell Atlantic, be the senior manager to discuss our plans with Ray.

If this is acceptable, I will have the account team make a preliminary business proposal within one week for review by Paul Kozlowski and Ed Lucente. Once agreed, Ed would discuss with Ray Smith.

Please let me know if anyone has any objections, otherwise I will proceed.

Distribution:

TO: Remote Addressee ( ED LUCENTE @MLO )  
*Paul K*

CC: Remote Addressee ( BOB PALMER @MLO )

CC: Remote Addressee ( WIN HINDLE @MLO )

CC: Remote Addressee ( ~~PAUL KOZLOWSKI @MLO~~ )

CC: Remote Addressee ( AL HALL @COP )

CC: Remote Addressee ( TOM GRILK @MRO )

*Tim Shaughnessy*

Use the RDL option to see remainder of distribution lists.

*Also G.*

*I know this  
Customer who can  
offer bring to Gucci  
Resolution*

RECEIVED  
MAY 12 1993  
EDWARD LUCENTE

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INTEROFFICE MEMORANDUM

Date: 30-Mar-1993 01:51pm EDT  
From: GEORGE SMITH @MEL  
SMITH.GEORGE AT A1 at GUCCI at  
Dept: Telecom and Utilities  
Tel No: dtn 425-3102

TO: Bob Griffin @ml

CC: Bob Bruchey @mel

CC: Dave Payne @mel

Subject: Request for Resolution of Legal Claim with Bell Atlantic

*CC  
al Hael  
Tom grieh  
Tony Wallace  
I know zero*

\*\*\*\*\*

This memo is from Bob Bruchey, Dave Payne, and George Smith.

*account  
this o*

\*\*\*\*\*

Bob,

We would like to ask your help in arranging an internal meeting of the key people in Digital who can complete the decision to go ahead and formally resolve the pending \$70 million financial claim we have with Bell Atlantic.

*al, set up  
a briefing  
for me  
ASAP*

As you asked, we have put together the business reasons in this memo that, we, the account team, believe indicate Digital should no longer wait on resolving this claim.

For ease of reading, this memo has been prepared in the following format:

- I. SUMMARY
- II. BUSINESS REASONS TO ACT NOW
- III. SUGGESTED ACTION PLAN
- IV. BENEFITS FOR DIGITAL AND BELL ATLANTIC
- V. CLOSING

*(phone work)  
all the actions  
in this memo  
seem to be given  
to the "wrong"  
people??  
quickly please  
RMS.*

Since it is 6 pages long, you may wish to print it for easier reading.

I. SUMMARY

From the account management standpoint, we believe it is now in the best interests of both Digital and Bell Atlantic to resolve this issue, immediately.

Previously, we discussed internally that one way to resolve the claim would be to allow Bell Atlantic to make new, incremental purchases of our products and

*a - title 5/21 RFL*

services, from which the associated incremental profits would accrue towards paying-off their alleged debt to us. In that scenario, both companies prosper.

Last week you had mentioned on the phone that it would make sense to get people such as Mike Thurk, Tom Grilk, Cary Armistead, and yourself, along with George Smith, together to jointly establish a plan on resolving the claim. Also, it was mentioned that, if needed, perhaps Marty Hoffmann and/or Paul Kozlowski would be invited.

\* Would it be possible to meet by Tuesday, April 6th, or sooner?

\* If not, would it be possible to meet on either April 14th, 15th, or 16th?

## II. BUSINESS REASONS TO ACT NOW

The Account Team believes that there are 3 main business reasons to act now. They are as follows:

### 1. VIDEO-ON-DEMAND SALE IS STALLED

Based on a previous meeting with you and the Digital legal department in December, 1992, it had been agreed that Digital would delay formally initiating any legal action until we learned whether or not we would win the very large Video-On-Demand project sale.

That pending Video-On-Demand project is worth an estimated \$33 million over the first 4 years and up to \$80 million over the project's life to Digital.

It now is apparent that the sale will be going to IBM for political reasons, not technical reasons. Why? IBM is willing to help create a consortium with AT&T and Bell Atlantic for acquisition and distribution of movie studio content. This consortium will sell use of the movies back to Bell Atlantic's new video business, as well as to other RBOC's and cable companies.

To accomplish this consortium, we're told that they have unannounced plans to form a separate, joint-venture company, issue its own class of stock, and contribute up to 100 employees from each of the 3 parent corporations. Signature of the joint-venture contract is "soon" according to our sources.

Because Digital is not committed to forming a consortium at this time, we probably will not be chosen to supply the Video-On-Demand servers, but IBM will be.

### 2. ARTIFICIAL BARRIERS TO NEW BUSINESS HAVE BEEN CREATED

A) Bell Atlantic has created and is enforcing a "Standard Operating Environment" or SOE that mandates all new systems use one of three operating systems:

- \* MVS
- \* UNIX -- AT&T System V, Release 4
- \* MS-DOS

This mandate is part of their "SYSTEMS 2000" strategy to lower overall computing costs, by eventually going to all UNIX System V computers, from the desktop to the data center.

Since we will not have our System V software ready until about December, 1993, we are effectively locked-out of supplying new systems into the regulated side of Bell Atlantic's business (the 6 operating telephone companies) until December, 1993 or later.

Even then, we have will have to compete with the entrenched System V incumbents: IBM, HP, and SUN.

As a result of SYSTEMS 2000 and it's SOE, Digital's business in the account has been on a steady decline, as follows:

* FY 90	\$21 m
* FY 91	\$15 m
* FY 92	\$13 m
* FY 93	\$11 m (est.)

The irony of SYSTEMS 2000 is that the Bell Atlantic end users who could easily solve business problems today with Digital's OpenVMS or ULTRIX (OSF/1) have to wait on Digital's System V or try and find comparable System V solutions with other vendors.

This delay creates an opportunity cost for Bell Atlantic of lost time and money. In turn, this makes them less competitive. So, their rigid practice of sticking to System V is proving to be largely self-defeating for the present time.

- B) The fear of a pending lawsuit from Digital has some Bell Atlantic management extremely hesitant to seriously discuss doing new business with us. The very idea of an "over-hanging" lawsuit has now become a barrier in itself, even though those same Bell Atlantic people may not know all the details of the pending suit.

### 3. DIGITAL HAS BEST SOLUTIONS FOR BELL ATLANTIC

- A) In several key areas, Digital actually does have the best solutions that, if used, would generate significant profits for both Bell Atlantic and Digital.

A list of those currently identified solutions are listed, as follows:

Known Projects

\$Revenue to Digital (\$ million)

		** Possible FY'93 Certs	Total Project Value
1. Video-On-Demand for Info. Svces.	\$2.0	--	\$80.0
* 2. Network Infrastructure onto Alpha	\$0.1	--	\$60.0
* 3. Directory Migration to Alpha	\$0.5	--	\$32.0
4. Video-On-Demand for Yellow Pages	\$2.0	--	\$30.0
* 5. ISP (Integrated Service Point)	\$1.0	--	\$11.0
* 6. ISCP (Intg. Svc. Control Point)	\$0.0	--	\$8.0
7. LMOS (Loop Maintenance Oper. System)	\$0.0	--	\$6.0
* 8. Corp. Distr. Financial Architecture	\$0.1	--	\$5.0
9. BAMS Cellular Customer Level Billing	\$0.0	--	\$5.0
* 10. MARCH	\$0.0	--	\$3.0
11. TEMPO	\$0.5	--	\$2.0
12. HW Maintenance (BAMS/TriCon/NJ-Bell)	\$0.0	--	\$1.0
* 13. Messaging System	\$0.0	--	\$0.5
14. TriCon Disaster Recovery Service	\$0.0	--	\$0.3
15. PROVIDER	\$0.1	--	\$0.3
<b>Total =</b>	<b>\$6.3</b>	<b>--</b>	<b>\$244.1 million</b>

NOTE:

- \* Designates that these pending sales projects would be able to be closed much easier if the SOE for AT&T UNIX System V were waived.
  - \*\* Designates that these would be the possible amounts of FY'93 Certs, if Digital successfully negotiates the agreement of Bell Atlantic to place incremental orders (and profits) with Digital.
- B) The following statistics indicate that there is, also, much more business available for Digital to win than what's currently identified. Our market share of their total computer expenditures has fallen to just 9 percent of their total \$118 million annual computer budget.
- C) For example, their large number of (29) IBM mainframes indicates that they have many, many mainframe-based applications which are prime candidates for substantial cost savings through computer downsizing. We could do this through re-hosting to our mid-range machines or re-architecting to our client-server systems.
- D) But, for us to be able to help Bell Atlantic do this, their management must be more candid with us in terms of their needs and more open to doing business with us. The account team believes that negotiating our legal claim with them is the one remaining strategy that can accomplish that for Digital.
- E) The pertinent enterprise statistics are as follows:

1. Annual DP budget	\$118 million
2. Digital Market Share	9 %
3. Number of DP sites	60
4. IBM Mainframes (or PCM's)	29
5. Mini's / Midrange	245
6. Workstations	133
7. PC's	3,688
8. Terminals	12,818
9. Tape Drives	1,217
10. Disk Capacity	5,415,870 meg
11. Total CPU Power	3,308 mips
12. Systems Market Value	\$124,626 million
13. Corporate Revenue	\$12,279,700 million
14. Total Employees	75,700

### III. SUGGESTED ACTION PLAN

As mentioned earlier, the account team would like to see a negotiated arrangement in which Bell Atlantic would cooperate with us to find incremental sales and profits over their current rate.

If possible, we would like to see the negotiations begun in April, 1993 and be completed during FY'93.

### IV. BENEFITS

#### 1. BENEFITS TO DIGITAL

Once we gain agreement on putting this incremental order and profit process in place, we will realize benefits in several ways, as follows:

- A) We start the return of the \$70 million at time when Digital really needs the money returned.
- B) Then, we could use those new project sales as references to influence similar, new sales at other RBOC's, potentially leveraging millions of dollars to Digital nationwide (like the ISCP project and others.)
- C) Bell Atlantic would also realize that the more profitable our solutions make their business, the more orders they will then be able to place with us -- a mutual benefit.

-- This will foster cooperation.

- D) We keep our relationship with Bell Atlantic intact and positive, versus just going to trial and demanding a cash settlement.

- E) We get a way to avoid potentially expensive court costs, legal fees, and negative press that a trial would bring.
- F) We remove the lingering fear in Bell Atlantic's mind of "What's Digital going to do about the law suit?" which we believe in itself has become an impediment to new business.

## 2. BENEFITS TO BELL ATLANTIC

They get several benefits from the incremental order plan, as follows:

- A) They avoid a lot of bad press about their alleged illegal activity.
- B) They do not have to pay-out \$70 million at one time, thereby saving on their cash flow.
- C) They gain tremendous benefit from buying the unique solutions we have ready today -- like Alpha 64-bit computing, ISCP's and distributed financial systems -- that up to now, they have refused to seriously consider.

-- They avoid the opportunity cost of waiting for full SOE compliance.

-- We help make them more competitive, faster, today, and bridge them into SYSTEMS 2000.

- D) They get us as an interested partner who really does want to see them prosper, so that we, in turn, may continue to prosper.

In addition, Digital has the ability to give purchase orders to Bell Atlantic for current and future services. I am told by Bell Atlantic that they want to obtain the following business from Digital:

- E) Continue the supply of roughly \$5.0 million per year in telephone services to Digital throughout the U.S.
- F) Win an upcoming, FY'94 Digital contract to outsource all of our current leasing business to one vendor, worth \$300 million.

--Their TriCon Leasing subsidiary wants this contract.

## IV. CLOSING

Bell Atlantic's overall volume of business and their degree of interest with us is steadily decreasing. We are approaching a "grid-lock" situation of essentially winning repeat sales, only, in our installed base areas.



The reasons for this are many, but the two main reasons are our lack of compliance with their SOE and Bell Atlantic's Information Systems Organization's closed attitude to permitting Digital to be chosen for new applications over the dominant vendors.

Therefore, the account team sees no further reason to delay in pursuing resolution of Digital's \$70 million claim. In fact, the account team encourages its resolution, in FY'93, so that we can get on with business.

If handled correctly, we see this resolution as a truly positive benefit for both companies -- a true "win-win" scenario.

Please use George Smith as the focal point for coordinating issues around this legal action with the Bell Atlantic account team.

Thanks for all the good, conscientious help you have given us on this matter, Bob. We look forward to hearing from you, soon, about the meeting date to plan our joint sales and legal strategy for resolution.

Regards,

George, Bob, & Dave

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