

From: Rady, Lisa K
Sent: Tuesday, March 2, 2004 1:42 PM
To: Rooney, Janet L <roonejl@stortek.com>
Cc: Melnick, Michael R <melnimr@stortek.com>
Subject: RE: LibAttach/Netbula software

Janet,

Can you respond to Mike Melnick regarding what platform you need, for Netbula? He needs that information before he can obtain a quote. The CD you gave me was for Windows NT/95/98. Do we need to request a more current windows version?

If you could email Mike Melnick directly and copy me, that would be great.

Lisa Rady
 Automated Tape Solutions
 Software Program Management
 Phone: 303.661.5848
 FAX: 303.673.6837
 Pager: 303.461.9576
 StorageTek
 INFORMATION made POWERFUL

-----Original Message-----

From: Rooney, Janet L
Sent: Tuesday, March 02, 2004 2:21 PM
To: Rady, Lisa K
Subject: RE: LibAttach/Netbula software

Hi Lisa, Just another reason to modify the pricing.

Janet :)

-----Original Message-----

From: Abramovitz, Michael P
Sent: Tuesday, March 02, 2004 10:38 AM
To: Rady, Lisa K; Rooney, Janet L; Murray, Thomas J
Cc: Schmitt, Terry D
Subject: RE: LibAttach/Netbula software

Some kind of port mapper must always be present for LibAttach to function. NetBula was chosen because it was one of only a handful of port mappers that ran natively on windows. All other port mappers require a UNIX emulation layer (like NuTCracker or some such). Of course, this was more than three years ago. Things may have changed since then. Re freeware alternatives: it is possible to build ONCRPC from source, but only with one such UNIX emulation layer. So, that would only substitute one redistribution agreement for another.

-----Original Message-----

From: Rady, Lisa K
To: Rooney, Janet L; Murray, Thomas J
Cc: Schmitt, Terry D; Abramovitz, Michael P
Sent: 3/2/04 10:27 AM
Subject: LibAttach/Netbula software

Janet, Tom,

Below is the number of LibAttach sold, from SMD. As you can see we have exceeded our 1000 distributions of Netbula, so that is one issue. Next, it is obvious we will need to purchase the rights to distribute more. Mike Melnick said they sell in 1000 increments @ \$6000 per 1000 distributions.

STK00000591

I think it was pretty unrealistic for sourcing to accept that engineering would manage the number of distributions. We need to work on this, and make sure there is a better process in place for managing the number of distributions and making sure we are compliant with our contract with Netbula.

So, what is the next step here? I can contact Mike Melnick and ask him to get a quote for another 1000 distributions from Netbula, but then he will need a PO to make the purchase.

Just a thought here, have we validated that we have to use this third party software? Is there any freeware that is comparable? Just thinking out loud. Let me know if you see any other issues here. In the mean time I will ask Mike Melnick to contact Netbula for a current quote.

Thanks,

Lisa Rady
Automated Tape Solutions
Software Program Management
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StorageTek
INFORMATION made POWERFUL

> -----Original Message-----

>From: Wagner, Holly M
>Sent: Tuesday, March 02, 2004 8:32 AM
>To: Rady, Lisa K; McGovern, David L
>Subject: RE: LibAttach, number of copies sold??

>
>Here is a copy of the Lib Attach report. The total number is 1365.

>>
>
>Holly Wagner
>Software Product Planner
>303-661-7389

>
>StorageTek Information made Powerful

>
> -----Original Message-----

> From: Rady, Lisa K
> Sent: Monday, March 01, 2004 4:38 PM
> To: Wagner, Holly M
> Subject: LibAttach, number of copies sold??

>
> Hi Holly,
>
> Do you know, or do you know who I could ask to find out how many
>copies of the LibAttach software has been sold? I need a total number
>from the first shipment until now. Can you help or point me in the
>right direction?

>
> Thanks,
>
> Lisa Rady
> Automated Tape Solutions
> Software Program Management
> Phone: 303.661.5848
> FAX: 303.673.6837
> Pager: 303.461.9576
> StorageTek
> INFORMATION made POWERFUL

>

Christine Tocalino

From: Rady, Lisa K
Sent: Tuesday, March 02, 2004 10:06 AM
To: Melnick, Michael R
Subject: LibAttach/Netbula - IXOS arch1 341 KB

Hi Mike,

I have found out a bit more about LibAttach and Netbula. Below is a report from SMD on the number of LibAttach software we have sold. As you can see, we have exceeded the 1000 distributions that we had right to, with Netbula. I JUST inherited this program...so don't shoot the messenger. I think it is obvious that engineering has not and did not monitor the distributions on this product. Now that I own this product, I do not want engineering responsible for monitoring the distributions. We need to come up with some process where SMD may be able to provide reports (similar to that below) on how may LibAttach software's are being sold.

Now, for my actual request. Could you please contact Netbula and get a current quote for the rights to distribute another 1000 runtimes? Since all of our information is years old, I guess we need to start by getting a current quote from them.

Please let me know if you need more information.

Thanks,

Lisa Rady
 Automated Tape Solutions
 Software Program Management
 Phone: 303.661.5848
 FAX: 303.673.6837
 Pager: 303.461.9576
StorageTek
 INFORMATION *made* POWERFUL

-----Original Message-----

From: Wagner, Holly M
Sent: Tuesday, March 02, 2004 8:32 AM
To: Rady, Lisa K; McGovern, David L
Subject: RE: LibAttach, number of copies sold??


 placeholder.tmp

Here is a copy of the Lib Attach report. The total number is 1365.

Holly Wagner
Software Product Planner
 303-661-7389

StorageTek *Information made Powerful*

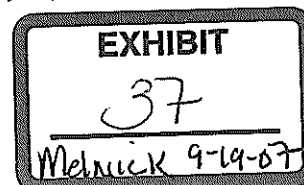
-----Original Message-----

From: Rady, Lisa K
Sent: Monday, March 01, 2004 4:38 PM
To: Wagner, Holly M
Subject: LibAttach, number of copies sold??

Hi Holly,

Do you know, or do you know who I could ask to find out how many copies of the LibAttach software has been

1



STK00000597

sold? I need a total number from the first shipment until now. Can you help or point me in the right direction?

Thanks,

Lisa Rady
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Pager: 303.461.9576
StorageTek
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EXHIBIT

46
Melnick 9-19-07

From: McGonigle, Jeffrey L
Sent: Wednesday, March 17, 2004 11:21 AM
To: Melnick, Michael R <melnimr@stortek.com>
Cc: Murray, Thomas J <murratj@stortek.com>
Subject: RE: LibAttach Update

Mike,

Replied to you this a.m. but it must have been lost in the void.

Approved by Finance Please use project R-0397, GL # 630130, Dept 15107

Jeff

-----Original Message-----

From: Melnick, Michael R
Sent: Wednesday, March 17, 2004 10:31 AM
To: McGonigle, Jeffrey L
Cc: Kennedy, Russell P (Russ); Murray, Thomas J
Subject: RE: LibAttach Update

Jeff,

Left you a message about the costs. Just need an e-mail form you with your approval and the correct gl and cost center.

Thanks,
mm

-----Original Message-----

From: Murray, Thomas J
Sent: Monday, March 15, 2004 10:42 AM
To: McGonigle, Jeffrey L
Cc: Melnick, Michael R; Murray, Thomas J; Rady, Lisa K; Kennedy, Russell P (Russ)
Subject: RE: LibAttach Update
Importance: High

Hi Jeff,

Please approve this P.O and provide the gl account as Mike has requested (this is for ACSLS development, cost center 15107.) We either need to increase the Netbula license or put a stop-ship on the LibAttach product, because we have shipped LibAttach copies up to the limit of the current Netbula license (Netbula is embedded in our LibAttach product.)

Thanks,

-Tom

-----Original Message-----

From: Melnick, Michael R
Sent: Monday, March 15, 2004 10:21 AM
To: Murray, Thomas J
Cc: McGonigle, Jeffrey L
Subject: RE: LibAttach Update

Thanks Tom,

I do need some help. Jeff McGonigle never signed it and I just need an e-mail form him approving it and giving me the gl account and cost center numbers.

mm

-----Original Message-----

From: Murray, Thomas J
Sent: Monday, March 15, 2004 9:14 AM
To: Melnick, Michael R

STK00000558

Subject: FW: LibAttach Update

Hi Mike,

Thanks for helping with the Netbula P.O. Janet Rooney is on a leave of absence starting today, so please contact me with any questions or status on Netbula.

Thanks,

-Tom

Thomas J. Murray
 Manager, RD&E Software Engineering
 x15735

-----Original Message-----

From: Rooney, Janet L
Sent: Monday, March 15, 2004 8:32 AM
To: Murray, Thomas J; Rady, Lisa K
Subject: RE: LibAttach Update

Yes, Mike Melnick is taking care of it. Just let me know if you have any other questions!

Janet

-----Original Message-----

From: Murray, Thomas J
Sent: Friday, March 12, 2004 5:09 PM
To: Rady, Lisa K
Cc: Rooney, Janet L
Subject: RE: LibAttach Update

Hi Lisa,

Do you know if Janet sent the Netbula PO to purchasing?

Thanks,

-Tom

-----Original Message-----

From: Rady, Lisa K
Sent: Friday, March 12, 2004 2:40 PM
To: Murray, Thomas J; Kennedy, Russell P (Russ)
Cc: Rooney, Janet L; Schmitt, Terry D; Dotson, Julia
Subject: LibAttach Update

Hi Russ, Tom,

Here is the section of my PMT minutes providing updates on the LibAttach work.

LibAttach 1.2.1

Engineering

3/11/04 LibAttach CFT code is complete and testing is going very well, no errors are being reported. Terry is testing LibAttach with two firewalls, ACSLS and ACSLS HA. Michael Abramovitch is available to help on an as needed basis.

3/4/04 It has been determined that we need to purchase a new SDK and the rights for a 1000 more distributions of Netbula. Lisa working with sourcing to obtain the new license.

3/11/04 Janet is writing up the PO for 1 SDK and 1000 more distributions of Netbula.

3/4/04 Terry has received one copy of Visual C++. He is still waiting to have another copy installed on the stand alone machine. Janet following up on getting the additional

copy.

3/11/04 Terry and Janet are still working on getting a copy of Visual C++ for a stand alone PC so that they have a build environment that is not attached to Terry's PC.

3/4/04 The new LibAttach code will temporarily be maintained in Per Force (due to time constraints). Once the code is complete, Julie Dotson will work with Chip to move the code into Continuous.

3/4/04 Lisa to work with Tom on CMM reporting on LibAttach.

3/11/04 The issue of lack of testing between LibAttach and Library Station came up. There are problems with LibAttach 1.2 working with LibStation. This configuration was never tested when LibAttach 1.2 was released. Lisa to work with Ernie Sandoval and Phil Rizzuto to determine a process to get Library Station validated with the new release of LibAttach.

3/12/04 Lisa spoke with both Ernie and Phil. Lisa to set up a meeting to discuss how we can get Library Station and LibAttach testing complete by our June 30 FRS date.

3/11/04 The LibAttach Controlled Field Test (CFT) can begin as soon as the documentation is ready (Doc. Possibly ready as soon as Monday). Julie Dotson has approximately five candidates for LibAttach CFT. Janet and Lisa suggested that we limit the CFT to two customers. Bank of America and Allstate were suggested. Engineering will select and manage the CFT sites.

Marketing

2/19/04 LibAttach sells for approximately \$695. Maintenance on the product is optional. There is no license key in the product, and it is apparent that the software has been copied, uncontrolled, for several years.

3/11/04 Tom Balue is looking into making a price change for LibAttach.

3/11/04 The team agreed to release the enhancements to LibAttach as a point release. The release number will be LibAttach 1.2.1.

Global Learning Solutions

3/4/04 The team has been unable to locate the source documents for three of the five documents on LibAttach. Veda has proposed to her management that we may have to convert the files from PDF to Word and then possibly to frame. This will be time consuming and a resource to do this work may not be available until April. We do have the installation guide and release notes source, which we can update as the code changes are being made. Veda to continue to work the documentation issue.

3/11/04 Dan Tesone has assigned a resource to convert the LibAttach PDF documents to an editable source. This work is planned to be complete by end of April.

3/12/04 Veda has completed the first draft of the online help and Install book for the LibAttach CFT.

ISV

3/4/04 Bruce asked when the new version of LibAttach would be available for the ISV's to validate. An estimate of mid to late April was given.

3/4/04 Bruce asked whether Library Station was going to be tested with the new version of LibAttach. Lisa to follow up with the Library Station team.

3/11/04 Lisa working the LibAttach / LibStation validation issue.

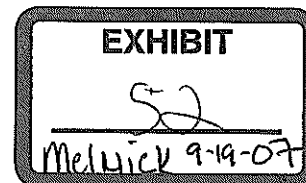
Report Date Codes - T (target) A (actual) CL (closed) GREEN (open action item) Replan (Purple)

LibAttach Action Items

Date Opened	Open Issue	Owner	Status	Report Due Date
02/19/04	Learn more about the Integrator's kit for LibAttach	PMT	In Process	03/01/04 T
02/26/04	Figure out how the LibAttach work should be managed in regards to CMM and the Senior Management Reviews.	Lisa Rady / Tom Murray	In Process	03/11/04 T

02/ 26/04	Work with Chip Furlong to get the LibAttach code into Continuous.	Julie Dotson	In Process	3/11/04 T
02/ 26/04	Follow up on the request for Visual C++	Janet Rooney	In Process	03/04/04 T
02/ 26/04	Begin work on the requirements document.	Terry Schmitt	In Process	03/04/04 T
02/ 26/04	Marketing to research implementing a price change for LibAttach.	Tom Balue	In Process	03/11/04 T
03/ 04/04	Work with Marketing to determine the release number for LibAttach.	Lisa Rady	Complete	03/18/04 T 03/11/04 A
03/ 04/04	Follow up with the Library Station team to see if they will be validating the new version of LibAttach.	Lisa Rady	Complete	03/18/04 T 03/12/03A
03/ 04/04	Continue to work the documentation source issue.	Veda Prescott	Complete	03/11/04 CL
03/ 11/04	Schedule a meeting to discuss how we can get Library Station and LibAttach testing complete by our June 30 FRS date.	Lisa Rady	Complete	03/12/04 CL

Lisa Rady
 Automated Tape Solutions
 Software Program Management
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 fax: 303.673.6837
StorageTek
 Information *made* Powerful



From: Murray, Thomas J <thomas_murray@storagetek.com>
Sent: Tuesday, June 28, 2005 4:13 PM
To: Melnick, Michael R <melnimr@stortek.com>
Cc: Williams, Michael P <willimp@stortek.com>; Rady, Lisa K <radylk@stortek.com>; Murray, Thomas J <murratj@stortek.com>
Subject: RE: Netbula

Thanks, Mike. Mike Williams, the ACSLS development manager who has the budget to purchase more licenses, is out this week. Can this wait until next week when he returns?

-Tom

From: Melnick, Michael R
Sent: Tuesday, June 28, 2005 12:58 PM
To: Abramovitz, Michael P; Rady, Lisa K; Williams, Michael P; Murray, Thomas J
Cc: Wagner, Holly M
Subject: RE: Netbula

The number that Holly has provided and thought it may be low causes quite a problem for you. We have only made 2 purchases for the rights to distribute a total of 2000 licenses.

You will need to order additional distribution rights or we will be in breach of the agreement. As our pricing is based on cumulative purchases I will need to know how many additional licenses you wish to order so I can get you pricing.

Regards,
 Mike Melnick
 Contract Administrator, Senior Consultant
 OEM Systems
 StorageTek
 One StorageTek Drive
 Louisville, Colorado 80028
 MS 5236
 303-673-2914 (v)
 303-673-4945 (f)
 Melnimr@Louisville.Stortek.Com

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From: Wagner, Holly M
Sent: Monday, June 20, 2005 9:08 AM
To: Melnick, Michael R; Abramovitz, Michael P; Rady, Lisa K; Williams, Michael P
Subject: RE: Netbula

The SAP query I ran this morning shows 2,386 models shipped. This number is low due to the fact that the query does not have the capability of pulling the client feature quantities that were released in November of last year.

Holly Wagner
 Software Product Planner
 303-661-7389

From: Melnick, Michael R

Sent: Friday, June 17, 2005 10:13 AM
To: Wagner, Holly M
Subject: FW: Netbula

Regards,
 Mike Melnick
 Contract Administrator, Senior Consultant
 OEM Systems
 StorageTek
 One StorageTek Drive
 Louisville, Colorado 80028
 MS 5236
 303-673-2914 (v)
 303-673-4945 (f)
 Melnimr@Louisville.Stortek.Com

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From: Murray, Thomas J
Sent: Thursday, June 16, 2005 11:27 AM
To: Wagner, Holly M
Cc: Abramovitz, Michael P; Williams, Michael P; Melnick, Michael R; Rady, Lisa K
Subject: FW: Netbula

Hi Holly,
 Can you give Mike Melnick an update on how may Netbula licenses we've issued?

Thanks,
 -Tom

From: Abramovitz, Michael P
Sent: Thursday, June 16, 2005 11:22 AM
To: Murray, Thomas J
Subject: RE: Netbula

She would know better than anybody.

From: Murray, Thomas J
Sent: Thursday, June 16, 2005 11:21 AM
To: Abramovitz, Michael P
Subject: RE: Netbula

Who could tell us how many we have issued? Holly?

From: Abramovitz, Michael P
Sent: Thursday, June 16, 2005 11:19 AM
To: Murray, Thomas J
Subject: RE: Netbula

To the best of my memory, we have a license to redistribute 2000 copies.

From: Murray, Thomas J
Sent: Thursday, June 16, 2005 11:18 AM
To: Abramovitz, Michael P
Cc: Rady, Lisa K; Williams, Michael P; Melnick, Michael R

STK00000541

Subject: FW: Netbula
Importance: High

Hi Michael,

I think LibAttach uses Netbula. Not sure you have this information or who could provide it: possibly Holly in SMD?

Thanks,

-Tom

From: Melnick, Michael R
Sent: Thursday, June 16, 2005 10:23 AM
To: Murray, Thomas J
Subject: Netbula
Importance: High

Tom,

Can you give me an update of how many Netbula RPC licenses we have distributed? We need to make sure we have not exceeded what we have been licensed for.

Thanks!

Regards,

Mike Melnick
Contract Administrator, Senior Consultant
OEM Systems
StorageTek
One StorageTek Drive
Louisville, Colorado 80028
MS 5236
303-673-2914 (v)
303-673-4945 (f)
Melnimr@Louisville.Stortek.Com

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STK00000542

Material	Order Nbr	Ord Ln Nbr	Modl Nbr	Modl Desc	Actl Ship Dt	Quarter	Serial Nbr	# of Clients	Feat Cd
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3100147012	0001155666	52	1191NLC	WINNT-2000-2003 LIBA	06/22/05 12:00 AM	Q205	00000007000021435	10	L140
3100147012	0001154782	151	1191NLC	WINNT-2000-2003 LIBA	06/23/05 12:00 AM	Q205	00000007000021419	1	L140
3100147012	0001156097	101	1191NLC	WINNT-2000-2003 LIBA	06/27/05 12:00 AM	Q205	00000007000021447	10	L140
3100147012	0001156060	251	1191NLC	WINNT-2000-2003 LIBA	06/27/05 12:00 AM	Q205	00000007000021449	10	L140
3100147012	0001156278	51	1191NLC	WINNT-2000-2003 LIBA	06/28/05 12:00 AM	Q205	00000007000021461	1	L140
3100147012	0001156278	101	1191NLC	WINNT-2000-2003 LIBA	06/28/05 12:00 AM	Q205	00000007000021462	1	L140
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3100147012	0001157620	401	1191NLC	WINNT-2000-2003 LIBA	07/08/05 12:00 AM	Q305	00000007000021510	1	L140
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3100147012	0001158228	51	1191NLC	WINNT-2000-2003 LIBA	07/15/05 12:00 AM	Q305	00000007000021524	10	L140
3100147012	0001157203	201	1191NLC	WINNT-2000-2003 LIBA	07/21/05 12:00 AM	Q305	00000007000021526	10	L140
3100147012	0001159056	51	1191NLC	WINNT-2000-2003 LIBA	07/25/05 12:00 AM	Q305	00000007000021534	50	L140
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3100147012	0001159378	151	1191NLC	WINNT-2000-2003 LIBA	07/28/05 12:00 AM	Q305	00000007000021547	10	L140
3100147012	0001159683	51	1191NLC	WINNT-2000-2003 LIBA	07/29/05 12:00 AM	Q305	00000007000021552	1	L140
							Total Clients =	7455	

December 16, 2005

Via Email

Mr. Don Yue
Netbula LLC
2777 Alvarado Steet, Suite C
San Leandro, CA 94577

Re: Response to Audit Request

Dear Mr. Yue,

This letter responds to the questions you most recently posed to StorageTek, presents StorageTek's final audit numbers, and offers to settle the outstanding issues between the parties. All of the information provided in this letter is confidential.

StorageTek's Good Faith in Dealing with Netbula

In one of the emails exchanged between Netbula and StorageTek, Netbula alleged that StorageTek entered into the March 2004 agreement with Netbula in bad faith. StorageTek disputes this allegation, and reminds Netbula that it was StorageTek that brought the additional licenses issue to Netbula's attention.

StorageTek has provided the information that Netbula has requested as quickly as possible. In the haste to provide timely information covering 5 years of sales, on occasion StorageTek admits that it has made some errors in the earlier accountings; however, StorageTek has attempted to respond as quickly and as accurately as possible to each of the many requests for clarification you have submitted. Most of the earlier errors in reporting were the result of StorageTek attempting to over-estimate, rather than under-estimate the number of licenses sold.

As you may be aware, both engineering and marketing responsibilities for the LibAttach software and its predecessor products have changed hands within StorageTek multiple times over the course of the past five years, which explains the misunderstandings and miscommunications regarding the Netbula license restrictions. Also, as Mike Melnick informed Netbula back in 2000, StorageTek systems are set up to track royalties on a going-forward basis, not on a pre-paid basis. Mike Melnick suggested that the parties enter into a straight royalty-type agreement, but Netbula declined to do so, which, in part, accounts for the situation today.

Model Numbers 1191RDW, 1191TBL and 1191TPK

Letter to Don Yue

4/18/2006

Page 2 of 6

In answer to your question why StorageTek never reported to Netbula any sales of model numbers 1191RDW, 1191TBL and 1191TPK: All of those sales occurred prior to 2000 (there were fewer than 10 in any event). Those models did not include any Netbula software and were appropriately not included in the audit.

Standard Software License Language

You have requested information regarding StorageTek's standard software licensing language. While some customers, of course, have non-standard agreements, attached are copies of standard end-user contracts and Software Schedules that have been used by StorageTek to sell software since 2000. Up until November 2004, customers could purchase only individual CPU or server licenses, called "Basic" licenses. While customers could order multiple Basic licenses, each Basic license entitled the customer to only one copy per CPU or server. See, e.g., *Software Schedule (Rev 8:2 June 04) attached hereto as Software Schedule*, and the three versions of *End User Agreements*, attached hereto as *StorageTek – Form CPA; STK – Form CPA; and Master T's and C's*.

Multiple Licenses Feature Codes

As StorageTek earlier explained to you, beginning in November 2004 StorageTek introduced feature codes that allowed customers to purchase licenses for LibAttach in blocks of 1, 10, 50, 100, 250, 500, 750, and 1000. Included in these types of multiple licenses was a site license. StorageTek removed all feature codes that allowed more than 50 client licenses on July 29, 2005.

StorageTek's systems reflected that 23 instances of site licenses were sold into 3 customer accounts. In the earlier accountings provided to Netbula, StorageTek estimated each of these 23 instances of site licenses at 100 individual client licenses actually being used and reported each site license instance as such, (which accounts for 2300 licenses in the earlier accountings). On the last spreadsheet we sent you, the site licenses can be found on these lines: First site license Customer, line nos. 1969 -1982; Second Customer, line no. 2139; and Third Customer, line nos. 2161 - 2168.

Upon investigation, it turned out that only 9 site licenses were sold into 2 customer accounts (1 site license to the Second Customer and 8 site licenses to the Third Customer). The internal sales representative for the First Customer that purchased 14 licenses, had mistakenly entered the sales order into the StorageTek system with the wrong feature code (as a site license), but the customer was billed only for individual licenses and understood that it was entitled only to individual licenses.

With respect to the Second Customer that purchased one site license, we are working with that customer to swap out the old version of the software for our new version that does not include any Netbula code. That customer reports that it

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originally installed approximately 21 copies of the LibAttach version 1.4 software, but has now reduced that number to 10 copies installed. The Third Customer had agreed (at the time of the initial site license sale) to a cap on all 8 site licenses at 500 individual licenses at the end of the three-year contract term. We are working with that customer now to cap the number of licenses at 500 immediately.

The site license sales are now reported as: First Customer lines 1877-1890 (14 licenses total); Second Customer line 2045 (21 licenses); and Third Customer, lines 2067-2074 (500 licenses total); highlighted in pink in the current version of the accounting. The number of licenses attributable to these 3 customers has thus dropped from 2300 to 535.

Questions Regarding Darden Restaurant and Swedish Tax Board

You requested information regarding the Darden Restaurant and Swedish Tax Board orders, asserting that, as both of these customers use large numbers of servers, they would need large numbers of LibAttach licenses.

While it may be true that Darden Restaurant and Swedish Tax Board have large numbers of servers it is important to understand that customers with large data centers typically support a variety of heterogeneous operating environments. It is not uncommon for customers to support several of the following operating environments within a single data center: IBM Mainframe, AS/400, Unisys, Solaris, AIX, HPUX, Windows, and a number of other environments. Each operating environment requires specific software components in order to properly manage the equipment.

The LibAttach software is only used within the Windows operating environments. Also, only a subset of the Windows operating environments requires the use of LibAttach. Many of the Tape Management Applications that service the Windows operating environments that use StorageTek equipment do not require the use of LibAttach.

Even if the customer data center consisted of only Windows servers the number of LibAttach licenses typically would be small compared to the number of servers within the company. LibAttach is only required on the Windows servers that manage a data path or physical connection to a tape drive contained within a managed tape library. (Note: A data path consists of a fiber channel or SCSI Host Bus Adapter (HBA) and all the switches, routers, and cables used to connect a tape drive to a server.) Due to costs and system complexity data centers strive to consolidate their data with the goal of minimizing the servers that maintain data path or physical connection to the tape drives. It is not uncommon for a single server with a data path to service large numbers and possibly thousands of additional servers. Thus, while a customer may have thousands of servers, only a few of those servers might be Windows servers, and it is possible that only a small number of LibAttach licenses are needed in order for them to communicate with ACSLS to mount and dismount the tape cartridges within a library.

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Therefore it is very difficult to draw any correlation between the number of servers or even the number of Windows servers that a customer has and the number of LibAttach licenses that a customer is required to own.

Increase in License Numbers after 04Q4

You have asked StorageTek for an explanation of the dramatic increase in licenses sold in 04Q4 and later. We attribute this rise to the multiple licenses pricing structure that was introduced for the LibAttach product in November 2004 (see section entitled "Multiple Licenses Feature Codes," above). As Holly and others have explained to you on the telephone, because the pricing for multiple licenses was so attractive, customers who would previously have purchased only 1 Basic license, were then purchasing blocks of 10, 50 or 100, for only a few hundred dollars more than the Basic license price.

In addition, StorageTek's initial reporting of the "site" licenses as 100 installations per license, over-reported the sales numbers beginning in 04Q4 by at least 1765 (2300 – 535). Thus, the numbers in the quarterly accounting should read as follows:

Quarter	LibAttach Licenses Sold
04Q1	178
04Q2	142
04Q3	134
04Q4	879
05Q1	736
05Q2	2013
05Q3	689
05Q4	349

It appears that the multiple licenses pricing scheme (which peaked in 05Q2, but was shut down immediately thereafter), in conjunction with Microsoft's withdrawal of Windows 2000 server availability and support in December 2004, accounts for the increase in sales during this time.

Final Audit Results

Attached is a spreadsheet,¹ FinalCount-RoyaltyItemsOnly.xls, that sets forth the final results of our internal audit. This spreadsheet eliminates all of the entries that were erroneously included in earlier spreadsheets (for example, sales

¹ In light of our inability to resolve this matter swiftly with you, StorageTek placed a stop shipment on the LibAttach version 1.4 software on November 10, 2005. The last shipment of LibAttach 1.4 occurred on November 30, 2005. Thus, our audit report correctly ends as of November 30, 2005. StorageTek is no longer shipping any products that contain Netbula software.

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of LibAttach version 1.0 that did not incorporate any Netbula software). In addition, the final audit corrects the original spreadsheet that reported each license entered as a site license as a 100-user license, and states the actual number of installations.

Our audit shows that StorageTek sold a total of 6492 client licenses of software that includes Netbula code. The first 1000 sales were covered by the agreement signed by the parties in 2000. The second thousand were paid for in March 2004. That leaves 4491 licenses for which license fees need to be paid. Under the March 2004 contract, all licenses above the first 2000 licenses cost \$4496 per block of 1000 licenses. Paying for an additional 5 blocks of licenses at the March 2004 contract rate, leaves us with a total owed to Netbula of \$22,480.

Offer to Compromise

StorageTek would like to resolve this situation to the parties' mutual satisfaction. While StorageTek believes that the March 2004 agreement was entered into by StorageTek with the best of intentions, and that the parties should be operating under that agreement, StorageTek is offering to compromise this dispute by paying for the licenses over and above the initial 1000 licenses at Netbula's standard commercial bulk pricing in place in March 2004. StorageTek understands that Netbula was pricing its licenses at the bulk rate of \$18,000 per 1000 licenses in March 2004. In exchange for a mutual release of all claims related to these agreements, StorageTek is willing to reimburse Netbula for each license sold after the initial pre-paid 1000 licenses at that rate.

Thus, we have 5492 licenses that need to be addressed. Multiplying 5492 by \$18 produces a total of \$98,856. Subtracting from that amount the \$5096 that StorageTek paid Netbula for the second pre-paid 1000 licenses leaves a total amount of \$93,760. StorageTek is willing to compromise this matter in exchange for a mutual release of claims, for the sum of \$93,760.

I hope that this letter satisfactorily answers your questions regarding our earlier accounting, and that the parties may reach an amicable resolution of this matter. Clay James, Sun's Lead Litigation Counsel, will be handling this matter from this point forward, as I will not be working for Sun StorageTek after December 16. You can reach Clay James at (303) 272-7769 or clayton.james@sun.com.

Sincerely,

Carmel C. Gill
Sun StorageTek Legal Department

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4/18/2006

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c: Neil Smith, Esq.
Clay James, Esq.

STK Florida Contract Page 9 viewed in browser

http://www.storagetek.com/pdfs/FL_CONTRACT_PRICE_LIST_TAPE_061005.pdf - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Address http://www.storagetek.com/pdfs/FL_CONTRACT_PRICE_LIST_TAPE_061005.pdf Go

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TAPE	1190VW0-ONED	PDF/ONLINE MANUALS
TAPE	1190VW0-PRNT	PRINTED MANUALS
TAPE	1190VW0-PRNT	PRINTED MANUALS
TAPE	1191NLC-0000	WINNT LIBATTACH CLIENT
TAPE	1191NLC-0000	WINNT LIBATTACH CLIENT
TAPE	1191NLC-ACLS	ACSLS CLIENT INSTALLATION
TAPE	1191NLC-ACLS	ACSLS CLIENT INSTALLATION
TAPE	1191NLC-CDRM	CD-ROM
TAPE	1191NLC-CDRM	CD-ROM
TAPE	1191NLC-L110	LEVEL 1.1.0
TAPE	1191NLC-L110	LEVEL 1.1.0
TAPE	1191NLC-L130	LEVEL 1.3.0
TAPE	1191NLC-LBST	LIBSTATION CLIENT INSTALL
TAPE	1191NLC-LBST	LIBSTATION CLIENT INSTALL
TAPE	1191NLC-RDWD	REDWOOD DEVICE DRIVER
TAPE	1191NLC-RDWD	REDWOOD DEVICE DRIVER
TAPE	1191NLC-S001	UP TO 1 CLIENT
TAPE	1191NLC-S010	UP TO 10 CLIENTS
TAPE	1191NLC-S050	UP TO 50 CLIENTS
TAPE	1191NLC-S100	UP TO 100 CLIENTS
TAPE	1191NLC-S1K0	UP TO 1000 CLIENTS
TAPE	1191NLC-S250	UP TO 250 CLIENTS
TAPE	1191NLC-S500	UP TO 500 CLIENTS
TAPE	1191NLC-S750	UP TO 750 CLIENTS
TAPE	1191NLC-SENT	UNLIMITED CLIENTS
TAPE	1191NLC-TBLN	TIMBERLINE DEVICE DRIVER
TAPE	1191NLC-TBLN	TIMBERLINE DEVICE DRIVER
TAPE	1191NLC-TWPK	TWINPEAK DEVICE DRIVER
TAPE	1191NLC-TWPK	TWINPEAK DEVICE DRIVER
TAPE	1191NLI-0000	WINNT INTGRTRS LIBATTACH
TAPE	1191NLI-0000	WINNT INTGRTRS LIBATTACH

9 of 100 8.5x11 in

Done Internet



Netbula, LLC

P. O. Box 99335
Emeryville, CA 94662
510-593-7053 fax 510-291-2237

Invoice No. **1605**

INVOICE

Customer

Name StorageTek / Mike Melnick
Address One StorageTek Drv
City Louisville State CO ZIP 80028
Phone 303-673-2914

Date 3/7/2000
Order No. CCOL122576
Rep _____
FOB _____

Qty	Description	Unit Price	TOTAL
8	Netbula ONC RPC Win32 One Developer License	\$895.00	\$7,160.00
1	Netbula ONC RPC WIN32 1000 Machine Runtime License	\$5,995.00	\$5,995.00
1	10 INCIDENT SUPPORT	\$1,000.00	\$1,000.00

Payment Details

- Cash
 Check
 Credit Card

Name _____
CC # _____
Expires _____

SubTotal	\$14,155.00
Shipping & Handling	\$0.00
Taxes State	\$0.00
TOTAL	\$14,155.00
AMT PAID	
AMT DUE	\$14,155.00

Office Use Only

Due upon deliver of product

Providing enterprises with client/server and internet solutions



Netbula, LLC

2777 Alvarado Street, Suite C
 San Leandro, CA 94577
 510-351-7672 fax 510-291-2237

Invoice No. **10302**

INVOICE

Customer

Name SOTRAGE TECH CORP/ACCOUNTS PAYABLE
 Address ONE STOTAGETEK DRV
 City LOUISEVILLE State CO ZIP 80028
 Phone 303-673-5151

Date 3/18/2004
 Order No. CCOL 123554
 Rep JY
 FOB _____

Qty	Description	Unit Price	TOTAL
1	NETBULA ONC RPC WIN32 SDK	\$895.00	\$895.00
1	NETBULA ONC RPC RUNETIME 1000 Machines Pak	\$5,096.00	\$5,096.00

Payment Details

- Cash
 Check
 Credit Card

Name _____
 CC # _____
 Expires _____

SubTotal	\$5,991.00
Shipping & Handling	\$0.00
Taxes State	\$0.00
TOTAL	\$5,991.00
AMT PAID	
AMT DUE	\$5,991.00

Office Use Only

Due upon deliver of product

Providing enterprises with client/server and internet solutions