

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

- - - - -
IN RE MICROSOFT CORP.
ANTITRUST LITIGATION

This Document Relates to:

Novell, Inc. v. Microsoft Corporation

Civil Action

No. JFM-05-1087

DEPOSITION OF:

WILLIAM HENRY GATES III

March 4, 2009

10:38 a.m.

VIDEOTAPED DEPOSITION BEFORE KELLY A.
HERRICK, at K&L Gates, 925 Fourth Avenue,
Suite 2900, Seattle, Washington, on Wednesday,
March 4, 2009, commencing at 10:38 a.m. in the
morning, pursuant to Notice.

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 24
 25

3

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1 (Exhibit Number 1 was marked.)
 2 THE VIDEOGRAPHER: Good morning.
 3 We are on the record at 10:38 a.m. on
 4 March 4, 2009 for the videotaped
 5 deposition of William Henry Gates III,
 6 taken by the Plaintiff in the matter of
 7 Novell, Inc. vs. Microsoft Corporation,
 8 Case Number JFM-05-1087, filed in the
 9 United States District Court for the
 10 District of Maryland.
 11 This deposition is being held at
 12 925 Fourth Avenue, Suite 2900, Seattle,
 13 Washington 98104.
 14 The stenographer today is
 15 Kelly Herrick; the video specialist is
 16 Albert Maimon, both from Albanese &
 17 Associates with offices located in
 18 New Jersey.
 19 Counsel will state their
 20 appearances and the witness will then be
 21 sworn.
 22 MR. HOLLEY: Steven Holley from
 23 Sullivan & Cromwell for the witness and
 24 the Defendant Microsoft Corporation.
 25 MR. JOHNSON: Jeff Johnson and

5

1 Erin Wilcox for the Plaintiff,
 2 Novell, Inc., with Dickstein Shapiro.
 3 WILLIAM HENRY GATES III,
 4 A witness in the above-entitled action,
 5 after having been first duly sworn,
 6 testifies and says as follows:
 7
 8 MR. HOLLEY: Just for the record,
 9 we've been joined by Steven Aeschbacher
 10 from the Law and Corporate Affairs
 11 Department at Microsoft Corporation.
 12 EXAMINATION
 13 BY MR. JOHNSON:
 14 Q Mr. Gates, good morning. I
 15 introduced myself earlier. I'm Jeff Johnson.
 16 I'll be asking you some questions today.
 17 Do you understand you're testifying
 18 under oath as though you were in court?
 19 A Yes.
 20 Q Will you let me know if I ask you a
 21 question that you don't understand, sir?
 22 A Yes.
 23 Q Is there any medical or other
 24 reason you cannot give us your best recollection
 25 today?

6

1 A No.

2 Q Do I understand, Mr. Gates, that

3 you profess to have a special expertise when it

4 comes to lawsuits?

5 A No.

6 Q Let me show you what has been

7 previously marked as Exhibit Number 1, Mr. Gates.

8 MR. HOLLEY: You're just going to

9 number these Gates 1, 2, 3 sequentially?

10 MR. JOHNSON: Yes, that's the plan.

11 BY MR. JOHNSON:

12 Q Mr. Gates, referring your attention

13 to Exhibit Number 1, Bates Number Florida AG

14 0097685, this is an E-mail from you to

15 Mr. Ballmer in May of 1995 concerning the

16 North American sales results.

17 At this time, in 1995, what was

18 Mr. Ballmer's position with Microsoft?

19 A I think he had the worldwide sales job,

20 I'm not sure. I mean, he's had about seven

21 different jobs, and I can't say exactly which one

22 he had 14 years ago. It could have been head of

23 worldwide sales.

24 Q Reading from the second paragraph

25 of your E-mail to Mr. Ballmer, quote, "I

7

1 generally try and worry only about the things I

2 have special expertise on (lawsuits, patents,

3 technology, internet) and a few big things we all

4 know about (novell perfect office, lotus notes,

5 smartSuite)," close quote.

6 Does that refresh your

7 recollection, Mr. Gates, that you profess special

8 expertise with respect to lawsuits?

9 A Yeah, in this E-mail, in terms of my

10 relative expertise, are the people on the

11 executive staff, but that's a differential

12 expertise as compared to the other recipients.

13 Q And what gives you that

14 differential expertise, sir?

15 A I chose that, relative to the top people

16 in the company, I would sit in more meetings with

17 lawyers than he would.

18 Q And you have been deposed in

19 connection with various antitrust matters against

20 Microsoft; is that true, sir?

21 A Yes, I have been deposed in a lot of

22 things.

23 Q Including various antitrust suits

24 against Microsoft?

25 A Yes.

8

1 Q And including various FTC and

2 Department of Justice investigations?

3 A Yes.

4 Q Do I understand correctly from this

5 Exhibit 1 that in 1995 Novell's PerfectOffice was

6 one of the things that was important enough to

7 merit your worrying about?

8 MR. HOLLEY: Object to the form of

9 the question.

10 THE WITNESS: I mean, I think the

11 sentence -- I don't remember specifically

12 the E-mail, this is clearly an E-mail I

13 wrote 14 years ago, and it mentions a lot

14 of different things, and that's one of the

15 ones that's mentioned.

16 BY MR. JOHNSON:

17 Q And Novell PerfectOffice, was that

18 a competitor of a Microsoft product?

19 A Yeah, I'm not sure they actually used that

20 term for what they were doing, but they --

21 primarily in word processing, they bought a

22 company. They only owned it for a very short --

23 it was a weird, weird thing, and not -- not a

24 very good way of doing this where they bought it

25 and then they sold it.

9

1 Q Anything else, sir?

2 A No.

3 Q Do you happen to remember what the

4 major crisis that you were referring to in the

5 last paragraph of this E-mail to Mr. Ballmer with

6 respect to PerfectOffice pricing was about?

7 A Actually, it talks about SmartSuite, but

8 no, I don't know the specifics of what the

9 14-year-old E-mail is talking about.

10 Q Actually, Mr. Gates, it speaks

11 about SmartSuit [sic] and PerfectOffice, correct,

12 sir?

13 A Suite, sir.

14 Q Yeah.

15 A You said "suit."

16 Q SmartSuite, yes --

17 A Now you got it.

18 Q -- and PerfectOffice.

19 A Yes.

20 Q Most of my questions today are

21 going to focus on the time period from '93 to

22 '96.

23 Can you recall what your position

24 at Microsoft was during that time period?

25 A I was the CEO during all of those years.

10

1 Q And can you recall how Microsoft
2 was organized from a business unit perspective in
3 1993?

4 A No. I mean, if you want to zoom in on
5 some particular point, but I cannot draw you an
6 org chart. We tended to -- we were growing, and
7 tended to organize in different ways, and I
8 wouldn't remember exactly what org we had at any
9 particular time.

10 Q Well, do you recall a systems
11 division headed up by Mr. Paul Maritz?

12 A There was a period where Paul ran the
13 systems division, yes, sir.

14 Q And beneath him, Mr. Allchin,
15 Jim Allchin, ran an advanced system group?

16 MR. HOLLEY: We're still at what
17 time?

18 MR. JOHNSON: '93, '94.

19 THE WITNESS: Yeah, I'm not sure
20 about the time frames, but Jim worked --
21 ran a group under Paul that had the NT
22 work in it.

23 BY MR. JOHNSON:

24 Q And Mr. Silverberg, Mr. Brad
25 Silverberg, had the personal systems group under

11

1 Mr. Maritz; is that true, sir?

2 A For part of the time, yeah, there were a
3 lot of boundary shifts in terms of Brad had a
4 subset of things, then he had a broader set of
5 things.

6 The general split was that there
7 came a point where Brad had the Win 9X so-called
8 work, and Jim when the Win NT work. Both of them
9 had had narrow jobs. Brad had had just the
10 browser and Jim had had just the networking
11 stuff.

12 Q What do you refer to when you said
13 "Win 9X"?

14 A Oh, Win, Windows 3.0, 3.1, then Win 3 --
15 Win 286, Win 386, then eventually, during the '93
16 to '95 time frame, we were developing a product
17 that was code named Chicago that later got
18 shipped under the name Windows '95.

19 Q During this time period, and we're,
20 again, '93-'94, was there a desktop applications
21 division headed up by Mr. Pete Higgins?

22 A I guess my memory is not that good. I --
23 was Mike Maples gone by then? I thought Mike was
24 still there. I don't think -- I'll have to go
25 back and look. I'll be surprised if Pete was in

12

1 charge at that time but --

2 Q You believe Mr. Maples was in
3 charge of the desktop applications division at
4 that time?

5 A Certainly if he still was at the company,
6 he was. He retired at some point, but I
7 thought -- I thought he was there in this time
8 frame.

9 Q In the same time frame, do you
10 recall a Project X?

11 A No, I don't. It's not too specific.
12 Could you help me out what you're trying to refer
13 to?

14 Q The code name is the code name. It
15 was called Project X. You don't recall it at
16 all, sir?

17 A You're going to have to give me more
18 context. We have a lot of code names, a lot of
19 projects. I bet we had many Project Xs at that
20 time. Which thing you're trying to get me to
21 comment on, I'm not sure.

22 Q How about a project code name
23 Capone, do you remember that one?

24 A Yeah, that code name was used somewhere in
25 that time frame.

13

1 Q What project was that? What was
2 the product involved?

3 A I think it was an E-mail client, a simple
4 E-mail client, kind of a trivial one.

5 Q Do you recall a project code name
6 Marvel?

7 A Yes.

8 Q What was Marvel?

9 A On the final analysis, nobody knew what it
10 was. It never -- never did anything. It was
11 something to do with information retrieval and
12 navigation, and, you know, we were looking at
13 some of the things AOL had been doing in terms of
14 online information.

15 Q That's all you recall about Marvel,
16 sir?

17 A I do, I -- no, that's not all I recall.

18 Q Do you recall a project code name
19 Athena?

20 A No, you will have to refresh me on what
21 Athena was.

22 Q If I tell you it was a PIM, does
23 that help you at all?

24 MR. HOLLEY: Object to the form of
25 the question.

14

1 BY MR. JOHNSON:

2 Q PIM, acronym.

3 A I'm not sure, because we didn't do that

4 much PIM work in that time frame. I don't know

5 what the threshold was to give something a code

6 name, whether you had to have somebody working on

7 it or not.

8 Q Do you recall a project code named

9 REN, capital R-E-N, all caps?

10 A Yeah. Well, I'm not sure it was always

11 all caps, but Ren, yes.

12 Q What was Ren?

13 A That switched around a lot, like software

14 projects do. It was kind of a shell-like thing,

15 and kind of an E-mail client-like thing, it

16 eventually had some Cairo shell people in it. It

17 got changed a lot of times, in -- I think,

18 outside of the time period you're asking me

19 about, one of the iterations after it changed

20 quite a bit, it became a pure E-mail client

21 called Outlook.

22 Q In your answer you mentioned a

23 project called Cairo. Can you tell me what Cairo

24 was?

25 A They are still writing books trying to

15

1 figure that out. It was a -- the idea of putting

2 some new capabilities into the operating system.

3 Some of the Cairo work did,

4 actually, end up shipping in subsequent forms of

5 the Windows NT-based operating system, but many

6 of those features still haven't -- haven't been

7 realized to this day.

8 Q Do you recall a group in Microsoft

9 called the developer relations group, or DRG, as

10 I have seen it expressed?

11 A Sure.

12 Q What was the DRG?

13 A Well, we had different names for the group

14 that would help other developers write software

15 for the Microsoft platform.

16 Q When you say the "Microsoft

17 platform," you mean the Microsoft operating

18 systems?

19 A Not exclusively, but including that, yes.

20 Q So it was their job to deal with

21 ISVs?

22 A Well, they weren't the only one who dealt

23 with ISVs.

24 Q What was their job?

25 A They held events, they -- at one point I

16

1 think we had the technical journal organized in

2 the same group. They would do events that would

3 be attended by people thinking about writing

4 applications.

5 Q And those people would include what

6 is commonly referred to as ISVs, independent

7 software vendors?

8 A The people that they would do events for,

9 yes. Now they also included corporate

10 developers. There is a whole taxonomy of

11 software developers, and their responsibility

12 certainly included ISV events where you had to

13 educate ISVs.

14 Q Do you recall that Mr. Doug Henrich

15 was the head of the DRG in that '93-'94 time

16 period?

17 A Not really, but it sounds -- it's

18 possible.

19 Q Are you familiar with the term

20 "evangelizing" as used by Microsoft?

21 A It's certainly used in different ways by

22 different people at Microsoft.

23 Q What is your understanding of the

24 purpose of evangelizing?

25 A Usually to convert somebody to a religion

17

1 belief.

2 Q I meant as it was used by Microsoft

3 in specifically the developer relations group.

4 A Different people had different views.

5 It's a term that, actually, I think, Apple

6 claimed to have used before anybody else to

7 describe people who would do outreach to

8 potential partners.

9 The general idea of getting

10 somebody to write software for our products, you

11 know, in a very broad sense, some people referred

12 to that as evangelization.

13 Q And during the 1990s, Microsoft

14 spent hundreds of millions of dollars spreading

15 the information about their new systems, right?

16 A Well, it depends on what you would count

17 into that. That sounds a little high, but if you

18 really put all the advertising we did, which was

19 both at end users and developers, and all the

20 events we did, and the salaries of various

21 people, you could come up with a gross number

22 that would be pretty significant. I'm not sure

23 if you'd get up to hundreds of millions.

24 Q Mr. Gates, just briefly I want to

25 refer to your deposition in the Superior

18

1 Court of California cases, your deposition in
 2 February of 2002.

3 And on page 63, lines 3 through 5,
 4 I'll let you take a look at that, please, and see
 5 if you can confirm for me that, in fact, you said
 6 in that deposition that during the 1990s, that
 7 Microsoft spent hundreds of millions of dollars
 8 on spreading information about the new systems.

9 MR. HOLLEY: Object to the form of
 10 the question.

11 THE WITNESS: Yeah, if you take the
 12 entire decade, then you probably get up in
 13 that range.

14 BY MR. JOHNSON:

15 Q Why --

16 A I mean, I've never done an accounting
 17 so -- but we invested in spreading the
 18 information.

19 Q So why evangelize?

20 A Well, I don't think we should use the word
 21 that was the subject of the question. The reason
 22 you promote your -- your systems issue, it's
 23 beneficial if great applications are developed
 24 using your operating system.

25 Q Why is it beneficial?

19

1 A It could become one of the reasons that
 2 people choose to use the operating system.

3 Q So it was in Microsoft's
 4 self-interest to get ISVs to write applications
 5 for Microsoft's operating systems?

6 A There were some positive effects if really
 7 good applications were written.

8 Q And what were those positive
 9 effects?

10 A The potential of attracting more end
 11 users.

12 Q The potential to sell more
 13 operating systems?

14 A Yeah, end users of the operating system,
 15 which would result in higher volume.

16 Q Are you familiar with the acronym
 17 API?

18 A Yes.

19 Q What is an API?

20 A It's another one of those words that
 21 doesn't have as precise a definition as you might
 22 like. It means application programming
 23 interface.

24 Q And what are they used for?

25 A When one piece of software calls another

20

1 piece of software, you can call that -- the way
 2 that it is calling the services to the other
 3 piece of software is often called an API.

4 Q Do applications use APIs?

5 A Yes.

6 Q And how do they do that?

7 A They write code.

8 Q To the APIs?

9 A They use the API -- by using the API,
 10 we're not -- they write code that calls the API.

11 Q What does it mean in Microsoft when
 12 you say you've documented or published an API?

13 A It would mean information concerning the
 14 API was made available in some form.

15 Q Made available to whom?

16 A Depends on the case we're talking about.

17 Q Well, is it made available to ISVs,
 18 for instance, to write applications to your
 19 operating systems?

20 A In some cases, sure.

21 Q Does the publishing or documenting
 22 an API have any significance for the ISV
 23 community?

24 MR. HOLLEY: Object to the form of
 25 the question.

21

1 THE WITNESS: I'm not sure what
 2 you're asking. They might end up reading
 3 it or they might not.

4 BY MR. JOHNSON:

5 Q Isn't documenting or publishing the
 6 API a step for the ISV to be able to use the
 7 APIs?

8 A Well, it's not a necessary step.

9 Q So you're telling me documenting
 10 and publishing an API is not a meaningful event
 11 for the ISV community?

12 MR. HOLLEY: Object to the --

13 THE WITNESS: No, it may be the way
 14 they find out about it. And we certainly
 15 had a lot of material we created.

16 I'd say third parties did way more
 17 than we did, but you could go into a
 18 bookstore and find things that Microsoft
 19 did to document APIs -- you'd find a
 20 wealth of stuff that third parties did
 21 and, in fact, third parties, it would be
 22 interesting to look where people learn
 23 about APIs through third-party write-ups
 24 versus Microsoft published write-ups. The
 25 third-party thing is a huge, huge

22

1 phenomenon.

2 BY MR. JOHNSON:

3 Q Did Microsoft try to enlist the

4 support of ISVs to have applications ready at or

5 near the time of the release of Windows '95?

6 A If they were applications that we thought

7 were really good applications, that -- we thought

8 that would be a good thing for it, and we worked

9 with a number of ISVs.

10 Q Do you recall when the evangelizing

11 for the Chicago operating system began?

12 A Well, I don't think you'd ever have a

13 precise date for that because, of course, the

14 ship date for Chicago was varying somewhat, and

15 the exact feature content of Chicago was varying

16 somewhat, but, eventually, as soon as you finish

17 one new release of the OS, or even before, you're

18 talking to people, what would they like to see in

19 the release, people inside Microsoft, people

20 outside Microsoft.

21 And so the idea -- take, for

22 example, the idea of 32-bit support, or long file

23 name support, we had been talking internally and

24 externally about those elements, Windows '95, for

25 over a decade.

23

1 Q Do you remember the senior

2 technical retreat of Microsoft executives that

3 took place at Hood Canal in June of 1993?

4 A I don't, in particular, remember that

5 exact event. We had a lot of retreats, a lot of

6 them were at Hood Canal.

7 Q You don't remember that one in

8 particular?

9 A If you showed me some documents, I might

10 remember some specific things about it, but we

11 had a lot of retreats.

12 MR. JOHNSON: Can we mark this as

13 Exhibit Number 2, please. I guess that

14 should be Gates Exhibit 2.

15 (Exhibit Number 2 was marked.)

16 BY MR. JOHNSON:

17 Q Mr. Gates, you've been handed

18 Exhibit 2, which is a slide presentation,

19 apparently, that was presented by a number of

20 team members. Do you see them listed on the

21 first page of that exhibit, sir?

22 MR. HOLLEY: Objection: Lack of

23 foundation.

24 THE WITNESS: I see some names

25 there. I don't know that this was

24

1 presented. Do you?

2 BY MR. JOHNSON:

3 Q Well, let's talk about those names,

4 the team members there. MikeMap, would that be

5 Mike Maples?

6 A Yeah. Is there a date on this thing?

7 Q Actually, no, there is no date on

8 this thing.

9 A That's too bad. MikeMap is how we would

10 refer to Mike Maples.

11 Q Okay. And what was Mr. Maples'

12 position in 1993?

13 A Well, I thought he had the job that you

14 assigned to Pete Higgins.

15 Q You don't recall that Mr. Maples

16 was the executive vice president of the worldwide

17 products group?

18 A No, I thought he was head of the

19 applications division.

20 Q Okay. How about JohnL?

21 A John Lazarus.

22 Q Was he a vice president in charge

23 of systems strategy?

24 A Vice president in charge of something. I

25 wouldn't have guessed that his title would be

25

1 systems strategy, but it might have been. It's

2 sort of -- anyway, John was a vice president.

3 Q Tandy Trover [sic]?

4 A Trower.

5 Q Trower, excuse me. How do you

6 spell that?

7 A T-R-O-W-E-R.

8 Q Do you recall that Mr. Trower was

9 the director of user interface architecture

10 design?

11 A Yeah, that sounds like the title Tandy

12 would have had in this time frame.

13 Q Steve M., is that Mr. Madigan?

14 A Probably. That's the most ambiguous of

15 all these names, but my guess is that would be

16 Steve Madigan.

17 Q Was Mr. Madigan the group project

18 manager for the Cairo user interface?

19 A I -- sounds very possible. I wouldn't

20 have been able to guess that unprompted.

21 Q DavidCol, is that Mr. David Cole?

22 A David Cole.

23 Q Is was he the group manager for

24 Chicago?

25 A Group program manager, there is a good

1 chance that was his title.

2 Q ChrisGr, Chris Graham?

3 A Probably Chris Graham.

4 Q He was the head of the Office shell
5 development?

6 A I'm not sure at all what Chris Graham was
7 doing.

8 Q Do you recall the Office shell
9 development program at Microsoft?

10 A There is a -- there is a lot of confusion
11 about -- you know, we were thinking of doing
12 various kinds of shells and things, and
13 essentially, we never did, so I'm not sure what
14 Chris was working on.

15 Q So you don't remember an Office
16 shell development project?

17 A I remember things that went -- would have
18 gotten that name, but we never shipped any of
19 those things.

20 Q So it never came to fruition, in
21 other words?

22 A It -- some of that work took a different
23 direction and we, essentially, did a mail client,
24 but I don't think Chris Graham's work ended up
25 being part of what we shipped.

1 Q EdF, is that Ed Fries?

2 A Fries, yeah.

3 Q How do you spell his last name?

4 A F-R-I-E-S, but they pronounce it Fries.

5 Q Do you recall Mr. Fries' position?

6 A Something to do with Office. Later he
7 moved over to games, but in this time period I'm
8 90 percent sure he is still in Office.

9 Q So when you say "Office," that's
10 the Office productivity suite of products?

11 A No, not the suite, it's the group that
12 does the EXCEL, Power Point, what later became
13 Outlook, all those different products.

14 Q Weren't those products joined in a
15 suite called Microsoft Office?

16 A There are many ways to license that
17 software. One of them was in the Office suite.

18 Q And the last of the team members
19 here, Mr. NathanM, Nathan Myhrvold?

20 A Last, but not least, Nathan Myhrvold.

21 Q And do you recall that Mr. Myhrvold
22 held the title of vice president for events,
23 technology and business development?

24 A That sounds correct.

25 Q So it's fair to say the team

1 members, at least on this Exhibit Number 2,
2 include both systems people and applications
3 executives, right?

4 A Well, Nathan's neither, so not
5 exclusively, but yeah, it includes people who
6 think about applications and would think about
7 systems.

8 Q You'll see on this first page of
9 this Exhibit Number 2, there is a legend
10 inscribed at the bottom, it says, "Note:
11 Client-Attorney Privileged Material."

12 Are any of the team members here
13 attorneys that we've talked about?

14 A I don't know what you -- the name -- we
15 went through the names listed there. None of
16 them happen to be attorneys.

17 I've never seen "client-attorney
18 privilege." I've always thought the attorneys
19 came first, and the clients came second, so
20 that's a new one for me. I've never seen that.

21 Q Do you have any understanding why a
22 slide presentation of this type would be labeled
23 in this way?

24 A Well, tell me -- we're going to have to
25 know more about when, what, you know, what --

1 what is it? What is this thing? Where did you
2 get it?

3 Q So I take it -- well, it was
4 produced by you -- or your company, Mr. Gates,
5 Microsoft.

6 Do you have any -- so you don't
7 have any understanding why this document would be
8 labeled in this fashion?

9 A Partly because I don't have any context
10 for this document.

11 Q But you know it should actually say
12 attorney-client privileged material and not
13 client-attorney privileged material; is that
14 right, sir?

15 A No. I don't know what it should say, but
16 I know that I've never seen the label
17 client-attorney privilege on any document before.
18 I have seen documents with no label, I have seen
19 documents with attorney-client privilege, but
20 I've never seen one with client-attorney
21 privilege.

22 Q I'd like you to turn into this
23 document to the page that has a Bates stamp
24 ending in the numbers 292. And to help you out,
25 it says at the top The Radical Extreme: The

30

1 Office Shell.

2 **A I see that page.**

3 Q The slide says that the Basic

4 Approach includes -- I'm reading from the first

5 bullet point, "Hold extensible shell for Office."

6 Now, Office would have been the

7 Office productivity product we just talked about,

8 right?

9 MR. HOLLEY: Object to the form of

10 the question.

11 THE WITNESS: There is no single

12 product, there were many products.

13 BY MR. JOHNSON:

14 Q But Office with a capital O are

15 those products, Office productivity applications,

16 correct?

17 **A There is a set of products, yes.**

18 Q What is an extensible shell, what

19 does that refer to?

20 **A I don't know what they are referring to**

21 **here. Extensibility is just the general idea**

22 **that you can add something in addition to what's**

23 **already there.**

24 Q The first line item after the first

25 bullet point says, "Differentiation feature:

31

1 shell integration. WOW!" with an exclamation

2 point, in all capital letters.

3 The differentiation feature, would

4 that be from competitors like PerfectOffice?

5 MR. HOLLEY: Object to the form of

6 the question.

7 THE WITNESS: It's not clear

8 what -- what it's differentiating, whether

9 it's differentiating with other shells.

10 And we never did an Office shell,

11 so in looking at this document, it appears

12 to be talking about something that never

13 happened.

14 BY MR. JOHNSON:

15 Q The second bullet point says that

16 the -- of the Basic Approach is that the "Chicago

17 shell is non-extensible," so that would be

18 referring to the shell in Chicago, sir; is that

19 right?

20 MR. HOLLEY: Object to the form of

21 the question. He's never seen this

22 document before.

23 BY MR. JOHNSON:

24 Q Do you know what I'm talking about

25 when I speak of the Chicago shell, sir?

32

1 **A I know what we eventually shipped in**

2 **Windows '95 as a file system shell, and it had**

3 **some degree of extensibility. Depending on the**

4 **context you could call it -- you know, certainly**

5 **in the pure sense of the word it had some**

6 **extensibility.**

7 **Whoever wrote this, you know, was**

8 **apparently applying some standard that -- they**

9 **were contemplating something that was more**

10 **extensible.**

11 Q Actually, they were contemplating

12 something that was nonextensible, isn't that what

13 it says, sir, that the Chicago shell would be

14 nonextensible?

15 MR. HOLLEY: Object to the form of

16 the question.

17 THE WITNESS: No, but the

18 title of -- we're just wildly guessing

19 about an undated document that I have

20 no -- no connection to, but the title of

21 the page says Office shell, and it's

22 contrasting something we never did called

23 the Office shell, a hypothetical thing,

24 with the Chicago shell, but we never did

25 it.

33

1 BY MR. JOHNSON:

2 Q Was it a hypothetical thing in

3 1993, sir?

4 **A It is in the sense that I know for sure**

5 **that at no time did we ship it.**

6 Q Could you answer my question? Was

7 it a hypothetical thing in 1993?

8 **A Yeah, something doesn't go from being**

9 **hypothetical to being real until you actually**

10 **ship it.**

11 Q I see. Was it a real --

12 **A Since we didn't ship it, it stayed in that**

13 **non-real state.**

14 Q Was it a real project in 1993?

15 **A There were -- there was a mail piece of**

16 **work, and the question is: Could it be used in a**

17 **more general sense? And there were people who**

18 **would raise that question and, in fact, that --**

19 **it never happened.**

20 Q The first line item under the

21 bullet point, "Chicago shell is non-extensible"

22 has quotation marks around the phrase, "we

23 couldn't get it done in time..."

24 Sir, was that an excuse that was

25 going to be offered to ISVs for not making the

34

1 Chicago shell extensible?

2 MR. HOLLEY: Object to the form of

3 the question.

4 THE WITNESS: We're into so many

5 hypotheticals, it's pretty unbelievable.

6 I don't know what that refers to.

7 Remember, we haven't dated the document.

8 You probably should talk to whoever

9 you think, you know, authored the document

10 or saw it during the relevant time period.

11 MR. JOHNSON: Let's mark this as

12 Exhibit Number -- what are we up to, 4 --

13 MR. HOLLEY: 3.

14 (Exhibit Number 3 was marked.)

15 BY MR. JOHNSON:

16 Q Mr. Gates, you've been handed Gates

17 Exhibit Number 3, which is a document entitled

18 Office Shell Ideas and Issues.

19 And I'd like you to first focus on

20 the header under that title that's in Italics,

21 and it tells where this document can be found,

22 and it appears to refer to Chris Graham; is that

23 correct? Am I reading that properly?

24 MR. HOLLEY: Object to the form of

25 the question.

35

1 THE WITNESS: Well, the letters

2 chrisgr are in that path name.

3 BY MR. JOHNSON:

4 Q Would that refer to Chris Graham,

5 sir?

6 A I'm not sure. There is a good chance it

7 does but --

8 Q Was Mr. Graham in charge of the

9 Office shell development?

10 A I don't know. There wasn't -- I don't

11 know who was doing Cairo shell type work.

12 Q Okay. He was one of the team

13 members we saw on Exhibit 2, right?

14 A We thought so, yes. You know, it said

15 Crisgr [sic] on that document.

16 Q And this document, Exhibit 3, is

17 dated, fortunately, July 3, 1993, it's down in

18 the far right-hand corner. It's pretty tough to

19 read, you really need your magnifiers on, but

20 that's what it says.

21 A I'll take your word for it.

22 Q Okay. There is a summary at the

23 top of this memo, it's entitled Summary. And it

24 states that, "This paper investigates a proposal

25 that the next major version of Office," with a

36

1 capital O, after Chicago should consist of a

2 Windows shell and applications optimized to work

3 together. The proposal originated at a senior

4 technical retreat at Hood Canal in June of 1993.

5 Does that refresh your recollection

6 at all that the Office shell idea originated at

7 the Hood Canal retreat in June of 1993?

8 A No. I mean, do you have anything that

9 says who was at that retreat?

10 Q Mr. Gates, I'm only here to ask you

11 questions --

12 A No, you --

13 Q -- and I've only got what I've got,

14 so --

15 A Right. I told you when you first asked

16 about the retreat that I didn't recall the

17 specific retreat. Now you're trying to say to

18 me -- ask me particular things about the retreat.

19 Q No, sir, that's not what I'm doing.

20 A If you have more documents -- and I said

21 at the time, if you have documents that show who

22 was at the retreat, the agenda for the retreat,

23 then it might help bring back some recollections

24 of the retreat.

25 At this moment, I don't know what

37

1 that retreat was, I don't know if I was anyone

2 who was within 100 miles of the retreat.

3 So when you're asking me specifics

4 about what happened at the retreat, so far, out

5 of all the retreats I've been to that were 16

6 years ago, I don't recall this one.

7 Q I appreciate that, sir. What I was

8 actually asking simply was whether this document

9 refreshed your recollection that the idea for the

10 Office shell originated at this retreat.

11 Obviously --

12 A No.

13 Q -- it did not.

14 Do I understand it did not refresh

15 your recollection, right?

16 A Yeah, here's another document that I don't

17 think I've ever seen in my life.

18 Q You have that memory, sir? You

19 don't think you've ever seen this document in

20 your life?

21 A I don't recall this particular document,

22 no.

23 Q You may have seen it, you may not

24 have seen it; is that true, sir?

25 A My guess is that I didn't see it, but I'm

38

1 not certain.

2 Q This document includes a

3 recommendation after the summary to follow the

4 "Aggressive" version of the plan which is

5 outlined below.

6 Do you see that, sir?

7 A I see those words, yes, sir.

8 Q Under the Proposed Plan, the Office

9 shell was going to include increased

10 extensibility of components such as the Explorer,

11 the Desktop and the Tray.

12 Do you see that, sir, in the

13 Proposed Plan, third bullet point down?

14 MR. HOLLEY: Object to the form of

15 the question; lacks foundation.

16 THE WITNESS: You've read it

17 correctly.

18 BY MR. JOHNSON:

19 Q And then the last bullet point

20 under the Proposed Plan, it states, quote, "At an

21 appropriate time after Office+Shell ships, the

22 enhanced shell would become the next standard

23 Windows shell for both Chicago and Cairo," close

24 quote.

25 A I'm sorry. I'm not seeing where you are.

39

1 Q Sure, I'm sorry, it's on --

2 A Oh, you're right, the last sentence of

3 that last point, right.

4 Q Yeah, the last bullet point.

5 Do you recall, sir, a plan that the

6 enhanced shell would only become a part of the

7 standard Windows shell for both Chicago and Cairo

8 after an appropriate time had passed from the

9 Office+Shell ship date?

10 A Well, I know that we never shipped in

11 Office shell, but I also know you read that

12 sentence quite well.

13 Q If you turn to the next page of

14 this Exhibit Number 3, the Bates number ending in

15 122, you'll see at the top it's got pros and cons

16 of this plan.

17 Do you see that, sir?

18 A I see those labels.

19 Q Yes. And in the third bullet point

20 it says, "Office gets a big jump on competitors

21 in creating apps optimized for the new shell,"

22 close quote.

23 Do you recall that being one of the

24 pros of creating an Office shell?

25 A No. I know that we didn't do an Office

40

1 shell.

2 Q Do you recall one of the cons being

3 the risk of ISV retaliation?

4 A No.

5 Q If you look at the next page, Bates

6 numbered 123, you'll see at the top of the page a

7 heading called Advantages, and then it's got a

8 bullet point there.

9 Are you with me?

10 A You're showing me where you're going to do

11 some more reading?

12 Q Yes, correct.

13 A Okay. Go ahead.

14 Q Yes. Advantages, the first

15 bullet point, quote, "We could gain a much bigger

16 advantage from the Office shell. We could pull

17 off the 'UI Paradigm Shift' to document

18 centricity possibly two years sooner than if we

19 did not follow [sic] this plan. Major

20 breakthroughs in app usability may be possible.

21 This would give us a very significant lead

22 over" out competitors -- I assume that's "our"

23 and not "out" -- "and make our competitors'

24 products look 'old,'" end quotes.

25 Did I read that one pretty well,

41

1 Mr. Gates?

2 A Um-hmm, yeah.

3 Q Do you recall why it was that an

4 Office shell would give Microsoft a significant

5 lead over its competitors?

6 MR. HOLLEY: Object to the form of

7 the question.

8 THE WITNESS: I know we didn't ship

9 one.

10 BY MR. JOHNSON:

11 Q I'm pretty much aware of that now,

12 Mr. Gates, that you didn't ship one. I'm talking

13 about the plan for the Office shell that was

14 going forward in 1993.

15 MR. HOLLEY: Object to the form of

16 the question.

17 BY MR. JOHNSON:

18 Q Do you know why the Office shell

19 was going to provide a significant lead over our

20 competitors and make the competitors' products

21 look old?

22 MR. HOLLEY: Object to the form of

23 the question.

24 THE WITNESS: I know there was

25 never a committed plan to do an Office

42

1 shell, and I know that we didn't -- we
 2 didn't ship one. There are a lot of
 3 people with different ideas about shells
 4 and, you know, we were thinking what
 5 should we do in the shell was one of the
 6 software decisions we have to do, but we
 7 didn't choose to do an Office shell.

8 BY MR. JOHNSON:

9 Q The reference to the "UI Paradigm
 10 Shift" in that same bullet point, which is in
 11 quotation marks, UI refers to user interface; is
 12 that right?

13 A Very likely, yes.

14 Q And do you have any understanding
 15 of what the UI Paradigm Shift was that is being
 16 talked about in this document?

17 A No, I know that it -- when people wanted
 18 to argue for the software plan that they liked,
 19 they would often say, "Hey, my plan is a better
 20 UI paradigm than your plan, and clearly this --
 21 you know, whatever we're reading here, which we
 22 still don't know much about the document, but
 23 these were plans that were not chosen, but
 24 somebody appears to be promoting their idea of a
 25 plan.

43

1 Q Is a paradigm shift the same sort
 2 of thing that you call a C-change?

3 A No.

4 Q What's the difference?

5 A A paradigm shift is usually -- and we're
 6 in the general realm of the world, it's how you
 7 think about things, paradigm is how you measure
 8 things.

9 Q What about C-change?

10 A C-change is where you have a complete
 11 shift of what's present, like a C-change in the
 12 administration -- anyway.

13 Q At the bottom of this same page,
 14 Bates number 123, there is a list of features
 15 that the Chicago shell would include and not
 16 include under this particular proposal for an
 17 Office shell.

18 Do you see that, sir?

19 A Yeah, it looks like whenever this was
 20 written, there wasn't any certainty about what
 21 would be in the Chicago shell.

22 Q I want to focus your attention on
 23 the not including portion of this on the Chicago
 24 shell, which actually goes on to the next page
 25 Bates stamped 124, and in specifically the first

44

1 bullet point which says that he Chicago shell
 2 would not include "Extensibility e.g. Explorer
 3 not extensible," and then a parens "(Capone hard
 4 coded into explorer)" close parens.

5 Did I read that correctly, sir?

6 A Yeah, although Capone wasn't hard-coded,
 7 so I don't know what time frame this was written,
 8 and certainly that doesn't connect with what
 9 actually happened.

10 Q But, sir, we know the document is
 11 dated July 3, 1993, so we can --

12 A No, what happens --

13 Q -- figure pretty properly --

14 A No, we can't, because that date is the
 15 date that this document is printed, not the date
 16 that it's authored. So whenever you look at
 17 those things on the bottom, the most you can
 18 infer is that the document was written before
 19 that date of printing, because that's a print
 20 date.

21 Do you see where it says the exact
 22 time? It wasn't written at that exact time, it's
 23 printed at that time.

24 Q What is the extensibility that they
 25 are referring to that this proposed plan would

45

1 eliminate from the Chicago shell?

2 MR. HOLLEY: Object to the form of
 3 the question.

4 THE WITNESS: There is no
 5 elimination. You're completely -- I mean,
 6 remember, this is a document we've never
 7 seen before, but there is nothing in here
 8 about any exclusion.

9 It just says -- this says -- this
 10 is trying to speculate on what's going to
 11 end up shipping in the Win '95 Chicago
 12 shell, and they are saying that it
 13 includes -- as of this time, it includes
 14 certain things and it does not include
 15 other things. Nobody is talking about
 16 taking something out.

17 BY MR. JOHNSON:

18 Q So it does not include
 19 extensibility?

20 MR. HOLLEY: Object to the form of
 21 the question.

22 BY MR. JOHNSON:

23 Q Right?

24 A Whatever that person meant by
 25 "extensibility," and they are referring to a

<p style="text-align: right;">46</p> <p>1 Capone thing, which makes it a very confusing</p> <p>2 thing because Capone was not hard-coded in. I</p> <p>3 don't know if this person was on the Chicago team</p> <p>4 or not.</p> <p>5 Q So do you have any understanding</p> <p>6 what is meant by the term "extensibility" when</p> <p>7 referring to the Chicago shell?</p> <p>8 MR. HOLLEY: Object to the form.</p> <p>9 THE WITNESS: In general, yes. In</p> <p>10 this document, no.</p> <p>11 BY MR. JOHNSON:</p> <p>12 Q Tell me, in general, what you</p> <p>13 understand.</p> <p>14 A It means the ability to add things.</p> <p>15 Q On the next page of this Exhibit 3,</p> <p>16 the one Bates stamped ending 125, there is a list</p> <p>17 of assumptions there. Are you with me?</p> <p>18 A There is a heading that says Assumptions.</p> <p>19 Q Yes, the last bullet point says</p> <p>20 "Ren," which is not all capitalized, but it's</p> <p>21 Ren, "would probably require the advanced shell</p> <p>22 since it relies on Explorer extensibility."</p> <p>23 Do you have any understanding of</p> <p>24 why Ren required Explorer extensibility?</p> <p>25 MR. HOLLEY: Object to the form of</p>	<p style="text-align: right;">48</p> <p>1 Mr. Silverberg was the person in</p> <p>2 charge of the personal systems group. He would</p> <p>3 have been running the Chicago program, right?</p> <p>4 A Yes.</p> <p>5 Q And Mr. Allchin was in the advanced</p> <p>6 systems group. He would have been the person</p> <p>7 responsible for NT, right?</p> <p>8 A Yeah, I'm pretty sure at this date they're</p> <p>9 peers, one doing the NT work and one doing the</p> <p>10 '95 work.</p> <p>11 Q In looking at this short E-mail, it</p> <p>12 appears at the Chicago UI design group you</p> <p>13 held -- that ISVs were present?</p> <p>14 A Yeah, I'm not copied on this E-mail, so I</p> <p>15 can speculate along with you here.</p> <p>16 Q I understand that, sir.</p> <p>17 Do you have any understanding why a</p> <p>18 design preview for Chicago would be held with</p> <p>19 ISVs?</p> <p>20 A We had lots of meetings with people</p> <p>21 internally, corporate developers, ISVs, to get</p> <p>22 feedback about things, so it's not at all a</p> <p>23 surprise that there would have been a meeting</p> <p>24 that that would have happened.</p> <p>25 Q And it would be -- would it be</p>
<p style="text-align: right;">47</p> <p>1 the question.</p> <p>2 THE WITNESS: I'm not sure what</p> <p>3 they are referring to there. The thing</p> <p>4 that Ren became was a stand-alone</p> <p>5 application.</p> <p>6 BY MR. JOHNSON:</p> <p>7 Q In 1993, it was not a stand-alone</p> <p>8 application, was it, sir?</p> <p>9 A It was a -- there were two groups that got</p> <p>10 merged together at some point and I don't know if</p> <p>11 that was in '93 and '94, there was a group that</p> <p>12 was just doing a stand-alone application and</p> <p>13 there had been some people who had been doing</p> <p>14 some Cairo-related work, and the Cairo-related</p> <p>15 work eventually didn't come to pass and it was a</p> <p>16 stand-alone application.</p> <p>17 MR. JOHNSON: Can we mark this as</p> <p>18 Exhibit Number 4, please.</p> <p>19 (Exhibit Number 4 was marked.)</p> <p>20 BY MR. JOHNSON:</p> <p>21 Q Mr. Gates, you've now been handed</p> <p>22 Exhibit Number 4, which is an E-mail string</p> <p>23 involving Mr. Allchin and Mr. Silverberg</p> <p>24 concerning a Chicago UI design preview that's</p> <p>25 dated in July 1993.</p>	<p style="text-align: right;">49</p> <p>1 usual for a vice president of Mr. Silverberg's</p> <p>2 stature to attend such a preview?</p> <p>3 A Brad doesn't go to many things like that.</p> <p>4 He goes to some. He was a bit shy about that</p> <p>5 stuff, but I'm not surprised he went to a few.</p> <p>6 Q Looking at Mr. Silverberg's E-mail</p> <p>7 to Mr. Allchin, and focusing you on the second</p> <p>8 bullet point -- I guess line item, perhaps, would</p> <p>9 be a better description than bullet point -- I'm</p> <p>10 going to read it in, quote, "They *really*," and</p> <p>11 the word "really" has asterisks around it, "They</p> <p>12 *really* want extensibility. They continued to</p> <p>13 press for this in every way, whether cabinet</p> <p>14 extensibility so they could put in their own</p> <p>15 right pane handler; add properties to prop</p> <p>16 sheets; hook find file; etc. What's more, they</p> <p>17 were afraid and angry that Microsoft would use</p> <p>18 the hooks for its own purposes (apps, mail, etc)</p> <p>19 but not provide to isv's. This was a very hot</p> <p>20 button," close quote.</p> <p>21 Do you have any understanding,</p> <p>22 Mr. Gates, what Mr. Silverberg is talking about</p> <p>23 when he says that the ISVs really want</p> <p>24 extensibility?</p> <p>25 A No, he does not -- I mean, he gives some</p>

50

1 general sense, but we'd have to ask him.

2 Q Do you have any understanding of

3 what Mr. Silverberg is talking about when he says

4 that the ISVs were afraid and angry that

5 Microsoft would use the hooks for its own

6 purposes (apps, mail, etc) and not provide them

7 to isv's?

8 A They are saying they want to use the same

9 hooks, apparently.

10 Q Is hooks --

11 MR. HOLLEY: The question is

12 whether you understand what Brad meant.

13 THE WITNESS: No, I don't.

14 BY MR. JOHNSON:

15 Q You don't have any idea why ISVs

16 would be afraid and angry if MS -- Microsoft used

17 the hooks?

18 A Relative to this E-mail, or in a general

19 sense?

20 Q Let's try in a general sense.

21 A ISVs often had things they wanted.

22 Q Is hooks another name for APIs?

23 A No, it's actually -- it's used -- I don't

24 think anybody can define what they mean when they

25 say "hooks." They usually mean some way of

51

1 getting into an event chain.

2 Q Would it include APIs?

3 A It could include APIs.

4 Q Mr. Silverberg says that this was a

5 very hot button.

6 Was this a very hot button that you

7 were aware of, sir? Do you have any recollection

8 of this hot button?

9 A In terms of what's a button and the

10 temperature of the button, you're going to have

11 to ask the guy who wrote the thing. I don't

12 think of it as a hot button, no.

13 Q So sitting here today, you don't

14 have any recollection of ISVs wanting

15 extensibility in Chicago; is that right, sir?

16 A Chicago had a lot of extensibility, let's

17 be clear. Chicago is called an operating system,

18 it's full of APIs that people called and used, so

19 Chicago was a successor operating system, and

20 it's the nature of operating systems that they

21 have massive extensibility.

22 Q Now could you answer my question,

23 Mr. Gates?

24 Do you have any recollection

25 sitting here today that extensibility was

52

1 something that the ISVs really wanted?

2 A The context of the extensibility being

3 used in this particular E-mail, no. The general

4 idea of extensibility, yes. We gave them masked

5 extensibility.

6 Q This convention of using asterisks

7 around words, is that because bold didn't exist

8 in E-mails at the time?

9 A I don't know.

10 Q You've never seen that convention

11 of putting asterisks around words during this

12 time period?

13 A Mostly people use capitals, capital R,

14 capital E, capital A, like that.

15 Q So the asterisks around a word

16 meaning nothing to you?

17 A They tend to call that word out.

18 THE VIDEOGRAPHER: This is the end

19 of Tape Number 1 of the deposition of

20 William Henry Gates III. The time is

21 11:34 p.m. -- a.m. We're off the record.

22 (A recess was taken.)

23 THE VIDEOGRAPHER: This is the

24 beginning of Tape number 2 of the

25 deposition of William Henry Gates III.

53

1 The time is 11:41 a.m. We are on the

2 record.

3 MR. JOHNSON: Could you mark this

4 as Exhibit Number 5, please.

5 (Exhibit Number 5 was marked.)

6 BY MR. JOHNSON:

7 Q Mr. Gates, you've now been handed

8 Exhibit Number 5, which is an E-mail chain that

9 you were eventually copied on by Mr. Maples, but

10 it starts out with an E-mail from Christopher

11 Graham, who we've previously talked about, to

12 Mr. Maples and Mr. Higgins concerning the subject

13 matter of Ren in Office, September 10, 1993.

14 Do you recall receiving this

15 E-mail?

16 A No, but it appears it's an E-mail I got.

17 Q I'd like to draw your attention to

18 the -- first of all, Mr. Graham starts by stating

19 "We understand that Systems may have proposed

20 that Ren should be phased out." That's the first

21 sentence.

22 And then he talks a little bit

23 further, and then lists a number of reasons for

24 that.

25 And the second line item there

54

1 states, quote, "Microsoft wants Office to be more
 2 integrated with the system using the shell's
 3 extensibility mechanisms. The Explorer is the
 4 most important part of the shell that we want to
 5 extend for Office. However, Chicago
 6 extensibility mechanisms aren't suitable because
 7 they aren't OLE" -- O-L-E, all caps -- "based,
 8 and are too limited. Cairo won't be done in time
 9 for this Office release, and Chicago 2 will be
 10 even later than that, so we can't base our shell
 11 integration on them," close quote.

12 When Mr. Graham is speaking about
 13 Chicago's extensibility mechanisms, is that the
 14 same extensibility mechanisms that Mr. Silverberg
 15 had said that the ISVs really wanted?

16 MR. HOLLEY: Object to the form of
 17 the question.

18 THE WITNESS: No, this is talking
 19 about this dream we had for the Cairo
 20 shell, and some neat things that had been
 21 done there. All that stuff, of course,
 22 got cancelled and never shipped.

23 But he's talking about the
 24 comparison to the Cairo shell, and that's
 25 the thing that never happened.

55

1 BY MR. JOHNSON:

2 Q Can you explain, sir, why he states
 3 that the Chicago extensibility mechanisms were
 4 not suitable for Office?

5 A I'm not sure why he doesn't like OLE-based
 6 extension, but the key point is that Cairo added
 7 a bunch of semantics, and the Chicago shell was
 8 just a hierarchical-based shell, it doesn't have
 9 the database like the features that were intended
 10 for the Cairo shell and, unfortunately, the Cairo
 11 shell ended up being too ambitious, didn't work
 12 out, so none of those things ever happened.

13 And that was what this Office
 14 shell -- this controversy here all ends up being
 15 a complete dead end when, subsequently, the Cairo
 16 shell is cancelled.

17 Q Yeah, well, besides what may have
 18 happened down the road, let's focus on what's
 19 happening in September of 1993, and what I'd like
 20 to know from you is if you have any understanding
 21 why Mr. Graham is stating that Cairo can't base
 22 their shell integration on the Chicago
 23 extensibility mechanisms?

24 MR. HOLLEY: Objection: I think
 25 you said something you didn't mean to say,

56

1 Jeff. You said "Cairo can't rely on."
 2 MR. JOHNSON: You're right. I
 3 meant to say "Office." Thank you.

4 BY MR. JOHNSON:

5 Q Mr. Gates, if you'd like me to
 6 repeat the question, I think it was poorly
 7 framed.

8 I'd like to know whether you can
 9 tell me what it was about the Chicago
 10 extensibility mechanisms that made them
 11 unsuitable for use by Office, and Mr. Graham says
 12 they can't base -- Office can't base the shell
 13 integration on them.

14 A This memo is talking about whether or not
 15 a thing called OLE, the full, big, and
 16 unfortunately at this time very slow OLE run time
 17 was invoked for all shell-related things, and
 18 Chris is in a group that liked OLE, wanted OLE to
 19 be used.

20 I don't think it's fair for him to
 21 say that everybody in Office wanted the OLE run
 22 time in there. That's certainly different than
 23 anything that Brad was talking about because Brad
 24 was one of the people who felt that OLE was too
 25 big and too slow, and he didn't want the shell to

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1 be big and slow.

2 Q "Brad," you mean Brad Silverberg?

3 A I do. So the OLE thing gets into a very
 4 internal thing where some people really thought
 5 OLE was a great thing, but people like Brad
 6 wanted the Win '95 to run well in 4 mg, he had
 7 made sure the shell stayed pretty lean.

8 Q Mr. Gates, is it fair to say that
 9 Mr. Graham, at least, is saying here that the
 10 Office developers could not use Chicago's shell
 11 extensibility mechanisms?

12 A No. The Chicago shell had some
 13 extensibility, but it's very different than what
 14 the Cairo shell is. The Cairo shell is this
 15 whole vision of how storage is done in a
 16 different way, so when you're just doing a
 17 hierarchy, there isn't -- isn't much comparable
 18 to when you're doing the Cairo storage system.

19 Chris wants OLE used in the shell.
 20 That's a completely orthogonal thing. Don't
 21 confuse the fact that these pro-OLE people wanted
 22 OLE to show up everywhere with any of the other
 23 issues.

24 Q In the next bullet point it says
 25 that "The Ren group is developing an OLE

<p style="text-align: right;">58</p> <p>1 extensible replacement for the Chicago Explorer."</p> <p>2 Can you explain to me what that was</p> <p>3 about, the "OLE extensibility replacement for the</p> <p>4 Chicago Explorer"?</p> <p>5 A That was something that was big enough and</p> <p>6 slow enough that it never happened.</p> <p>7 Q Mr. Gates, regardless of whether it</p> <p>8 happened or not, what was the extensible</p> <p>9 replacement for the Chicago Explorer that the Ren</p> <p>10 group was working on?</p> <p>11 A It was a whole idea of taking the new</p> <p>12 Cairo storage metaphor and exposing that and</p> <p>13 calling it through some OLE APIs.</p> <p>14 Q Was the Ren group joined with the</p> <p>15 Office group in working on the Office shell?</p> <p>16 MR. HOLLEY: Objection to form.</p> <p>17 THE WITNESS: You're really</p> <p>18 confusing a lot of things there. There</p> <p>19 was the Cairo shell group and the Ren</p> <p>20 group, and at some point they get pushed</p> <p>21 together.</p> <p>22 BY MR. JOHNSON:</p> <p>23 Q Cairo and Ren get pushed together?</p> <p>24 A Cairo shell, not Cairo. That's a very</p> <p>25 important distinction. Cairo was the whole idea</p>	<p style="text-align: right;">60</p> <p>1 slow the ability of competitors in extending the</p> <p>2 Explorer," close quote.</p> <p>3 Did I read that right, sir?</p> <p>4 A Yes.</p> <p>5 Q Do you have any understanding what</p> <p>6 Mr. Graham meant that by providing no</p> <p>7 extensibility in the original Chicago Explorer,</p> <p>8 that would slow the ability of competitors in</p> <p>9 extending the Explorer?</p> <p>10 A He appears to be saying if you have less</p> <p>11 extensibility, then people would do less</p> <p>12 extensions.</p> <p>13 Q So your competitors would not be</p> <p>14 able to extend the Explorer; is that correct,</p> <p>15 sir?</p> <p>16 MR. HOLLEY: Objection to form of</p> <p>17 the question.</p> <p>18 THE WITNESS: They would be limited</p> <p>19 to whatever extensions were there and</p> <p>20 available.</p> <p>21 BY MR. JOHNSON:</p> <p>22 Q And Office competitors would be</p> <p>23 people like WordPerfect and Lotus?</p> <p>24 A But the extensibility question is not</p> <p>25 specific to any company. If the extensibility is</p>
<p style="text-align: right;">59</p> <p>1 of what was going to happen with the storage</p> <p>2 system, most of which never shipped.</p> <p>3 Q So Cairo shell and REN got pushed</p> <p>4 together?</p> <p>5 A That's right, and then the Cairo shell</p> <p>6 stuff, basically, died.</p> <p>7 Q And did the Cairo shell and Ren,</p> <p>8 were they joined with the Office group that was</p> <p>9 creating the Office shell?</p> <p>10 A Actually, the Cairo shell group had ideas</p> <p>11 about what they were going to do in Windows and</p> <p>12 how they would expose some of that stuff for</p> <p>13 applications, and that's what some people</p> <p>14 referred to as the Office shell but, of course,</p> <p>15 the Cairo shell, which was looking at doing some</p> <p>16 of that, that's the thing that ended up being big</p> <p>17 and slow and got cancelled.</p> <p>18 Q I'd like to draw your attention to</p> <p>19 the second page of this Exhibit Number 5, Bates</p> <p>20 stamp ending with 594.</p> <p>21 And look at Mr. Graham's last</p> <p>22 bullet point, quote, "It would be best to provide</p> <p>23 no extensibility in the original Chicago</p> <p>24 Explorer. This would minimize the possibility of</p> <p>25 problems with upward compatibility, and would</p>	<p style="text-align: right;">61</p> <p>1 there, it's usable; if it's not there, it's not</p> <p>2 usable.</p> <p>3 The key point he's making here is</p> <p>4 he's working on this effort, which came to</p> <p>5 nothing, and he's hoping that in doing this, he</p> <p>6 doesn't have to have compatibility with something</p> <p>7 else, which would be an additional constraint for</p> <p>8 him to deal with, and if he's going to be a</p> <p>9 superset, you know, that's just more work.</p> <p>10 Now, it turned out the whole thing</p> <p>11 failed, not because of compatibility issues, it</p> <p>12 was overly ambitious and didn't happen.</p> <p>13 MR. JOHNSON: Let's mark this as</p> <p>14 Exhibit Number 6, please. One of these is</p> <p>15 highlighted. Okay. We're okay. There we</p> <p>16 go.</p> <p>17 MR. HOLLEY: The secrets of the</p> <p>18 realm were exposed.</p> <p>19 MR. JOHNSON: Almost.</p> <p>20 (Exhibit Number 6 was marked.)</p> <p>21 BY MR. JOHNSON:</p> <p>22 Q Mr. Gates, you've now been handed</p> <p>23 Exhibit Number 6. We were talking earlier about</p> <p>24 the Hood Canal retreat held in June of 1993. And</p> <p>25 this is a Mr. Dennis Adler's notes from that</p>

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1 retreat.

2 First of all, can you identify

3 Mr. Adler?

4 **A No, I can't.**

5 Q I would like to draw your attention

6 to page 3, which is the page with a Bates number

7 ending 441, and specifically, the last

8 bullet point on that page were Mr. Adler's notes

9 from the retreat, quote, "Ship extensible shell

10 in Office!!!"

11 **A I've got to catch up to you, sorry.**

12 Q That's all right. Take your time.

13 **A (Perusing.) Okay. So which part are you**

14 **asking about?**

15 Q I was referring to you -- to you,

16 page 3 of Mr. Adler's notes from the Hood Canal

17 executive retreat of 6/10 to 6/12/1993, the page

18 Bates numbered 441 at the end, and specifically,

19 Mr. Adler's notes from the breakout presentations

20 in wrap-up on 6/12/93.

21 **A So this is out of the section where he was**

22 **talking about what I said?**

23 Q Yes, exactly.

24 **A Okay.**

25 Q And specifically the last

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1 bullet point of that section from notes from the

2 breakout presentations in wrap-up, quote, "Ship

3 extensible shell in Office!!!," three exclamation

4 points. "Wire the features we need for Chicago

5 into the Explorer (e.g. mail integration,

6 printman, CPanel, Fonts, etc.). Billg sez" --

7 S-E-Z -- "do it!" exclamation point.

8 Would "Billg" refer to you, sir?

9 **A Yes.**

10 Q Does that refresh your recollection

11 that you were present at the Hood Canal executive

12 retreat at which the idea of an extensible shell

13 in Office was discussed?

14 **A I don't remember being at the retreat.**

15 **This looks like it's notes, and it has some**

16 **comments about things I said. I do remember we**

17 **were working on this Cairo shell and how it would**

18 **connect up to Office, and that was fortuitously**

19 **Office shell, and that's all the stuff that never**

20 **happened.**

21 Q When Billg says do it, does that

22 generally mean that the Microsoft executives are

23 going to do it?

24 **A In this case, I can tell you absolutely**

25 **for sure, it was not done, and I was part of the**

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1 decision not to do it because the size and speed

2 and capabilities did not develop to my

3 satisfaction.

4 At this time, it appears that

5 whoever wrote these notes felt like, hey, we're

6 moving ahead, and, you know, in fact, it didn't

7 work out.

8 Q You're moving ahead at this time,

9 in 1993, with an extensible shell in Office,

10 correct?

11 **A No, with a shell -- a shell called the**

12 **Cairo shell that had some extensibility.**

13 Q So "Ship extensible shell in

14 Office" doesn't mean ship extensible shell in

15 Office?

16 MR. HOLLEY: Object to the form of

17 the question; asked and answered.

18 THE WITNESS: I don't know what the

19 person means here, but shells ship with

20 operating systems, so there is some

21 confusion in the notes.

22 BY MR. JOHNSON:

23 Q Is your testimony, sir, that the

24 only shells are in operating systems?

25 **A I don't know that Microsoft would ship**

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1 anything you'd call a shell outside of the

2 operating system.

3 Q I'm not asking you whether

4 Microsoft has shipped anything, sir.

5 **A The shell -- the term "shell," I can't**

6 **think of a case where it refers to something**

7 **where it's not part of an operating system, the**

8 **tool used in the operating system to navigate**

9 **around.**

10 So when he says "Ship extensible

11 shell in Office," I think he's referring to have

12 Office take advantage of a shell that's part of

13 an operating system.

14 Q Really?

15 **A Yeah.**

16 Q Mr. Gates, you don't recall the

17 extensible shell that was to be an integral part

18 of Office and not part of Windows being developed

19 at this time?

20 **A There was not a plan to ship the shell**

21 **separate from the operating system. Of course**

22 **we're talking about a shell that never was**

23 **shipped anywhere, but the Cairo shell work was to**

24 **ship it in a subsequent release of the operating**

25 **system.**

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1 Q Referring you back to Exhibit 5
 2 that we were looking at earlier, Mr. Graham's
 3 comments that it would be best to provide no
 4 extensibility in the original Chicago Explorer,
 5 this E-mail is forwarded to you by Mr. Maples in
 6 September -- on September 12, 1993, and then
 7 you -- you respond to him.

8 In your first sentence of your
 9 response, The debate here seems to be out of
 10 touch with the plans we had when I left. The
 11 plan was to combine the best of Ren and the
 12 extensible shell into a first quarter '95 product
 13 for Chicago. What happened to that plan ?????,
 14 multiple question marks.

15 Can you tell me, are you discussing
 16 here a plan for the Office shell, sir?

17 A No, I'm talking about a product for
 18 Chicago. Chicago is an operating system. See
 19 where it says for Chicago?

20 Q Yes, I do see that.

21 So what you were talking about here
 22 was to combine the best of Ren and the extensible
 23 shell within the Chicago product?

24 A Into a Q1 '95 product for Chicago,
 25 that's --

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1 Q So it would be a separate product
 2 from Chicago or a part of Chicago?

3 A No, part of Chicago.

4 Q Do you have any memory at all about
 5 why you would say that the debate here seems to
 6 be out of touch with the plans we had when I
 7 left?

8 A It appears that I thought the plan was to
 9 combine the best of Ren and the extensible shell
 10 into Q1 '95 product for Chicago, and this is
 11 talking about different time frames and different
 12 plans.

13 MR. JOHNSON: Would you mark this,
 14 please, Exhibit Number 7.

15 (Exhibit Number 7 was marked.)

16 BY MR. JOHNSON:

17 Q Mr. Gates, you've been handed
 18 Exhibit Number 7, which is an E-mail chain
 19 involving a number of people starting with an
 20 E-mail from Tom Evslin to Ken Ong, O-N-G, I'm not
 21 sure about the pronunciation there.

22 First of all, can you tell me who
 23 Tom Evslin was?

24 A He was a guy who worked at Microsoft on
 25 mail-related things.

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1 Q So he would have been working on
 2 Capone, for instance?

3 A Probably.

4 Q If you look at the beginning of
 5 this E-mail chain, which, actually, the substance
 6 of the exchange occurs on the third page, Bates
 7 stamped 033 at the bottom, Mr. Evslin writes to
 8 Mr. Ong, "Is there anything we've done in
 9 integrating capone with Chicago that a 3d party
 10 (Lotus for example) won't be able to do?"
 11 question mark, then a little more.

12 Wasn't that exactly what
 13 Mr. Silverberg reported what ISVs were worried
 14 about, that Microsoft was going to integrate its
 15 mail client into Chicago and not let ISVs do it?

16 A No.

17 MR. HOLLEY: Object to the form of
 18 the question.

19 THE WITNESS: No, there is two
 20 things that are important to keep
 21 separate: One is the features shipped in
 22 Windows itself that are included in
 23 Windows from what are called applications
 24 separate from Windows, and the ISVs he's
 25 meeting with -- he mentioned things about

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1 applications.

2 Here we're talking about a piece of
 3 Windows itself, in which APIs that are
 4 used to call that thing in Windows itself
 5 are published or not published.

6 BY MR. JOHNSON:

7 Q Actually, Mr. Gates, Mr. Silverberg
 8 spoke of mail as well as applications.

9 Do you recall that, sir?

10 A That's right, but when we think of mail,
 11 it's important to distinguish there is the mail
 12 applications that you sell separately, like what
 13 Ren became, which is called Outlook, and then
 14 there is often an operating system starting with
 15 Unix back many decades ago, a little toy mail
 16 thing that's available for use, and that is what
 17 Capone was.

18 Capone was a low-end very trivial
 19 mail package that was actually shipped with the
 20 Windows OS.

21 Q There is some back and forth in
 22 this E-mail string until Mr. Joe Belfiore gets
 23 involved.

24 Can you identify Mr. Belfiore, what
 25 was his position?

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1 **A Joe Belfiore --**
 2 **Q Thank you.**
 3 **A -- was in some part of the Windows**
 4 **organization, Windows '95.**
 5 **Q Do you recall that he was the**
 6 **project manager for the Chicago shell?**
 7 **A No, but he was involved in Chicago stuff.**
 8 **Q Looking at the E-mail from**
 9 **Mr. Belfiore to Mr. Evslin, at the top of the**
 10 **page Bates stamped 032, he states, quote,**
 11 **"There's no schedule (or even plan) to publish**
 12 **any of these interfaces now. They aren't ready**
 13 **for regular use..."**
 14 **Do you see that, sir?**
 15 **A Where does it say they are not ready for**
 16 **regular use?**
 17 **Q Right at the top of the page.**
 18 **MR. HOLLEY: On the second page.**
 19 **BY MR. JOHNSON:**
 20 **Q Bates stamped 032.**
 21 **A Oh, you're over here.**
 22 **Q Yeah, right at the top there.**
 23 **A Yeah.**
 24 **Q And then Mr. Evslin responds back,**
 25 **and this you'll find on the first page at the**

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1 bottom. Among other things, he says, "I'd
 2 appreciate a quick response on this since its
 3 [sic] one of the topics on a list of things for
 4 me to discuss with billg tomorrow," close quote.
 5 Now, Billg, that would be you,
 6 right?
 7 **A Well, it says "Bill," but yes, I bet it's**
 8 **me.**
 9 **Q Isn't that how you were commonly**
 10 **referred to in Microsoft, is Billg?**
 11 **A Right, but where do you see "billg"?**
 12 **Q At the bottom of the page, sir.**
 13 **A Oh, there. Okay, sorry.**
 14 **Q So that would be you, right, sir?**
 15 **A Yes, sir, almost certainly referring to**
 16 **me. It's -- up higher he says "Bill" a couple**
 17 **times, but you're right, it's billg down there.**
 18 **Q Yeah, and up higher in, actually,**
 19 **the next E-mail in the string he says, quote,**
 20 **"It's unclear whether we'll publish them or not**
 21 **for our release. Bill is *very*" -- we have**
 22 **those asterisks around "very" there -- "*very"**
 23 **aware of this as an issue, so you can bring it up**
 24 **with him. He may be instrumental in deciding**
 25 **whether or not it's important for us to do the**

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1 work to make these 'palatable,'" close quote.
 2 Do you recall being very aware of
 3 the issue of whether or not to publish these
 4 interfaces as an issue, sir?
 5 **A I remember there is always this general**
 6 **issue where if something's in Windows, then there**
 7 **are ways that it connects up that we don't choose**
 8 **to publish because we are not guaranteeing**
 9 **upwards compatibility, whereas if something is**
 10 **outside Windows, we look at that in a different**
 11 **way.**
 12 **So this is kind of a confusing**
 13 **chain where people are talking about things. You**
 14 **know, they -- in one -- there was -- because**
 15 **Capone was part of Windows, it was different than**
 16 **something that was outside of Windows.**
 17 **Q Okay. So you do recall being very**
 18 **aware of this issue?**
 19 **A The general issue of that there were going**
 20 **to be ways that things inside Windows would call**
 21 **each other, that didn't make sense to guarantee**
 22 **that those would stay the same forever.**
 23 **Q Were you very aware of the issue**
 24 **with respect to Capone in particular, sir?**
 25 **A No, I don't recall that, but the general**

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1 **notion that the way the OS, itself, connects up,**
 2 **you want to be very careful about which portions**
 3 **of those you commit to maintain. That's always**
 4 **an important issue.**
 5 **Q If we go further up in the E-mail**
 6 **string, Mr. Lazarus comes into the string, and he**
 7 **writes to Mr. Evslin, quote, "If we use them we**
 8 **have to publish them," close quote.**
 9 **Do you agree with Mr. Lazarus,**
 10 **Mr. Gates?**
 11 **A I don't know what John was thinking when**
 12 **he wrote that E-mail. If something is part of**
 13 **Windows, then we absolutely don't publish all the**
 14 **ways that the different pieces of Windows connect**
 15 **to each other because we'd never be able to**
 16 **release another version of Windows that**
 17 **maintained all those things, so we're very**
 18 **careful, within Windows itself, which things we**
 19 **commit to upwards compatibility.**
 20 **So I don't think John -- if John**
 21 **knew we were talking specifically about something**
 22 **that ships only in Windows, I don't know that he**
 23 **would have said that but, in any case, our policy**
 24 **always was, for things inside Windows, we --**
 25 **where they were only called from within things**

<p style="text-align: right;">74</p> <p>1 inside Windows, we pick which ones we're going to</p> <p>2 maintain.</p> <p>3 Q You think Mr. Lazarus is confused</p> <p>4 here?</p> <p>5 A From time to time, Mr. Lazarus was</p> <p>6 confused. It's not impossible that he was</p> <p>7 confused here. Reading what I wrote, I -- my</p> <p>8 guess is that he is confused right at that moment</p> <p>9 that he wrote that.</p> <p>10 Q Okay. Looking up at the top E-mail</p> <p>11 in this chain, Mr. Evslin writes, quote, "I went</p> <p>12 over this in some detail with Bill yesterday and</p> <p>13 he says 'no' since capone is part of Chicago. If</p> <p>14 you think this is wrong, you should talk to him</p> <p>15 about it (see other mail from yesterday). The</p> <p>16 Chicago guys own the APIs. As of now, there are</p> <p>17 interfaces used in Capone which Chicago does not</p> <p>18 plan to publish," close quote.</p> <p>19 So this -- is this the rationale</p> <p>20 you were speaking of, because Capone was a part</p> <p>21 of Chicago, there was no reason to publish the</p> <p>22 API it was using to be a part of Chicago?</p> <p>23 MR. HOLLEY: Object to the form of</p> <p>24 the question.</p> <p>25 THE WITNESS: Yeah, object. The --</p>	<p style="text-align: right;">76</p> <p>1 not going to publish the APIs that Capone was</p> <p>2 using in Chicago?</p> <p>3 MR. HOLLEY: Objection: Asked and</p> <p>4 answered.</p> <p>5 THE WITNESS: That's a very</p> <p>6 incorrect way of characterizing this</p> <p>7 thing. We certainly did publish some of</p> <p>8 the APIs that Capone used, but it appears</p> <p>9 I told Mr. Evslin that there was no</p> <p>10 general principle that everything that</p> <p>11 this piece of Windows used would become a</p> <p>12 published API.</p> <p>13 And, you know, that's just the</p> <p>14 general policy we have. Things within</p> <p>15 Windows are going to call each other in</p> <p>16 ways that we're not going to want to label</p> <p>17 for maintaining those going forward.</p> <p>18 Capone -- you know, Capone is a</p> <p>19 tiny little E-mail client. It's nothing</p> <p>20 to do with applications that you run on</p> <p>21 the system that you sell.</p> <p>22 BY MR. JOHNSON:</p> <p>23 Q What about the APIs that Capone was</p> <p>24 using, could they be part of the system or the</p> <p>25 applications that people would use?</p>
<p style="text-align: right;">75</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q Actually, only your attorney gets</p> <p>3 to object.</p> <p>4 A -- but you don't -- fine. You choose what</p> <p>5 you want to publish, because when you publish,</p> <p>6 you're saying you -- then you'd have to label,</p> <p>7 will this be maintained in the future or not?</p> <p>8 Q Does that accurately reflect that</p> <p>9 you, in September of 1993, said no with respect</p> <p>10 to -- with respect to publishing the APIs that</p> <p>11 Capone was using in Chicago?</p> <p>12 A No.</p> <p>13 MR. HOLLEY: Objection to form of</p> <p>14 the question.</p> <p>15 THE WITNESS: What I said was there</p> <p>16 is not a general rule that when -- when</p> <p>17 something is inside Windows, we don't take</p> <p>18 all the ways that the piece of Windows</p> <p>19 connect to each other and publish those as</p> <p>20 APIs, and everybody was very aware of</p> <p>21 that. That would be an impossible task.</p> <p>22 BY MR. JOHNSON:</p> <p>23 Q Mr. Gates, it was a simple</p> <p>24 question: Does Mr. Evslin correctly or</p> <p>25 incorrectly report that you decided no, we are</p>	<p style="text-align: right;">77</p> <p>1 MR. HOLLEY: Object to the form.</p> <p>2 THE WITNESS: If applications used</p> <p>3 them, then that's a different situation</p> <p>4 because they don't ship with Windows.</p> <p>5 BY MR. JOHNSON:</p> <p>6 Q Because Capone was a part of</p> <p>7 Chicago, you didn't feel any necessity for</p> <p>8 publishing these APIs?</p> <p>9 A I've said it before. There are many</p> <p>10 things inside Windows where the way that they</p> <p>11 call each other, we don't publish as APIs,</p> <p>12 because then we could never do a new version of</p> <p>13 the system.</p> <p>14 Q I understand that, sir. I'm</p> <p>15 talking -- asking you specifically with respect</p> <p>16 to the APIs that Capone was using, you decided</p> <p>17 that it was inappropriate --</p> <p>18 A No.</p> <p>19 Q -- for the reasons --</p> <p>20 A No.</p> <p>21 Q -- you stated to publish those</p> <p>22 APIs.</p> <p>23 A No, you keep trying to change what I said.</p> <p>24 I -- all that's going on here is</p> <p>25 I'm reminding people of the policy that if</p>

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1 something is inside Windows, we don't publish all
 2 those APIs. I'm not making a decision about any
 3 particular API. In fact, some of the things
 4 Capone called certainly were published.
 5 I'm not saying not to publish APIs.
 6 What I'm saying is, I'm reminding people that
 7 when something is inside the operating system,
 8 that's a different treatment than when it's
 9 outside.
 10 Q And Capone was inside the operating
 11 system, right?
 12 A As of -- yes. And Capone was a little,
 13 kind of toy app mail thing that shipped in
 14 Chicago.
 15 Q Do you recall the conversation with
 16 Mr. Evslin in September of 1993?
 17 A Not -- in specifically, no.
 18 Q Mr. Evslin has suggested to
 19 Mr. Lazarus that he should speak to you about it
 20 if he thought that decision was wrong.
 21 Do you recall talking to
 22 Mr. Lazarus about it?
 23 A Specifically, no.
 24 Q Generally?
 25 A I know that people look to me to be

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1 decisive about things, and John from time to time
 2 would come to me, and I would provide him with
 3 decisions, but on this particular case, no.
 4 MR. JOHNSON: Mark this as
 5 Exhibit 8, please.
 6 (Exhibit Number 8 was marked.)
 7 BY MR. JOHNSON:
 8 Q Mr. Gates, you're now being handed
 9 what has been marked Exhibit Number 8. It's
 10 another E-mail string, again about Capone and
 11 Chicago, and it's about publishing the APIs that
 12 Capone is using in Chicago.
 13 And I'd like to draw your attention
 14 to Mr. Ong's -- Ken Ong's E-mail at the bottom of
 15 the page -- the first page Bates stamped with
 16 5/11 at the end.
 17 Mr. Ong says to a whole bunch of
 18 people, including Mr. Silverberg and Mr. Maritz,
 19 "Today, we're not using any Chicago API's which
 20 aren't fit for public consumption. It's just a
 21 question of whether Chicago chooses to publish
 22 those calls. We agree that we shouldn't break
 23 this unless we have to," close quote.
 24 And Mr. Evslin responds to
 25 Mr. Ong --

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1 A Am I going to get involved in this?
 2 Q Yes, absolutely.
 3 A Okay.
 4 Q I just --
 5 A I don't see my name, so --
 6 Q I gotta get the whole thing out
 7 before I ask a question.
 8 A I'm feeling kind of left out.
 9 Q Well, that's all right, sir. I'm
 10 sure there will be plenty more with you involved.
 11 Mr. Evslin responds back, in part,
 12 quote, "It is, and should be, the decision of the
 13 Chicago team on whether they make these public."
 14 Do you see that, sir?
 15 A The words?
 16 Q Yes.
 17 A Um-hmm.
 18 Q Do you agree with Mr. Evslin that
 19 it was a decision of the Chicago team on whether
 20 to make these interfaces public?
 21 A Well, all decisions were subject to a
 22 review process, so if by that you mean
 23 unilaterally that they decided something that
 24 their management chain would have no involvement
 25 in, then I'd say no, that's incorrect, but I bet,

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1 you know, he just -- in writing the E-mail, he
 2 didn't put down the whole process of the way
 3 decisions are made.
 4 Q Well, we're talking about -- my
 5 question assumes the Chicago team would include
 6 all the Chicago team right up to Mr. Maritz, so
 7 my question to you is --
 8 A No, sir, Mr. Maritz is not part of the
 9 Chicago team.
 10 Q Isn't Mr. Maritz in charge of the
 11 of operating systems?
 12 A He's above the Chicago team.
 13 Q He's in charge of operating --
 14 A I'm not part of the Chicago team.
 15 Q You're not, okay. So I guess the
 16 question is: Do you agree with Mr. Evslin that
 17 the Chicago team ought to be able to make the
 18 decision whether or not to make these public?
 19 A Subject to their management chain review,
 20 that's the way things were done. I happen to be
 21 part of that management chain. Unfortunately,
 22 I'm not involved in anything to do with this
 23 document.
 24 Q So you would have been involved,
 25 ultimately, in the decision whether to publish or

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1 not to publish any API?

2 **A No, not -- I didn't get involved in every**

3 **such decision, but the general policy was**

4 **something that I would have been involved in,**

5 **yes.**

6 **Q How did the people know whether to**

7 **involve you or not involve you?**

8 **A In general, people would know what my**

9 **policies were about various topics and they might**

10 **choose to carry those out and then if there was a**

11 **dispute between people, it would often get**

12 **escalated up to various levels.**

13 **Q Was this a dispute between people**

14 **that got escalated up that we're talking about**

15 **here, the APIs being used by Capone and Chicago?**

16 **A There is a -- you're showing me an E-mail**

17 **where there is a discussion about it.**

18 **Q Yes, and my question to you is: Do**

19 **you recall whether this was a dispute which got**

20 **escalated up to you?**

21 **A Well, we know from the previous E-mail**

22 **there was a point where somebody came in and**

23 **asked me about the general policy of are we**

24 **required to publish APIs for things that ship**

25 **entirely as part of Windows.**

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1 **Q We do know that. Now I'm asking**

2 **you whether it came up to you to decide --**

3 **A That was the previous document.**

4 **Q To decide yea or nay whether or not**

5 **to publish these interfaces.**

6 **A Not the specific interfaces, but people**

7 **would ask, is there a general policy, if**

8 **something is inside Windows, we take all the ways**

9 **it calls other parts, and we always published**

10 **those, and I reminded them that that was not --**

11 **would not be workable.**

12 **Q So you don't recall specifically**

13 **deciding the issue of whether these APIs Capone**

14 **was using in Chicago would be published or not?**

15 **A We saw, from previous E-mail, I was**

16 **consulted on the general principle, were we**

17 **required, if something was entirely shipped with**

18 **Windows, to publish everything related to that,**

19 **and I had said no.**

20 **Q I got that, Mr. Gates. Now I'm**

21 **asking you specifically the decision whether to**

22 **publish these APIs.**

23 **A Which APIs?**

24 **Q The APIs Capone was using to**

25 **integrate into Chicago.**

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1 **A Capone would have called many, many APIs.**

2 **Tell me a specific -- if you want to ask me if I**

3 **got involved in a specific API, you need to state**

4 **a specific API. This is all -- everything in**

5 **here is policy, policy, policy, policy, and the**

6 **previous thing is all policy. This isn't about**

7 **any specific APIs. They don't even mention a**

8 **single API in here.**

9 **Q I'd like to draw your attention to**

10 **Mr. Henrich's E-mail to Brad Silverberg, Dennis**

11 **Adler and David Cole at the top of this E-mail**

12 **string.**

13 **You say -- we know Mr. Silverberg**

14 **was in charge of Chicago and Henrich was the head**

15 **of DRG.**

16 **Mr. Henrich states, quote, "I am**

17 **not sure what your thinking is about publishing**

18 **the the [sic] interfaces/APIs that Capone uses,**

19 **but I know Lotus will make a big deal of this.**

20 **(Manzi has already mentioned it to Billg)," close**

21 **parens. "And I am afraid that the press will**

22 **have another field day with this."**

23 **Mr. Gates, that would be you again,**

24 **Billg?**

25 **A Yes.**

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1 **Q And you recall a Mr. Manzi**

2 **mentioning it to you already about not publishing**

3 **these interfaces/APIs that Capone was using?**

4 **A No, I'm certain this never came up with**

5 **Mr. Manzi. I met with Manzi few enough times to**

6 **have a good recollection of all the things that**

7 **he chose to bring up in the nature of a**

8 **complaint, and this was not one of them.**

9 **Q Mr. Henrich was just making this up**

10 **out of cold cloth?**

11 **A No, he probably heard it from somebody,**

12 **but it's incorrect.**

13 **Q So who is Mr. Manzi?**

14 **A Mr. Manzi was, at some times, the CEO of**

15 **Lotus Corporation.**

16 **Q And you have no recollection of him**

17 **ever talking to you about publishing the**

18 **extensibility APIs that Capone was using?**

19 **MR. HOLLEY: Object to the form of**

20 **the question.**

21 **THE WITNESS: He -- we -- he did**

22 **not bring that up with me.**

23 **BY MR. JOHNSON:**

24 **Q Mr. Henrich goes on to say, "I am**

25 **afraid that the press will have another field day**

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1 with this."

2 Had there been any prior issues

3 with Microsoft failing to publish APIs that MS

4 applications were using?

5 MR. HOLLEY: Object to the form of

6 the question; misstates the witness's

7 prior testimony.

8 THE WITNESS: Capone is part of the

9 operating system. It's not a separate

10 application, so this is not related to

11 what you asked.

12 BY MR. JOHNSON:

13 Q Let me drop the word "prior" from

14 my question. Had there been issues about

15 Microsoft failing to publish APIs that Microsoft

16 applications were using?

17 A There is always a question of what APIs

18 are published and how those are maintained, and

19 so certainly there had been discussion about

20 that, inside the company, outside the company, in

21 the press, there is always a question of which

22 APIs are going to be carried forward.

23 Q Wasn't there an entire book written

24 by Mr. Andrew Schulman called Undocumented

25 Windows that talked about reserved Microsoft API

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1 functions?

2 A No, that book actually isn't about -- that

3 book has a lot of things, and it's a very long

4 book, so it's not a book about any particular API

5 being called by an application. It's a lot of

6 information about the internals of Windows,

7 including, to some degree, how applications use

8 APIs, but it's a very broad piece of work.

9 Q Any concerned reserved Microsoft

10 API functions, correct?

11 A I don't know what you mean "reserved API

12 functions."

13 Q Reserved Microsoft exclusively for

14 their own use that APIs couldn't use.

15 A There is no mechanism that allows one to

16 reserve APIs, so what do you mean when you say

17 "reserve." You can't reserve APIs. If they are

18 there, they can be called.

19 MR. JOHNSON: Let's mark this as

20 Exhibit 9, please.

21 (Exhibit Number 9 was marked.)

22 BY MR. JOHNSON:

23 Q Mr. Gates, you've now been handed

24 which is a strikingly short E-mail chain between

25 Mr. Lazarus and Mr. Silverberg and copied to a

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1 number of other people.

2 And Mr. Silverberg states in his

3 E-mail to David Cole, Dennis Adler, and Doug

4 Henrich of September 25, 1993, "we clearly have

5 to publish whatever api's capone uses."

6 And, apparently, this E-mail is

7 then forwarded to Mr. Lazarus, and Mr. Lazarus

8 responds to Mr. Silverberg, and says, "thanks.

9 sanity is refreshing."

10 I take it -- or I assume that you

11 have not seen this E-mail before?

12 A I don't specifically recall it. I'm not

13 copied, so --

14 Q It's fair to say you don't recall

15 this E-mail?

16 A It wasn't copied to me.

17 Q It doesn't mean you wouldn't have

18 seen it, sir. You don't recall this E-mail

19 sitting here today?

20 A It wasn't sent to me.

21 Q Is it fair to say that Mr. Lazarus

22 and Mr. Silverberg didn't agree with you about

23 the need to publish the APIs Capone was using in

24 Chicago?

25 A If they thought there was a requirement to

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1 publish all the APIs of things that shipped

2 inside Windows, then I disagreed with them on

3 that.

4 Q That wasn't my question. I simply

5 asked whether it would be fair to say that

6 Mr. Lazarus and Mr. Silverberg didn't agree with

7 you about the need to publish the APIs Capone was

8 using in Chicago? Not the general notion, but

9 these specific APIs --

10 A What specific --

11 Q -- Capone was using.

12 A We haven't seen a single E-mail about a

13 single specific API. Everything we've seen is

14 about policy, and the policy was not that we were

15 required, when something shipped with Windows, to

16 publish every one of the APIs that it used.

17 Q Mr. Gates, did Mr. Lazarus and

18 Mr. Silverberg disagree with you with respect to

19 publishing the APIs Capone was using?

20 A I don't know if they disagreed with that

21 policy or not.

22 Q How about specifically with respect

23 to the APIs Capone was using?

24 A That's a policy question, and I don't know

25 if they disagreed with the policy or not. You've

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1 shown me E-mails that make it look like maybe at
 2 some point they did disagree with that policy.
 3 Q That was not something that you
 4 were aware of, sir?
 5 A That these people would disagree from time
 6 to time, I was aware of that, on which day
 7 somebody disagreed with me about, which thing,
 8 no, I didn't have a complete awareness of that.
 9 Q I'm talking specifically about
 10 this, sir, publishing whatever APIs Capone was
 11 using.
 12 Do you have a recollection of
 13 Mr. Lazarus and Mr. Silverberg disagreeing with
 14 you about the decision that had been made with
 15 respect to publishing those APIs?
 16 A Actually, a decision like that, they
 17 finally get made at the end when it's all said
 18 and done, and this is, of course, many years
 19 before any of this stuff ever ships, so no final
 20 decision had been made about those things.
 21 Apparently, at this time, there was some -- they
 22 had some view that the APIs made by that piece of
 23 code, they thought the policy should be one
 24 thing, and when Tom had come to me I had told him
 25 no, that was not the policy.

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1 MR. JOHNSON: Let's mark this as
 2 Exhibit Number 10.
 3 (Exhibit Number 10 was marked.)
 4 BY MR. JOHNSON:
 5 Q Mr. Gates, you've now been handed
 6 what has been marked Exhibit Number 10, which is
 7 an E-mail chain involving Mr. Maritz,
 8 Mr. Silverberg, and Mr. Allchin and a few others,
 9 Bates stamped MS 7094492 through 94.
 10 And I'd like to draw your attention
 11 to the first E-mail in this string from
 12 Mr. Silverberg to David Cole and a number of
 13 others dated October 1, 1993.
 14 MR. HOLLEY: Accordingly, you
 15 should take as much time as you need to
 16 get familiar with the entire contents of
 17 the discussion.
 18 BY MR. JOHNSON:
 19 Q I think that would be useful,
 20 Mr. Gates, if you could read that to yourself.
 21 A (Perusing.) Okay.
 22 Q Mr. Silverberg starts off his
 23 E-mail by saying that he had an opportunity to
 24 talk to Paulma.
 25 Is that Paul Maritz?

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1 A Probably.
 2 Q "About some shell issues,
 3 especially at the global level, such as apps
 4 plans and Cairo." We've already talked about
 5 Cairo.
 6 A That -- yeah, this whole thing is about
 7 the stuff that doesn't ship, it's amazing.
 8 Q Well, it was planned to be shipped
 9 back here in October of '93, correct, sir?
 10 A We were hoping to.
 11 Q Correct. And in the next paragraph
 12 he talks about the apps group getting out of an
 13 end-of-year cycle, and getting certain things
 14 done, and I'm trying to understand, it appears to
 15 be that he's indicating that the first collection
 16 of things they are going to do for the Chicago
 17 release is going to be limited.
 18 Am I reading that right where he
 19 says, quote, There's not much they can get done,
 20 so it will be limited to things like 32-bit
 21 Chicago visuals, better OLE, some multithreading,
 22 or similar stuff?
 23 MR. HOLLEY: Object to the form of
 24 the question.
 25 THE WITNESS: I don't know what

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1 you're asking me. Am I bringing some
 2 expertise to bear?
 3 BY MR. JOHNSON:
 4 Q I hope so. I hope, Mr. Gates, that
 5 you understand what your applications group was
 6 doing at the time and whether or not they were
 7 going to be able to do much with the first
 8 version of Chicago.
 9 A They were doing new versions with the
 10 applications.
 11 Q Yes, of course. And what I'm
 12 asking is: Does this comport with your
 13 recollection of, at this time, in October of '93,
 14 it looked like that the applications group wasn't
 15 going to be able to get a lot done in the -- with
 16 respect to the Chicago product.
 17 A I wouldn't characterize it that way. What
 18 you have is Brad is not in the applications group
 19 fighting a battle about some stuff that ended up
 20 being completely meaningless because none of it
 21 shipped, and he's characterizing a group that
 22 he's not part of at all.
 23 Q So you wouldn't agree with that at
 24 all?
 25 A Bradley Silverberg's comments during this

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1 **fight about the applications group? No.**
 2 Q Do you think Mr. Maritz would have
 3 some idea about that, or is that something that
 4 he wouldn't know either?
 5 A **Well, he wasn't in the applications group.**
 6 Q I understand that. But he's basing
 7 this E-mail on a discussion he had with Mr. Paul
 8 Maritz, so I'm asking you whether Maritz also
 9 would know nothing about the applications group
 10 and what --
 11 A **I didn't say anybody knew nothing. I'm**
 12 **saying you wouldn't rely on Brad to get**
 13 **information about the applications group because**
 14 **he's not even in the group, and what he's doing**
 15 **is he's in an argument -- Jim Allchin and Brad**
 16 **Silverberg, and there's even been books written**
 17 **about it, had different views on certain things,**
 18 **and this was one of the disagreements.**
 19 Q What was this a disagreement about?
 20 A **About some technical issues having to do**
 21 **with the Cairo shell.**
 22 Q He goes on to say that -- in the
 23 fourth paragraph of this E-mail, quote, This
 24 means that they plan to write a bunch of shell
 25 extensions to the Chicago version 1 shell.

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1 Capone, for starters. In addition, Ren is going
 2 to be transferred over to work for Chris Peters
 3 (who is going to own Office), and be done as a
 4 Chicago shell extension. Other things that
 5 Office wants from the shell will be done as
 6 Chicago shell extensions. So will the Online
 7 Services project under RussS.
 8 That's Mr. Siegalman [ph], correct?
 9 A **Um-hmm.**
 10 Q And the Online Services project is
 11 Marvel?
 12 A **Right.**
 13 Q Was the Ren project transferred
 14 over to Chris Peters who was -- owned Office?
 15 A **I don't know, but it certainly was never**
 16 **done as a Chicago shell extension.**
 17 Q Was Ren moved over to work with
 18 Chris Peters on the Office shell?
 19 A **No. Ren ships as Outlook. That's**
 20 **completely separate from the shell.**
 21 Q The next paragraph he states,
 22 quote, "This means, of course, that Cairo is
 23 going to have to run these Chicago shell
 24 extensions," close quote.
 25 Is Mr. Silverberg saying here that

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1 there would have to be backwards compatibility
 2 with the Chicago shell?
 3 A **He's suggesting that the Cairo shell would**
 4 **need to be a superset, so he's trying to impose**
 5 **on the Cairo shell certain things that they will**
 6 **have to test.**
 7 **Now, the Cairo shell, that's a**
 8 **project that gets cancelled later, so it moots**
 9 **what's -- this particular argument that Jim and**
 10 **Paul are having -- Jim and Brad are having.**
 11 Q So what he was saying was that
 12 Cairo needs to be able to run the Chicago shell
 13 extensions?
 14 A **It needs to be a superset of whatever the**
 15 **Chicago shell does.**
 16 MR. JOHNSON: I think we need to
 17 switch tapes.
 18 THE VIDEOGRAPHER: This is the end
 19 of Tape Number 2 of the deposition of
 20 William Henry Gates III. The time is
 21 12:38 p.m. We are off the record.
 22 (A recess was taken.)
 23 THE VIDEOGRAPHER: This is the
 24 beginning of Tape Number 3 of the
 25 deposition of William Henry Gates III.

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1 The time is 12:43 p.m. We are on the
 2 record.
 3 MR. JOHNSON: I'd just like the
 4 record to reflect that two of my
 5 colleagues, Alex Hassid and Ubong Akpan
 6 have joined us. They were in taking
 7 another deposition of another person from
 8 Microsoft, and they are sitting in. Thank
 9 you very much for allowing that,
 10 Mr. Holley and Mr. Gates.
 11 BY MR. JOHNSON:
 12 Q Mr. Gates, I'd like to return again
 13 to that Exhibit 10, if you still have that
 14 available to you.
 15 And again, referring you to
 16 Mr. Silverberg's E-mail to a number of people, to
 17 the last page there, which is the page Bates
 18 stamped ending 494, and the third to the last
 19 paragraph, let me read it in, quote, "Paul has
 20 discussed this in detail with Bobmu." That's
 21 Paul Muglia?
 22 A **Muglia.**
 23 Q Muglia, thank you, and "he fully
 24 supports. Bob accepts now that it has to be this
 25 way, that Cairo will have to support the Chicago

<p style="text-align: right;">98</p> <p>1 extensibility approach, and that they may have to</p> <p>2 give up some of their pet ways of doing things,"</p> <p>3 close quote.</p> <p>4 First of all, what was Bob Muglia's</p> <p>5 position at Microsoft here in October of 1993?</p> <p>6 A Somewhere in the systems group.</p> <p>7 Q Would he have been below or above</p> <p>8 Mr. Maritz?</p> <p>9 A Below. Maritz is the head guy for the</p> <p>10 systems group.</p> <p>11 Q Now I'd like to draw your attention</p> <p>12 to a response from Mr. Allchin, which is the next</p> <p>13 E-mail in the chain, and you mentioned earlier, I</p> <p>14 guess, that Mr. Allchin and Mr. Silverberg were</p> <p>15 having a debate about the future of Cairo. Is</p> <p>16 that fair to say?</p> <p>17 A No, no. They had two different Windows</p> <p>18 code bases, and there were a lot of complexity</p> <p>19 about making sure those two efforts were as</p> <p>20 complementary as possible. Cairo was one of</p> <p>21 those things, but more importantly, because it</p> <p>22 actually shipped, was Windows NT.</p> <p>23 Q Mr. Allchin is commenting upon</p> <p>24 Mr. Silverberg's E-mail, I guess he's not happy</p> <p>25 he wasn't included in the discussion, and I don't</p>	<p style="text-align: right;">100</p> <p>1 taking advantage of the Cairo stuff. I don't</p> <p>2 know why he's speculating that Office would be</p> <p>3 late -- late to do that, but he's working on the</p> <p>4 Cairo shell, he loves the Cairo shell.</p> <p>5 Q Actually, sir, I think he's talking</p> <p>6 about the Chicago shell.</p> <p>7 A No.</p> <p>8 Q And making those extensions</p> <p>9 available in the Chicago shell.</p> <p>10 A No.</p> <p>11 Q You don't think so?</p> <p>12 A No.</p> <p>13 Q The delays with respect to Cairo,</p> <p>14 do you have any understanding why he felt that</p> <p>15 this plan would make Cairo bigger, and that is</p> <p>16 exactly what he's trying to kill himself -- or</p> <p>17 he's killing himself trying to fix?</p> <p>18 A Because it puts additional constraints on</p> <p>19 the Cairo shell.</p> <p>20 Q Meaning using the Chicago</p> <p>21 extensibility --</p> <p>22 A No.</p> <p>23 Q -- mechanisms?</p> <p>24 A No, no, the compatibility piece.</p> <p>25 Q Compatibility with what, sir?</p>
<p style="text-align: right;">99</p> <p>1 mean to mischaracterize anything, but that's what</p> <p>2 it looks like here.</p> <p>3 And at the end, if you look at the</p> <p>4 end of his E-mail, the last two paragraphs where</p> <p>5 he states that, Such a plan delays Cairo. It</p> <p>6 certainly makes Cairo bigger which is exactly</p> <p>7 what I'm killing myself to fix. It gives</p> <p>8 competitors an advantage over Microsoft Apps</p> <p>9 because Ray and everyone else will use the</p> <p>10 extensions before apps groups (for sure Office).</p> <p>11 pretty damn discouraging...</p> <p>12 Do you have any understanding who</p> <p>13 Mr. Allchin would be referring to when he speaks</p> <p>14 of Ray?</p> <p>15 A Ray Ozzie.</p> <p>16 Q Of Lotus?</p> <p>17 A Actually, of Iris.</p> <p>18 Q Of what, sir?</p> <p>19 A Iris. Ray didn't work for Lotus, he</p> <p>20 worked for Iris.</p> <p>21 Q Do you have any understanding of</p> <p>22 why Mr. Allchin would be concerned that everybody</p> <p>23 else would use the extensions before Microsoft's</p> <p>24 own apps group, particularly Office?</p> <p>25 A Well, he's talking about Cairo and people</p>	<p style="text-align: right;">101</p> <p>1 A With anything that had come before,</p> <p>2 including anything in Chicago.</p> <p>3 Q Would it include the Chicago shell</p> <p>4 extensions that Mr. Silverberg is talking about?</p> <p>5 A It would include anything in Chicago.</p> <p>6 This is not -- this is not specific. It's all</p> <p>7 about the way that you expose APIs in the Chicago</p> <p>8 shell, where Brad doesn't want to take on the</p> <p>9 exercise of the OLE stuff, and Jim doesn't want</p> <p>10 to duplicate the nonOLE stuff.</p> <p>11 Q So why would Mr. Allchin be</p> <p>12 concerned about competitors getting an advantage</p> <p>13 over Microsoft apps because everybody else would</p> <p>14 use the extensions before Office does?</p> <p>15 MR. HOLLEY: Objection: Asked and</p> <p>16 answered.</p> <p>17 THE WITNESS: He's saying that they</p> <p>18 are going to use the Cairo extensions, and</p> <p>19 he's evangelizing the Cairo extensions.</p> <p>20 BY MR. JOHNSON:</p> <p>21 Q Okay, sir. Were you part of this</p> <p>22 debate that was going on between Mr. Silverberg</p> <p>23 and Mr. Allchin concerning the use of the shell</p> <p>24 extensions in Chicago?</p> <p>25 A There was a debate about generally how we</p>

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1 coordinated the two Windows things, but not
 2 particular to -- so I was involved in the general
 3 debate about how we coordinated the two
 4 activities.

5 Q You don't recall in particular
 6 being involved in a debate about the use of the
 7 shell extensions in Chicago?

8 A There was a question of was Cairo -- what
 9 were the requirements for Cairo to be upwards
 10 compatible, and there were many elements in that
 11 discussion.

12 Q Mr. Gates, it was a simple
 13 question. Were you aware or were you involved
 14 with the debate concerning the use of shell
 15 extensions in Chicago --

16 MR. HOLLEY: Object to the form of
 17 the question.

18 BY MR. JOHNSON:

19 Q -- that was going on between
 20 Mr. Silverberg and Mr. Allchin?

21 A I was involved in what was going on, which
 22 was deciding what the requirements for Cairo
 23 would be, and the shell extensions were not a
 24 major part of that.

25 Q So it was no big deal that Cairo

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1 was going to have to run these Chicago shell
 2 extensions, as Mr. Silverberg reports?

3 A Because it's nonOLE.

4 Q That was no big deal; is that
 5 right, sir?

6 A The fact of implementing the nonOLE stuff
 7 is a big deal. Jim felt that doing the nonOLE
 8 stuff that was there, he didn't want to do the
 9 nonOLE stuff, he felt that would delay him and
 10 make him bigger.

11 Now, his thing ended up never
 12 shipping, but he was trying to get it done.

13 Q Yes, you keep saying that. When
 14 was the Cairo project cancelled, sir?

15 A That's a good question. It got moved into
 16 this question of in the '93 to '96 time frame,
 17 there were a series of decision that eventually
 18 led to its cancellation.

19 Q All right. But it's fair to say,
 20 at least as of October 1993, there was still a
 21 project called Cairo?

22 A Cairo, absolutely.

23 MR. JOHNSON: Mark this as
 24 Exhibit Number 11, please.
 25 (Exhibit Number 11 was marked.)

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1 BY MR. JOHNSON:

2 Q Mr. Gates, you've been handed a
 3 document marked as Gates Exhibit Number 11, which
 4 is an E-mail string involving David Cole and Brad
 5 Silverberg, Mr. Maritz, Mr. Allchin and others,
 6 apparently, memorializing a visit that had been
 7 made to WordPerfect.

8 This E-mail is dated November 15,
 9 1993, and it starts off, quote, JeffT, Brad --
 10 and I assume that's Brad Silverberg [sic] -- "and
 11 I went to WordPerfect last Thursday to talk to
 12 them about what we thought a good Chicago app was
 13 and what barriers they would have to doing one
 14 close to the time Chicago shipped," close quote.

15 First of all, do you know who JeffT
 16 is?

17 A No.

18 Q Who was Brad Strauss [ph]?

19 A I don't know.

20 Q Would this be a type of evangelist
 21 type trip that was being held here with
 22 WordPerfect to try to get them to write apps for
 23 Chicago?

24 A It's a median of the ISV to discuss
 25 Chicago apps.

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1 Q Was it important for ISVs to have
 2 their application ready close to the time Chicago
 3 shipped, as stated here in the first sentence of
 4 Mr. David Cole's E-mail?

5 A In general, it was a good thing to have
 6 some apps available at the launch. There was
 7 some apps that would come in later, but the more
 8 sooner, the better.

9 Q Why is that?

10 A It just creates more possible reasons that
 11 somebody might want to use the Windows release.

12 Q If you look at the second
 13 paragraph, sir, you'll see that Mr. Cole states,
 14 quote, "These guys will bet on Chicago, they've
 15 never had any doubts about that. They want to
 16 create a single binary that exploits Chicago and
 17 supports NT, (exactly what we want)," close
 18 quote.

19 Do you have any understanding what
 20 he means when he states that WordPerfect wants to
 21 create a single binary that exploits Chicago and
 22 supports NT?

23 MR. HOLLEY: Object to the form of
 24 the question.

25 THE WITNESS: Yeah, I'm not copied

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1 on the E-mail, but I understand the
2 general idea of a single binary.
3 BY MR. JOHNSON:
4 Q Can you explain that to me, sir.
5 A There is a question of whether you ship
6 one binary that's specific for Windows NT and
7 another that's specific for Win '95. Some people
8 did it that way and some people used a single
9 binary.
10 Q Why would Mr. Cole state that what
11 Microsoft wanted was a single binary?
12 A We think it's simple -- simpler for users,
13 because then if they ever changed from one form
14 of Windows to the other, then the thing they
15 click on stays the same.
16 Q In the same paragraph, Mr. Cole
17 states, quote, It was interesting to see how
18 enthusiastic WordPerfect was about Chicago, much
19 in contrast with the ho-hum attitude of our own
20 apps group," close quote.
21 Do you agree with Mr. Cole that
22 Microsoft apps had a ho-hum attitude about
23 Chicago?
24 A No.
25 Q If read down a little bit more in

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1 this E-mail from Mr. Cole talking about his visit
2 to WordPerfect, he states, quote, They were very
3 happy about us deciding to document the shell
4 extensions. I explained conceptually how the
5 extensibility would work and what controls they'd
6 have. Since they just acquired a document
7 management system (I forgot from who) I assume
8 they will want to plug that in, plus WordPerfect
9 mail and other part of WordPerfect office too.
10 I'm sure they will also supply shell property
11 sheets for their docs too.
12 Mr. Gates, did you have any
13 involvement in any decision in 1993 to document
14 the shell extensions?
15 MR. HOLLEY: Object to the form of
16 the question.
17 THE WITNESS: The shell extensions
18 went through a series of discussions about
19 what we could get done and what would be
20 compatible, and some of those I was
21 involved with.
22 BY MR. JOHNSON:
23 Q I'm talking in particular about a
24 decision in 1993 to document the shell extensions
25 as set forth in Mr. Cole's E-mail.

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1 Were you involved in that decision,
2 sir?
3 A Well, there was a decision about what the
4 shell extensions would be. There had been a plan
5 early in Chicago that the shell would do a lot of
6 things that subsequently just didn't get done in
7 the shell, either people didn't think were
8 important or didn't make the priority list.
9 So, as of 1993, we had a more
10 ambitious view for the whole Chicago project of
11 what we were going to get done, and the shell was
12 an area where we cut back a lot of things.
13 So when you cut back the
14 functionality, that's a big reason -- you know,
15 has an effect on what the extensibility is, so I
16 know I was involved in discussions about features
17 that we ended up not being able to implement.
18 Q Mr. Gates, my question was rather
19 simple. My question was: Do you recall having
20 any involvement in the decision in 1993 to
21 document the shell extensions?
22 A There wouldn't have been a decision in
23 1993 about shell extensions because we didn't
24 know what the features of the shell would be, so
25 in that time frame, there could have been

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1 discussions, but many of the shell features
2 didn't take place, so only when you get to, okay,
3 what do we really have, then you decide what form
4 you publish and how you label those for ISVs, so
5 that's going to come well after this.
6 Q Mr. Gates, can you just answer my
7 question.
8 MR. HOLLEY: I thought he did.
9 THE WITNESS: I did answer your
10 question. There were not decisions made
11 about what APIs functioned in 1993 because
12 we didn't know what features were going to
13 be in the product in 1993.
14 We had things we were working on,
15 things we were discussing, but certainly
16 there was no decision made because we
17 didn't know what features we were going to
18 ship.
19 BY MR. JOHNSON:
20 Q So Mr. Cole was falsely telling
21 WordPerfect that they had decided to document the
22 shell extensions?
23 MR. HOLLEY: Objection: He's never
24 seen this document, he wasn't at the
25 meeting.

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1 BY MR. JOHNSON:

2 Q Is Mr. Cole lying to WordPerfect

3 here, sir?

4 A No.

5 Q Do you have any doubt that Mr. Cole

6 told WordPerfect that Microsoft had decided to

7 document the shell extensions?

8 A I'm sure that David Cole told them that

9 there were many features that may or may not make

10 the release, and he talked to them about what we

11 were planning to work on, and as software

12 developers, they would have known, some of these

13 things may make it, some of them may not.

14 So I don't think he made an

15 absolute promise to either ship the functionality

16 and publish it because we were going to make

17 tradeoffs later on, including for the shell

18 broadly, about what eventually ended up being

19 shipped.

20 Q Did you have any involvement in the

21 decision to tell the developers of WordPerfect

22 that Microsoft had decided to document the shell

23 extensions?

24 A The main features that had to do with

25 shell extensions never got implemented, that is,

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1 there wasn't time to make the shell this thing

2 that you did in Window extensions, so that all

3 came later, well after this.

4 Q I'm not asking about later right

5 now, Mr. Gates, we're going to get to it. I'm

6 asking you very simply: Did you have any

7 involvement in the decision to tell the

8 developers of WordPerfect that Microsoft had

9 decided to document the shell extensions?

10 A The whole area --

11 Q Yes or no, or I don't remember?

12 MR. HOLLEY: He can answer however

13 he likes.

14 THE WITNESS: The whole question of

15 what APIs were going to be in the

16 operating system were decided later.

17 BY MR. JOHNSON:

18 Q Do you know who made the decision

19 to tell the developers of WordPerfect that

20 Microsoft had decided to document the shell

21 extensions?

22 A When we finally got to the end of the

23 product and we decided what was in the shell,

24 which was the last time we were working on in it

25 1993, there would have been a series of people

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1 who decided, okay, given what functionality is

2 still remaining in the shell, how is that

3 documented?

4 Q Mr. Gates, that wasn't my question.

5 My question was: Do you know who made the

6 decision to tell the WordPerfect developers that

7 Microsoft had decided to document the shell

8 extensions?

9 It's a very simple question.

10 Either you know somebody made that decision or

11 you don't know, or you don't remember?

12 A You eventually ship a product that,

13 certainly in this case, had less features in it

14 than we hoped to have in it. That's the point

15 where you say, okay, I'm not going to publish

16 extensions for something that doesn't get

17 shipped.

18 And in this area in particular,

19 there were some things that got cut as the

20 project went through and got completed, so the

21 whole notion of what the final APIs were going to

22 be, at this stage no one is in charge of saying,

23 okay, what the final APIs were going to be and

24 how -- which of those are going to be published.

25 Q So are you telling me that Mr. Cole

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1 was not authorized to tell the developers of

2 WordPerfect that Microsoft had decided to

3 document the shell extensions?

4 A There were many -- many things, including

5 features of the shell, which I think it's likely

6 David said to them, hey, we aren't sure if these

7 things are going to get done or not get done, so

8 a meeting at this stage of an OS development is

9 not something where you say, absolutely, this is

10 going to be in here in this form.

11 It's a good discussion to talk to

12 people about what they think is important and

13 what's valuable, but there is going to be a lot

14 of change, as there was, in fact, between the

15 date of this meeting and when the final project

16 gets determined.

17 Q So now you're telling me that you

18 know what Mr. Cole would have said to the

19 WordPerfect developers?

20 A No, I know that if people are involved in

21 software development, they are aware that not all

22 the features you hope to put into a product get

23 into a product, so I'm saying I'd be surprised if

24 any of these people, Dave being a software

25 developer, and these other people, if they

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1 thought, okay, at this time everything they are
 2 talking about will necessarily be there by the
 3 time the product gets shipped.
 4 Q Did you have any involvement in the
 5 decision to tell the WordPerfect developers that
 6 Microsoft had decided to document the shell
 7 extensions?
 8 MR. HOLLEY: Objection: Asked and
 9 answered. I think we're on Round 6.
 10 MR. JOHNSON: Just trying to get an
 11 answer to the question.
 12 MR. HOLLEY: I think you've gotten
 13 one.
 14 MR. JOHNSON: No, I haven't. I've
 15 gotten a bunch of stuff about what happens
 16 in the future.
 17 BY MR. JOHNSON:
 18 Q I want to know, did you -- were you
 19 involved in that decision to tell the WordPerfect
 20 developers that Microsoft had decided to document
 21 the shell extensions, as Mr. Cole states, with
 22 respect to his visit to WordPerfect on
 23 November 15th?
 24 A The notion of what features were going to
 25 be in the shell was not decided at this time, and

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1 so certainly I wasn't, nor was anybody else,
 2 involved in the decision about exactly what would
 3 be committed to in terms of features.
 4 Q What's a beta software release,
 5 Mr. Gates?
 6 A It's an early release that's not complete.
 7 Q Are there also alpha releases?
 8 A Sometimes yes, sometimes no.
 9 Q What distinguishes an alpha release
 10 from a beta release?
 11 A No particular criteria. They are both
 12 flakier than the final release.
 13 Q Were there alpha and beta releases
 14 in connection with the development of Chicago?
 15 A I know there was one we labeled beta. I
 16 don't know if we labeled any of the earlier ones
 17 alpha or not.
 18 Q What's the purpose of giving ISVs
 19 alpha and beta releases?
 20 MR. HOLLEY: Object to the form of
 21 the question.
 22 THE WITNESS: It's a decision to
 23 let them play around with it. You know
 24 that things still can change in terms of
 25 the user interface, the performance in the

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1 features, but if you give them an early
 2 version, maybe you'll get some feedback
 3 that will help guide the tradeoffs you're
 4 going to make, maybe they'll find some
 5 problems that you can fix.
 6 BY MR. JOHNSON:
 7 Q Don't you want ISVs to take
 8 advantage of the new product, sir?
 9 A It's a tradeoff in terms of how early you
 10 give it out because your uncertainty about what's
 11 going to be in the final product is greater the
 12 further you get back before it, but, yeah, part
 13 of the reason you give out early releases is so
 14 people have an awareness.
 15 Q You hope they will take advantage
 16 of the new features in the product, correct, sir?
 17 A Not entirely. You've got to be careful
 18 because the earlier you are, the more uncertain
 19 you are about what features are going to be in
 20 the product.
 21 And, in fact, in all big software
 22 projects like this, there's a lot of things that
 23 are in the early stage of the product that don't
 24 make it into the final product.
 25 Q Can you tell me what an SDK is,

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1 sir?
 2 A That's an acronym for software development
 3 kit.
 4 Q What is an SDK? Beyond the
 5 description as a software development kit what's
 6 it used for?
 7 A Software development.
 8 Q Good answer. Is it possible to an
 9 ISV who's trying to create a product for a new
 10 operating system to have the SDK?
 11 A Sometimes yes, sometimes no. The SDK,
 12 often all you need is the product itself,
 13 sometimes you want some extra tools that go with
 14 it.
 15 Q Does the SDK provide ISV developers
 16 with information about how to take advantage of,
 17 for instance, new APIs in the operating system?
 18 A Usually that's in the documentation, which
 19 might be separate from the SDK, it might come
 20 from a third-party, or it might be included in
 21 the SDK.
 22 Q So that's one of the things that
 23 could be included with the SDK, information that
 24 ISV developers would use to take advantage of the
 25 new APIs in the operating system, right?

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1 A Sometimes you put documentation in it.
 2 Sometimes that's a separate thing.
 3 Q When does it make sense for an ISV
 4 to begin developing an application for a new
 5 operating system release, how many months before
 6 the release?
 7 A Well, it's a tradeoff that they have to
 8 make. If they -- the earlier they start, the
 9 more you're at risk that things are going to get
 10 delayed or change, and the later you start, that
 11 probably means you'll have more certainty about
 12 what's going to be in there, what's the
 13 performance, and all that, but it probably means
 14 that you're not starting as soon if you wait.
 15 So people often wait until
 16 something is completely done and shipping,
 17 there's people who wait until a year after it's
 18 been shipping to make absolutely sure that it's
 19 solid and well done. Some people decide to start
 20 early.
 21 It's one of those decisions that
 22 you have to make, given finite resources, is that
 23 something you are choosing to do or not?
 24 Q Do you recall being deposed in
 25 February 2002 in connection with the California

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1 state cases against Microsoft?
 2 A In general, yes.
 3 Q Do you recall testifying about the
 4 18-month period prior to a major software
 5 release?
 6 A Not in particular.
 7 Q Do you recall generally testifying
 8 about that?
 9 A There is nothing magic about 18 months, so
 10 no, I don't recall saying something that was
 11 special about 18 months.
 12 Q Do you recall testifying that it's
 13 only after this 18-month boundary before a major
 14 release that it makes sense for ISVs to start
 15 working on a product for that release?
 16 A You can't set a guideline like that for
 17 all operating system releases. It depends on the
 18 company, the development process, how much is
 19 changing.
 20 For some things where they are
 21 staying steady for a long time, you could go
 22 earlier.
 23 For things, if they are changing at
 24 the last minute, you'd want to wait longer. So
 25 you'd really have to know which company and which

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1 type of release you're talking about to gauge
 2 these time frames.
 3 MR. JOHNSON: Could you hand
 4 Mr. Gates his deposition transcript from
 5 the California cases.
 6 MR. HOLLEY: (Handing.)
 7 BY MR. JOHNSON:
 8 Q Draw your attention, Mr. Gates, to
 9 your testimony in the cases -- Microsoft cases in
 10 the Superior Court of the state of California,
 11 and your deposition transcript of February 27,
 12 2002, page 63.
 13 And there is a question posed to
 14 you at lines 14 through 18, which I'll just read
 15 in to you:
 16 "Q. Let me break down the question,
 17 Mr. Gates.
 18 Did Microsoft applications
 19 developers get information from Microsoft systems
 20 developers at times in advance of it being given
 21 to outside applications developers?"
 22 And you give a rather lengthy
 23 answer, but I'd like you to look at a portion of
 24 your answer on the next page, page 64, and
 25 specifically lines 6 through 18.

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1 And you stated, quote:
 2 "A. It's only when you get out to, say, 18
 3 months before the release where you've got
 4 documentation and the software out there, which
 5 is plenty of time to develop an application for
 6 the new release. So anything before that
 7 18-month mark is -- you know, it's sort of just
 8 influencing the direction and helping out.
 9 "But by the time you get from a
 10 major release to that 18-month mark, things are
 11 starting to settle down, and that's really the
 12 only point where it makes sense to start doing
 13 development on that, and that's the point at
 14 which, for business reasons, we chose to put out
 15 the early information and have evangelism events
 16 and things of that kind," close quote.
 17 Does that refresh your
 18 recollection, Mr. Gates, that you said it was
 19 within that 18-month period before a major
 20 release that it made sense for ISVs to start
 21 working on a product for that release?
 22 MR. HOLLEY: Objection to the form
 23 of the question. They are entirely
 24 different topics.
 25 THE WITNESS: Yeah, any particular

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1 ISV is going to make a choice about when
 2 they want to get involved. What this
 3 testimony is about is where you get way
 4 before the release, that then you're out
 5 in a territory where you're probably not
 6 advantaging -- you're tying up scarce
 7 resources but, in fact, if you get too
 8 early, the uncertainty is such, and the
 9 extra ramp isn't that valuable, that it's
 10 probably not that advantageous.

11 So this is about the super early
 12 period, but it doesn't change -- nothing
 13 here does anything but add to what I said
 14 earlier that each ISV has to look at --
 15 you know, there's many different releases
 16 of systems coming out, Unix, MacIntosh,
 17 various forms of Windows, and they have to
 18 decide, do they want to target a
 19 particular release or just use the older
 20 releases and rely on Microsoft for the
 21 upwards compatibility.

22 BY MR. JOHNSON:

23 Q And what you're saying here is that
 24 anytime prior to 18 months before the release,
 25 it's really just noise?

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1 A Well, we were talking -- there is a
 2 context here which is about some particular major
 3 Windows developments in this particular
 4 discussion here, and in that case I'd say that's
 5 about the time frame where things start to settle
 6 down so you could feel like you knew what was
 7 going to be there. I wouldn't say that about
 8 every operating system release.

9 Q Well, certainly the Windows '95
 10 release code named Chicago was a major software
 11 release, right, sir?

12 A Yes, sir.

13 Q So the meeting we saw that was held
 14 at WordPerfect from the prior exhibit would have
 15 been one of those early informational evangelism
 16 type events that you spoke of in your deposition
 17 in 2002?

18 A I don't know what you mean.

19 Q Well, you stated here in 2002, "we
 20 chose to put out the early information and have
 21 evangelism events and things of that kind."

22 So was the meeting with WordPerfect
 23 that David Cole talks about, was that one of
 24 those early events with respect to Windows '95?

25 A I don't know if you'd call it early or

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1 not. You'd have to look at what the expected
 2 ship date for Windows '95 was at that point, but
 3 it's a meeting with an ISV, certainly.

4 Q Isn't it true that once you get
 5 past that 18-month point and you get down to 9 to
 6 12 months prior to release, that things are
 7 pretty settled down?

8 A No.

9 Q And ISVs can have confidence to go
 10 forward with their products?

11 A No, up until the very final release, ISVs
 12 are told, you have to test your stuff. Now, the
 13 level of uncertainty of what's going to change if
 14 the project is going well gets less as time goes
 15 on, but there is certainly cases where, very
 16 significant things, in the last year you decide,
 17 no, those things, they are too slow, they are not
 18 working out, they didn't get completed, and so
 19 you decide to delete those features, and then
 20 sometimes you have to team off on the side doing
 21 some work and something will come in at the last
 22 minute.

23 Q Referring you, Mr. Gates, to your
 24 testimony again in the California cases, page 72,
 25 lines 13 through 19, and you're responding to a

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1 question about the period between the 18 months
 2 and the release, and you state, quote, "In the
 3 sense -- really, once you get down to nine or
 4 twelve months, things are pretty locked down.
 5 You know, if you really want to explore these
 6 time magnitudes, it's best to do it in the
 7 context of a particular product because -- and
 8 I'm talking about a pretty major release when I'm
 9 giving you these types of time ranges," close
 10 quote.

11 Do you recall testifying, sir, in
 12 this deposition that once you get down to none to
 13 twelve months, things are pretty locked down?

14 A As I said, you need to know which
 15 operating system release you're talking about,
 16 because everything here is not specific to a
 17 particular release, so if you name a release, I
 18 can talk to you about how uncertain it was in
 19 that time frame.

20 Q But Chicago, Windows '95, was a
 21 major release, right, sir?

22 A It was a major release. There were
 23 changes late in the game.

24 Q Didn't you state, sir, that nothing
 25 of significance happens in the last nine or

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1 twelve months when you testified in 2002 in the
 2 California state cases?
 3 **A That's not a good summary of the**
 4 **testimony.**
 5 Q Drawing your attention to page 73,
 6 lines 8 through 16:
 7 "Q." -- the question is actually on lines 5
 8 through 7.
 9 "Q. And for the major releases, do changes
 10 sometimes occur to the code, to the functionality
 11 within that 18-month window?
 12 "A. If it's a major release -- and it's best
 13 if you want to ask a specific. I can give you,
 14 you know, more particulars on what happened.
 15 Looking backwards, saying, 'Okay. Here's the
 16 release date,' nothing of significance happens in
 17 the last nine or twelve months.
 18 "The six months before that, you get a
 19 little uncertainty, but not nearly as much as you
 20 had before that 18-month boundary. Before the
 21 18-month boundary, in most of the cases I know,
 22 you know, it's just noise," close quote.
 23 So, Mr. Gates, did you testify in
 24 that proceeding that prior to the 18-month
 25 boundary, it was just noise?

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1 MR. HOLLEY: Objection: The
 2 testimony speaks for itself.
 3 THE WITNESS: Yeah, trying to -- I
 4 gave a nice, complete answer there, so
 5 let's just stick with that rather than
 6 having -- drop all the qualifications and
 7 explanations that were given.
 8 BY MR. JOHNSON:
 9 Q Sorry, I read in your complete
 10 answer to that question, sir. Did I miss
 11 something?
 12 **A And I like the complete answer and I don't**
 13 **like your summary.**
 14 Q Did you say nothing of significance
 15 happens in the last nine or twelve months of a
 16 major software release?
 17 **A That's a snippet.**
 18 Q It is or is not what you said, sir?
 19 Was it what you said, or did you not say that?
 20 **A You know --**
 21 MR. HOLLEY: Object to the form.
 22 THE WITNESS: -- what I said. And
 23 what I said is it's best if you want to
 24 ask about a specific. So if you're
 25 interested in particular month boundaries

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1 where things got more solid, then it
 2 varies by release.
 3 Also, you know, somebody's view of
 4 what feature is significant, you know, you
 5 can have different lenses that you bring
 6 to that.
 7 As time -- it's definitely the
 8 case, and this testimony that you read
 9 captured it very well, that as time goes
 10 on the degree of uncertainty goes down.
 11 BY MR. JOHNSON:
 12 Q Do you recall that the Chicago M6
 13 beta started shipping on June 10, 1994?
 14 MR. HOLLEY: Object to the form of
 15 the question.
 16 THE WITNESS: I don't remember the
 17 exact date when any particular beta
 18 Chicago shipped.
 19 BY MR. JOHNSON:
 20 Q Do you recall that there was a
 21 Chicago beta?
 22 **A There were many, many Chicago betas.**
 23 Q I'm talking in particular about the
 24 M6 release.
 25 **A Yeah, M6 means that there's still --**

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1 **that's milestone numbers, where there's still --**
 2 **you're still counting milestones.**
 3 Q Was the M6 release a beta release?
 4 **A I think it was called a beta release.**
 5 Q Was it or was it not a beta
 6 release?
 7 **A There is no strict definition of what's a**
 8 **beta release and what's not a beta release. We**
 9 **had a lot of releases that were labeled that way.**
 10 Q Would you call it a beta release?
 11 **A There is no strict definition so it**
 12 **doesn't -- some things are called that way, some**
 13 **are not.**
 14 **You've got to be careful, though,**
 15 **if somebody thinks beta means that things are**
 16 **absolutely final, you better explain to them, for**
 17 **a particular project, what the level of**
 18 **uncertainty is.**
 19 **We've certainly had a lot of cases**
 20 **where we did betas, and then we said, whoops, you**
 21 **know, we probably should have taken more time**
 22 **before we did that release.**
 23 MR. JOHNSON: Let's mark this as
 24 Exhibit 12, please.
 25 (Exhibit Number 12 was marked.)

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1 BY MR. JOHNSON:

2 Q Mr. Gates, you've now been handed

3 Exhibit Number 12, and I'm only going to refer

4 you, really, to the first paragraph of this

5 report from David Cole, who was involved with the

6 Chicago project, and particularly with respect to

7 the highlights in the first paragraph which

8 states, quote, "Chicago beta 1 (M6) was shipped

9 June 10 and subsequently rolled out to

10 approximately 20,000 sites world wide," close

11 quote.

12 Does that refresh your recollection

13 at all that M6 was a beta release that shipped

14 June 10?

15 A I don't remember when it shipped but, as I

16 told you, I think it was called a beta release.

17 Q Does the fact that it was rolled

18 out to approximately 20,000 sites worldwide, does

19 that sound -- is that consistent with your

20 memory?

21 A I don't know what you mean, I never --

22 it's amazing how small things were back then.

23 20,000, by today's standards, is kind of nothing.

24 Q What was it by the standards in

25 1994, sir?

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1 A More than it would be today, but still

2 it's not a gigantic number.

3 Q 20,000 sites is not a gigantic

4 number in 1994, sir?

5 A No, not with respect to what percentage of

6 the installed base is.

7 Q I'm talking with respect to beta

8 releases of operating system products. Was there

9 any other beta release of an operating system

10 product in 1994 that was released to more than

11 20,000 sites worldwide?

12 A Well, certainly the new versions of DOS

13 were, yes.

14 Q Did you do a new version of DOS in

15 1994?

16 A Not in that year, it was previous to 1994.

17 Q Who would these 20,000 sites be?

18 Would they be OS ISVs or would there be other

19 people involved?

20 A Other people.

21 Q What other categories of people

22 would get the beta release?

23 A Mostly they are there because they are

24 Windows users, that's who you're trying to get

25 feedback from.

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1 Q You mean businesses and the like

2 that use Windows?

3 A Not just businesses, anyone who uses

4 Windows.

5 Q So individuals, perhaps?

6 A Yes, among others.

7 Q Would it also go to ISVs?

8 A Yes.

9 Q Why would it go to ISVs?

10 A They are also users, they tend to play

11 around with the thing. They might be trying

12 their application out, seeing what's going on.

13 Q So assuming an ISV had made the

14 decision to take advantage of the new operating

15 system, the beta would have been used by the ISV

16 to help develop its product?

17 A Not every beta. They'd have to decide

18 which versions they wanted to work with.

19 Q In June of 1994, you were deposed

20 by the Department of Justice about the same time

21 this beta came out. Do you recall that, sir?

22 A I know that I was deposed by the DOJ. I

23 don't remember the month.

24 Q You testified at that time that the

25 Chicago operating system was five times better

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1 than anything you had done before, you said it

2 was, quote, "a hell of a piece of work." I'll be

3 happy to show it to you if you like, but I hope

4 you'll take my representation on that.

5 Can you tell me why it was you

6 believed, in June of 1994, that Chicago was five

7 times better than anything you've done before?

8 A You'll have to show me the context.

9 Q Here is your deposition, sir, I'm

10 handing it to you now. Would you turn to page

11 328, sir, specifically lines 1 through 6.

12 And if you read the prior page

13 you'll see that you're talking about Chicago

14 here, and you state, quote, "In preliminary

15 showing people, early things here, we're getting

16 a very positive reception, and we think this is

17 a, you know, an operating system that's five

18 times better than anything we've done before.

19 It's a hell of a piece of work," close quote.

20 Can you tell me, sir, why you told

21 the attorneys of the Department of Justice in

22 June of 1994 that Chicago was five times better

23 than anything you've done before?

24 A Well, they were asking questions about the

25 pricing of the product, and I was indicating I

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1 thought it was a very valuable product.

2 Now, I'm not an unbiased source

3 when you ask about Windows software.

4 Q I appreciate that. What I'm trying

5 to ask, though, is why you told them it was five

6 times better than anything you've done before.

7 A It was to answer the question about

8 pricing.

9 Q Well, what made it five times

10 better?

11 A I thought it was better.

12 Q You can't give me any more answer

13 that than that of why something was five

14 times better --

15 A I can talk about Windows '95 all day. I

16 thought -- we hadn't finished the product at this

17 stage, we weren't shipping the product. In fact,

18 it turned out that was -- it was going to take

19 quite a bit more time to finish the product, but

20 I was very enthusiastic about the way we had done

21 the graphics run time.

22 Q Anything else?

23 A The graphics run time was big, the long

24 file names were big, the 32-bit stuff was big,

25 the visuals.

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1 We had put a lot of resources into

2 the Windows '95 release, and I was pleased with

3 the work.

4 Q Was the shell big?

5 A No, it's a part of the system, but people

6 spend their time in applications, primarily.

7 Q You didn't think it was big

8 bringing it down to a single Explorer, single

9 shell?

10 MR. HOLLEY: Object to the form.

11 THE WITNESS: I don't know what you

12 mean.

13 MR. JOHNSON: Can we mark this as

14 Exhibit 13, please.

15 (Exhibit Number 13 was marked.)

16 BY MR. JOHNSON:

17 Q Mr. Gates, you've been handed what

18 has been marked Exhibit Number 13 which, again,

19 is a series of E-mails involving you and

20 Mr. Silverberg in April of 1994 entitled -- the

21 subject matter being Explorer and scope pane and

22 REN.

23 Do you recall this E-mail chain,

24 sir?

25 A Not in particular, but it's -- clearly I

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1 write mail and Brad Silverberg writes back to me.

2 Q You state, Mr. Gates, that "Coming

3 out of my REN meeting I am disappointed at the

4 lack of integration in our strategy."

5 Do you have any idea why you were

6 disappointed at the lack of integration in the

7 strategy?

8 A Yeah, they had -- they weren't --

9 Windows '95 didn't end up supporting in-place

10 hierarchy navigation, which Brad, as he explains,

11 he always thought was a stupid idea.

12 Q I'm sorry, he says it's a stupid

13 idea?

14 A Yeah.

15 Q Or is that what you recall that he

16 believed?

17 A I guess I'm adding my knowledge of the

18 situation in addition to the text. The idea of

19 stupid idea is not particularly said in the mail.

20 It became moot because what they

21 did was they said, okay, people should just start

22 applications separately, and almost no one ended

23 up clicking on the name hierarchy.

24 They -- at one point the idea had

25 been -- the idea has been that you could click on

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1 the name hierarchy and something would happen in

2 the right pane, and that -- that idea was never

3 implemented.

4 Q You state here in the second

5 paragraph, "I have said in many meeting" --

6 meetings, I assume you meant -- "that the

7 hierarchical view (scope pane) view is critical."

8 Is the scope pane view the

9 left-hand pane?

10 A Yeah, the idea is that you'd be able to

11 click on the scope pane and something would

12 happen on the right, and they ended up not

13 supporting that feature. All they ended up

14 supporting was starting the new window, so the

15 idea of what I'm talking about here was not

16 supported.

17 Q So the one on the left -- the view

18 on the left is known as the tree view; is that

19 right?

20 A Yeah, but they didn't support the idea of

21 clicking on the tree view to change the in-window

22 presentation.

23 Q I'm just trying to understand the

24 scope pane and the tree view here. You don't

25 have to jump too far ahead of me.

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1 **A The scope pane is the tree view.**
2 **Q Is the tree view, okay.**
3 And, in your view, the tree view
4 was central to your whole strategy, right?
5 **A No.**
6 **Q Sorry, sir, didn't you state here,**
7 **quote, The tree view is central to our whole**
8 **strategy - email, document library, applications,**
9 **file system,...? Didn't you state that, sir?**
10 **A I was trying to see if they would still**
11 **have time or the ability to support the right**
12 **pane changing when you clicked on the left pane,**
13 **and they ended up not doing the work to support**
14 **that, so this idea that, hey, this is a big deal,**
15 **I'd really like that, I'm saying, hey, I thought**
16 **we'd have a strategy, and it ended up not being**
17 **supported.**
18 **Q Is it a fact, sir, that you told**
19 **Mr. Silverberg that the tree view was central to**
20 **our whole strategy?**
21 **A I was promoting the idea of adding a**
22 **feature, which was not added.**
23 **Q It's the tree view, that's where**
24 **the namespace extensions come into play, right,**
25 **sir?**

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1 **A Yeah, particularly if they had done the**
2 **right pane things, then you could click on those**
3 **things and things would show up.**
4 **Now, many people thought that was**
5 **unimportant, but they never did the thing to make**
6 **it happen inside the window. You can see where I**
7 **talked about Ren, Ren being an integrated shell**
8 **or a shell replacement, none of that ever**
9 **happened.**
10 **Q Wasn't the idea behind the**
11 **namespace extensions was that a third-party**
12 **developer like WordPerfect, for instance, could**
13 **create a new -- new virtual folders in the**
14 **Windows '95 shell within the scope pane?**
15 **A Well, the idea was that people would be**
16 **able to do that. The idea of replacing the right**
17 **pane, that was not implemented. All they did was**
18 **make it so you could fire up a separate window,**
19 **and so the whole thing became kind of unimportant**
20 **because the idea that maybe people would use it**
21 **if you could do it in place, that never happened,**
22 **so here I'm showing some -- saying, hey, how come**
23 **you didn't put this feature in, but they didn't.**
24 **Q Mr. Gates, I want to make sure I**
25 **understand this name -- namespace extensions.**

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1 I asked Mr. Maritz about it. Let
2 me read to you what he said and see if you agree.
3 "Q. What were the namespace extensions?
4 **A. From the best of my recollection, they**
5 **were an ability whereby the Windows Explorer**
6 **could include third-party components that would**
7 **enable them to contribute subtrees to the basic**
8 **tree of information that Windows provides."**
9 **Good so far?**
10 **A Well, he's not talking about the UI**
11 **interaction, so --**
12 **Q Is his description of namespace**
13 **extensions good so far?**
14 **A No -- well, you should finish what he has**
15 **to say before I comment.**
16 **Q Okay.**
17 "Q. So, in other words, third parties could
18 create their own virtual folders within the
19 hierarchy of the tree?
20 "A. Correct.
21 "Q. Right on the shell?
22 "A. Correct. In particular, have them be
23 displayed in the so-called left-hand pane of the
24 browser where the master tree was expanded."
25 Has Mr. Maritz got it right, sir?

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1 **A They -- there was an idea, initially on**
2 **the shell namespace extensions, it would now**
3 **begin on the left, and as it did, the context of**
4 **the right pane would change, and that's what**
5 **didn't get implemented.**
6 **What they did do is you could click**
7 **and then you would get another window. So he's**
8 **talk about the original idea where that right**
9 **pane would change -- change and still be**
10 **embedded.**
11 **Q And third parties could create**
12 **their own virtual folders, which would show on**
13 **the hierarchy of the tree, and then be displayed**
14 **in the right-hand pane, correct?**
15 **A And that's the thing that didn't happen**
16 **for -- it didn't happen for anyone.**
17 **Q You pointed to the fact you were**
18 **talking about Ren in this E-mail to**
19 **Mr. Silverberg, and you were indicating that Ren**
20 **had to be either integrated into the shell like**
21 **Capone, or be a shell replacement.**
22 **So when you say integrated into the**
23 **shell like Capone, you mean using the APIs that**
24 **Capone was using to integrate into the shell,**
25 **right?**

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1 A Well, at this time we were still hoping
 2 Capone would use that right-hand side thing.
 3 Didn't happen for Capone or for other
 4 applications.
 5 What eventually got done was you
 6 could click, and it would then open a new window,
 7 and that didn't end up being the way people did
 8 things.
 9 Q You indicated, "I was pushing to a
 10 large degree of B in my recent REN meeting."
 11 And what did you mean by shell
 12 replacement, sir?
 13 A That we would ship with the future version
 14 of Windows a superset shell.
 15 Q Future Windows -- version of the
 16 Windows, sir? Don't you mean a future version of
 17 Office?
 18 A No. No, the idea of a fancier shell,
 19 that's an operating system idea.
 20 Q You indicate at the bottom of your
 21 E-mail to Mr. Silverberg, quote, "I cant [sic]
 22 believe this confusion this late in the game but
 23 it needs to be addressed," close quote.
 24 What was the confusion, sir, and
 25 why was it so late in the game?

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1 A Well, "late in the game" refers to the
 2 fact that, you know, we're hoping to get Chicago
 3 out the door sometime soon, this is late March
 4 1994, and I thought they had done -- made the
 5 stuff where you could extend on the right-hand
 6 pane, I thought they had done more, and it turned
 7 out they didn't.
 8 Q So when you refer to "late in the
 9 game," you mean late in the game of the
 10 development of Chicago, right?
 11 A No, no, I mean late in the sense that
 12 Chicago was -- I was hoping it would ship fairly
 13 soon. I mean, the extended development period
 14 doesn't matter. The question is: How many
 15 changes are we making?
 16 The fact is, they were right that
 17 doing that right-pane stuff, it was too late to
 18 do that, so it never got done for anyone.
 19 Q It got done for Marvel, didn't it,
 20 sir?
 21 A No. No, it was all top-level window
 22 stuff.
 23 MR. JOHNSON: We better stop. I
 24 think we're out of this tape.
 25 THE VIDEOGRAPHER: This is the end

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1 of Tape Number 3 in the deposition of
 2 William Henry Gates III. The time is
 3 1:39 p.m. We are off the record.
 4 (Exhibit Number 14 was marked.)
 5 (A recess was taken.)
 6 THE VIDEOGRAPHER: This is the
 7 beginning of Tape Number 4 of the
 8 deposition of William Henry Gates III.
 9 The time is 1:46 p.m. We are on the
 10 record.
 11 BY MR. JOHNSON:
 12 Q Mr. Gates, you've now been handed
 13 Exhibit Number 14, which is an E-mail from
 14 Mr. Allchin to the Windows NT group dated
 15 September 27, 1994, and I'm only going to be
 16 asking you a couple questions about the two
 17 paragraphs on the second page with the -- on the
 18 page Bates stamped ending 119.
 19 Starting with "Bill recently made a
 20 decision." Do you see that, sir?
 21 A Well, this is another E-mail that I'm not
 22 copied on, right?
 23 Q It is. I'm only going to ask --
 24 A Have we seen any that I'm copied on?
 25 Q Actually, we've seen quite a few

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1 written by you, but that's all right. I'm only
 2 going to ask you questions on those two
 3 paragraphs starting with "Bill recently made a
 4 decision." If you could read those to
 5 yourself --
 6 A Okay.
 7 Q -- then I'll ask a couple
 8 questions.
 9 A (Perusing.) Yes, I've read those.
 10 Q Okay. In the first paragraph, it
 11 states that, "Bill recently made a decision to
 12 move the Cairo shell effort to Office." Did you
 13 make that decision, sir?
 14 A Yeah, that was part of the unravelling of
 15 the entire Cairo shell. It was a milestone on
 16 its path to oblivion.
 17 Q And it states that, "He made this
 18 decision because he wanted the Office group
 19 chartered with taking-on Lotus Notes UI and
 20 because he felt it was very important that Office
 21 take advantage of any new shell features first,"
 22 close quote.
 23 Is that accurate, sir? Is that why
 24 you made the decision?
 25 A The main reason I made the decision is I

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1 was just unhappy with the management chain that
 2 was doing the work, and the size and the speed of
 3 the work, and I was moving it to another group to
 4 see if it could be resuscitated.

5 In fact, it was not -- we were not
 6 able to resuscitate it, and so the entire thing
 7 was completely flushed.

8 Q Well, specifically, sir, did you
 9 think it was very important that Office take
 10 advantage of any new shell features first?

11 A I -- this shell, if it had shipped in
 12 Windows, we would have tried to have our
 13 applications take advantage of them as good or
 14 better than anybody else, but the shell never
 15 shipped.

16 Q I know it never shipped, sir. I'm
 17 talking about your plan in September of 1994.

18 A Yeah, the plan was to try and get the code
 19 to be fast enough and small enough that it would
 20 be a benefit to end users. That was a key part
 21 of the plan, and that's why it, eventually,
 22 didn't get used.

23 Q Sir, my question was simpler than
 24 that. I'm just asking whether Mr. Allchin
 25 correctly characterized the reason for your

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1 decision, quote, "because he," meaning you, "felt
 2 it was very important that Office take advantage
 3 of any new shell features first," close quote.

4 Is that an accurate description of
 5 the reason you made this decision, sir?

6 A And I told you no. The key reason I made
 7 this decision was to get it into an engineering
 8 group where it might get into shape so that it
 9 could actually be shipped.

10 Q If you look further on in that
 11 paragraph, Mr. Allchin also states, quote, "By
 12 transferring this to Office, they can build the
 13 features directly into their applications and
 14 thus support them on both platforms. Office is
 15 now explicitly planning on building shell
 16 features such as their own Explorer."

17 Do you see that, sir?

18 A Um-hmm.

19 Q Does that refresh your recollection
 20 that the Office shell was still being planned in
 21 September 1994?

22 A No.

23 MR. HOLLEY: Object to the form of
 24 the question.

25 THE WITNESS: You've managed to be

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1 confused about the term "Office shell" in
 2 every single question you've asked me. If
 3 you -- in fact, maybe this will help
 4 straighten you out. It says, "Over time,
 5 bill's plan is to pull some of these
 6 features and code back from the Office
 7 team into post-96 versions of NT and
 8 Chicago."

9 So the shell is a feature of the
 10 operating system used to navigate things.
 11 The fact that Office was going to take
 12 advantage of that, fine, but there was
 13 never a separate product called an Office
 14 shell.

15 BY MR. JOHNSON:

16 Q So that sentence you just read in,
 17 I did want to ask you about that. So, as I
 18 understand it, you weren't going to have these
 19 features and code put back into the operating
 20 system until after Office '96 shipped, correct,
 21 sir?

22 A Well, this project wasn't part of '96.
 23 Understand, you have the Office work that's going
 24 on, which at the time was called '96, later
 25 called Office '95, you have that work, and then

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1 you have that Cairo shell team which wasn't
 2 shipping in that time frame at all, so this
 3 code -- there was no possibility of this code
 4 shipping in that '96 time frame --

5 Q Mr. Gates --

6 A -- in any way, shape or form.

7 Q Mr. Gates, what does it mean when
 8 Mr. Allchin says that "Office is now explicitly
 9 planning on building shell features such as their
 10 own Explorer"?

11 A He's talking about the fact that the Ren
 12 mail experience is a -- is a container. They
 13 were going to build the mail product, and then
 14 they were going to build shell features that
 15 would go back to the operating system team.

16 Q They were building those shell
 17 features in Office; isn't that correct, sir?

18 A No, not to ship with Office. The people
 19 were -- this whole memo is about people being
 20 transferred into the Office Management Group. So
 21 yes, there was code being written in the Office
 22 Group that was shell code.

23 Now, it turns out that idea of
 24 shipping it with the shell never happened because
 25 this whole effort was a dead end.

<p style="text-align: right;">150</p> <p>1 Q Look at the second [sic] paragraph</p> <p>2 of Mr. Allchin's E-mail to his NT group, it</p> <p>3 states, quote, "Given the above decision, we have</p> <p>4 decided to use the Chicago shell codebase for the</p> <p>5 NT Workstation."</p> <p>6 Do I understand correctly, then,</p> <p>7 that the Chicago shell -- the API set for the</p> <p>8 Chicago shell was going to be part of the NT</p> <p>9 Workstation?</p> <p>10 A They were going to use the same shell</p> <p>11 codebase, so all the stuff we read about earlier</p> <p>12 today, the reason it's moot is that was about</p> <p>13 trying to coordinate two shells, and what you see</p> <p>14 here, as part of one of the milestones of the</p> <p>15 Cairo shell going to oblivion, the same shell</p> <p>16 codebase is going to be used on both the NT and</p> <p>17 the '95 base.</p> <p>18 Q So does that mean there was no</p> <p>19 longer going to be any compatibility issues</p> <p>20 between Chicago and NT?</p> <p>21 A You can still have cases where, when that</p> <p>22 codebase is running on one OS it behaves one way,</p> <p>23 and on another it's another way, but that</p> <p>24 incompatibility is much easier once you get it</p> <p>25 running on that 2, and then you can look in the</p>	<p style="text-align: right;">152</p> <p>1 MR. JOHNSON: Mark this, please, as</p> <p>2 Exhibit Number 15.</p> <p>3 (Exhibit Number 15 was marked.)</p> <p>4 BY MR. JOHNSON:</p> <p>5 Q Mr. Gates, you've now been handed</p> <p>6 Exhibit Number 15 to your deposition. This is a</p> <p>7 document entitled Chicago Explorer Superset and</p> <p>8 Replacement by a program manager by the name of</p> <p>9 VinodA.</p> <p>10 Do you happen to remember who</p> <p>11 VinodA is?</p> <p>12 A No.</p> <p>13 Q Do you recall Mr. Richard Wolf,</p> <p>14 which is referenced at the bottom of the first</p> <p>15 page, who Mr. Richard Wolf was?</p> <p>16 A I know he worked in Office. I don't know</p> <p>17 anything about the footnote and the document</p> <p>18 referenced there.</p> <p>19 Q On the second page of this memo,</p> <p>20 Bates stamped 799 at the end, with respect to</p> <p>21 Justification, in the third paragraph down, it</p> <p>22 states, quote, By implementing a feature superset</p> <p>23 of Chicago's Explorer, Office Explorer can</p> <p>24 replace the Chicago Explorer across the board and</p> <p>25 be the single place where users can find, view</p>
<p style="text-align: right;">151</p> <p>1 code and see what your special -- so in terms of</p> <p>2 compatibility, this took the thing of two</p> <p>3 different code bases, and how they would seek to</p> <p>4 do the same thing, and completely change it</p> <p>5 because one code base was completely out of the</p> <p>6 picture now.</p> <p>7 Q It goes on to say, "A positive</p> <p>8 benefit from this is that the NT workstation</p> <p>9 shell will be the same as Chicago."</p> <p>10 Is that what we're talking about</p> <p>11 here, they are going to be the same so there</p> <p>12 won't be any issues of compatibility or ISV</p> <p>13 choosing which set of APIs to target?</p> <p>14 MR. HOLLEY: Objection to the form</p> <p>15 of the question.</p> <p>16 THE WITNESS: This is about the</p> <p>17 shell itself and that we're using the same</p> <p>18 codebase.</p> <p>19 BY MR. JOHNSON:</p> <p>20 Q For Chicago and NT, right?</p> <p>21 A That's right.</p> <p>22 Q And he states, this gives ISVs one</p> <p>23 set of APIs to target so they can build both from</p> <p>24 the same set of APIs; is that right?</p> <p>25 A That's right.</p>	<p style="text-align: right;">153</p> <p>1 and manipulate, in a consistent way, all their</p> <p>2 documents, appointments," et cetera.</p> <p>3 Does this refresh your recollection</p> <p>4 at all that Office was working on its own</p> <p>5 Explorer to replace the Chicago Explorer?</p> <p>6 A An Explorer -- they were working on an</p> <p>7 Office Explorer which was to be a superset of the</p> <p>8 shell, but all the shells were going to ship to</p> <p>9 the operating system.</p> <p>10 This particular Office Explorer</p> <p>11 project never came to pass, so you have here</p> <p>12 people, you know, talking about what they are</p> <p>13 planning on doing. We didn't happen to ever ship</p> <p>14 the work that's referred to here.</p> <p>15 Q It was certainly ongoing at this</p> <p>16 time, though, wasn't it, sir?</p> <p>17 A No, there is a -- just because there is a</p> <p>18 spec doesn't mean that the work was ongoing.</p> <p>19 Have you given me a date for this</p> <p>20 document that I'm, again, not copied on?</p> <p>21 Q You'll see, sir, that there is not</p> <p>22 a date on it, but there is a number of revisions</p> <p>23 done by the project manager. On page -- Bates</p> <p>24 stamped 804, a revision is done in November and</p> <p>25 December of 1994. Do you see that, sir?</p>

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1 A Yeah. Are those before or after the
2 reorg?

3 Q That would have been after, sir.

4 A Yes, this looks --

5 Q The reorg was in September.

6 A Yeah, this looks like -- when Cairo shell
7 moved over, there was the idea of the work that
8 was going to go into the shell in the operating
9 system, and then there was work that was going to
10 go into Office, and neither of those things
11 happened.

12 Q Turning your attention to the page
13 Bates stamped 800 at the end.

14 A 800?

15 Q 800, yes. And drawing your
16 attention towards the bottom of the page, it's
17 part of the section about implementing a featured
18 superset of Chicago's Explorer, it states, quote,
19 "The Office Explorer implementation strategy is
20 to leverage the Chicago shell team's work as much
21 as possible. Chicago provides some of the
22 crucial interfaces that will simplify our work,
23 these include," and they talk about the
24 IShellFolder and IShellView interface.
25 Do you recall that those two

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1 interfaces were namespace extensions existing in
2 Chicago, sir?

3 MR. HOLLEY: Object to the form of
4 the question.

5 THE WITNESS: Yeah, most of what's
6 described here, actually -- some of it got
7 done and some of it didn't get done in
8 terms of Chicago. In terms of this Office
9 Explorer work, as I've said, this project
10 didn't succeed.

11 BY MR. JOHNSON:

12 Q Mr. Gates, it was a simple
13 question: Do you recognize IShellFolder and
14 IShellView as namespace extension APIs?

15 A I don't -- I don't know enough about the
16 IShellView to say it's a namespace extension API.

17 IShellFolder is sometimes talked
18 about that way.

19 Q Do you have any understanding why
20 the project manager here would refer to
21 IShellFolder and IShellView as crucial interfaces
22 for the Office Explorer implementation strategy?

23 A He was working on a project. He would
24 hope it would succeed, and he had some technical
25 ideas about what he wanted to put into his

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1 product.

2 MR. HOLLEY: Mr. Johnson, I'm sorry
3 to interrupt, but I promised him I would
4 make sure he makes his next appointment,
5 and he needs to leave.

6 MR. JOHNSON: And without being
7 argumentative, you know we disagree with
8 the fact that we have not been given
9 adequate time with Mr. Gates. In fact, we
10 have not been even given the time that we
11 were promised with Mr. Gates today, but
12 you and I have agreed to disagree with
13 respect to that, and we'll take our
14 disagreement to Judge Botts.

15 And I'm sorry to say, if I win this
16 fight, Mr. Gates, we'll be back here at
17 some point in the future. If I don't,
18 thank you very much for your time.

19 THE WITNESS: All right, thank you.

20 MR. HOLLEY: Just so the record is
21 clear, you know, we obviously don't agree
22 with you and we'll take it up at the
23 appropriate time.

24 MR. JOHNSON: Thanks.

25 THE VIDEOGRAPHER: This concludes

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1 today's videotaped deposition of William
2 Henry Gates III consisting of four tapes.
3 The time is 2:01 p.m. We are off the
4 record.

5 (At 2:01 p.m. the deposition in the
6 above-referenced case was recessed.)
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1 **CERTIFICATE**

2

3 I, Kelly Herrick, a Certified Shorthand

4 Reporter, do hereby certify that prior to the

5 commencement of the examination WILLIAM HENRY

6 GATES III was duly sworn by me to testify to the

7 truth, the whole truth, and nothing but the

8 truth.

9 I DO FURTHER CERTIFY that the foregoing

10 is a true and accurate transcript of the

11 deposition of said witness who was first duly

12 sworn by me on the date and place hereinbefore

13 set forth.

14 I FURTHER CERTIFY that I am neither

15 attorney nor counsel for, nor related to or

16 employed by any of the parties to the action in

17 which this deposition was taken, and further that

18 I am not a relative or employee of any attorney

19 or counsel employed in this action, nor am I

20 financially interested in this case.

21 _____

22 Kelly Herrick

23 Notary Public of Minnesota

24 My Commission Expires

25 Dated: _____

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1 **INSTRUCTIONS TO WITNESS**

2

3 Read your deposition over carefully. It

4 is your right to read your deposition and make

5 changes in form or substance. You should assign

6 a reason in the appropriate column on the errata

7 sheet for any change made.

8 After making any change in form or

9 substance, and which have been noted on the

10 following errata sheet, along with the reason for

11 any change, sign your name on the errata sheet

12 and date it.

13 Then sign your deposition at the end of

14 your testimony in the space provided. You are

15 signing it subject to the changes you have made

16 in the errata sheet, which will be attached to

17 the deposition before filing. You must sign it

18 in front of a witness. The witness need not be a

19 notary public. Any competent adult may witness

20 your signature.

21 Return the original errata sheet to the

22 court reporter promptly! Court rules require

23 filing within 30 days after you receive the

24 deposition.

25

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1 **ERRATA SHEET**

2 PAGE LINE # CHANGE REASON THEREFOR

3 _____

4 _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

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1 **SIGNATURE PAGE**

2 **OF**

3 **WILLIAM HENRY GATES III**

4

5 I hereby acknowledge that I have read the

6 aforementioned deposition, dated March 4, 2009,

7 and that the same is a true and correct

8 transcription of the answers given by me to the

9 questions propounded, except for the changes, if

10 any, noted on the attached errata sheet.

11

12 **SIGNATURE:**

13 _____

14

15 **WITNESSED BY:**

16 _____

17

18 **DATE:**

19 _____

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