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4   IN THE UNITED STATES DISTRICT COURT

5   FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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9   )
   NOVELL, INC.,   )
10   )
)
11   )
                   Plaintiff,   )
12   )
       vs.   )Case 2:04-CV-1045 JFM
13   )
)
14   MICROSOFT CORPORATION,   )
)
15   Defendant.   )
)
16   _____)

17

18   BEFORE THE HONORABLE J. FREDERICK MOTZ

19   DATE: NOVEMBER 30, 2011

20   REPORTER'S TRANSCRIPT OF PROCEEDINGS

21   JURY TRIAL
                       VOLUME XXII
22

23

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1   SALT LAKE CITY, UTAH, WEDNESDAY, NOVEMBER 30, 2011

2   *   *   *   *   *

3   THE COURT: Good morning, everybody. Let's get the

4   jury.

5   (Whereupon, the jury returned to the court

6   proceedings.)

7   THE COURT: Mr. Tulchin?

8   MR. TULCHIN: Thank you, Your Honor. Microsoft

9   calls as its next witness Nolan Larsen.

10   THE CLERK: Raise your right hand, please.

11   NOLAN KAY LARSEN,

12   called as a witness at the request of Defendant,

13   having been first duly sworn, was examined

14   and testified as follows:

15   THE WITNESS: I do.

16   THE CLERK: Please be seated.

17   Please state your full name and spell it for the

18   record.

19   THE WITNESS: Nolan Kay Larsen. N-O-L-A-N, K-A-Y,

20   L-A-R-S-E-N.

21   DIRECT EXAMINATION

22   BY MR. TULCHIN:

23   Q.   Good morning, Mr. Larsen.

24   A.   Good morning.

25   Q.   How are you today?

1   A.   I'm doing well.

2   Q.   Good. Mr. Larsen, where do you live?

3   A.   I live in Orem, Utah.

4   Q.   And with what company are you currently employed?

5   A.   I currently work for Ancestry.com.

6   Q.   What is Ancestry.com?

7   A.   It's an online provider of family history genealogy

8   software, records.

9   Q.   And where is your office located?

10   A.   We're located in Provo, Utah.

11   Q.   Thank you, sir. What is your position at

12   Ancestry.com?

13   A.   I'm currently a senior software developer.

14   Q.   Mr. Larsen, did you attend college?

15   A.   Yes, I did.

16   Q.   Where?

17   A.   I received a Bachelor of Science in Computer

18   Science from Brigham Young University.

19   Q.   And what year was that, sir?

20   A.   1985.

21   Q.   Upon your graduation from Brigham Young in 1985,

22   what did you do?

23   A.   I had been working part-time at Satellite Software

24   International, and I was made an offer to work there

25   full-time, Satellite -- and I accepted that offer. Satellite

1   Software International subsequently became WordPerfect

2   Corporation.

3   Q.   All right. So while you were still in college you

4   were working part-time at Satellite Software?

5   A.   That's correct.

6   Q.   And do I understand that that company changed its

7   name to WordPerfect?

8   A.   Yes.

9   Q.   Roughly when was that?

10   A.   About a year after I started there, so probably

11   1986.

12   Q.   And, Mr. Larsen, your first full-time position was

13   with Satellite Software, the company that became WordPerfect;

14   is that correct?

15   A.   That's correct.

16   Q.   What was your position at the time in 1985?

17   A.   When I first began, I was working as a programmer

18   in the MacIntosh group. There were only a few programmers

19   there.

20   Q.   And what happened next? What was your next

21   position?

22   A.   Eventually I became the director of development for

23   the MacIntosh group.

24   Q.   Can you give us approximately the dates, let's say,

25   the years, Mr. Larsen, when you were working in the MacIntosh

1   group, first as a programmer and then as a director?

2   A.   Well, when I began in 1985, I started in the

3   MacIntosh group. I continued there for probably about nine

4   years, I would say. So it was 1993, 1994 when I switched and

5   was made the director of human factors, which deals with how

6   users interact with computers. It's trying to make programs

7   easier to use.

8   Q.   All right. So around 1993 or '94, you became

9   director of human factors; correct?

10   A.   That's correct.

11   Q.   And Novell bought WordPerfect in 1994; is that

12   right?

13   A.   That's right.

14   Q.   And did you continue in that same position after

15   the Novell acquisition?

16   A.   Yes, I did.

17   Q.   Did you have any subsequent positions at Novell

18   WordPerfect?

19   A.   After I was director of human factors I went back

20   to programming and was a programmer working on the Quattro Pro

21   development team.

22   Q.   When did that occur, sir?

23   A.   That was in probably about January of 1996.

24   Q.   And when was it that you left Novell?

25   A.   It was just a couple months later, so I'm thinking

1   it was probably about the March timeframe in 1996.

2   Q.   All right. Let's go backward to the time from

3   '90 -- sorry -- 1985 to around '93 or '94 when you were

4   working in the MacIntosh group --

5   A.   Okay.

6   Q.   -- if I can direct your attention to that. What

7   were your responsibilities in the late 1980s in the MacIntosh

8   group at WordPerfect?

9   A.   I was responsible for overseeing the development of

10   WordPerfect, word processing software for MacIntosh. So that

11   included actual programming responsibilities, but also

12   directing the efforts of other programmers working with

13   marketing personnel and so forth to design features for the

14   product that all related to WordPerfect for the MacIntosh.

15   Q.   Mr. Larsen, I think the jury has already heard that

16   in the late 1980s the WordPerfect word processor was quite

17   successful on the DOS platform.

18   A.   That's correct.

19   Q.   And what was the status of WordPerfect's word

20   processor on the MacIntosh platform again around the late

21   1980s?

22   A.   It was kind of -- we had some faulters to begin

23   with. We struggled a little bit to come out with the product.

24   When we finally did, it was perceived in the marketplace as

25   being too DOS like. It was a little bit hard to define what

1   that meant. But the marketplace did not receive it really

2   well. It was not a huge financial success.

3   Q.   At the time again in the late 1980s going into

4   around 1990, let's say, who were the people who were running

5   the WordPerfect business? Who were the people who were

6   management at WordPerfect Corporation?

7   A.   Well, there were three corporate executives,

8   Alan Ashton, and Bruce Bastian. Alan Ashton and Bruce Bastian

9   and Pete Peterson.

10   Q.   Can you recall what their roles were at the time?

11   A.   Alan was the president, so he kind of oversaw the

12   company as a whole. He was probably the most directly

13   involved with development staff. He was a computer science

14   professor at Brigham Young University. He had been one of my

15   professors. So he kind of served, I don't know, in a

16   recruiting role, maybe. He kind of -- in his classes he would

17   watch for students that he felt like might be good programmers

18   and offered them positions either part-time while they were

19   going to school or, in my case, made it a full-time offer once

20   they graduated.

21   Bruce Bastian was primarily responsible for the

22   international division overseeing both the sales, and he also

23   had a very strong role in encouraging internationalization or

24   preparing the products so that they could be translated into

25   other languages and so forth.

1   And then Pete Peterson was really the one who was

2   primarily responsible for the day-to-day operations of the

3   company.

4   Q.   Now, Mr. Larsen, again in the same time period,

5   what sort of support did you get from management from those

6   three individuals in the efforts to develop the WordPerfect

7   word processing program for the MacIntosh platform?

8   A.   Well, each one maybe had a slightly different take

9   on things. Overall, I felt like their support was probably

10   lukewarm to maybe indifferent.

11   Q.   Could you explain to the jury what you mean by

12   that, sir?

13   A.   Well, I think that the MacIntosh was not perceived

14   as the primary and was not the primary revenue producer of the

15   company, and so the programmers working on DOS WordPerfect

16   were held in higher esteem, I guess. I recall a Christmas

17   party where the MacIntosh group, we actually wore bags over

18   our heads and sang songs as kind of an acknowledgment that we

19   were not necessarily the rock stars in the company.

20   Q.   Mr. Larsen, the MacIntosh was a graphical user

21   interface operating system; correct?

22   A.   That's right.

23   Q.   And DOS, of course, was not?

24   A.   That's right.

25   Q.   Did you have -- as director of the MacIntosh

1   development group, did you have any issues or problems that

2   came from senior management about writing for the graphical

3   user environment?

4   A.   Absolutely. There was a lot of pushback on trying

5   to support things like the mouse menus, drop-down menus. The

6   feeling was expressed that the graphical user interface kind

7   of erased the differences between programs, and that the

8   function key driven interface of DOS WordPerfect was almost

9   like a trademark of the company. It was something that people

10   were familiar with, something that they were comfortable with.

11   And so there was a great deal of pushback on trying to make

12   our product look like all of the other products in the graphic

13   user interface. They felt like it kind of dissolved the

14   differences.

15   Then there were some technical issues in terms of

16   supporting the file formats. There was a very strong desire

17   to create a product that would allow documents so if you typed

18   a letter on the Mac version of WordPerfect, they wanted that

19   document, that same file to be able to be opened on the DOS

20   version of WordPerfect and not have to go through any kind of

21   a translation or conversion process.

22   The problem was that the DOS version of the product

23   was not designed to support a richer environment with things

24   like -- that we take for granted today, like fonts, different

25   font sizes on the screen, different type faces. Even

1   expressing the size of the page was not readily supported in

2   the file format of DOS WordPerfect.

3   And so there was a lot of pushback on trying to

4   make the MacIntosh version of WordPerfect not only feature

5   compatible with the DOS version of WordPerfect, but also to

6   make the interface consistent with what DOS WordPerfect was

7   and also the file format to be consistent.

8   Q.   And you're saying, Mr. Larsen, that this pushback

9   was coming from senior management; is that right?

10   A.   It came from senior management. It also came from,

11   particularly I remember Alan Brown and Derek Shingle who were

12   the lead programmers on the DOS version of WordPerfect. They

13   were very adamant that the file format and some of the

14   technical choices that we were making, they wanted to be able

15   to direct what those decisions were.

16   Q.   And you had said a few moment ago, Mr. Larsen, that

17   in this same time period, the late '80s into, let's say, 1990,

18   Mr. Peterson, Pete Peterson was running the business on a

19   day-to-day basis; is that right?

20   A.   That's right.

21   Q.   Did you hear directly from Mr. Peterson about his

22   views about the graphical user interface, what we call the

23   GUI, G-U-I, interface?

24   A.   Yes. He was not shy about expressing his opinions

25   and was fairly blunt. At one point he said that the MacIntosh

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1   was a piece of crap and was -- we were kind of offended by

2   some of the stances that he took.

3   Q.   And as director of the MacIntosh development group

4   at WordPerfect, what were your views on the subject?

5   A.   Well, I had developed quite a passion for the

6   MacIntosh environment and was really -- the opportunity to be

7   able to program on the MacIntosh was one of the main reasons I

8   went to WordPerfect, because I had that opportunity to develop

9   applications. It was just a new environment. It felt cutting

10   edge. It was unlike anything that I had seen before, so the

11   opportunity to develop for MacIntosh was very appealing. And

12   I felt like that a lot of the user interface concepts that

13   were being developed at Apple or being popularized at least by

14   Apple were really where I wanted to be working. I felt like

15   it was where the future was headed.

16   Q.   As a result, did you feel you were getting the kind

17   of support you needed at the company, or to the contrary?

18   A.   It was very frustrating. I didn't feel like we

19   received the support either in terms of the manpower or just

20   kind of the mind share of the management. They were focused

21   primarily on the DOS version of WordPerfect. The number of

22   programmers, number of testers, QA personnel, the number of

23   support personnel, the company was really focused on being a

24   DOS product. They were the 800-pound gorilla, and we were

25   just trying to walk carefully and not be stomped on.

1   Q.   Let me hand you, Mr. Larsen, what we've marked as

2   Defendant's Exhibit 187.

3   Now, Mr. Larsen, this is --

4   MR. WHEELER: Your Honor, before they put that on

5   the screen, I think we have an objection to this. May I see

6   it first?

7   THE COURT: All right. Sure.

8   MR. WHEELER: Yeah. If we could have a foundation

9   laid as to the date of the document? It appears to us to be

10   beyond this.

11   THE COURT: Okay. Before it goes on the screen see

12   what you can do.

13   Q.   BY MR. TULCHIN: Mr. Larsen, this is not up on the

14   screen, but you have a physical copy of Exhibit 187 in front

15   of you, sir?

16   A.   I do. Yes, I do.

17   Q.   And can you identify this document?

18   A.   Yes, I can. It's a document -- actually I kept a

19   copy of it. I have one in my own personal records.

20   Q.   And this was written by W.E. Peterson?

21   A.   That's correct. We referred to him as

22   Pete Peterson.

23   Q.   All right. And it was written to, it says, the

24   MacIntosh group.

25   A.   That's right. So that would have been the

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1   development staff as well as the marketing staff.

2   Q.   And you would have been a member of that group?

3   A.   Yes. I was the manager of that group at the time.

4   Q.   And you got a copy, of course.

5   A.   I did.

6   Q.   Can you tell us generally -- it's not dated, the

7   memo is not dated. Can you tell us generally when it was that

8   this memorandum was received by you?

9   A.   I would have to say probably in the 1987-88 time

10   frame. I don't know an exact date, but it would have been in

11   that year.

12   MR. TULCHIN: We would offer this, Your Honor.

13   MR. WHEELER: Objection. It's outside the period.

14   It's much earlier than the time we're concerned about.

15   THE COURT: Overruled.

16   (Whereupon, Defendant's Exhibit 187 was received.)

17   Q.   BY MR. TULCHIN: Mr. Larsen, you see at the top

18   there from W.E. Peterson? You said that was the gentleman

19   that you referred to as Pete Peterson --

20   A.   That's correct.

21   Q.   -- that ran the company on a day-to-day basis;

22   right?

23   A.   Yes.

24   Q.   And it's directed to the MacIntosh group. That was

25   your group?

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1   A.   That's right.

2   Q.   And it starts out, the "re" line says, my feelings

3   about the MacIntosh.

4   A.   Yes.

5   Q.   And can we put up the first line of the text?

6   Mr. Peterson says to the MacIntosh group, quote:

7   I regret my comment today that the MacIntosh

8   is a piece of crap, unquote. My feelings about

9   the machine are not as strong as indicated by my

10   uncalled-for comment.

11   Now, Mr. Larsen, do I understand your testimony to

12   be that you recall getting this memo?

13   A.   Yes, I do.

14   Q.   And, if at all, does this pertain to your earlier

15   testimony about the extent to which the MacIntosh group was

16   getting support from management of WordPerfect?

17   A.   Well, I think it demonstrates the culture that was

18   in the company that Pete -- I mean, he said it in discussion

19   that the MacIntosh was a piece of crap. And, indeed, some of

20   that was the heated discussions that sometimes we would have

21   regarding whether the interface should be allowed to be

22   consistent with the MacIntosh. Or Pete even proposed even

23   some of his own interface concepts that he felt like were

24   superior to the graphical user interface. And so I think this

25   is just an indication of the culture that was there at the

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1   time.

2   Q.   Let's look down a little bit further in the memo.

3   He says:

4   My true feelings are as follows.

5   And then there's Item 1.

6   I do not think that the small talk

7   interface is the best for word processing.

8   What did you understand that to mean in the late

9   '80s around the time you got this memo?

10   A.   The reference to the small talk interface I'm sure

11   in Pete's mind came from discussions that Alan Ashton had.

12   Alan was interested in the small talk interface which was

13   developed at Xerox and became the foundation for the

14   MacIntosh. So the idea of a small talk interface was just

15   another name for what we would call today graphical user

16   interface where you have graphical objects on the screen that

17   are manipulated by a mouse.

18   So he was just saying that he felt like word

19   processing was inherently a hands-on experience, that he

20   wanted to keep your hands on the home-key positions on the

21   keyboard and that the idea of having to stop and move your

22   hand off of the keyboard and manipulate the mouse was, was not

23   consistent with what would be the best interface for word

24   processing.

25   Q.   And later on in that Item 1, he says:

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1   I think time will show that it is not the best

2   working environment.

3   Did you understand the "it" in that sentence to

4   refer to the GUI --

5   A.   That's correct.

6   Q.   -- the graphical user interface?

7   A.   Oh, yeah.

8   Q.   And what has time shown on that thought?

9   A.   Well, I think none of us today are using DOS or

10   character-based products. So the graphical user interface has

11   become the standard throughout the industry for word

12   processing and other things.

13   Q.   Thank you, Mr. Larsen. Then if you look at Item 4,

14   a little bit further down this one-page memo. Mr. Peterson

15   says:

16   I consider it a mistake to use the standard

17   small talk interface. As many of you know, I much

18   prefer the Ctrl- key, pull-down, look-alike type

19   approach.

20   Now, what did that mean to you as the director of

21   the MacIntosh group, this Ctrl key, et cetera?

22   A.   Well, the control key, the other -- there's a set

23   of keys on the keyboard that are meant for entering

24   characters, but there are surrounding keys to allow you to

25   drive the interface. So the control key, the Alt key, the

1   Shift key, then the function keys were labeled F1 through F10,

2   now we have more of them, but that was the primary way of

3   entering or instructing the computer what it is that you

4   wanted to do.

5   And Pete felt like he wanted to be able again to

6   have at the time just the function keys be the primary

7   interface. On the MacIntosh the keyboard did not even have

8   function keys on it. So the designers, and Steve Jobs

9   originally, his intention was that the graphical user

10   interface, the menus would be the primary interface. And

11   that's one reason why the physical keyboard could not even

12   have those extra keys on it.

13   But Pete felt like we could still use the keyboard

14   and map other keys on the keyboard to perform functions that

15   would be similar to what you would have in a function key.

16   His pull-down look-alike type approach, we refer to that as

17   Pete's interface. He promoted a list of commands. You would

18   hit a key, and a list of commands would pop up, and then you

19   would type the command that you wanted. So if you wanted

20   bold, you would type B-O-L-D. And as you typed, it would

21   select the command that most closely matched what it was that

22   you had typed. And then that would be the way that you would

23   access the functions of the features within the product.

24   Q.   Mr. Larsen, did there come a time -- when you were

25   director of development for the MacIntosh, did there come a

1   time when WordPerfect Corporation released a version of

2   WordPerfect software for the MacIntosh platform?

3   A.   There was.

4   Q.   And how was that product received in the

5   marketplace?

6   THE COURT: I think that's been asked and answered.

7   Haven't we covered that before?

8   MR. TULCHIN: I don't think so, Your Honor.

9   THE COURT: I'm sorry. Go ahead.

10   MR. TULCHIN: I may have touched on it, but not

11   directly.

12   MR. WHEELER: We would object. I think he has

13   answered that already. He said it was not well received.

14   THE COURT: I just want to move things along. Go

15   ahead. I led you into that objection, but I overrule it.

16   THE WITNESS: It was -- am I okay to answer it?

17   THE COURT: Go ahead.

18   THE WITNESS: Okay. It was pretty roundly

19   rejected, criticized in reviews. It was a new experience for

20   WordPerfect as a company because in the past their products

21   were well received, and there was adulation heaped upon them.

22   So this was a very different reception than we had ever

23   received in the marketplace before with one of the products

24   with WordPerfect Corporation.

25   Q.   BY MR. TULCHIN: In your view at the time did that

1   poor reception have anything to do with the sort of sentiments

2   that Mr. Peterson was expressing about his preference for the

3   controlled key type approach?

4   A.   I think so. Yes.

5   Q.   Why was that?

6   A.   Well, everyone is somewhat swayed by public

7   opinion, and certainly the company at WordPerfect we had a

8   real culture where we were driven by reviews. Whenever we

9   would come out with a new product, the magazines would come

10   out and have a head-to-head comparison with our product versus

11   any other competitors, and they would rate you in various

12   categories. And it was very important to us as a company that

13   we receive good critical reviews when products came out and we

14   come out on top of the head-to-head comparisons.

15   Q.   Let me show you, Mr. Larsen, what we've marked as

16   Defendant's Exhibit 186.

17   THE COURT: Don't put it on the screen yet. Let

18   Mr. Wheeler take a look at it.

19   MR. TULCHIN: Sure.

20   MR. WHEELER: May we -- here's -- we have no

21   objection.

22   THE COURT: Okay. Go on up.

23   MR. TULCHIN: Thank you, Your Honor.

24   Q.   BY MR. TULCHIN: Mr. Larsen, now, this is a

25   memorandum on WordPerfect Corporation stationery, the

1   letterhead. Do you see that, sir?

2   A.   Yes, I do.

3   Q.   And it's to all development personnel from Bruce

4   Bastian. You identified him earlier.

5   A.   That's right.

6   Q.   And it looks like the date is September 26, 1989.

7   You were one of the people who was in the development -- you

8   were a development person --

9   A.   Yes.

10   Q.   -- so you got this; is that right?

11   A.   Yes.

12   Q.   All right. Now, Mr. Bastian had been one of the

13   cofounders of the company; correct?

14   A.   That's right.

15   Q.   And if we can look at the first paragraph, he

16   writes in 1989:

17   In my speech to development and testing, I

18   said some positive things and some negative

19   things. I think some of the negative things were

20   taken stronger than the positive things.

21   Then looking down at the next paragraph, he seems

22   to be talking about problems that did exist in the MacIntosh

23   group. And he says those problems are past. Do you see that?

24   A.   Yes, I do.

25   Q.   Did this have any reference to the release of the

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1   product, the WordPerfect product for the MacIntosh?

2   MR. WHEELER: Objection, if he's asking what

3   Mr. Bastian meant.

4   THE COURT: The question is what did he understand.

5   MR. TULCHIN: Correct, Your Honor.

6   Q.   BY MR. TULCHIN: What did you understand this to be

7   referring to, Mr. Larsen?

8   A.   Well, I think it was referring to two things; the

9   product release, but also the process that we went through to

10   develop the product.

11   Q.   And what about the process?

12   A.   Well, just that there was so much hindrance that

13   was given to the group when we expressed that we wanted to be

14   able to support some of the MacIntosh standards. And we

15   wanted to not only embrace but to extend some of those

16   standards. And he recognized that as a result of the

17   roadblocks and the hindrance, I guess is the best word I can

18   come up with, but as a result of that hindrance that we had

19   made some mistakes in the development process of that product.

20   Q.   And if you look down a couple more paragraphs,

21   there's a paragraph that begins, I believe in the Mac

22   products. And then the next one says:

23   If what I said discouraged anyone in the Mac

24   groups, I apologize.

25   Do you remember this, Mr. Larsen?

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1   A.   Yes, I do.

2   Q.   Do you remember something that Bastian said to the

3   Mac group?

4   A.   There were -- there were a number of different

5   instances. I don't remember his specific words in this

6   speech, but the tone was something that, again, I think the

7   experience of putting the bags over our heads was a great

8   response to show how we were being made to feel by Bruce and

9   Pete.

10   Q.   And then just towards the bottom right above Bruce,

11   he says:

12   If anyone in the Mac group wants to hit me, I

13   am ready.

14   Did you want to hit him? I don't mean did you hit

15   him.

16   THE COURT: Did you or did you want to?

17   THE WITNESS: I wanted to, but I didn't.

18   Q.   BY MR. TULCHIN: Probably a good idea.

19   A.   I kept my job.

20   Q.   How did all of this affect the development program

21   that you were heading in the group that -- at WordPerfect that

22   was supposed to be developing for the Mac, the GUI interface

23   of the MacIntosh platform?

24   A.   I think it did a couple of things. One was that it

25   was somewhat demoralizing. You wanted to feel like you were

1   part of the team and winning part of the team. But we tried

2   to turn that into a positive and became, wanted to become kind

3   of the pirate group or the ones who were the outcasts but were

4   the rebels and came back. And in some ways it steeled our

5   resolve to want to do better.

6   Q.   Mr. Larsen, in the same period we've been talking

7   about, the late 1980s, let's say up to 1990, did WordPerfect

8   Corporation have a group that was developing the WordPerfect

9   word processing program for the Windows platform?

10   A.   Timeframe is hard to -- for me to really say, you

11   know, exact dates when they started that. It was not one of

12   the earlier initials. We started working on the MacIntosh,

13   the Amiga, even the Apple II well before we started working on

14   the Windows version of WordPerfect.

15   Q.   Well, let me give you a timeframe, if I can,

16   Mr. Larsen. The jury has heard, and I think everyone agrees,

17   that Windows 3.0 was released by Microsoft to the market in

18   May of 1990. Are you with me so far?

19   A.   Yes.

20   Q.   What sort of effort, if any, was WordPerfect

21   Corporation making to develop its software for Windows prior

22   to the release of Windows 3.0?

23   MR. WHEELER: Your Honor, he's already answered

24   that he doesn't remember the dates.

25   THE COURT: Well, this may help. If it doesn't, it

1   doesn't.

2   THE WITNESS: The efforts that initially took

3   place -- the MacIntosh actually had a stronger development

4   effort underway than what initially was taking place on

5   Windows. And I felt like that the MacIntosh effort was not

6   nearly as strong as what the effort was going on on DOS.

7   Q.   BY MR. TULCHIN: Did anything change once

8   Windows 3.0 came out?

9   A.   There was -- there was a real sea change, I think.

10   There was kind of a, maybe panic is too strong of a word, but

11   there was certainly a sense of urgency that certainly was

12   introduced. We felt like maybe we had been a little bit

13   complacent and maybe even a little bit arrogant on our

14   approach to the graphical user interfaces.

15   From the MacIntosh development standpoint, we felt

16   like it validated some of our efforts to try to popularize the

17   graphical user interface within the company. Suddenly we were

18   not necessarily a toy anymore. We were recognized as being

19   working on a product that had some legs. And there was a

20   scramble that started to take place to foster expertise in

21   developing for graphical user interfaces.

22   Q.   So I take it, Mr. Larsen, what you're saying is

23   that once Windows 3.0 came out the WordPerfect Corporation

24   made some significant efforts to develop for Windows; is that

25   right?

1   MR. WHEELER: Your Honor, I object to counsel's

2   summarizing of what he thinks the witness said. The jury

3   heard what he said.

4   THE COURT: Rephrase the question.

5   MR. TULCHIN: Thank you, Your Honor.

6   Q.   BY MR. TULCHIN: Mr. Larsen, can you describe for

7   the jury the sort of effort that took place at WordPerfect to

8   develop for the Windows platform after Windows 3.0 was

9   released?

10   A.   Well, there was -- there started to become a

11   realignment of resources, so people even from the MacIntosh

12   group that left to go and help in that effort, so they were

13   trying to draw on whatever existing expertise they could to

14   build up a staff of people that could work on that. Some of

15   the senior DOS people started getting involved in the effort,

16   as well. And so there was just a real shift in mindset and in

17   focus that was taking place on Windows.

18   Q.   Do you have any recollection roughly speaking as to

19   how long it took WordPerfect Corporation to come out with a

20   version of WordPerfect for the Windows platform?

21   A.   It was probably a year and a half.

22   Q.   From your point of view, what was the impact, if

23   any, on WordPerfect of that 18-month, roughly 18-month period?

24   A.   I think it -- you know, we saw -- we saw that it

25   started to affect our sales of our DOS product. It certainly

1   changed the perception in the marketplace as WordPerfect in

2   the past had been seen as a technological leader, and I think

3   that that started to erode, that we felt like we were instead

4   of leading the charge that maybe we were suddenly behind the

5   curve a little bit and trying to play catchup. It was not a

6   comfortable position to be in.

7   Q.   Mr. Larsen, before we go on to the next subject

8   matter, I meant to ask you earlier this question. Why are you

9   here today?

10   A.   I received a subpoena.

11   Q.   From Microsoft?

12   A.   That's correct.

13   Q.   And you're here in response to that subpoena and

14   not here to take sides in this case; is that right?

15   A.   That's correct.

16   Q.   Now, Mr. Larsen, to the best of your memory

17   thinking now about the early 1990s, when was it that the

18   concept of a suite of Office productivity applications was

19   first introduced?

20   A.   Well, it's when Microsoft first released their

21   Microsoft Office suite applications. They were the first in

22   the market to do that, and so that's really where I think the

23   concept originated.

24   Q.   And at the time, what was WordPerfect doing in the

25   suite area?

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1   A.   We -- we really did not have the concept of the

2   suite, although we did feel like we could leverage our

3   expertise in software development. And also we had a foot in

4   the door with businesses with word processing, so they began

5   developing some companion products. They had DataPerfect,

6   which was a database software; PlanPerfect, which was a

7   spreadsheet program; DrawPerfect, which was a graphics

8   program. So they were developing companion products to

9   WordPerfect. But I'm not sure that anyone at the time really

10   viewed them as a suite of applications that were meant to be

11   one cohesive whole.

12   Q.   Prior to the time that Novell acquired WordPerfect

13   in 1994, did the company WordPerfect come out with a

14   competitive suite in the marketplace?

15   A.   Again, I don't remember the exact dates. But the

16   first version of PerfectOffice was really more of a bundling.

17   And I remember when we had a big event to try and kick that

18   off, but I don't remember the exact sequence of events there.

19   Q.   And what do you mean by a bundle?

20   A.   Well, the initial attempt with WordPerfect Office,

21   the concept was really more of, let's just put the

22   applications in the same box and ship them together and create

23   special pricing for those applications. They really were

24   viewed as -- internally I think they were developed as

25   individual applications, and it was really more of a marketing

1   concept to try to package them together in one bundle.

2   Q.   And how did that compare to what Microsoft had done

3   with Microsoft Office?

4   A.   It was kind of fundamentally a different product

5   because the products felt like they had been developed

6   independently. In fact, Quattro Pro had been developed by

7   another company, so there really was no consistency to how

8   they behaved or how they looked. Or it was a little bit of a

9   jarring experience to transfer from one application to

10   another.

11   Q.   And was that the case when you used Microsoft

12   Office at the time?

13   A.   It was not nearly the case. Microsoft was much

14   more seamless in their integration between the products.

15   MR. TULCHIN: Sorry, Your Honor. Just a moment. I

16   want to get the right document.

17   Q.   BY MR. TULCHIN: Mr. Larsen, I'm going to hand you

18   Defendant's Exhibit 314.

19   And I don't think there's any objection to this,

20   Your Honor, but I'm happy to hear from Mr. Wheeler before we

21   put it up.

22   MR. WHEELER: I believe it's admitted already, Your

23   Honor.

24   THE COURT: You can put it up, then.

25   Q.   BY MR. TULCHIN: Now, Exhibit 314, Mr. Larsen, on

1   the front page says, date, April 25, 1994. And it looks to be

2   a fax cover page to Bob Frankenberg. You see that?

3   A.   I do.

4   Q.   And April 25, '94, is just in the period of right

5   before the closing of Novell's deal to buy WordPerfect;

6   correct?

7   A.   That's right.

8   Q.   Could I ask you to turn to the next page, which is

9   the first page of the memorandum. And you'll see that it's to

10   developing and marketing with copies to Bob Frankenberg, Dave

11   Moon and other people. And it's from Ad Rietveld. Do you see

12   that?

13   A.   Yes, I do.

14   Q.   And can you tell the jury who Mr. Rietveld was at

15   this time in April of '94?

16   A.   Ad was the president and CEO of WordPerfect.

17   Q.   Was Mr. Peterson still with the company as of this

18   time?

19   A.   To my recollection he was.

20   Q.   All right. Could you look at the first paragraph

21   of Mr. Rietveld's memo to developing and marketing. And you

22   were part of developing and marketing at the time?

23   A.   Yes, I was.

24   Q.   Mr. Rietveld says:

25   I wanted to let all of you know about a

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1   concern I have with the development of our

2   products. The concern is about the common look

3   and feel and how well we will have done when we

4   release our next suite this summer.

5   Do you see that, sir?

6   A.   I do.

7   Q.   Now, how does this statement about the common look

8   and feel pertain to the testimony you just gave about the

9   extent to which the suite had been integrated?

10   A.   There was a shift away from feature comparison to

11   the look and feel or how the products looked, how they

12   integrated with each other, how you can accomplish your work

13   as you went from one to the other. That became more

14   compelling than the feature set at the time. So we recognized

15   that we were lacking in the commonality of how these products

16   worked together, and I think that's the issue that Ad is

17   raising here.

18   Q.   Could you look at the next paragraph, sir, again on

19   the first page of the memo, second page of 314:

20   We all know that we are fighting the

21   application battle with Microsoft Office. There

22   were many countries where Microsoft now has a

23   higher market share in suites than in operating

24   systems -- and it looks like an exclamation point

25   inside of a parentheses -- and there are three

1   main reasons.

2   Do you see that?

3   A.   Yes.

4   Q.   Now, let me just stop with this reference to many

5   countries. Do you see where I am?

6   A.   Yes.

7   Q.   At the time did it matter to WordPerfect how sales

8   were going in other countries?

9   MR. WHEELER: Objection, Your Honor, as to this

10   witness speaking on behalf of WordPerfect. Or which company

11   are we talking about, and who is he speaking for?

12   THE COURT: Let him just speak for himself from

13   what he knew from the company. It's not Bob Frankenberg or

14   anything of that nature.

15   MR. TULCHIN: Absolutely, Your Honor. I'll

16   rephrase that.

17   Q.   BY MR. TULCHIN: Mr. Larsen, at the time around

18   April of 1994, what was your understanding as to the relative

19   importance of the WordPerfect business outside the

20   United States?

21   MR. WHEELER: Your Honor, could we have some

22   foundation if this witness is in a position to even form an

23   opinion about this?

24   THE COURT: Okay. Go ahead. Ask a foundation

25   question.

1   Q.   BY MR. TULCHIN: You were -- were you still the

2   director of the MacIntosh developing group in April of '94 or

3   had you moved to this other position?

4   A.   At this point I had moved to be director of human

5   factors.

6   Q.   In that position, did you have some understanding,

7   did you gain an understanding as part of your job about the

8   relative importance of sales outside this country?

9   A.   It was even before that when I was in the MacIntosh

10   division, internationalization, localization of the products

11   was a very high priority. From a corporate standpoint, it was

12   interesting that Bruce Bastian himself went over and opened

13   the European offices and oversaw what was going on there. The

14   fact that Ad Rietveld came from the Netherlands and started

15   working with the company in Europe and was brought over to the

16   United States was to me a strong indication of the importance

17   that was being placed on software that was internationalized.

18   Q.   So let's go back, Mr. Larsen. Did you have an

19   understanding around April 1994 as to the relative importance

20   of sales outside the United States as compared to sales within

21   our country?

22   A.   Yes. In fact, we would talk about things like

23   JFIGS, so meaning that we needed to support Japanese, French,

24   Italian, German and Spanish. So there was a very strong drive

25   to make sure that when we developed applications, I remember

1   Bruce Bastian coming into a meeting and being quite enraged

2   that we had developed a dialog that the German translation of

3   the text that was in that dialog didn't fit because it was

4   quite a bit longer than what it was in English. And so we

5   were reminded repeatedly that we needed to be developing for

6   an international audience.

7   Q.   And then again, in Exhibit 314, if we could go down

8   just a little bit further on the first page in the memo. He

9   says that this memo was about the first point consistency.

10   And let's go down a little further:

11   This should be the number one priority with

12   all of our product development. We will not get

13   another chance from the market, and we cannot

14   afford to make a mistake.

15   What was your understanding at the time when you

16   got this memo in April '94 about what Mr. Rietveld was

17   referring to?

18   A.   Well, again, he's talking about interface

19   consistency, and so he recognized that we had dropped the ball

20   on that in the first version of the suite and that we had one

21   opportunity to change that.

22   Q.   And what did you understand this sentence to mean

23   where he says, we will not get another chance from the market?

24   MR. WHEELER: Objection as to what someone else

25   meant, Your Honor.

1   THE COURT: Just move on. I think to the extent

2   it's there, it's there.

3   MR. TULCHIN: Thank you, Your Honor. We will.

4   Q.   BY MR. TULCHIN: Could we turn to the next page,

5   sir, second page of the memo, third page of Exhibit 314. And

6   there's a paragraph towards the top that says:

7   We are selling a combination of applications

8   as the application.

9   What did that mean to you at the time?

10   A.   I'm sorry. Could you repeat the question?

11   Q.   It's the first sentence that's just being

12   highlighted. I don't know if it's on your screen.

13   A.   It is. I was reading down through the rest of the

14   memo.

15   Q.   I'm sorry. I was trying to sort of rush you

16   through.

17   A.   Yes, I see it.

18   Q.   What does this mean:

19   We are selling a combination of applications

20   as the application?

21   A.   Well, I think it was an acknowledgment that the

22   marketplace had changed, that standalone applications that

23   performed one function were not what the marketplace was going

24   to purchase in the future, that it was really, the sum of

25   parts was greater than the whole. So we needed to concentrate

1   on broadening our scope outside of our -- there was kind of

2   silos of concern of focus that were taking place, so that

3   people were -- there were kind of turf battles that had been

4   formed over what product you worked on, and that it was

5   important to make the product the best. And I think what Ad

6   is saying here is that really the individual products are not

7   as relevant as the combination of all of the products taken

8   together.

9   Q.   And how does that relate with, your testimony

10   relate to the last sentence in this paragraph which says,

11   quote:

12   Developing product that use different names,

13   dialog boxes, pull-down menus, et cetera, is very

14   short-sighted and irresponsible?

15   A.   I think he was trying to change that culture away

16   from, you need to broaden your horizons from the individual

17   applications to, what can I do to contribute to the overall

18   application to the product as a whole and to the experience

19   that the user is having as they move from one product to

20   another with one application to another?

21   Q.   From where you sat, and I know you said earlier you

22   left the company around March of 1996; right?

23   A.   That's right.

24   Q.   From where you sat, did it ever happen that that

25   culture got changed?

1   A.   It happened -- we got better at it, but nobody was

2   ever satisfied with the result. I know I wasn't.

3   MR. WHEELER: Objection as to nobody was satisfied,

4   Your Honor. Somebody was.

5   THE COURT: He said he wasn't satisfied. We'll

6   leave it there.

7   Q.   BY MR. TULCHIN: Now, going down a couple more

8   paragraphs on the same page of Exhibit 314, there's a

9   reference to Nolan Larsen. That's you; right?

10   A.   That's correct.

11   Q.   And it says:

12   I have asked Nolan Larsen to give me an update

13   on the current status. Nolan is responsible for

14   all the issues that I have mentioned. As director

15   of human factors development, Nolan and his team

16   are expected to look at all the interface issues

17   thinking about usability and localization effects.

18   If there is any dispute, Nolan will have to make

19   the decision.

20   Now, was that a role that you had going forward

21   from April '94?

22   A.   Yes. That was my responsibility.

23   Q.   Now, you recall that PerfectOffice 3.0 was released

24   in December '94; is that right?

25   A.   That's right.

1   Q.   Did PerfectOffice 3.0 have 100-percent consistency,

2   interface consistency?

3   A.   No, not 100 percent, not even close.

4   Q.   Could you look at the next page?

5   THE COURT: Could you remind me? It's in the

6   evidence, and for the jury they may -- when was WordPerfect

7   for Office released? WordPerfect for Office, I'm just -- it

8   isn't PerfectOffice, I know. I'm just --

9   MR. TULCHIN: I'm sorry, Your Honor. Is it

10   WordPerfect for Windows --

11   THE COURT: I'm sorry. Excuse me. WordPerfect for

12   Windows, I'm sorry. Windows 3.0.

13   MR. TULCHIN: WordPerfect for Windows 3.1 was

14   released in the fall, late fall, I think November of '94; and

15   PerfectOffice for Windows 3.1 was released in December '94.

16   THE COURT: Okay.

17   MR. HASSID: Your Honor, actually there were

18   several versions for WordPerfect for Windows that were

19   released --

20   THE COURT: In 1994.

21   MR. HASSID: -- in 1994, not just in the fall.

22   THE COURT: Just in case the jury -- thank you.

23   Q.   BY MR. TULCHIN: All right, Mr. Larsen, almost done

24   with Exhibit 314. Right at the top of the next page there's a

25   Paragraph B. Do you see that?

1   A.   Yes, I do.

2   Q.   And it says:

3   Only build different interfaces if there is a

4   real benefit for the user that can easily be

5   proven.

6   What is this about?

7   A.   Well, I think there is --

8   MR. WHEELER: Your Honor, again, he's being asked

9   to interpret what someone else is saying here.

10   MR. TULCHIN: Your Honor --

11   THE COURT: I think he's in charge of all this, so

12   go ahead. You can talk about what your -- I mean, the

13   previous thing says he's in charge of the project.

14   MR. TULCHIN: Thank you, Your Honor.

15   THE WITNESS: The differences in interface really

16   kind of take on two different aspects. There is differences

17   between the products in the suite, so the WordPerfect branded

18   products or Novell branded products, and then there's

19   differences between how those products look and feel and how

20   other products may be running on the environment, and also

21   just how Windows behaved. And so what Ad's referring to here

22   is saying that we have to be careful about being radically

23   different from the Windows interface, only to be different if

24   there is a compelling reason to be different that it actually

25   provides a benefit to user and we can demonstrate that

1   benefit. So we wanted to be able to build on top of what

2   Microsoft and others were doing in the Windows workspace and

3   still have our users feel comfortable living in that

4   environment. So that's one aspect of the consistency as being

5   consistent with the operating system, how it behaves and

6   looks. And the other is just being consistent within the

7   products.

8   So some functionalities, for example, if you're

9   selecting some text and you want to copy that or want to cut

10   it, then those are pieces of functionality that are bigger

11   than just what the word processor does, that's something you

12   would do in an e-mail package or a paint program or any number

13   of different types of applications. And you wanted to make

14   those common tasks behave or the commands for those be as

15   consistent as you could so that they would -- the user

16   wouldn't have to relearn what they wanted to do as they were

17   going through in their daily tasks.

18   Q.   BY MR. TULCHIN: This same paragraph contains the

19   following from Mr. Rietveld:

20   Remember that Microsoft has up to 90 percent

21   of the suite market. If we build very different

22   look and feel products from Microsoft, we might

23   give away an opportunity to sell select sets or

24   groupware suites to Microsoft Office customers.

25   That would be a mistake.

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1   Now, does this paragraph as a whole, Mr. Larsen,

2   have anything to do with use of the file open dialog in

3   Microsoft's operating systems?

4   A.   It does to the extent that the operating system

5   itself provided a, maybe for lack of a better word, generic

6   way of opening files, manipulating files on the hard drive.

7   And that was -- that's one of those things that is common

8   across all -- all applications will open and save files to the

9   hard drive. And so the operating system provided a way to do

10   that. And by using the operating systems' way of doing it we

11   could be more consistent with the operating system, if we felt

12   like there was real benefit to the user, to quote Ad, then

13   that's -- he felt like we needed to be able to demonstrate

14   that benefit to the user in order to deviate from that

15   consistency.

16   Q.   So, Mr. Larsen, the way you understood this

17   paragraph in 1994 was that Mr. Rietveld is saying, use the

18   Windows file open dialog in PerfectOffice unless there's a

19   real benefit for the user that can easily be proven if you

20   want to use something else?

21   MR. WHEELER: Objection, Your Honor.

22   Q.   BY MR. TULCHIN: Is that right?

23   MR. WHEELER: Counsel is summarizing.

24   THE COURT: I think that's right. You have the

25   previous answer. Move on.

3602

1   MR. TULCHIN: Thank you, Your Honor.

2   Q.   BY MR. TULCHIN: Now, moving to a different

3 subject, Mr. Larsen. Are you familiar with the process by

4 which companies in the software industry sometimes send out

5 beta versions of their product?

6   A.   Yes, I'm familiar with that.

7   Q.   Is that a process with which you've had familiarity

8 over your career in the software industry?

9   A.   Yes. From the very earliest days on the MacIntosh.

10 There's even a point in time when MacIntosh WordPerfect, we

11 sold a beta version, we labeled it betaware, meaning it wasn't

12 quite done yet. It wasn't really bait, but people could get

13 their hands on it to get a look at what it was that was coming

14 down the road.

15   Q.   And was it a common -- was there a common

16 understanding in the industry over the last 25 years, has

17 there been such a common understanding about whether changes

18 can occur from a beta version to the final release of the

19 commercialized product?

20   A.   In my mind that's the definition of beta, is there

21 can be and almost certainly will be changes.

22   Q.   Let me hand you, sir, Exhibit 612A.

23   My understanding, Your Honor, is there is no

24 objection to this.

25   THE COURT: Okay. You can put it up.

1   Q.   BY MR. TULCHIN: And this is a memorandum. It says

2   Novell corporate development group at the top. Do you see

3   that, sir?

4   A.   I do.

5   Q.   And it's dated October 18th, 1994. Do see that?

6   A.   Yes.

7   Q.   And it seems to be a memorandum. The title is,

8   1991 R&D activities of WordPerfect Corporation. Do you see

9   that?

10   A.   Yes, I do.

11   Q.   On the first page you'll see the summary. And

12   there's a reference to the process of developing a software

13   product for sale; correct?

14   A.   Yes, there is.

15   Q.   And the first paragraph describes the process in

16   effect of designing the product; is that fair?

17   A.   Yes.

18   Q.   And then you look at the next paragraph, you'll

19   see, it starts by saying:

20   New knowledge is always discovered during the

21   design implementation phase that requires changes

22   to either the product concept or the product

23   design.

24   Is that consistent with your understanding of the

25   way the process of developing a software product for sale

1   occurs?

2   A.   Yes.   I think the goal is to try to -- you take

3   your best guess at something, but then you get a working or a

4   somewhat working version of it out in the hands of users so

5   that they can apply it to their daily tasks.   They may find

6   ways of using it that you had not anticipated.   They may find

7   interaction with other things going on in their particular

8   environment that cause unexpected behavior in your product.

9   And so it's an opportunity to find those as early

10   as possible and correct those before, and really to finalize

11   your decision of what you want to support going forward.

12   Q.   And could I ask you, sir, to turn to the second

13   page of this October 18, 1994, memo?   Right at the top the

14   author, Mr. Bentley, says:

15   At some point in the process, a decision is

16   made to freeze the product concept for a

17   particular version and the software engineers

18   concentrate on developing an integrated unit that

19   meets this conceptual design.

20   And then the next sentence says:

21   When it appears that this conceptual design

22   has been substantially met and that most

23   components of the product are performing

24   relatively close to the design parameters, the

25   product is sent to outside organizations for beta

1   testing.

2   Now, how does that compare to your understanding of

3   the beta process and when it occurs in the overall process of

4   developing a software product that will be sold to the public?

5   A.   I think it's a pretty accurate representation. The

6   only thing that I would maybe take issue with is just the

7   concept of the design is frozen. My experience has been that

8   that continues to evolve throughout the development process.

9   But it is something that at some point in time you declare,

10   okay, it's good enough that we're now going to try and seek

11   user feedback and release it to the public.

12   Q.   Well, I think consistent with what you're saying,

13   if you look at the last sentence of this paragraph, this

14   Novell memorandum from October '94 says this, quote:

15   Based on beta testing results, design concepts

16   and implementation are further altered, which may

17   include removal of the entire feature, until

18   design criteria are successfully met.

19   Is that what you were just referring to?

20   A.   Yes.

21   Q.   So according to this memo, based on beta testing

22   results, you could remove an entire feature of the product;

23   correct?

24   A.   Yes. I think it could be as a result of what you

25   find in beta testing, or it could just be that you can't get

1   it finished in time to match the level of quality and the rest

2   of the products so you make decisions to take out

3   functionality.

4   Q.   Have you worked in the software industry

5   continuously from 1985 or even before when you were in college

6   until now in 2011?

7   A.   I have.

8   Q.   And based on your understanding of the software

9   industry, is it common that during the beta testing process

10   things change, design concepts and implementation are altered,

11   and that could even include the removal of an entire feature

12   from the product?

13   A.   Yes. I found that when I was working on the

14   MacIntosh and Apple was supplying our operating system, we

15   were very -- frequently received preview releases or beta

16   versions of the operating systems from Apple, and it was not

17   uncommon for us to find changes made in the operating system

18   before the final release. We made changes in our beta

19   software where we would even change the file formats and make

20   other changes that could have potential negative impacts on

21   the customers. But we made those changes because we felt like

22   it was in the overall best interest of the product. So it's

23   very common for changes to be made during the beta.

24   Q.   Just one more paragraph on this, Mr. Larsen. The

25   next paragraph on the second page of Exhibit 612A. And the

1   paragraph starts saying:

2   Until all testing, including testing by

3   outside organizations --

4   Is that a reference to the beta process, the

5   outside organizations?

6   A.   Yes, it is.

7   Q.   -- is completed WordPerfect remains uncertain

8   whether the product that has been developed meets

9   its conceptual design. This testing continues

10   until shortly before the product is offered for

11   sale to the public and may continue to some extent

12   thereafter; until then, WordPerfect remains uncertain

13   as to whether the result could be achieved.

14   Now, how does that compare to your experience over

15   the last 26 years or so in the software business?

16   A.   I've seen that in practice from both sides where

17   I've seen other developers that were working with,

18   collaborating with, whether it be on the operating system side

19   or other applications, where they have made changes to their

20   APIs, application programming interfaces, or to the

21   functionality. Sometimes those changes are even

22   unintentional. As they make changes down inside the product,

23   it may have an unintended consequence on your product just

24   because of the subtle way they interact. So it's very common

25   to see those changes take place.

1   I also was in a position where we would have to

2   make decisions about introducing changes that could adversely

3   impact customers who are currently using beta versions of our

4   products.

5   Q.   Mr. Larsen, I want to shift back now to the period

6   around 1995, okay?

7   A.   Okay.

8   Q.   And you told us earlier that you were then director

9   of human factors?

10   A.   That's right.

11   Q.   So Mr. Rietveld's memo 314, Exhibit 314, making you

12   responsible for certain issues. Do you recall that?

13   A.   Yes, I do.

14   Q.   Now, in that connection, during the year 1995, was

15   Novell having trouble getting a version of PerfectOffice for

16   WordPerfect out to the market?

17   A.   They were having a great deal of trouble.

18   Q.   And was the effort being confined to trying to

19   develop products that would be -- that would run on the

20   Windows 95 platform?

21   A.   No, it was not confined to that at all.

22   Q.   Was it primarily directed to that platform?

23   A.   It was directed to the Windows platform. But the

24   efforts were -- the trouble was not necessarily confined to

25   interaction with the Windows platform.

1   Q.   I see. Maybe I misunderstood. Maybe my question

2   was a poor one.

3   Let me go back to my question. Was the effort that

4   Novell was making to develop versions of PerfectOffice and

5   WordPerfect, were those efforts being made to develop those

6   products to run on the Windows 95 platform?

7   A.   Yes, they were.

8   Q.   And you just said a moment ago that the problems

9   were confined to compatibility with the platform. Is that

10   what you said?

11   A.   That was -- yes, that's what I said.

12   Q.   What were you referring to?

13   A.   Well, there were a number of issues. One that

14   stands out in my mind is the, just the concept of having

15   multiple applications work well together. It was brought

16   about in a lot of mindset changes, culture changes within the

17   company. The company was struggling to find a suitable

18   partner for WordPerfect for the spreadsheet piece of the

19   product. I know that as we conducted surveys of our users and

20   talked to them that the combination of products that people

21   most frequently wanted was, number one, they wanted us to work

22   well with Lotus 1-2-3, and they'd like to see us bundle with

23   Lotus 1-2-3, which was viewed as the best in class of the

24   spreadsheet programs. Number two was they wanted us to bundle

25   with Excel, and then the third choice was Quattro Pro.

1   So we were struggling to come up with partners of

2   piece -- companion pieces that we could put together to make

3   the suite complete.

4   Q.   Well, Mr. Larsen, by that time, by 1994, Novell had

5   acquired --

6   THE COURT: Excuse me. You're talking about '95

7   now?

8   MR. TULCHIN: Yes. I'm backing up to '94 now, Your

9   Honor. Sorry.

10   Q.   BY MR. TULCHIN: In '94 Novell had acquired Quattro

11   Pro; is that right?

12   A.   That's right.

13   Q.   Okay. So I want to direct your attention now, if

14   your mind can segregate the years to 1995.

15   A.   Okay.

16   Q.   And Novell was working on trying to get out

17   PerfectOffice and WordPerfect and Quattro Pro for Windows 95;

18   correct?

19   A.   That's right.

20   Q.   And there were problems.

21   A.   Yes, they were problems.

22   Q.   As director of human factors and the role that

23   Mr. Rietveld had given you, did you attend meetings at Novell

24   that were directed to trying to solve the problems in getting

25   the product out to market?

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1   A.   The most -- my role was to try to make the products

2   work together. There's always a tradeoff --

3   MR. WHEELER: Objection, Your Honor. It's not

4   responsive to the question. The question is, did he attend

5   the meetings.

6   THE COURT: Yeah. Did you attend the meetings?

7   THE WITNESS: Yes, I did.

8   Q.   BY MR. TULCHIN: Can you give us the sense of the

9   frequency with which these meetings that you attended took

10   place?

11   A.   I had regular meetings all day everyday of various

12   sorts. I mean, that was essentially my role as coordination

13   between product development groups, marketing groups, trying

14   to represent the interest of the user within those groups and

15   within those discussions.

16   Q.   Were there meetings that were directed to the user

17   interface issues?

18   A.   Yes, there were.

19   Q.   And did any of those meetings, did members of the

20   shared code group attend?

21   A.   Yes.

22   Q.   Now again, thinking about the year 1995 or

23   thereabouts, did you ever --

24   THE COURT: What does "thereabouts" mean?

25   Q.   BY MR. TULCHIN: Well, let's talk about 1995, if

1   you can segregate it just to that year. During the year 1995,

2   did you ever hear in these meetings that the shared code group

3   was experiencing any problems in writing their source code?

4   A.   I mean, there were always problems that were being

5   presented. I mean, the fact that the shared code group had

6   problems was not necessarily unique in those discussions. So

7   there wasn't really something that stood out in my mind in

8   relation to what the shared code group was going through as

9   opposed to really a lot of the other groups.

10   Q.   Did you ever hear in any of those meetings that any

11   of the problems that the shared code group was having could be

12   attributed in any way to something Microsoft had done?

13   A.   I don't recall ever having heard that.

14   Q.   Did you ever hear in any of those meetings that

15   some problem the shared code group was having could be

16   attributable to some APIs that had existed in some beta

17   version of Windows 95?

18   A.   I don't recall discussions to that effect.

19   Q.   Now, do you recall in these meetings that it looked

20   like Novell was going to be late getting these products out to

21   the market?

22   A.   That was a common topic of conversation.

23   Q.   And would I be correct to assume in those meetings

24   there were reasons provided for why the company was going to

25   be late?

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1   A.   You know, I think that it's good to -- accurate to

2   say that there were reasons given. Most of the discussions

3   that I recall were really more proactive on what we can do to

4   speed things up as opposed to placing blame.

5   Q.   All right. Well, let me give you what's in

6   evidence as Exhibit 227. This is Defendant's Exhibit 227.

7   The jury has seen this earlier in the trial.

8   And, Mr. Larsen, I direct your -- let's just look

9   at the top. At the top is says, Bob. Do you see that?

10   A.   I do.

11   Q.   We need some help in putting together our

12   long-term strategy for supporting desktop platforms.

13   And then if you look under Item 2 in the middle of

14   the first page of Exhibit 227, there's a reference to

15   December '94. You see that, sir?

16   A.   Yes, I do.

17   Q.   And it says:

18   We all determined that after we ship

19   PerfectOffice 3.0 our --

20   And again, I think we've all agreed it did ship in

21   December of '94. And it goes on to say, quote:

22   Our number one goal is to get PerfectOffice on

23   Windows 95 ASAP. We initially targeted

24   October '95, but due to Quattro Pro localization

25   delays, we moved the date back to December '95.

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1   Do you see that, sir?

2   A.   Yes, I do.

3   Q.   I just want to stop there. Does that refresh your

4 recollection at all that in 1995 the reason or a reason for

5 moving the date back was Quattro Pro localization delays?

6   A.   That's correct.

7   Q.   Now, what does that mean, Quattro Pro localization

8 delays?

9   A.   Quattro Pro originally and throughout the life of

10 the product up to that point had been an English-only

11 interface. And so there's two steps to making a product ready

12 to be sold internationally. The first is a group called

13 internationalization, which means the product is designed in

14 such a way that you can make things on the screen different.

15 You can make languages, the text that's shown on the screen

16 might be different, the images that are shown on the screen

17 might be different so that you can adapt to the culture of the

18 country that you're trying to sell product into. And then the

19 second is to actually localize that product, meaning that you,

20 once the product has been lo- -- or been internationalized and

21 made such that it can be moved from one country to another,

22 then you go in and localize it, which involves, typically it's

23 mostly translation, but often times also change images, other

24 aspects of the program.

25   And Quattro Pro was not internationalized, so it

1   was not originally well suited to take it to other markets

2   other than English. And once they got that process complete

3   where they were able to change it so it could be taken to

4   other markets, then it had to be localized, meaning the

5   strings had to be translated. Strings meaning the text of

6   what's actually appearing on the screen had to be translated

7   in the target languages. Those translations have to be

8   brought back in and incorporated into a product that is built

9   specifically for a particular market in a country.

10   Q.   Mr. Larsen, does this Exhibit 227 refresh your

11   recollection at all about hearing in 1995 that the reason for

12   the delay in getting PerfectOffice out to the market was these

13   localization problems with Quattro Pro?

14   MR. WHEELER: Objection; leading, Your Honor.

15   THE COURT: Rephrase the question.

16   Q.   BY MR. TULCHIN: Do you recall having seen this

17   hearing anything about the reason for the delay?

18   A.   Yes, I do.

19   Q.   And what do you recall?

20   A.   I recall that Quattro Pro was not ready to be sold

21   worldwide and that there was an intense effort that had to

22   take place in order to make it ready to do so.

23   Q.   Let me hand you, sir, Exhibit 230. This is also in

24   evidence.

25   Now, this is an e-mail from Bruce Brereton, and

1   it's dated December 23rd, 1995. Do you see that, sir?

2   A.   Yes, I do.

3   Q.   Update on QP. And that was the common reference to

4   Quattro Pro in the company?

5   A.   That's correct.

6   Q.   And it starts off by saying:

7   Glen asked me to give you all an update on the

8   situation in Scotts Valley.

9   And let me just stop there. What's that a

10   reference to, Scotts Valley?

11   A.   Scotts Valley was where Borland had been

12   headquartered. That's where the development staff for Quattro

13   Pro, that's where the development efforts took place.

14   Q.   And it starts out, Paragraph 1:

15   On this past Thursday/Friday, about 15

16   additional people submitted their resignations.

17   Mr. Larsen, do you remember this?

18   A.   I do.

19   Q.   Why do you remember it?

20   A.   Well, I had actually been out to Scotts Valley

21   previous to this in trying -- in discussions with some of the

22   people out there and bringing the Quattro Pro interface closer

23   to the WordPerfect interface, so I knew some of the people out

24   there. I was concerned about what impact that might have on

25   them. I also was concerned about that as to what it might

1   mean for the company in terms of delivering Quattro Pro.

2   Q.   Now, looking down, this is just before Christmas of

3   '95; right?

4   A.   That's right.

5   Q.   Item 3:

6   We have now assigned a development manager in

7   Orem, and we are pulling together a team. Two to

8   three of these people will be on site at SV --

9   Is that Scotts Valley?

10   A.   That's right.

11   Q.   -- on Tuesday January 2. The Orem QP team will

12   be initially made up of one manager, two from the

13   old plan Perfect spreadsheet product and three or

14   four other topnotch developers.

15   So that's a total of six to seven people; correct?

16   A.   That's right.

17   Q.   And that was intended to replace the 15 that had

18   just resigned?

19   A.   The 15 additional that had just resigned, so it may

20   have been more than 15.

21   Q.   How did the experience of the six to seven who were

22   going to be on site in Scotts Valley early in January, how did

23   their experience with Quattro Pro compare to the 15 who had

24   just resigned?

25   A.   I think most of the programmers had probably never

1   even run Quattro Pro.

2   MR. WHEELER: Objection, Your Honor. He's speaking

3   for other people here. I mean, there's no foundation laid as

4   to how --

5   THE COURT: Yeah. Lay the foundation how he knows

6   this.

7   Q.   BY MR. TULCHIN: Let's just speak for yourself.

8   A.   Okay.

9   Q.   Mr. Larsen, am I correct that you were one of the

10   people who was sent to Scotts Valley?

11   A.   That's correct.

12   Q.   When did you go?

13   A.   I went in early January of 1996.

14   Q.   So this document, Exhibit 230, says, two to three

15   of these people will be on site at Scotts Valley on Tuesday,

16   January 2nd.

17   Were you one of those people, or do you think it

18   might have been a little bit later?

19   A.   I don't know the exact date. I don't know if it

20   was January 2nd. But it was within the first two weeks of

21   January was when I went out to Scotts Valley.

22   Q.   Okay. So again, I'm looking at Exhibit 230.

23   Mr. Brereton's e-mail says:

24   The Orem QP team will be initially made up

25   of --

1   And then there's these category of people. Do you

2   see that?

3   A.   That's right.

4   Q.   Were you one of the people?

5   A.   I was.

6   Q.   Now, you had been working, of course, here in Utah

7   for many years for WordPerfect Novell; correct?

8   A.   That's right.

9   Q.   Do you have a very clear and distinct memory of

10   what happened in January 1996 what you experienced when you

11   went out to Scotts Valley after these 15 developers, Quattro

12   Pro developers resigned just before Christmas?

13   A.   Yeah. I felt like it was kind of a train wreck.

14   The people that were there were kind of dazed. There were a

15   lot of them that had already submitted their resignations, so

16   they had checked out mentally and were -- agreed to stay on

17   just to be paid some bonuses to help in the transition. But

18   they were -- it was clear that they had already moved on

19   emotionally. Those people who had not resigned were kind of

20   walking around a little bit shellshocked. So it was -- it was

21   very chaotic when we got there.

22   Q.   Mr. Larsen, earlier in your testimony towards the

23   beginning I think you said that you left Novell around March

24   of 1996; correct?

25   A.   That's correct.

1   Q.   So that would be about two months after you went

2   out to Scotts Valley?

3   A.   About that time, yes.

4   Q.   Why did you leave?

5   A.   Well, I was discouraged with the process, the

6   product that we were working on. I didn't feel like it was a

7   product that was going to succeed, and I wanted to be working

8   on something that I felt like I could believe in.

9   Q.   Now, in the period from early January until the

10   time you left the company, let's say about two months, how

11   frequently were you out in Scotts Valley working on

12   Quattro Pro?

13   A.   We would fly out in the beginning of every week,

14   then we would spend long hours, 10- to 12-hour days there in

15   Scotts Valley trying to work with the people who were there

16   trying to resurrect the code base and even get to a point

17   where we could compile a product. So there were just a lot of

18   pieces that were kind of evaporating right before our eyes.

19   So we were trying to grasp as much of the knowledge that was

20   there with the people as we could.

21   So we would stay there throughout the week. Like I

22   say it was long hours. And we flew home on the weekends and

23   went back at the beginning of the next week.

24   Q.   A couple questions about that last answer,

25   Mr. Larsen.

1   You referred a couple times to the product, I

2   think. What product are you talking about?

3   A.   Well, I think probably there's a duality there. I

4   mean, I was focused on the Quattro Pro piece of the product.

5   But the product overall was the PerfectOffice product.

6   Q.   So you go out to Scotts Valley in January of 1996

7   after the events that are described in Exhibit 230, and you

8   said things were chaotic there; is that right?

9   A.   That's right.

10   Q.   You said in your answer a moment ago that you had

11   to, I think you said, resurrect the source code. What does

12   that mean?

13   A.   Well, the source code is really the, that's where

14   the value of the product is. That's how you develop the

15   product. The source code is where the programmers have gone

16   through, and they made decisions about how the product will

17   behave under certain circumstances. And in there is embodied

18   that hopefully you'll find comments where they left notes

19   about what it was that they were doing, why they made

20   decisions. So the source code is really everything about the

21   product. That's how you create the product.

22   And we found that we had a difficult time even

23   finding all of the source code for various pieces of the

24   product, which was somewhat alarming because without the

25   source code it's very difficult if not impossible to re-create

1   the current shipping version of the product without having to

2   go back in and rewrite extensions of it.

3   Q.   So when you went out in Scotts Valley in early

4   1996, are you telling the jury that there were pieces of the

5   source code, the Quattro Pro source code that you could not

6   locate?

7   MR. WHEELER: Objection, Your Honor. He's

8   summarizing again.

9   THE COURT: Rephrase the question.

10   Q.   BY MR. TULCHIN: Mr. Larsen, I just want to make

11   sure I understand this. You were out in Scotts Valley for

12   several weeks; correct?

13   A.   That's right.

14   Q.   I think you said every week for a period of about

15   two months before you left Novell.

16   MR. WHEELER: Your Honor, he's just repeating what

17   he's already said.

18   MR. TULCHIN: Just setting the stage, Your Honor.

19   THE COURT: Okay. Well, the stage is set.

20   MR. TULCHIN: Thank you.

21   Q.   BY MR. TULCHIN: Mr. Larsen, did you anticipate

22   when you first went out to Scotts Valley that you'd be looking

23   for pieces of the source code?

24   A.   No.

25   Q.   Why not?

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1   A.   Well, my experience had been in development

2   environments that you had ways of protecting the source code,

3   sharing it between the different programmers that are working

4   on it, there was always a repository where things were stored

5   for safekeeping, backed up regularly because that was, that

6   was the main asset of the company was the source code.

7   So I expected to be able to go out and step up on

8   someone's machine, and they would maybe have an explanation of

9   the process I would go through to be able to build the

10   product. But we found that there was really -- that was not

11   in place. We didn't have a central repository for all of the

12   source code. Things were not well documented. In fact, they

13   had not been well kept track of. They had pieces that had

14   been built once upon a time, but the source code was no

15   longer -- we couldn't find anybody left who knew where the

16   source code was. So that created some real problems in being

17   able to step in and re-create the program.

18   So I expected that we would be able to go out and

19   immediately at least compile the current version of the

20   product. But when we got there that was not the case.

21   Q.   In January 1996 when you first went out to

22   Scotts Valley, was the Quattro Pro product to be included in

23   the PerfectOffice suite for Windows 95, was that Quattro Pro

24   product ready to be shipped?

25   A.   Not by any stretch of the imagination.

1   Q.   During the time you were in Scotts Valley in

2   January 1996 and February '96, maybe into March, did there

3   ever come a time during that period when the Quattro Pro

4   version for Windows 95 became finalized and ready to be

5   shipped?

6   A.   Not while I was there, no.

7   Q.   Would it have been possible for PerfectOffice, the

8   version that was being written for Windows 95, to include

9   Quattro Pro and also get shipped to the market in the state

10   that you found things in Scotts Valley at that time?

11   A.   No.

12   Q.   Why not?

13   A.   It -- it just wasn't, even like I say, able to be

14   built. There were issues, going back to the localization

15   issues, the translation issues, once they had a system in

16   place for translating strings and so forth and building them

17   into product, it was markedly different than the process that

18   was being used in WordPerfect and other products in the suite.

19   And so just trying to take those processes and normalize them

20   or make them so that they would work together was a challenge.

21   The product was not in a state where we could even do our own

22   internal quality assurance on it, where we could turn it over

23   to testers to be able to start running it. So if you're not

24   in a state where you're able to do your own internal quality

25   assurance, you're certainly not ready to ship it to the

1   market.

2   Q.   Mr. Larsen, you were out in Scotts Valley for this

3   period of roughly two months along with a number of other

4   Novell people who had come from Orem; correct?

5   A.   That's right.

6   Q.   During that period, to the best of your

7   recollection, did any of those people ever express the view

8   that Quattro Pro was ready to go or that PerfectOffice for

9   Windows 95 which included Quattro Pro would be ready to be

10   shipped?

11   A.   No. I mean, like I said, we were working long

12   hours. There was a feverish effort. Maybe I would term it

13   that way. It was almost -- we recognized we were under the

14   gun, that there was more work to be accomplished than we could

15   accomplish in the time that had been given to us. And so I

16   didn't encounter anyone that was optimistic that we would be

17   able to accomplish what needed to be done in the time frame

18   that was given to us.

19   Q.   When you left the company around March of 1996,

20   when you left Novell, in your view was Quattro Pro even close

21   to being ready to be included in a Windows 95 suite?

22   MR. WHEELER: Objection; asked and answered.

23   THE WITNESS: No.

24   THE COURT: It's just been answered, and you're

25   right. But go on.

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1   MR. TULCHIN: I'm sorry, Your Honor?

2   THE COURT: I've already wasted more time than we

3   should have. It's overruled. It's already been answered, but

4   don't ask it again.

5   MR. TULCHIN: Okay. I have nothing more of this

6   witness. Thank you.

7   THE COURT: Mr. Wheeler?

8   MR. WHEELER: Thank you, Your Honor.

9   CROSS-EXAMINATION

10   BY MR. WHEELER:

11   Q.   Good morning, Mr. Larsen.

12   A.   Good morning.

13   Q.   Good to see you again.

14   A.   Yes.

15   Q.   You were asked on direct examination if you had

16   been given a subpoena to testify, and you acknowledged that

17   you had and that you had received it from Microsoft; correct?

18   A.   That's correct.

19   Q.   You met several times with both Novell lawyers and

20   Microsoft lawyers, did you not?

21   A.   I have.

22   Q.   And you did not require a subpoena to do that, did

23   you?

24   A.   That's right.

25   Q.   And, in fact, you met with me just a few weeks

1   ago --

2   A.   Yes.

3   Q.   -- down in your office there. And I got the

4   impression that you were very accommodating and congenial to

5   work with. You didn't ask me for a subpoena, did you?

6   A.   I did not.

7   Q.   Did you ask -- did you tell Microsoft that you

8   would not come down here voluntarily without a subpoena?

9   A.   No, I didn't say that.

10   Q.   Would you have accommodated them if they had asked

11   you to come down without a subpoena?

12   A.   Certainly.

13   Q.   Would you have accommodated me to come down here

14   without a subpoena if I asked you?

15   A.   I would have.

16   Q.   Do you have any idea why Microsoft gave you a

17   subpoena and made an issue of it on your examination?

18   A.   I assume that's a normal course of action.

19   Q.   To make it appear as though you're here by

20   compulsion?

21   A.   I just thought it was part of the formal process.

22   Q.   You have been talking about some of your various

23   assignments when you worked at WordPerfect. Were you ever on

24   the Windows 95 development team?

25   A.   No, I was not directly on the Windows 95

1   development team.

2   Q.   Were you ever on the shared code team --

3   A.   No.

4   Q.   -- group.

5   So when you talk about your involvement with

6   Quattro Pro, that was aside or even though it's connected to

7   the development, it was not part of the development team; is

8   that right?

9   A.   Of Quattro Pro?

10   Q.   Yes.

11   A.   No, it actually was. I left my position as

12   director of human factors and went to a full-time programming

13   role working on Quattro Pro in January of '96.

14   Q.   Yes, I understand that. But that was not as a part

15   of the development team; correct?

16   A.   It was.

17   Q.   It was? Did you meet with the development team

18   during that period of time?

19   A.   Yes, I did.

20   Q.   Were the other people that worked there in Scotts

21   Valley also on the development team?

22   A.   That's right.

23   Q.   So when you answered the question you were not part

24   of the Windows 95 development team, what did you mean by that?

25   A.   I guess I interpreted that to mean the WordPerfect

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1   Windows 95 development team, because that had been a longer --

2   in existence longer.

3   Q.   Okay.   Who was in charge of the Win95 development

4   team?

5   A.   You know, that was a little bit unclear.   There

6   were two people that had kind of director roles on a

7   day-to-day operation.   Steve Weitzeil and Gary Gibb.

8   Tom Mallory was the vice-president originally over that.   And

9   then subsequently Bruce Brereton became the vice-president of

10   development.

11   Q.   Would Gary Gibb, for example, be more knowledgeable

12   than you about the process and the progress of the development

13   of the Win95 projects?

14   A.   Of the Windows 95 WordPerfect project, yes.

15   Q.   Now, Mr. Gibb was in charge of the Win95 suite;

16   correct?

17   A.   I believe that at one time that was his role.   The

18   roles and positions change somewhat over time.

19   Q.   Did you have communications with Mr. Gibb about the

20   problems you were having in California?

21   A.   I never had direct conversations with him about it.

22   Q.   And do you know whether any of the people that were

23   working with you there had conversations with Mr. Gibb about

24   the problems you were encountering?

25   A.   I don't have any direct knowledge of any

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1   conversation.

2   Q.   And so when you say you were part of the

3   development team apparently your role was fairly well

4   compartmentalized with respect to Quattro Pro; is that fair?

5   A.   That's fair.

6   Q.   And would that also be true with respect to the

7   other people who were working with you there in California?

8   A.   I believe so. One of the things is you always

9   bring with you kind of the experience that you gained in the

10   previous projects. Part of that experience is a relationship

11   that you have with other people. So as we encountered

12   problems or have a particular development issues that we would

13   come up with, we would consult with other programmers within

14   the company who might have experience. But our primary focus

15   was on Quattro Pro.

16   Q.   Okay. And you went there right at a point of great

17   turmoil there; correct?

18   A.   That's correct.

19   Q.   With all these people resigning, and there's a

20   significant turnover taking place at that time?

21   A.   There was.

22   Q.   And would you not expect to have a lot of confusion

23   in that kind of transition?

24   A.   I would. In fact, WordPerfect and the applications

25   group was kind of going through some types of transformation,

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1   as well. There were changes in leadership within the company.

2   So it wasn't just confined to the Scotts Valley, although

3   that's probably where the confusion and chaos was the most

4   pronounced.

5   Q.   So any company that goes through a transition of

6   that kind is going to experience confusion and problems, and

7   you're not going to meet expectations in all probability in

8   many cases; correct?

9   A.   It's a very difficult process. I think that's

10   correct to characterize it that way.

11   Q.   And, in fact, you were not there for very long

12   because you became frustrated and quit?

13   A.   That's right.

14   Q.   And you say that when you were there, you couldn't

15   find the source code; is that what you said?

16   A.   There were pieces of the source code we couldn't

17   find. We found a large portion, but we couldn't find all of

18   it.

19   Q.   But that doesn't mean that the source code didn't

20   exist somewhere; correct?

21   A.   That's correct.

22   Q.   And the fact that you couldn't find it in the

23   confusion that existed doesn't necessarily mean that somebody

24   didn't have it?

25   A.   Yeah. I don't know if it was subsequently found or

1   somebody had it.

2   Q.   And you were not really there long enough to really

3   find out how that worked out?

4   A.   That's right.

5   Q.   Now, let's go back to the point in time when you

6   were working on the Mac development team of WordPerfect and

7   your efforts to write for the Mac system. You talked about

8   Mr. Peterson in particular that was somewhat hostile to the

9   vision that your team had at least with respect to the graphic

10   interfaces.

11   A.   That's right. I remember that.

12   Q.   Now, Mr. Peterson had strong views as apparently

13   some other people in management; is that a fair statement?

14   A.   That's a fair statement.

15   Q.   And would it also be fair that there were other

16   people there that had opposite views including yourself?

17   A.   Yes.

18   Q.   And isn't it fairly common in this industry for

19   people to have varying degrees of opinions as to where the

20   future is going to be with respect to computers and software

21   programs?

22   A.   It's very common.

23   Q.   And, in fact, that's a very difficult thing to

24   evaluate, is it not, to look into your crystal ball and see

25   what's going to happen in the future?

1   A.   It's worse than predicting the weather. You can't

2   see very far into the future.

3   Q.   And so when you described this conflict of opinion

4   between people at WordPerfect back in the late '80s, that's

5   something that is not unusual in this industry; is it?

6   A.   No, it's not.

7   Q.   And you probably felt a little hypersensitive to it

8   because you were the target of Mr. Peterson's biases as you

9   saw it; is that right?

10   A.   I had taken offense to some of the things that he

11   said, and so I was careful when I was around him.

12   Q.   And maybe he felt similarly about your expressions.

13   Would that be fair?

14   A.   It's hard for me to characterize how he felt. But

15   I think it could be fair.

16   Q.   Now, you testified that he seemed to believe that

17   the way to go was to maintain the DOS WordPerfect processing

18   system the way it was and to improve upon it. Is that a fair

19   summary of what he wanted to do?

20   A.   Yes, I think so.

21   Q.   But he also acknowledged that there were great

22   possibilities with respect to the MacIntosh system and

23   continued to invest money, maintain the team and to support

24   your efforts, as well; is that right?

25   A.   He -- we were -- he was responding to what

1   customers were asking for, that they wanted to be able to have

2   products that ran on multiple platforms. And so I think he

3   was being accommodating to what their wishes were.

4   Q.   Yes. And, in fact, the customers of WordPerfect

5   for DOS to a large extent were large law firms; isn't that

6   true?

7   A.   Yes, they were.

8   Q.   And legal secretaries are the people who primarily

9   used WordPerfect?

10   A.   That was one of the real strong holds in the

11 company.

12   Q.   And isn't it true that in these law firms the legal

13 secretaries were saying that they did not want to lift their

14 hands off the keyboard to go into different programs, and they

15 liked the DOS system? Isn't that right?

16   A.   They were what we termed heads-down typists. They

17 wanted to just focus on the entry of text.

18   Q.   So Mr. Peterson's bias, if you want to call it

19 that, for the DOS system was driven at least in part by

20 customer demands, would you agree?

21   A.   I'm sure it was influenced by that.

22   Q.   And it was not easy for these legal secretaries and

23 other secretaries who were accustomed to DOS to have to leave

24 the keyboard, go to a mouse, go into another program and then

25 go back to their keyboard?

1   THE COURT: On behalf of my wonderful secretary,

2   would you rephrase the question?

3   Q.   BY MR. WHEELER: Is that true?

4   A.   Yeah. I would say that's probably accurate.

5   Q.   Yeah. So it wasn't that Mr. Peterson was just

6   being obstinate. He had some basis for his opinions. Would

7   you agree?

8   A.   Yes. I think so.

9   Q.   Now, you stated that after you finished your work

10   on the Mac system that the market was not very receptive to

11   it; is that right?

12   A.   That's right.

13   Q.   Did that verify in any way in your mind that

14   Mr. Peterson had some merit to his position?

15   A.   No. I don't think that that's what I attributed it

16   to.

17   Q.   You found some other reason other than giving him

18   credit?

19   A.   That's right.

20   Q.   Okay. Then you testified that you went on, you

21   continued to develop on Mac, did you not?

22   A.   That's right; for a number of years.

23   Q.   In fact, there were other Mac systems that came out

24   later on; is that right?

25   A.   That's right.

1   Q.   For WordPerfect?

2   A.   Yes.

3   Q.   And those were better received; isn't that right?

4   A.   That's right.

5   Q.   Okay. And so the opinion of the consuming public

6   was changing gradually during this period in the late '80s and

7   early '90s; is that a fair statement?

8   A.   Yes. It was a transition period.

9   Q.   Yeah. People were becoming more accepting of the

10   Windows systems, the graphic --

11   A.   The whole graphic user interface.

12   Q.   And with respect to the DOS it was becoming

13   incompatible with many of the Windows systems; correct?

14   A.   Incompatible is kind of a vague word. But I see

15   that there's maybe two aspects to that. One is file format

16   compatibility, which was a very big effort under way to try to

17   make the file format compatible. But from the user interface

18   standpoint, they were becoming less and less compatible

19   because there was less emphasize on the keyboard driven

20   interface and more on the graphical user interface.

21   Q.   When I talk about incompatible, and believe me, I'm

22   a dinosaur when it comes to computer. I know nothing about

23   computers compared to these people. But when I refer to

24   compatibility, I'm talking about, for example, trying to

25   transmit a document in WordPerfect to someone who has a word

1   system.

2   A.   That's right.

3   Q.   That was a real problem back in those days, wasn't

4   it?

5   A.   That's right.

6   Q.   In fact, if you try to -- if a law firm had a

7   client that did not have WordPerfect it was a problem because

8   they could not transmit documents back and forth easily

9   between them; is that true?

10   A.   It was true, but not as true as it is today. For

11   example, I went once to Dorsey Whitney, which is a large law

12   firm located in Minneapolis which is the offices that we went

13   to, and they had floors filled with typists that all they

14   would do is enter in documents. The way they would transmit

15   documents between their own law firms is they would print out

16   the document and then fax it to the other office, and then

17   they would take that fax, and then the typist would then

18   retype the document. And so the use of e-mail to transmit

19   documents and so forth was not as common as we see today.

20   So maybe not as big of an issue as you might think

21   today, but it was an issue within the same office, certainly.

22   Q.   Yes. And again, we're talking about the time

23   period in the late '80s and early '90s; right?

24   A.   Right.

25   MR. WHEELER: Your Honor, do you want to take a

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1   break now?

2   THE COURT: I'd be glad to. I was going to in five

3   minutes, but right now is fine. I'm ready when everybody else

4   is.

5   (Recess.)

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1   STATE OF UTAH   )

2   ) ss.

3   COUNTY OF SALT LAKE)

4   I, KELLY BROWN HICKEN, do hereby certify that I am

5   a certified court reporter for the State of Utah;

6   That as such reporter, I attended the hearing of

7   the foregoing matter on November 30, 2011, and thereat

8   reported in Stenotype all of the testimony and proceedings

9   had, and caused said notes to be transcribed into typewriting;

10   and the foregoing pages number from 3561 through 3639

11   constitute a full, true and correct report of the same.

12   That I am not of kin to any of the parties and have

13   no interest in the outcome of the matter;

14   And hereby set my hand and seal, this _____ day of

15   _____ 2011.

16

17

18

19

20   _____
                    KELLY BROWN HICKEN, CSR, RPR, RMR
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