

1 THE COURT: Welcome, and welcome to the students
2 from Copper Hills High School today.

3 It might not be interesting to jump in the middle.
4 It's a big antitrust case. Novell vs. Microsoft.

5 (Jury present)

6 THE COURT: We have students from Copper Hills
7 High School sitting in the back.

8 BY MR. HOLLEY:

9 Q Mr. Richardson, this morning on direct you testified
10 that one of the namespaces that you yourself worked on was
11 adding support for each HTTP and FTP; is that correct?

12 A That's correct.

13 Q And I didn't hear you say when you did that. Can you
14 tell the jury when you started working on that?

15 A I believe that was after Corel purchased WordPerfect
16 products.

17 Q So that was certainly not in the time period that
18 Novell owned WordPerfect and Quattro Pro, correct?

19 A I don't recall the exact time period that we were given
20 the license or access to the namespace code. It was shortly
21 after we got that code, but I don't recall the exact time.

22 Q But you are sure, are you not, sir, you did that after
23 Corel purchased WordPerfect and Quattro Pro?

24 A I don't recall the exact timing. It was shortly after
25 receipt of the access to the code that we started working on

1 that.

2 Q Are you retracting the answer that you gave me two
3 minutes ago?

4 A I am saying I don't recall precisely the time line.

5 Q I'm asking you a different question, which is are you
6 sure that it was after Corel purchased WordPerfect and
7 Quattro Pro?

8 A I am not completely sure. I recall starting on it
9 shortly after I got access to the code. I don't recall
10 specifically whether that was before or after Corel
11 purchased WordPerfect.

12 Q So I don't mean to belabor this, but when you gave me
13 the answer a couple of minutes ago that it was after Corel
14 purchased WordPerfect and Quattro Pro, you misspoke?

15 A I'm trying my best to recollect the time period. It's
16 a little bit fuzzy for me.

17 Q You are quite sure that it was not during 1994; are you
18 not, sir?

19 A My recollection is that we had the agreement with
20 Netscape and shortly after that we started on that work.

21 I'm sorry. Go ahead.

22 Q No, I'm sorry. I didn't mean to interrupt you, sir.

23 I appreciate your testimony that it was shortly after
24 the source code license was signed, but you can't give me
25 any further information about when that event occurred?

1 A I don't recall the exact timing.

2 Q Now you were shown a document written by a developer at
3 Microsoft called Satoshi Nakajima entitled Web-like Shell
4 Architecture. Can you tell me, sir, when you first saw that
5 document? And I'm happy to show it to you again if you
6 don't have it up there. It's Defendant's Exhibit -- it's
7 hard to read -- 337, I think. It's this one.

8 I'm sorry. I should look at the top. It's 344,
9 Mr. Richardson. Do you have that one? It's in your
10 notebook. Yes. Okay.

11 So we're looking at this Microsoft document entitled
12 Web-like Shell Architecture, Internet Integration --
13 Internet Explorer Integration, in-place Navigation and
14 Page-View. When did you first see this document?

15 A I saw this document during a trial prep for this trial.

16 Q So the first time you saw this document was when
17 Novell's lawyers showed it to you?

18 A Correct.

19 Q Do you know when the integration that's described in
20 this document first occurred at Microsoft?

21 A I have no knowledge of that.

22 Q So if I told you that the first time this occurred was
23 with Internet Explorer 3 in OEM Service Release 2 of Windows
24 95 in the spring of 1996, you couldn't agree or disagree
25 with me on that?

1 A I have no knowledge of that.

2 Q You testified this morning, sir, about the requirements
3 of the Windows 95 logo licensing program; is that right?

4 A Correct.

5 Q Now Novell had no use for a logo for Windows 95 because
6 Novell never sold applications for Windows 95; isn't that
7 right?

8 A I am not sure I understand that question.

9 Q Well, the products weren't released during the time
10 that Novell owned them; isn't that right? The first Windows
11 95 applications weren't released until after Corel bought
12 WordPerfect and Quattro Pro.

13 A My recollection was that when we -- when I worked on
14 the certification issues of shared code from Windows 95 to
15 Windows NT, it was our intent to ship on Windows 95. That
16 was during the time that Novell -- that I was with Novell.

17 Q My question was a little bit different. My question
18 was whether Novell as a corporation had any use for a logo
19 when Novell as a corporation didn't own the products that
20 the logo was going on at the time they were released?

21 A So the products were being developed under Windows 95
22 at the point that Novell owned the application, which was
23 the period of time when I was working on the issue. I don't
24 know that I can address what Novell's corporate motivations
25 were.

1 Q Isn't it just a matter of common logic, Mr. Richardson,
2 that a logo is something that goes on a box for a product,
3 and if you don't market the product, you don't need the
4 logo; isn't that right?

5 A My involvement with the logo certification was in
6 satisfying the requirements at the point that I still worked
7 for Novell.

8 Q Your testimony, sir, is you cannot answer the question
9 whether the ability to put a logo on a box in the stores
10 mattered or didn't matter to Novell because Novell never
11 released the products that the logo was supposed to go on?

12 MS. VISHIO: Objection, Your Honor, argumentative.

13 THE COURT: It's close, but overruled.

14 You can answer.

15 THE WITNESS: So my understanding was that the
16 intent of satisfying the requirements for the logo was
17 expected to take some period of time, and they were
18 preparing for that with the expectation that they would
19 achieve that. While I was working for Novell, I was asked
20 to perform that. That would indicate to me that the people
21 telling me to do that evaluation were interested in
22 achieving that certification. So it appeared to me that at
23 least my management cared about that while I was working for
24 Novell.

25 //

1 BY MR. HOLLEY:

2 Q All right. Now you were not responsible for
3 communicating with Microsoft about the requirements of the
4 logo licensing program, were you, sir?

5 A I was not responsible for communicating with Microsoft.

6 Q Were you aware that there were communications between
7 Novell and Microsoft about the requirements of the logo
8 licensing program?

9 A Based on my communications with those working on my
10 team and my management, I understood there was a dialogue.

11 Q Who's Mark Calkins? A better question, what was
12 Mr. Mark Calkins' position at Novell in 1994?

13 A Mark Calkins was an executive. I don't recall his
14 position.

15 Q I would like to show you what's been marked as
16 Defendant's Exhibit 22. This is an e-mail from a Brad C at
17 Microsoft. Do you know who Brad C is, sir?

18 A I do not know who Brad C is.

19 Q Brad Chase in the Windows 95 team, you never heard that
20 name before?

21 A I don't recall knowing Brad Chase.

22 Q And Glen M, is that the e-mail alias at Novell for Glen
23 Mella, M-e-l-l-a?

24 A I believe that's correct.

25 Q And Bruce B is the e-mail alias for Bruce Brereton, is

1 that correct, at Novell?

2 A I believe that's correct.

3 Q And Mr. Brereton was in charge of all of PerfectOffice;
4 is that right?

5 A I believe that's correct.

6 Q Have you ever seen Defendant's Exhibit 22 before?

7 A I don't recall having seen this previously.

8 Q The first paragraph it says, dear Mark. It's written
9 to Mr. Calkins. It says, dear Mark, thanks for your note
10 and for voicing your concerns to us regarding the Windows 95
11 logo program. I am sorry I did not get back to you sooner,
12 but as you can imagine things are very busy.

13 Now this is April of 1995, so we are three months
14 before the release of Windows 95, correct?

15 A Okay.

16 Q Four months. I can't count. It's that late in the
17 day. So four months before the release of Windows 95,
18 correct?

19 A All right.

20 Q Now were you aware of -- and take as much time as you
21 need to look at this. Were you aware that Microsoft,
22 starting on the bottom of page 1 of this document and
23 carrying on to page 3, went line by line through Novell's
24 specific issues about the compatibility requirement for
25 degrading gracefully on Windows NT?

1 A I'm sorry. Could you repeat that?

2 Q Sure. Did you know before looking at this document in
3 the courtroom today that Microsoft had provided detailed
4 responses to the issues that Novell had raised about the
5 difficulty that Novell said it was having in meeting the
6 compatibility requirement for the logo licensing program?

7 A I was not party to this communication, this
8 conversation.

9 Q Directing your attention, sir, to the third page of
10 this document. Strangely, it's numbered 13 at the bottom,
11 but it's the third page, looking at the paragraph that
12 starts at this point in time --

13 MR. HOLLEY: And let's just highlight everything
14 down to the signature there so it blows up and everyone can
15 see it more easily.

16 THE WITNESS: I'm sorry. What page are you on?

17 BY MR. HOLLEY:

18 Q It's numbered 13 at the bottom, but it's the third page
19 of the document. Don't ask me why, but that's the way it
20 is.

21 Are you with me, sir?

22 A Yes. Thank you.

23 Q Here Mr. Chase writes to Mr. Calkins at Novell, at this
24 point in time, we do not believe the issues you raise
25 constitute significant enough architectural issues between

1 the Windows NT and Windows 95 to warrant an exception being
2 granted. I would be glad to have a conference call between
3 our teams should you have any additional questions. Brad
4 Struss will be glad to set this up if you wish.

5 Did you know that Microsoft had told Novell in April of
6 1995 that if Novell had any additional questions on the
7 issue of compatibility, that Mr. Struss would be happy to
8 set up a meeting between the two companies?

9 A I was not party to this conversation. I did not know
10 any of this information.

11 Q Do you know whether Novell ever took Microsoft up on
12 that offer and had the meeting that Mr. Chase suggested he
13 would be happy to have?

14 A I do not know.

15 Q Okay. Now you testified, I believe, that you worked
16 for two months trying to get a single WordPerfect executable
17 to run both on Windows 95 and Windows NT. Did I understand
18 that correctly?

19 A No. No. I worked on getting the shared code to work
20 correctly on Windows NT.

21 Q I apologize. So what you were working on was getting
22 the shared code block of code to run -- the same block of
23 code to run both on Windows 95 and Windows NT?

24 A That's correct.

25 Q You testified this morning that that was impossible?

1 A The obstacles were so large that we abandoned that
2 effort.

3 Q Can you explain to me, sir, why this product, which is
4 called Corel WordPerfect Suite 7, which is the released
5 product, says on the front for Windows 95, Windows NT 3.51,
6 and Windows NT 4.0? I'm happy to show it to you, sir.

7 A So can I explain why they put that sticker on the box?
8 No, I don't have an explanation of that.

9 Q Well, somebody figured it out, didn't they?

10 A I can testify to my experience when I tried to port the
11 code and it presented obstacles I could not overcome.

12 Q You didn't mean to suggest to the jury that it was
13 impossible, did you, sir, because somebody did it?

14 MS. VISHIO: Objection.

15 THE COURT: Actually two inferences can be drawn.
16 Either the certification was wrong or somebody figured it
17 out. But I assume you can represent everybody says that. I
18 assume there is no question about that. I'm just talking
19 about a matter of logic.

20 MR. HOLLEY: Your Honor, the box says that the
21 product runs on the two operating systems.

22 THE COURT: Fine.

23 BY MR. HOLLEY:

24 Q So your testimony was that you couldn't do it, but you
25 have no explanation for why the box says it was done?

1 A I don't know why that appears on the box.

2 Q Novell wasn't in the habit of putting stickers on boxes
3 that were false, right?

4 THE COURT: I'm sure that's true. I was just
5 speaking as a matter of logic. I think we all agree.

6 MR. HOLLEY: Thank you, Your Honor.

7 BY MR. HOLLEY:

8 Q Now I would like to mark what has been marked as -- I
9 would like to show you what's been marked as Defendant's
10 Exhibit 155. Were you aware that in January of 1995, the
11 most senior executives at Novell, which would be Mr.
12 Frankenberg, the CEO of Novell, Mr. Rietveld, the president
13 of the WordPerfect division of Novell, Mr. Moon, the senior
14 vice president for engineering, and Mr. Brereton, who was in
15 charge of PerfectOffice, were all you talking about the
16 Windows 95 logo licensing program?

17 A I did not communicate with them on this issue.

18 Q Now you were aware, were you not, sir, that Novell had
19 its own logo licensing program called Yes It Runs On
20 NetWare? Were you aware of that?

21 A I recall hearing the term, but I don't recall ever
22 doing any work directly related to that.

23 Q Let's look at the last paragraph on the first page of
24 this document. It says, in discussions about a high profile
25 approach, Greg and David noted the similarities in this logo

1 program with Novell's YES certification and logo program.
2 Novell's program similarly requires dual compatibility. An
3 ISV's NetWare compatible program must also be compatible
4 with UnixWare, Lanalyzer, and other technologies.

5 Just so the jury is clear, NetWare is one Novell
6 product that is a server operating system, right?

7 A It's a file, print operating system.

8 Q File and print operating system. And UnixWare is a
9 variant of Unix from AT&T that Novell bought, correct?

10 A I believe that's correct.

11 Q So in order to get the Yes It Runs On NetWare
12 certification, an ISV had to both show that its product ran
13 on NetWare and ran on a version of Unix; is that right?

14 A It appears that's what this document says.

15 Q It goes on to say, it appears that if we are to
16 challenge Microsoft on this program, they could throw it
17 back in our faces. Do you see that?

18 A I'm sorry. Where are you now?

19 Q In the middle of that paragraph it says, it appears
20 that if we are to challenge Microsoft on this program, they
21 could throw it back in our faces.

22 A Is that a question?

23 Q I'm just asking you -- I just want to make sure that
24 you and I are on the same page. Do you see that?

25 A I see that.

1 Q It says, we are already experiencing substantial push
2 back from our ISVs. And that, again, just so we're all
3 clear, that refers to independent software vendors, right?

4 A That's correct.

5 Q It says, there is a good argument to be made that if we
6 push this with Microsoft, our ISVs will have increased
7 standing to challenge the YES program. Do you see that?

8 A I see that.

9 Q So senior management at Novell was worried that if they
10 got mad at Microsoft about the requirement that a product
11 both had to run on Windows 95 and Windows NT, it would come
12 back to bite Novell because Novell required for its logo
13 program that the product had to run on both NetWare and
14 UnixWare, and Lanalyzer and other technologies, right?

15 A It appears that's what this document says.

16 Q Let's turn to the second page of this document. It
17 says, our conclusion -- I'm looking at the first paragraph.
18 Sorry, sir. Our conclusion today was to recommend you send
19 the letter to Brad. This is an e-mail to Mark Calkins. You
20 send the letter to Brad and see how he responds. If
21 Microsoft either modifies the program generally, or cuts
22 Novell its own deal, then we have what we want, use of the
23 logo without the NT compatibility requirement. If the
24 response is no, then we proceed without the logo and decide
25 how to position our decision.

1 You had no idea before today that the president of the
2 WordPerfect group and the CEO of Novell were having a
3 discussion in January of 1995 about how to position the
4 compatibility requirement for Windows 95; isn't that right?

5 A I was unaware of this conversation.

6 Q Then down a little lower it says, consequently, we are
7 choosing not to participate in the logo program. At this
8 point, our inclination is to take a lower profile approach.

9 Were you aware that Novell's senior management had made
10 the choice not to participate in the Windows 95 logo
11 licensing program?

12 A I was not.

13 MR. HOLLEY: I have no further questions, Your
14 Honor.

15 THE COURT: Ms. Vishio.

16 REDIRECT EXAMINATION

17 BY MS. VISHIO:

18 Q Hi, Mr. Richardson.

19 Did Novell intend to release a suite of applications on
20 Windows 95?

21 A That was my understanding.

22 Q During the time that Novell owned those products, was
23 it your understanding that it was Novell's intent to obtain
24 the logo?

25 A That was my understanding.

1 Q Mr. Richardson, do you know whether any of Microsoft's
2 own products, for example, Internet Explorer, received an
3 exemption from the logo certification requirements?

4 A I do not know.

5 Q Now Mr. Holley on his cross-examination of you did not
6 allow you at one point to give your analogy. But would you
7 be able to give your analogy now of the re-creation of the
8 functionality and put that into your own words?

9 A Yes, I could. So in my understanding, the more
10 appropriate analogy would be perhaps if you were building
11 let's say an automobile and you were making use of an engine
12 from another person. If all of a sudden you couldn't make
13 use of that engine anymore, it couldn't talk to your
14 transmission -- it wouldn't work with your transmission so
15 your car wouldn't move anymore, so we had to build a wrapper
16 around that engine that knew how to talk to your
17 transmission, as it were, so the car could go again.

18 So we were moving along, we reached a roadblock we
19 couldn't get around, and we had to build a mechanism that
20 allowed us to have everything move forward again.

21 Q Now also on cross-examination Mr. Holley had asked you
22 a number of questions about the reasons Novell chose not to
23 use the common file open dialog. Do you remember that?

24 A I'm sorry. Could you repeat that?

25 Q Yes. On cross-examination you were asked a number of

1 questions about the reasons Novell chose not to use the
2 common file open dialog. Do you remember that?

3 A Yes.

4 Q You mentioned some performance problems and the fact
5 that certain namespaces did not show up in the common file
6 open dialog?

7 A That's correct.

8 Q Did the shared code team share these concerns with
9 Microsoft?

10 A So I didn't talk to Microsoft directly, but my
11 understanding from working with Steve and Adam was that
12 those concerns were communicated with Microsoft.

13 Q Did you participate in any calls with Adam and Steve on
14 these issues?

15 A I believe that those conversations occurred before I
16 started working on the file open dialog. I was brought in
17 to work on the file open dialog as a result of those
18 conversations.

19 Q When you started working on the namespace extensions,
20 did you participate in any conference calls following that
21 time period regarding issues concerning the namespace
22 extensions?

23 A I don't recall any specific conversations at that
24 point.

25 Q Do you recall having conversations regardless of

1 whether you recall the specific contents of those
2 conversations?

3 A There were conversations that we had on an ongoing
4 basis with Microsoft about a variety of issues, so we would
5 frequently ask them questions. I would guess on an average
6 that we called and talked to the Microsoft Premier Support
7 people once a week and for maybe an hour or two. And so it
8 was fairly frequent. I just don't recall specific instances
9 of talking with them about this technology.

10 Q Was it your understanding that Microsoft promoted
11 namespace extension functionality to software vendors for
12 the purpose of extending the explorer?

13 A My recollection was that that was part of the sales
14 pitch is this is a wonderful new system, this is going to
15 change the world, and we want everybody to be a part of it.
16 That is the general feeling that I remember from the
17 communications that I had with Microsoft at the conferences.

18 Q Did the partial documentation that you received in the
19 1994 beta that we looked at, would that have allowed you to
20 have extended the explorer?

21 A So we could add namespaces to the explorer, yes, with
22 that documentation.

23 Q Now you testified earlier that Novell wanted its
24 namespaces to appear in both the explorer and in the file
25 open dialogs, whatever applications happened to be running

1 at that time. Why would Novell want this functionality?

2 A Well, we wanted to have a product that was not only
3 best of breed, the best product that you could have for
4 doing word processing, but we also wanted to, by virtue of
5 having our application installed on your computer, have a
6 better experience for everything you did on your computer.

7 Q I would like to redirect your attention to Plaintiff's
8 Exhibit 114 that you saw on cross-examination. This is a
9 document that Mr. Holley had shown you on cross.

10 I apologize. I did mean Defendant's Exhibit 114.

11 If you would, please turn to page 10.

12 A I don't know where I have it, where that is.

13 Q It's Defendant's Exhibit 114. I would like to direct
14 you to the section that you looked at previously under the
15 miscellaneous section, number three there.

16 Did the custom file open dialog Novell was working on
17 support all of the functionality that was available in the
18 common file open dialog but also additional functionality as
19 well?

20 A Yes, that's correct.

21 Q Mr. Richardson, what does it mean to have documentation
22 for an API redacted?

23 A Well, the information is no longer published, and there
24 is a presumption that the API may not continue in the same
25 behavior.

1 Q What could have happened if you relied on those APIs
2 whose documentation was redacted?

3 A Well, a variety of consequences could have resulted
4 from that, from crashing WordPerfect, or whatever
5 applications was making use of us, to simply using the
6 functionality.

7 Q Mr. Richardson, I'm handing you what has been
8 identified as Plaintiff's Exhibit 225. Plaintiff's Exhibit
9 225 is a Microsoft document, an e-mail, you will see at the
10 top, from Brad Struss to -- from Brad Struss to Doug
11 Henrich. Then there's an e-mail going back from Brad Struss
12 to Brad Chase and some other individuals. It's the second
13 e-mail that I would like you to focus on.

14 Have you ever seen this e-mail before?

15 A I have not.

16 Q If you look at the third e-mail on this page from Scott
17 Henson to a number of other individuals, dated October 12th,
18 1994, this e-mail continues onto the second page of that
19 document. On the second page of the document there are a
20 number of headings marked off, the cool stuff that they can
21 still do, and then do you see the section marked the
22 conversation?

23 A I'm sorry. Where?

24 Q On that page there are two headings. One is called the
25 conversation.

1 A Yes, I see that.

2 Q If you look what really is the second full paragraph
3 under that section, it says, quote, there is a set of APIs
4 which allows you to extend the explorer visually in a manner
5 that makes an application look as though it were a
6 system-level hierarchical component, i.e. like the control
7 panel, fonts folder, printers folder, et cetera. We have
8 taken a hard look at these APIs and because it makes it very
9 difficult for us to support our long-term objectives with
10 the Windows shell, we have decided to return these
11 interfaces back to their system-only status. This means
12 that if you are using these APIs, you should stop.

13 Now this conversation is directed to tell the ISVs, as
14 you can see from the paragraph right above that.

15 Mr. Richardson, is this consistent with your
16 understanding of what Microsoft told Novell after the
17 namespace extensions were retracted, the documentation for
18 the namespace extensions were retracted?

19 A Yes, it is consistent.

20 Q Mr. Richardson, I would like to redirect your attention
21 to Defendant's Exhibit 108. This was a document that was
22 also shown to you on Mr. Holley's cross-examination. But I
23 just want to ask a couple of questions about this document.
24 The first is the title, which is called PerfectFit Extended
25 Services Group. Were you a member of the PerfectFit

1 Extended Services Group?

2 A I don't recall that name for a group. I probably would
3 have been part of any group labeled PerfectFit group, but I
4 don't recall the name PerfectFit Extended Services Group.

5 Q Now you testified earlier that Microsoft retracted the
6 documentation for the namespace extensions. Isn't it true
7 that that retraction would have affected all software
8 vendors, not just WordPerfect?

9 A That's correct.

10 Q You also mentioned that you were familiar with the
11 CompuServe forum; is that right?

12 A I was aware of it, but I didn't participate on it.

13 Q Do you recall -- is it based on your understanding from
14 your conversations with those that were checking the
15 CompuServe forum that there were other companies interested
16 in using the namespace extensions?

17 MR. HOLLEY: Your Honor, I'm sorry to object, but
18 that calls for pure hearsay. He said he wasn't part of the
19 forum. She's asking whether he heard somebody say
20 something.

21 THE COURT: Rephrase the question.

22 BY MS. VISHIO:

23 Q Based on your understanding of conversations with
24 others in the shared code group who were on the CompuServe
25 forum, is it your understanding that other companies were

1 interested in the namespace extension functionality?

2 A It was my understanding based on my conversation --

3 THE COURT: That calls for hearsay and is leading,
4 but that's all right. Go ahead.

5 MS. VISHIO: I'm sorry. I couldn't hear your
6 answer.

7 THE COURT: Go ahead.

8 THE WITNESS: It was my understanding in my
9 conversations with Steve Giles and Adam Harral and with
10 Bruce Tijen, who is a member of the forum, told me they were
11 members of the forum, there was considerable activity on
12 that forum with a variety of different companies
13 participating.

14 BY MS. VISHIO:

15 Q Mr. Richardson, I would like to redirect your attention
16 to Defendant's Exhibit 72. This was also shown to you on
17 your cross-examination. Again, this article is entitled
18 Extending the Chicago Shell by Kyle Marsh, and it's dated
19 May 10th, 1994. Do you see that?

20 A I do.

21 Q I would like to turn your attention to the second page
22 of this document under the heading shell extensions. Are
23 the shell extensions listed here also namespace extensions?

24 A No, not -- well, sometimes it can be difficult because
25 the two are cross related. And I am not sure it's always

1 easy to specifically say this is one or this is the other.
2 The shell extensions were provided after as you have an icon
3 for a file on your desktop in the folder, those are things
4 that you can do with that file from there. They all relate
5 to the file. So you can take -- you can click on that icon
6 and you can drag it someplace, you can drop it, you can do a
7 right mouse click and get menu options that relate to that
8 file. So all of these are related to doing that
9 functionality.

10 So namespace extensions, that's what we're talking
11 about namespaces are the things that a namespace would
12 implement in order to show up as a folder. So they are kind
13 of disjoint -- they are separate groups of functionality.
14 Although they are all related, all the same thing of how you
15 would interact with your files, these sets of
16 functionalities relate to what you can do with a file and
17 the others relate to creating this folder that has things in
18 it that aren't really files.

19 Q Now is it your testimony that this article provided the
20 necessary documentation for Novell to be able to use the
21 namespace extension functionality?

22 A Mostly. So we were able to make use of the extensions
23 that had been documented. And understand, most of this work
24 was done by Steve and Adam before I joined this effort.
25 They had done a lot of this work before I got there. But

1 the problems that we ran into were -- there appeared to be
2 some extra communication that was going on that allowed us
3 to have the appropriate performance. We had to build in
4 that mechanism ourselves. So it was undocumented things
5 that were never documented that were the obstacles that we
6 ran into. If we wanted to run our own namespace browser
7 like the common open dialog or like the explorer, there was
8 extra information that wasn't part of these exposed APIs
9 that we needed to have access to.

10 Q Mr. Richardson, I would like to direct your attention
11 to the last page of this document under the summary section.
12 The summary reads, the shell extensions described in this
13 article allow applications to facilitate the task of
14 navigating within a system or network. In some cases,
15 however, applications may want to extend the shell further
16 with the namespace browser. Namespace browsers allow
17 applications to expose the hierarchical structure of objects
18 through the Chicago shell. A good example of a namespace
19 browser is a file that displays the hierarchy of the user's
20 mail folder. In my next article, I will be discussing
21 namespace browsers in detail. Stay tuned.

22 Mr. Richardson, was that article that Mr. Marsh
23 references in the summary ever provided to you before the
24 release of Windows 95?

25 A I remember a document or document contents similar to

1 this. I don't recall the specific document. But I recall
2 documentation similar to this or contents similar to this
3 that seemed to promote or invite the integration of
4 namespace browser -- namespace extensions. And also the
5 second sentence -- or the third sentence here says,
6 namespace browser allow applications, we felt we had a green
7 light to create our own namespace browser as well as
8 creating namespace extensions. So not only would we create
9 namespace extensions, it would show up in other namespace
10 browsers like explorer and other file open dialogs, but also
11 to create our own namespace browser.

12 Q Do you recall whether you received the article that's
13 referenced here before the release of Windows 95?

14 A I don't recall.

15 Q Do you recall when you received the full documentation
16 for the namespace extensions?

17 A I don't recall.

18 Q Mr. Richardson, I have handed what you has been marked
19 as Plaintiff's Exhibit 355. This is an article from the
20 MSDN from July 1996 entitled Extending the Windows Explorer
21 with Namespace Extensions. If you could take a moment to
22 review this article.

23 Mr. Richardson, have you seen this document before?

24 A This does seem very familiar to me. I believe I have
25 seen it before.

1 Q What is this document?

2 A This appears to be an extensive how to on how to create
3 namespaces.

4 Q Again, what is the date of this document?

5 A July 1996.

6 Q As you reviewed this document, does this refresh your
7 recollection that the full documentation for the namespace
8 extension functionality was not available until after
9 Windows 95?

10 A That does seem like the case.

11 Q Once the namespace extension documentation was
12 republished, could any software vendor have used this
13 functionality to create namespaces?

14 A Yes.

15 Q Were there any limits imposed on software developers in
16 terms of the number of namespaces that they were allowed to
17 create?

18 A Not that I'm aware of.

19 Q Now Mr. Holley asked a question about a supposed order
20 at Corel to not use the custom file open dialog, instead to
21 use the common file open dialog. Did Corel, in fact,
22 release its product using the common file open dialog or a
23 custom file open dialog?

24 A My recollection is they were using the PerfectFit
25 custom file open dialog.

1 Q Mr. Richardson, we saw a document earlier that
2 referenced a Mr. Sid Cragun. Do you recall whether
3 Mr. Cragun was a member of the shared code team?

4 A He was not.

5 Q Would WordPerfect be able to run without shared code?

6 A No.

7 Q Why is that?

8 A Shared code provided a variety of pieces of
9 functionality that were required for the application to
10 actually do anything. So all the access to documents to
11 open a file, to save a file, to print a document, the menus,
12 the keyboards, the tool bars, all of that functionality was
13 provided by PerfectFit. The dialogs, most of the controls
14 on the dialogs were provided by PerfectFit. So without
15 PerfectFit, the application simply wouldn't have run.

16 Q Mr. Richardson, I have handed you what has been marked
17 as Plaintiff's Exhibit 268, which is the Novell software
18 license agreement with Netscape. If you would please turn
19 to page 11 of this document where there is a signature block
20 at the bottom of the page.

21 A Yes, I see that.

22 Q What date appears under the signature block?

23 A February 2nd, 1995.

24 Q Now you testified that you began working on integrating
25 Netscape's navigator into the explorer after you received

1 the code from Netscape. Would you have received the code in
2 conjunction with this agreement?

3 A I believe so, yes.

4 Q Does this refresh your recollection of when you were
5 working on integrating Netscape navigator into the explorer?

6 A It would have been early in 1995.

7 Q In February of 1995, you were still at Novell; is that
8 correct?

9 A I believe that's correct.

10 MS. VISHIO: No further questions, Your Honor.

11 THE COURT: Thank you.

12 Mr. Holley, do you have anything further?

13 MR. HOLLEY: Yes, Your Honor.

14 RE-CROSS-EXAMINATION

15 BY MR. HOLLEY:

16 Q Now you have just testified, I believe, sir, that your
17 recollection has been refreshed and you now remember that
18 you were working on integrating Netscape navigator into the
19 PerfectFit file open dialog in early 1995. Is that your
20 testimony, sir?

21 A That's correct.

22 Q Where is the design specification for that integration?

23 A I don't have any idea where the documentation would be.

24 Q Is there code that was written that integrated Netscape
25 navigator into the PerfectFit file open dialog?

1 A I wrote that code that did that, yes.

2 Q You wrote that code?

3 A I did.

4 Q Where did you keep it?

5 A That code would have been placed in the source
6 management system.

7 Q Did you have occasion in this lawsuit, sir, to review
8 any of the court papers that Novell filed for technical
9 accuracies?

10 A I don't believe I have been presented with any
11 documents like that.

12 Q I would like to show you what has been marked as
13 Defendant's Exhibit 139. Now this document is entitled
14 Novell's Objections and Responses to Microsoft's Second Set
15 of Requests for Production. It was --

16 MS. VISHIO: Objection to this. Excuse me.

17 THE COURT: Just take it off the screen for the
18 jury and you can ask questions. Right now it's just for
19 identification.

20 BY MR. HOLLEY:

21 Q This document is one that Novell sent to Microsoft on
22 March 2nd, 2009 in this lawsuit, sir. Do you have any
23 reason to doubt the accuracies of the statements contained
24 in this document?

25 A I am not familiar with this document. I have no reason

1 to believe or disbelieve anything in this document.

2 Q All right. Well, turn to page 6, request number three.
3 Microsoft asked Novell in request number three to provide
4 all specifications, documentation, source code and object
5 code -- and I will just stop there to make sure that the
6 jury understands the distinction.

7 The source code is the code that a programmer writes,
8 correct, in some programming language like C or C plus plus?

9 A That's correct.

10 Q Object code is the series of ones and zeros that a
11 computer understands?

12 A That's correct.

13 Q So Microsoft asked Novell to provide all
14 specifications, documentation, source code and object code
15 for any software program developed by Novell that relied on
16 or invoked any of the following APIs exposed by any version
17 of the PC operating system referred to as Chicago or Windows
18 95, and then it lists IShellBrowser. That's one of the
19 namespace extension APIs, right?

20 A Correct.

21 Q It lists IShellFolder, that's a second API. It lists
22 IShellView, that's a third namespace extension API, right?
23 It lists IPersistFolder, that's number four. And it lists
24 ICommDlgBrowser, which means I common dialog browser, right?
25 Those are the five namespace extension APIs that Mr. Gates

1 decided in October of 1994 that he would not support, right?

2 A That's correct.

3 Q So Microsoft asked the question of Novell, please
4 provide us with all the code that you wrote that calls any
5 of those APIs. Let's look at what the answer is. Novell --
6 the answer that Novell gave was that there was no such code.
7 In addition, Microsoft's decision to make IShellBrowser,
8 IShellView --

9 THE COURT: Is there some kind of objection?

10 MS. VISHIO: Objection, Your Honor.

11 THE COURT: Approach the bench.

12 (Bench conference held)

13 THE COURT: I am going to allow the answer to the
14 question. Just so you all know, the parties agreed that --
15 you know, it will say what it will say and you draw whatever
16 inference you want. It's understood there is no source code
17 that was ever provided by one side to the other. That's not
18 really the point of this. But no source was provided. That
19 would cause all kinds of problems. The source code is
20 pretty confidential stuff.

21 So I'm going to allow Mr. Holley to ask this
22 question. Just for completeness, if later Ms. Vishio wants
23 to read the whole response, she can do that. That's really
24 not what Mr. Holley wants to get to right now.

25 MR. HOLLEY: Thank you, Your Honor.

1 BY MR. HOLLEY:

2 Q So, Mr. Richardson, I read to you the question, which
3 was provide all specifications, documentation, source code
4 and object code for any software program developed by Novell
5 that relied on or invoked any of the following APIs, and I
6 will save time and I won't read them, but they are the five
7 namespace extension APIs.

8 I would like to turn, sir, if you would, to page 7 of
9 this document midway down the page, the sentence that begins
10 in addition. It says, in addition, Microsoft's decision to
11 make IShellBrowser, IShellView --

12 A I'm sorry. I'm not following. Where are you?

13 Q I'm sorry. It's not up on the screen. But, Mr.
14 Richardson, I'm right here on page 7 in this last sentence.

15 A Thank you.

16 MR. HOLLEY: Your Honor, I think rather than
17 having my dramatic reading, can the jury see what I'm
18 reading?

19 THE COURT: Yes, you can do that. Then Ms.
20 Vishio, I'm going to give her the chance to read the whole
21 thing if she wants to.

22 BY MR. HOLLEY:

23 Q Turning to page 7, the last sentence there that begins
24 in addition, in addition, Microsoft's decision to make
25 IShellBrowser, IShellView, IPersistFolder, and

1 ICommDlgBrowser private, in quotation marks, and
2 IShellFolder a, quote, read only public interface, close
3 quote, effectively prevented Novell from using the namespace
4 extension mechanism and/or implementing the mechanism in a
5 customized fashion. Therefore, as a practical matter, no
6 software that Novell developed could rely upon or invoke
7 those APIs.

8 How can that answer be squared with your testimony that
9 you wrote such software?

10 A So I can testify to what I did and what my experience
11 was. So we developed a number of namespaces. I personally
12 developed FTP and the HTTP namespace. Neither one of those
13 ever shipped. Those are not included in the shipping
14 product. The threat of changing those interfaces so they
15 were no longer invoked or the syntax or semantics changed
16 was part of the reason that we had to build up that
17 infrastructure in an attempt to insulate ourselves from
18 those changes.

19 Q Mr. Richardson, if someone had showed to you request
20 number three on page 6 back in 1994 and said please save
21 everything that you have that responds to this request,
22 there were things you would have saved, right?

23 MS. VISHIO: Objection, Your Honor.

24 THE COURT: Overruled.

25 Go ahead. You may answer.

1 THE WITNESS: So we had systems in place to
2 preserve our documentation. We had source management
3 systems. We had document management systems. We had
4 network locations with backup facilities for that data. I
5 was not responsible, I did not have a role in maintaining
6 those systems. I don't know what happened to the source. I
7 don't know what happened to the documentation. I know that
8 I did not throw away anything. And the document -- the code
9 that I wrote was checked into our source management system.
10 The documentation I wrote was either sent to the document
11 management system or to the network location. What happened
12 to it after that, I don't know.

13 THE COURT: Ms. Vishio can read the whole thing
14 now or, defendants, it's up to you.

15 MR. HOLLEY: Your Honor, I would like to briefly
16 address the exhibit.

17 THE COURT: Go ahead. She can do it either time.

18 BY MR. HOLLEY:

19 Q I would like to turn your attention to a document that
20 Ms. Vishio showed you, which was Plaintiff's Exhibit 225.

21 MR. HOLLEY: Can we see that up on the screen,
22 please?

23 BY MR. HOLLEY:

24 Q Now this is a Microsoft document that you had never
25 seen before, right?

1 A I have not seen this document before.

2 Q I would like -- Ms. Vishio showed you the second
3 e-mail. I would like to show you -- sorry, the third
4 e-mail. I would like to show you the second one. Now what
5 it says here is per Paulma. Do you know that Paul Maritz
6 was the senior vice president in charge of all operating
7 systems of Microsoft in October of 1994?

8 A I know he was an executive at Microsoft. I couldn't
9 tell you what position he held.

10 Q I will represent to you and the evidence in the case
11 will show that in October of 1994, Paulma was the e-mail
12 alias of Paul Maritz, who was the senior vice president in
13 charge of Windows NT and Windows 95. What this e-mail says
14 is, per Paul Maritz, we're now in the process of proactively
15 notifying ISVs about the namespace API changes, will not
16 document them and they will go away/change. So far, Stac,
17 Lotus, WordPerfect, Oracle, SCC appear to be okay with this.

18 Do you have any reason to believe that the people at
19 Microsoft thought anything other than what this e-mail says,
20 which is as of October 12th, nine days after Mr. Gates made
21 his decision, Microsoft understood that WordPerfect appears
22 to be okay with this?

23 A I have no knowledge of their interaction with
24 WordPerfect or why they thought that WordPerfect or any
25 other application was okay with this.

1 Q Fine. Let's turn to page 2, sir. Now there is a
2 heading here which Ms. Vishio mentioned but she didn't show
3 you called The Cool Stuff They Can Still Do. It says, in
4 addition -- I am up at the heading before we get to the
5 points. It says, in addition, we want to emphasize the
6 really hot and cool things you can still do with Windows 95
7 shell extensions. Then it lists a variety of shell
8 extensions that remain documented, remain fully supported by
9 Microsoft. Is that not right, sir?

10 A That looks to be correct.

11 Q Now let's go a little further down that page to the
12 paragraph that begins, this decision not only affects people
13 outside of Microsoft.

14 MR. HOLLEY: Can we highlight that?

15 BY MR. HOLLEY:

16 Q What it says here, sir, is this decision not only
17 affects people outside of Microsoft, like Novell, but inside
18 the company as well. All applications within Microsoft
19 which were originally implementing these interfaces have
20 been required to stop.

21 You have no reason to believe that anything other than
22 this happened, right? Anybody inside Microsoft who had been
23 using those five APIs was told to stop?

24 MS. VISHIO: Objection, Your Honor. He doesn't
25 know this document. He can't speak for what Microsoft --

1 THE COURT: You were the one who asked him about
2 the document in the first place. So it's overruled.

3 THE WITNESS: I have no knowledge of what code
4 Microsoft wrote, what they put in their applications. The
5 one thing I can say that surprised us was that when we added
6 namespace extensions, they showed up in Word file open
7 dialog, but they did not show up in the common dialog. I
8 don't know how that worked.

9 BY MR. HOLLEY:

10 Q Sir, that's a very interesting observation, but the
11 answer to my question is that you have no information to
12 impart to the jury that is inconsistent with this statement,
13 which is that when the namespace extension APIs were
14 de-documented, if you want to call it that, all of the
15 people inside Microsoft writing applications, like Word or
16 Excel, PowerPoint, Access, Outlook, they were all told to
17 stop. You have no information inconsistent with that, do
18 you, sir?

19 A So, yes, I think so. I agree I have no knowledge of
20 what Microsoft applications did and which APIs they used. I
21 was not privy to that. I was not there. I don't know what
22 they used.

23 THE COURT: Let him finish.

24 THE WITNESS: However, our observation was that
25 namespace extensions showed up in their file open dialog

1 where they did not show up in the common file open dialog,
2 which led us to believe that there was something that they
3 were doing that was beyond the common file open dialog.
4 What they did or how they did it, I have no idea.

5 BY MR. HOLLEY:

6 Q Let's turn, sir, to the section of this document
7 entitled Q and A up at the top. It looks like another
8 actually two pages in, Q and A.

9 MR. HOLLEY: I would like to highlight the second
10 question and answer. Why has Microsoft decided not to
11 publish.

12 BY MR. HOLLEY:

13 Q So in this Q and A, the question was asked, why has
14 Microsoft decided not to publish the namespace extension
15 interfaces. Answer: There are a number of reasons. Reason
16 number one: Compatibility. We have determined that it will
17 be very difficult to support these APIs for applications as
18 we move forward.

19 THE COURT: What document is this?

20 MR. HOLLEY: It's the same document, Your Honor.
21 Ms. Vishio opened the door to this examination by showing
22 this witness this document.

23 MS. VISHIO: It's beyond the scope of the
24 redirect, Your Honor.

25 THE COURT: I don't think so, no. Overruled.

1 It's the same document.

2 BY MR. HOLLEY:

3 Q There are three reasons provided here. The first one
4 says compatibility. We have determined that it will be very
5 difficult to support these APIs for application as we move
6 forward with our operating systems. We did not want to
7 encourage ISVs to support interfaces that will go away in
8 the future.

9 You have no information, do you, Mr. Richardson, to
10 undermine the notion that Microsoft believed in October of
11 1994 that the namespace extension APIs posed compatibility
12 problems for their future operating system design, right?

13 A I am unaware of any compatibility problems that could
14 arise, and unless I'm mistaken, the APIs did not go away in
15 the future. In fact, they are still there.

16 Q But you don't know what changes were made in the syntax
17 of the APIs that might have changed that question, do you,
18 sir?

19 A The code that we wrote to the original specification,
20 to my knowledge, has never been broken. The syntax and
21 semantics remains the same, as far as I can tell from a
22 client perspective.

23 Q System robustness. The namespace extensions were
24 design to be part of the system. As such, they run in the
25 explorer's process space. Badly written namespace extension

1 could cause the reliability of Windows 95 to be less than it
2 should be.

3 You agree with that, don't you, sir, that if someone,
4 not you, but someone who didn't know what they were doing,
5 wrote a namespace extension that was badly behaved, they
6 could have crashed the entire Windows 95 shell, circa
7 October 1994, because at that time namespace extensions were
8 running in the same process as Windows explorer and the rest
9 of the shell, right?

10 A That is correct. In addition to that, the APIs they
11 left suffered the same consequence. If someone were to take
12 one of the context by context menu or the other extensions
13 that were left available and wrote them badly and crashed
14 them, you would have had exactly the same consequence.
15 There were a variety of places in Windows where this same
16 level of extensibility was provided. A very good example
17 where if someone wrote one badly and introduced it into the
18 system, it could have crashed.

19 Q You would agree with me, would you not, sir, that
20 adding an item to a context menu is much less dangerous than
21 writing a randomly large block of code as a data handler to
22 plug into a namespace extension?

23 A No. I would disagree with that. The danger is that
24 when Windows calls the APIs, if the call crashes, it crashes
25 Windows. So regardless of what it is you are doing behind

1 it, if you wrote that code badly, it will cause the
2 operating system to crash. From Windows' perspective, the
3 danger is the same.

4 Q Now it also says, ship schedule. We have determined
5 the amount of development and testing time it would take to
6 support these APIs through the entire development cycle adds
7 a tremendous amount of overhead to our very rigid deadlines.

8 You have no reason to believe that Microsoft did not in
9 good faith believe in October of 1994 that continuing to
10 support the namespace extension APIs threatened the ship
11 schedule of Windows 95, do you, sir?

12 A I have no knowledge -- direct knowledge of what their
13 scheduling was and what they anticipated the task would
14 take. My experience was in working with the namespace
15 extensions and with the namespace browsers, namely the
16 explorer and the common file open dialog is that they worked
17 very well. When we were working with them, we experienced
18 no instability and to us they appeared complete.

19 Q Excuse me, sir, didn't you just tell us all a couple of
20 hours ago that you had terrible performance problems with
21 these APIs, that it took two or three minutes for a
22 namespace to enumerate the contents of the namespace?

23 A That problem occurred within our namespace browser, not
24 within explorer namespace browser, but with the common open
25 file dialog.

1 Q All right. Let's turn to the next page of Plaintiff's
2 Exhibit 225. Up at the top it says, question, Microsoft has
3 encouraged ISVs to use shell extensibility, can I still do
4 that? Answer: Yes, there are still lots of exciting things
5 ISVs can do with the shell. For example, you may customize
6 the behavior your application files under the shell by
7 adding extra menu items, context menu extension, adding
8 property sheet pages, property sheet extensions, and/or
9 providing per instance icons, icon extension. For more
10 details, see Kyle Marsh's MSDN article.

11 That's DX-74, the Kyle Marsh MSDN article. You saw
12 that early, right?

13 Do we have to look at that again?

14 THE COURT: He says that's what it is.

15 THE WITNESS: I have a copy of that.

16 BY MR. HOLLEY:

17 Q Then the second to the last question and the answer
18 says, what if I decide to use some of the undocumented APIs,
19 i.e. I am a developer that has received some of the
20 preliminary documents on the topic. What will the penalty
21 be? Will you change the interfaces that had been defined?
22 Answer: We will not arbitrarily change these interfaces,
23 but because of how tightly these interfaces are tied to the
24 internals of the shell, we cannot guarantee ISVs that try to
25 call into them will work in future releases of Windows 95.

1 There will be no support for ISVs that use this. It will be
2 completely at their own risk.

3 You are aware, are you not, sir, that many, many ISVs
4 in this period of time called undocumented APIs knowing of
5 the risks but making a choice that the benefits to them
6 exceeded the risks? That happened all the time, didn't it?

7 A I would suppose that occurred. There were times when
8 we had to make tradeoff evaluations and determine what was
9 most important.

10 Q Then the last question and answer, sir, it says, can I
11 still roll-my-own common dialogs and enumerate the
12 namespace. This document is talking about what I call the
13 system namespace, and you and I agreed we could call it the
14 system namespace or the desktop namespace, right?

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

16 Q Sure. The question is can I still roll my own common
17 dialogs and enumerate the namespace. Your understanding is
18 mine, which is that this document is referring to the
19 desktop namespace or the system namespace. You can still
20 enumerate that, right?

21 A I don't see anything here that refers to the system
22 namespace. In fact, to me this would seem to contradict the
23 answer just prior to this that said don't do this.

24 Q So you don't understand what it means?

25 A I am saying when I read this, it looks like a

1 contradiction to me.

2 Q And the answer says, yes, the IShellFolder interface
3 will still be published to allow ISVs to enumerate the
4 namespace. Do you see that answer?

5 A I see that's the answer they put here.

6 Q Right. You know how to do that, right? It's a very
7 simple command. You tell IShellFolder to bind itself to the
8 desktop namespace inside your file open dialog and it shows
9 you the system namespace, right?

10 A No, that's not correct. The IShellFolder interface
11 does not enumerate the items within the folder.

12 Q You can bind to it using IShellFolder, and then you can
13 use --

14 A You have to bind to the other interfaces which were
15 retracted.

16 Q But you knew how do you that, too, didn't you, sir?

17 A I'm sorry. I'm not sure -- the question that I heard
18 was is it adequate merely to bind to the IShellFolder to be
19 able to create your own dialog and enumerate the contents
20 and browse a namespace. The answer to that would be no, it
21 is not adequate simply to bind to the IShellFolder
22 interface. You also need the additional interfaces which
23 have been retracted and were told not to call.

24 Q Is that right? Let me read you something and see
25 whether you agree with it. You can bind to the desktop

1 folder, retrieve the folders IShellFolder interface by using
2 the SH get desktop folder member function? So far so good,
3 right?

4 A Yes.

5 THE COURT: I assume this is from Mr. What's his
6 name book?

7 MR. HOLLEY: It's from the Programmers Guide to
8 Windows 95, Your Honor. 182.

9 BY MR. HOLLEY:

10 Q You can enumerate folders by using the IShellFolder
11 ENUM objects member function. So you bind to the folder,
12 now you can enumerate the things in the folder. You can
13 bind to a subfolder of any given folder by using the
14 IShellFolder bind to object member function. We're still
15 there, right? You would still agree with that?

16 A Uh-huh. (Affirmative)

17 Q Using these three functions, an application can
18 navigate throughout the shell's entire namespace, right?

19 A So the purpose of the other -- the other interfaces is
20 to allow you to get the information about those icons or
21 those objects necessary to be able to interact with them.
22 So the interfaces to obtain the icon -- or to obtain other
23 information is derived through the rest of those interfaces.
24 So without the rest of those interfaces, you are limited in
25 what functionality you can accomplish.

1 Q But you can use the interfaces that I thought you and I
2 agreed always were documented, like icon text menu, the icon
3 handlers, the data handlers, the drop handlers, the property
4 sheet handlers, those were all documented. And once you had
5 bound to a folder, you could use those documented interfaces
6 to do whatever you wanted to an object, couldn't you?

7 A So there are two sets of interfaces that are kind of
8 grouped together. The group that were retracted and the
9 group that were left. So I could provide an object and
10 register it with Windows that would provide icon text menu
11 and icon text, all those other capabilities that was not a
12 namespace browser. It was unrelated completely to namespace
13 browser.

14 For example, if I wanted to add the ability to access
15 QuickFinder technology from the right mouse click on an
16 item, I didn't have to provide a namespace, right. So those
17 technologies were there as a separate group of
18 functionalities from the ones that were retracted. So there
19 is a big difference between when you are talking about those
20 that weren't part of a namespace and those that were part of
21 a namespace.

22 So this question is talking about becoming a namespace
23 browser and browsing the namespaces. In order to access
24 those objects completely, I needed to use those APIs that
25 were retracted.

1 Q I don't want to belabor this point, and maybe everyone
2 else in the room thinks I have, but you answered a question
3 that Ms. Vishio asked you by saying that the context
4 handler, the icon handler, the drag-drop handler were all, I
5 thought you said, interconnected with the namespace
6 extension APIs. And in that sense, what I'm asking you is
7 couldn't you have used the APIs which are described in this
8 book and which remain documented throughout the development
9 of Windows 95 to put the system namespace in a file open
10 dialog and do all the things to the objects inside that
11 namespace that you could have done to some object sitting
12 out on the desktop?

13 A So if the question is was there a redundancy between
14 the ability of the interfaces that remained versus the
15 interfaces that were removed, and my answer to that would be
16 no, there was not redundancy. Yes, they are related in that
17 they all deal with objects in the file system within the
18 namespace hierarchy, but their purposes are different.
19 That's why they are different interfaces. You could not
20 achieve everything through those retracted interfaces that
21 you could through the ones that remained.

22 Q I notice that you adopted this formulation retracted
23 and redacted. I just want to be clear and then I promise
24 this will be my last line of inquiry. But nothing was
25 retracted, right? I mean the APIs stayed in the operating

1 system and the documentation that Novell got in June of
2 1994, no one showed up from Seattle and said give that back,
3 right? You kept it all.

4 A So we kept the copies of shell OPG that we currently
5 received, that is correct.

6 MR. HOLLEY: I have no further questions, Your
7 Honor.

8 THE COURT: Ms. Vishio, I will give you the
9 choice. You can either read all of two or you can deem it
10 admitted into evidence so if it's used. It's really up to
11 you. So if somebody uses it in closing argument, you can
12 respond by reading from it. Really, it's up to you. I
13 don't care.

14 MS. VISHIO: Your Honor, I think what we would
15 like to do, if it's appropriate with you, is to just hold on
16 to this and read it in later if it becomes necessary.

17 THE COURT: Sure. That's fine. I think that's
18 good. It's twenty to, and I know we promised you all you
19 could leave around 1:30. So have a nice afternoon. See you
20 at eight o'clock in the morning.

21 (Jury excused)

22 THE COURT: There are two issues that I'm aware of
23 that are still on my plate. The timing still hasn't been
24 resolved. The other is Novell wants to introduce -- to
25 overruled Microsoft's objections to statements made to the

1 DOJ. As of this morning, I didn't see a written response
2 from Microsoft. I didn't know if you intended to file one?
3 Tell me.

4 MS. VISHIO: Excuse me, Your Honor. May we excuse
5 Mr. Richardson?

6 THE COURT: Of course. I'm sorry, Mr. Richardson.
7 Of course.

8 MR. HOLLEY: Your Honor, we do intend to respond
9 to that.

10 THE COURT: You have had plenty to do. It was a
11 question, not a criticism. I assume your answer is going to
12 be in the opening statement they talked about disclosures to
13 Microsoft, not disclosures to the DOJ.

14 MR. HOLLEY: Among other things, Your Honor. But
15 I think we can commit to have something to the Court
16 tomorrow. I apologize we haven't done that.

17 THE COURT: No need for an apology. It is not an
18 implicit criticism. It was just a question.

19 Mr. Johnson, anything?

20 MR. JOHNSON: No, Your Honor. That will be fine.
21 Glad to hear their response. They didn't specify it was
22 just Microsoft. They said we never complained, period.

23 THE COURT: I understand.

24 MR. TULCHIN: Just a housekeeping matter, Your
25 Honor, if I could. The other day Novell's lawyer handed in

1 a list of documents to which they said Microsoft would not
2 object to. With the Court's permission, we would like to
3 hand in the list of Microsoft exhibits to which Novell has
4 not objected.

5 THE COURT: Go ahead.

6 MR. TULCHIN: And there may be other exhibits,
7 Your Honor, that will come in.

8 THE COURT: If something comes in, please let me
9 know. This is not for expedition. But I gather you all
10 know what's going to come in.

11 MR. JOHNSON: Your Honor, we'll, of course, look
12 over that list and make sure there are no problems with it.

13 Just to make sure with respect to the list that we
14 submitted some months ago to you, we've heard no objection
15 from Microsoft with respect to any of those exhibits. So I
16 presume that they are admitted without objection.

17 MR. PARIS: They all look fine.

18 MR. JOHNSON: Thank you, Your Honor, very much.

19 THE COURT: Nothing else to worry about tomorrow.
20 What is tomorrow going to be?

21 MR. JOHNSON: Tomorrow we're going to have
22 Mr. Gary Gibb as our witness, Your Honor. And I actually
23 thought we would perhaps get more than just a witness in
24 today. I was hoping maybe we would do more than that
25 tomorrow, but we will see.

1 THE COURT: That is my next question. I assume
2 we're a little behind schedule.

3 MR. JOHNSON: You know a little bit, Your Honor,
4 but not terribly.

5 THE COURT: Thank you.

6 MR. TULCHIN: Your Honor, we haven't heard if
7 there will be a live witness on Thursday. In view of the
8 48-hour rule, since we're less than 48 hours, I assume it's
9 a videotape.

10 MR. JOHNSON: We don't currently anticipate a live
11 witness. Of course, if there were going to be one, I would
12 have told you.

13 THE COURT: Forty-eight hours aside, if you can
14 think of one in the next two hours, tell him.

15 MR. JOHNSON: Thank you, Your Honor.

16 MR. TULCHIN: Thank you, Your Honor.

17 (Whereupon, the trial was continued to Wednesday,
18 October 26, 2011 at 8:00 a.m.)

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