

1 (Recess)

2 THE COURT: Let's get the jury.

3 (WHEREUPON, the jury enters the proceedings.)

4 THE COURT: Mr. Holley.

5 MR. HOLLEY: Thank you, Your Honor.

6 BY MR. HOLLEY

7 Q. Mr. Muglia, a couple of times this morning you
8 mentioned that changes were made to the implementation of
9 the namespace extension APIs to address robustness issues.
10 Can you tell me what those changes were, sir?

11 A. Well, if my memory and understanding is correct, after
12 Bill made the decision that we would not publish the
13 namespace extension APIs because of this ongoing issue with
14 the Windows NT group, they were removed -- the
15 documentation was -- we did not update the documentation for
16 a period of time, and we actually removed the headers from
17 the header file, so they were no longer part of the programs
18 and the things that you could actually compile and write to.
19 But the actual code for the namespace extensions was not
20 removed from the operating system. It was still in the
21 operating system so the code was still present.

22 However, fortunately, Satoshi, who was the developer
23 that worked on the namespace extensions in the Chicago team,
24 made a change to the implementation. I don't recall why he
25 did this change. I know that there were arguments about

1 ways to actually implement it, but he did an important
2 change where instead of opening up -- when you actually use
3 them to, for example, click on an e-mail message, instead of
4 it opening up inside the operating system, inside the
5 Explorer and actually running like out ware inside the
6 Explorer, he actually spawned a new process, created a new
7 process, and it ran separately from the operating system.

8 That significantly reduced the robustness issues of
9 these interfaces. That changed. And, I mean, one of the
10 reasons why we didn't -- well, we needed it to change
11 fundamentally in order for it to be more robust, but he left
12 them in. Don't know why he left them in, don't recall, but
13 he did fortunately change it to be more robust.

14 The interfaces were at a later point re-documented. I
15 think it was a year or a year and a half later they were
16 re-documented in an article that we published for developers
17 in a magazine called Microsoft Systems Journal or MSJ. But
18 the interfaces were there and they were changed to be more
19 robust and they are still present. They are not broadly
20 used, but they are still present.

21 Q. Thank you, Mr. Muglia.

22 MR. HOLLEY: I pass the witness.

23 THE COURT: Mr. Johnson.

24 MR. JOHNSON: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. JOHNSON

2 Q. Good morning, Mr. Muglia.

3 A. Good morning.

4 Q. We have not met. My name is Jeff Johnson. I represent
5 Novell, and I am going to have a few questions here for you
6 this morning.

7 A lot of hate for those namespace extensions, sir. I
8 had not heard dog meat before. Tell me something, did
9 anybody tell those ISVs that you were publishing these
10 namespace extensions to that they were dog meat?

11 A. Well, I think there was -- again, I did not go out and
12 personally evangelize them to anyone because I did not like
13 them, and I'm sure other people -- certainly the author of
14 the extensions might have had a different view at the time.
15 That was my view, however.

16 I do know that when we talked to ISVs that we explained
17 to them that these extensions were for very limited
18 purposes, for things like e-mail programs, not for general
19 applications like word processors or spreadsheets, and I
20 think we said to ISVs that they might be subject to change.
21 That is my understanding.

22 Q. You mentioned that the inventor might not think so.
23 That would be Mr. Nakajima, right?

24 A. That is correct.

25 Q. Yes. Do you recall that Mr. Nakajima actually when he

1 came to Microsoft started work for Cairo?

2 A. I do.

3 Q. And, in fact, he left Cairo because all you guys did
4 was have meetings and didn't do any actual real work.

5 Do you recall that, sir?

6 A. Well, I don't recall exactly why Satoshi left, but I do
7 know that he left the team and moved over to Chicago.

8 Q. And do you recall he left because he wanted to do some
9 real work, do some coding?

10 A. That would be perhaps his perspective and his point of
11 view. I can't say what his perspective was. As I said, the
12 two teams fought like cats and dogs.

13 Q. Yes. I have heard cats and dogs a number of times this
14 morning.

15 Let me talk a little bit about this Cairo. So Cairo
16 was this code name for a future version of an operating
17 system that never shipped, right?

18 A. That is correct.

19 Q. And Cairo was at least planned to be built on the
20 Windows NT platform but that never happened, right?

21 A. Right. Windows NT certainly happened and it is very
22 broadly used. I mean, it is the code base for Windows 7
23 today, but the Cairo project in its entirety didn't ship.

24 Now, to be fair, there are parts of what Cairo was
25 developing that did ship. There were some underlying

1 technologies called remote procedure calls, and so there was
2 technology in Cairo that did ship, but certainly the project
3 as we envisioned it did not ship.

4 Q. As I understand your testimony, you worked on Cairo
5 during the 1990s, early 1990s?

6 A. Yes, I did. I think for about two years.

7 Q. And you would agree with me, sir, that in early 1993,
8 that you were concerned that the Chicago shell extensions
9 were not implementing in OLE, correct?

10 A. That is correct.

11 Q. And you were concerned because you wanted to ensure
12 that the Chicago shell extensions would be compatible with
13 future versions of Microsoft's operating systems that
14 planned to implement OLE including, for instance, Cairo?

15 A. That is correct.

16 Q. And it is fair to say that in mid 1993 that you were
17 against the Windows 95 group publishing the shell extensions
18 to ISVs that were not OLE compatible?

19 A. That is correct.

20 Q. I am going to hand you now Plaintiff's Exhibit 62,
21 which I believe you already have in your stack. If you
22 can't find it I will give you another one.

23 Maybe it might be just as easy for me to give you
24 another one?

25 A. Maybe it might be just as easy to give me another one.

1 Q. Your stack is not too big. You should have seen it
2 when the experts were here.

3 Now, this is an e-mail which you sent to Mr. Maritz
4 with a copy to Mr. Graham and Jim Allchin on July 1st, 1993,
5 correct?

6 A. That is correct. And it looks like I subsequently sent
7 it to Chris Graham again. I don't know whether he didn't
8 receive the first copy or not.

9 Q. It looks like maybe he didn't get the first one and you
10 sent it to him again, right?

11 A. It looks like it.

12 Q. Now, you stated on your direct examination that this
13 was an effort to get Chris Graham on board with your views,
14 right?

15 A. That is correct. The purpose of the mail was to, you
16 know, convince Chris and the Office group to really advocate
17 for the Cairo vision and the Cairo shell.

18 Q. But actually you addressed this e-mail to Mr. Maritz,
19 correct, sir?

20 A. That is correct.

21 Q. And Mr. Maritz was your boss, right, sir?

22 A. That is correct.

23 Q. He ran the systems division at Microsoft?

24 A. That is correct.

25 Q. Now, you state in the first line of his e-mail that I

1 have talked to both Chris and Jim in detail about this. I
2 assume you're talking about Chris Graham and Jim Allchin,
3 right?

4 A. That is right. I mean, the way I would describe this
5 is that I was sending this to Paul summarizing the
6 conversation that I had with Chris and Jim about advocating
7 the use of the Cairo shell and that technology in Office.

8 Q. And you essentially lay out what you believe are the
9 three options presented in July of 1993 with respect to --
10 and really what you're talking about here is the Office
11 shell?

12 A. No. What I am really talking about here is the ongoing
13 battle between the Cairo shell and the Chicago shell, where
14 what I was doing was I was saying that option one, the
15 status quo, was a bad option, you know, this idea of an
16 office shell, which was just an idea that had been, you
17 know, dreamed up in a brainstorming session a few weeks
18 prior was also a bad idea, and that what we should do was
19 continue to drive forward on a Cairo shell, which is what my
20 team was working on.

21 Q. The subject of this e-mail says office shell, right? I
22 just want to make that clear.

23 A. Sure.

24 Q. Right? Okay.

25 So these three options that you had, the first was to

1 keep the primary shell in Chicago, which was the status quo
2 as of that time, right?

3 A. That is correct.

4 Q. The second option is to create an alternative shell in
5 Office, correct?

6 A. That is correct.

7 Q. And the third option is to move forward with Cairo,
8 correct?

9 A. Correct.

10 Q. Now, your preferred option was number three, to move
11 forward with the Cairo shell, because you believed that
12 Cairo would provide the most functionality for customers,
13 right?

14 A. That is correct.

15 Q. Now, if we turn to that --

16 MR. JOHNSON: Thank you very much, Mr. Goldberg.

17 BY MR. JOHNSON

18 Q. Now, even in July of 1993 you new option three, the
19 Cairo option, was a long shot, right?

20 A. Well, I think at that point in time I didn't think it
21 was a long shot. I wouldn't say that. I was sensing that
22 the project was in trouble and I was trying to get support
23 for the project, but I was very much engaged in making the
24 project successful in July of 1993.

25 Q. Well, let's look at your words at the time. Right at

1 the top there you state at one point long ago I think this
2 was the plan, dot, dot, dot -- I guess that is a winking,
3 smiley face before they little icons would pop up when you
4 did that?

5 A. Yes. That is what that would be. Occasionally you
6 still see it in a text message as well. The icon means the
7 same thing then as it does today.

8 Q. So that was the plan at one point long ago, right?

9 A. Yeah. I think I was, you know, giving an analogy in
10 that sentence, and I was trying to point out the fact that,
11 in fact, the company was supposed to be betting on Cairo.

12 Q. And down at the bottom there in the last paragraph, the
13 first sentence says although I know it is a stretch for
14 people to consider this, so you're even acknowledging here
15 that I know this has got no chance.

16 Isn't that correct, sir?

17 A. No. Definitely not. I mean, you have to understand
18 the culture of Microsoft, and in a sense you have to see
19 it -- you can see it in the Chicago/Cairo battle that I
20 talked about, which is different groups focus on what they
21 think is best for their customers. You know, the Office
22 team could have moved forward and done whatever they were
23 going to do, and if Cairo had been able to succeed on its
24 own we would have built it. If it had been a successful
25 project we would have built it.

1 I was by no means -- I was by no means saying that
2 Cairo was not relevant. It was very much relevant and I was
3 very much focused on it. At the time the Office group was
4 not working very effectively with us, and I was advocating
5 to Chris that by working with us they could better meet
6 their customers' goals. But that culture of separate teams
7 with separate objectives was a problem at Microsoft at the
8 time and, frankly, was prevalent when I left three months
9 ago.

10 Q. Mr. Muglia, I want to again direct you to what you said
11 at the time. I think it is the fourth paragraph there. The
12 issue is, of course, that nobody outside building five
13 believes Cairo will sell in volume in an acceptable time
14 frame.

15 A. Yes, I said that.

16 Q. I assume building five is the Cairo building?

17 A. It was the building that Cairo was working in and that
18 is true. I mean, and I'll tell you right now that in that
19 same time frame nobody outside building five and the Windows
20 NT group believed that Windows NT would be a successful file
21 server. Nobody believed we would be successful in that
22 business, and yet Windows NT has gone on to be a phenomenal
23 success in file servers. But I will tell you that in 1993
24 nobody outside building five would have believed that.

25 Again, it was the culture of Microsoft, and so I was

1 advocating in this mail that, in fact, that we'll be
2 successful, and I was very much determined and focused on
3 making it a success.

4 Q. Mr. Muglia, Mr. Maritz has already testified that
5 during this time period Windows NT sales were anemic.

6 You would agree with that, wouldn't you, sir?

7 A. Well, in July of '93 there may not have been any sales.
8 I don't recall. We didn't ship Windows NT until 1993, and I
9 would have thought it was the fall of '93, but I don't
10 recall the exact date. So certainly at the time, you know,
11 Windows NT would have sold almost nothing.

12 Now, Microsoft sold roughly 350 million copies of
13 Windows NT last year. It was called Windows 7, but at the
14 time, of course --

15 Q. I am trying to stick to the relevant time here --

16 A. Sure.

17 Q. -- if we can.

18 So in '93 and '94, certainly, you would agree that
19 Windows NT sales were anemic, right?

20 A. In '93 and '94 Windows NT was a brand new operating
21 system and it just hit the market and, in fact, had very few
22 sales.

23 Q. So you criticize --

24 MR. JOHNSON: Let's go back to option one, if we
25 could again, please. The status quo there.

1 BY MR. JOHNSON

2 Q. You criticized option one, the status quo, because you
3 believed at that time that the Chicago shell extensions
4 would not be compatible with either Office or Cairo, right,
5 which were using OLE?

6 A. That is correct.

7 Q. You also say here in addition to it being a bad option,
8 and in looking at the third paragraph, if we could bring
9 that up, that if the status quo continued, meaning going
10 forward with Chicago extensibility, you state Word and Excel
11 are forced to battle against their competitors on even turf.
12 Given that Lotus and WordPerfect have largely caught up,
13 they almost certainly will lose ground if not in market
14 share then in margins.

15 That is what you stated in this e-mail, correct, sir?

16 A. Yes, I did.

17 Q. And the they in that last sentence, they almost
18 certainly lose ground, is a reference to Microsoft's Word
19 and Excel, correct, sir?

20 A. That is what the reference to the word is, sir.

21 Q. Because if you have competition on a level playing
22 field, Word and Excel will either lose market share, or
23 Microsoft will have to cut its price on those products,
24 right? That is what you were saying here?

25 A. Not exactly. Let me be clear here. What I was

1 advocating again at the macro level in this e-mail was that
2 the Cairo team and the Office team could work together to
3 build a better solution for customers. That is what I was
4 advocating at the whole of this mail.

5 This single sentence, this paragraph, one paragraph in
6 this mail was basically saying that if we don't work
7 together on this then Office won't be able to get the
8 advantages for their customers and do the right things for
9 their customers. So I was just fundamentally arguing that
10 the Chicago interfaces and the approach that Chicago was
11 taking was not going to help Office, and that the best
12 approach was, once again, to work with the Cairo team.

13 Q. And one of the arguments that you made in support of
14 your position, is that if Chicago went forward with its
15 extensibility plan, Word and Excel are forced to battle
16 against their competitors on even turf, correct, sir?

17 A. Yes, which is effectively what happened. Chicago went
18 forward with the extensibility plan and it was released into
19 the market. What I didn't understand at the time was that
20 WordPerfect was going to do such a bad job in building a
21 product that they were not successful in the market, and
22 that Word and Excel would do a much better job.

23 Q. Let's talk about option two, shipping a shell in
24 Office. That certainly was not your preferred option, but
25 you thought it addressed some of the problems outlined in

1 the status quo option, correct?

2 A. Well, again, you know, I really didn't like the status
3 quo option, because I didn't like those interfaces, but this
4 Office shell had been discussed as a concept a few weeks
5 prior, and so it was something that was being discussed,
6 although it certainly never went forward. But I clearly was
7 advocating against it in this e-mail.

8 Q. Well, the Office shell, as you outlined it, would have
9 pulled some of the Cairo features into Office, allowing
10 Microsoft's applications to move forward significantly and
11 to differentiate Microsoft's applications, correct?

12 A. That is right. The idea was that Cairo would be very
13 available to end users and if we implemented those features
14 as Office features users would get the benefit of it, but
15 they would only get it in Office. But, as I say, it is not
16 something that ever happened or really got -- there was
17 never a team working on this.

18 Q. Now, based upon your direct testimony, Mr. Muglia, I
19 take it that you are now aware that a plan to ship the
20 extensible shell in Office originated at the executive
21 retreat held at the getaway at Hood Canal in June of 1993.

22 Isn't that correct, sir?

23 A. Well, I don't know for sure if it originated there. I
24 think it probably did, because I think it happened in one of
25 those breakout sessions that we described earlier.

1 Q. I was somewhat surprised by all your testimony about
2 the retreat. Do you recall that at your deposition you said
3 that you didn't recall the retreat at all?

4 A. Well, since the deposition I have had a chance to
5 review some additional material and I was reminded of it.

6 Q. Well, now you say you recall it pretty vividly, I think
7 were your words.

8 A. Well, there are some things that I do recall vividly.
9 To be clear, I don't remember these breakout sessions and
10 the details of what happened there. I do remember being at
11 Bill's house. That was kind of a big deal for me. I was a
12 pretty young program manager and being invited to Bill's
13 house on Hood Canal was really kind of special. I remember
14 that.

15 I remember, you know, one particularly fun presentation
16 where we were laughing with Bill and some of the things that
17 he -- sort of some of the classic Bill Gates statements. I
18 remember some things quite vividly.

19 Q. Have you now refreshed yourself that Mr. Gates
20 personally approved of the plan to ship the extensible shell
21 in Office?

22 A. No.

23 Q. So when an e-mail says Bill G says do it, that means
24 don't do it?

25 A. No. When an e-mail that a program manager in the

1 Chicago team sends talking about -- recounting his notes
2 about the discussion that happened following a breakout
3 session that says Bill said do it, that is not Bill Gates
4 approving a plan. I mean, that is Bill Gates, you know, in
5 a moment of discussion, and perhaps he said those words and
6 perhaps he didn't say those words, I don't know, but it was
7 certainly not an approved plan.

8 Clearly it was not an approved plan because it was
9 being discussed actively as something, in this mail that
10 followed a couple weeks later as something we absolutely
11 shouldn't do. I mean, you have to realize that this was a
12 retreat. It was a brainstorming session. It was a
13 discussion following a brainstorming session. I can easily
14 see Bill, who sometimes gets a little flip, saying go do it.
15 But that does not mean that the team does it by my means.
16 It absolutely was not a plan.

17 Q. The operative phrase that you used in that long answer
18 was I don't know. Isn't that --

19 A. No.

20 Q. -- correct, sir, that you don't know whether Bill said
21 that at the retreat? You did not hear those words one way
22 or the other, did you, sir?

23 A. I don't recall what Bill specifically said. I know
24 that we did not have a plan to build an Office shell, that
25 we did not assign a team to create an Office shell. There

1 was never an active project working on an Office shell where
2 Chicago would not have extensible interfaces and where all
3 the interfaces were in the Office shell. That didn't
4 happen.

5 Q. Yes. You will recall on direct you said something to
6 the effect that no one ever looked at that option.

7 Is that what you said, sir?

8 A. No one ever seriously -- I don't know exactly what I
9 said, but it is not that people didn't necessarily look at
10 it, but we did not do it. We did not move forward with it.

11 Q. In fact, a lot of people looked at it, didn't they,
12 sir?

13 A. No, I don't think so.

14 Q. In fact, Chris Graham looked at it and draw up a
15 proposal to do exactly what Bill G said to do, correct, sir?

16 A. That may have happened. I don't know that. I do know
17 that it didn't happen.

18 Q. Let me see if I can refresh your recollection on that.
19 This is PX-61.

20 Mr. Muglia, you have just been handed PX-61. Is that a
21 document that you were shown in preparation for your
22 testimony here today?

23 A. No, it was not.

24 Q. Do you recall seeing it before?

25 A. No, I don't.

1 Q. Can you see that this document is maintained by Chris
2 Graham from the header there which is on the screen?

3 A. That appears to be the case, yes.

4 Q. And in looking down at the summary it states this paper
5 investigates a proposal that the next major version of
6 Office after Chicago should consist of a Windows shell and
7 applications optimized to work together. The proposal
8 originated at a senior technical retreat at Hood Canal in
9 June of 1993.

10 Now, does that refresh your recollection that the idea
11 for the Office shell and the advancement of the idea
12 occurred after the retreat at Hood Canal?

13 A. It appears to. Again, that makes sense to me.

14 Q. Mr. Graham, in fact, was recommending the aggressive
15 version of this plan, correct, sir?

16 A. I don't -- well, first of all, I have not read the
17 document. If you would like me to take the time to read the
18 document, I could. This is the first time I have seen it.
19 In glancing at the document that does not appear to be the
20 case. I see pros, I see cons, you know, I see disadvantages
21 and advantages being listed out. I see a proposal for what
22 it would do.

23 I mean, this is a classic example of a document that is
24 prepared to take an idea and flesh out the details of an
25 idea to understand if it makes sense or not. And I don't

1 see any point in this document where Chris actually
2 advocates doing it. It might be in here. As I said, I have
3 not read it. He seems to be fleshing out the details of
4 what an Office shell would look like to provide more
5 information.

6 But, as I said, it was not something that went forward.
7 There was never a team put on this. It was not a project
8 that was actively moved forward at Microsoft and we didn't
9 do it.

10 Q. Mr. Muglia, my question was pretty simple. My question
11 was wasn't it a fact that Chris Graham recommended following
12 the aggressive version of the plan that he outlined in this
13 memo? I don't want to trick you here. If you look right
14 under summary, sir, can you see that, sir?

15 A. I do. This is the first time I saw it. Yes, I see
16 that.

17 Q. That was my question to you. You would acknowledge
18 that Mr. Graham was recommending following the aggressive
19 version of this plan, right?

20 A. I see that for the first time this morning. Yes, I see
21 that. Again, it is not something that happened.

22 Q. And the plan was to ship Chicago and to have it provide
23 limited extensibility, correct?

24 A. I don't know, because I have not read the document.

25 Q. You can put that one aside, Mr. Muglia.

1 Let's get back to the Chicago shell extensions. You
2 would agree, sir, that the Chicago shell extensions were
3 changed to both support and be consistent with OLE?

4 A. Yes. There was a point in the evolution, and I
5 honestly don't remember when it was, where Satoshi changed
6 them to be consistent with the way OLE does things, although
7 it was designed to not use OLE. It is kind of a confusing
8 point, because OLE is a mechanism for doing things, but it
9 also defines a specific set of interfaces.

10 Originally when the Chicago shell interfaces were
11 envisioned they had nothing compatible with OLE, and Satoshi
12 wanted changing the interfaces so that you could -- they
13 would work without OLE on the system and save the memory,
14 but then if you had OLE it would still work, so they were
15 made more consistent.

16 Q. And, in fact, Mr. Muglia, the Windows 95 group, Mr.
17 Nakajima in particular implemented a lightweight OLE version
18 of the Chicago shell extensions specifically to ensure
19 compatibility with future versions of Microsoft's operating
20 systems including Cairo, correct?

21 A. No, not exactly. What he did, what Satoshi did was he
22 made those interfaces compatible with the approach that OLE
23 used, but the interfaces were still very different than the
24 interfaces that the Cairo shell used. So while what they
25 did was they allowed an OLE app, an app that supported OLE

1 to better interoperate with the shell, they did not make
2 that shell more compatible with Cairo by any means.

3 You have to understand that OLE is a mechanism that
4 allows you to do a series of things like object linking
5 embedding and a specific set of interfaces. You can still
6 define different interfaces, and the interfaces that were
7 defined for Chicago were still different than the interfaces
8 for Cairo.

9 Q. Mr. Muglia, you would agree, would you not, sir, that
10 you were actually involved in the discussion that led to the
11 decision to document the Chicago shell extensions in the
12 fall of 1993, correct?

13 A. I was involved in discussions about the documentation
14 of the shell interfaces. Remember, we are now referring to
15 the broad set of shell interfaces not just the namespace
16 extensions, but I don't recall being supportive of it. It
17 was not something I advocated by any means.

18 Q. Well, you would agree with me that the shell extensions
19 include the namespace extensions, correct?

20 A. They do, but I never -- I definitely did not advocate
21 the namespace extensions.

22 Q. Let me show you another document that you were shown on
23 your direct examination. This is PX-473. I will just hand
24 you another one to make it easier.

25 I would like to, again, direct your attention to the

1 last e-mail on the page, which is this e-mail from Brad
2 Silverberg to Dennis Adler and CC'g David Cole sent on
3 September 27, 1993.

4 Do you see that, sir?

5 A. I do.

6 Q. Now, Mr. Silverberg, he was in charge of Chicago,
7 right?

8 A. Yes, he was.

9 Q. And Mr. Adler, he was the group program manager for
10 core Chicago, right?

11 A. That is probably right, yes.

12 Q. And David Cole, he was the group manager of Chicago?

13 A. Right. David ran the engineering team.

14 Q. Now, Mr. Silverberg says that he and David met with you
15 and Mr. Allchin last week, right?

16 A. That is what it says. Now, remember I didn't receive
17 this e-mail and I just reviewed it yesterday in preparation
18 for my testimony, but that is what it says.

19 Q. Yeah. And certainly you have no reason to believe that
20 Mr. Silverberg did not have this meeting, correct, sir?

21 A. I'm pretty sure we had a meeting. Like I said, we
22 talked about these things all the time.

23 Q. And Mr. Silverberg is here reporting that the decision
24 has been made to document the shell extensibility after we
25 have finalized on the API, correct?

1 A. That is what he writes. That is correct. Remember, he
2 says shell extensibility, so he means all of the
3 extensibility interfaces of the shell.

4 Q. I understand that, and I thought we just established
5 that if we talk about shell extensibility in Chicago during
6 this time period that would have included the namespace
7 extensions, right?

8 A. Those extensions are part of the shell APIs, but I
9 don't know what was agreed to in this meeting or not. As I
10 said earlier in my direct testimony, I think Brad was
11 getting a bit ahead of himself when he sent this mail.

12 Q. Mr. Muglia, if you look up in Mr. Dennis Adler's
13 response, he says there in the second sentence of his
14 response, the APIs I think this covers are those for hooking
15 into the right left pain of the Explorer.

16 Now, that would be the namespace extensions, correct?

17 A. That is the namespace extensions, correct.

18 Q. Now, going back, please, to Mr. Silverberg's e-mail,
19 Mr. Silverberg states that we decided that it is A list and
20 that you, Bob Muglia, was having a team determine how to
21 wrap the APIs under Cairo.

22 Right, sir?

23 A. That is what Brad says.

24 Q. And, in fact, that is what you did, isn't that correct,
25 sir?

1 A. I was looking at ways to figure out how to support
2 those interfaces. That is true. Ultimately I came to the
3 conclusion that it was very difficult for us to support them
4 in the Cairo shell.

5 I will also point out that if we could go to the top of
6 this e-mail, the mail from David, where he says at the very
7 top, Dennis, don't spin up another API synergy. As I said
8 before, we're trying to get this resolved with Bob Moon. It
9 makes it very clear that this was not resolved at that time.
10 It was not done. It is not like a decision had been made to
11 move forward. It was not done. David was saying he was in
12 that meeting with Brad, again, in an e-mail chain I was
13 never copied on that, hey, this is still open and we're
14 still working.

15 Q. And, in fact, Mr. Muglia, Mr. Nakajima was tasked with
16 ensuring that the Chicago shell extensions would be
17 compatible with Cairo.

18 Isn't that correct, sir?

19 A. If he was tasked with that I didn't know it and he sure
20 didn't do it. I can tell you that for sure. Satoshi did
21 not make a set of APIs that were compatible with Cairo.

22 Q. Now, Mr. Silverberg goes on to say that, quote, all I
23 will agree, however, that we should not use OLE2 for
24 extensibility given how late it is coming in, and we were
25 told we had made the right decision, which we knew all along

1 but was nice to hear the others, particularly Bob Mu say it.

2 That, again, would be referring to you, right, sir?

3 A. That would refer to me.

4 Q. Do you have any reason to doubt that you, in fact,
5 agreed that it was the right decision?

6 A. Yeah. Actually I do not. I think that what I was
7 reflecting on there was the fact that I recognize that
8 Chicago has these memory constraints, and while I don't know
9 when Satoshi made changes to the APIs to make them OLE
10 compatible -- and I always thought that was a clever piece
11 of work on this part, that the idea of being compatible with
12 the APIs but not using the actual more broad functions, the
13 mechanisms of OLE, I always thought that was a clever piece
14 of work that Satoshi did.

15 It didn't change the fact that the interfaces were
16 still incompatible with Cairo. It didn't change the fact
17 that the interfaces and the design had robustness problems,
18 but I did recognize that there were real memory constraints
19 that the Chicago team was working under.

20 Q. Mr. Muglia, you would agree that Mr. Allchin, Mr.
21 Silverberg, Mr. Cole and you agreed that the shell
22 extensions would be documented and put on the A list,
23 correct?

24 A. No, I don't. That is what Brad says in this e-mail.
25 That is not what I recall. Again, the fact that he

1 didn't -- I think the simple fact that this mail didn't copy
2 Jim and myself indicates that it was not an agreement. When
3 you have a meeting and you decide on something, and
4 particularly something that is contentious with two parties
5 arguing, typically you copy the other people on the mail,
6 and you say we met, we decided and this is what we're doing,
7 and you have an e-mail that attempts to close it.

8 I mean, the only way you really know it is closed is if
9 Brad had sent that e-mail to Jim and myself and said we had
10 this meeting, as we discussed this is what we're doing, Jim,
11 please confirm this is correct. And Jim had sent a response
12 saying, yes, Brad, I agree. In fact, we know that didn't
13 happen. We know that was not what was going on, because I
14 have already seen other documents this morning that I
15 believe were from a period slightly later than this where
16 Jim and Brad are arguing like crazy over the fact that Brad
17 is going ahead and publishing this.

18 Brad was asserting to his guys that he was working the
19 issue, but he certainly never closed it, and I certainly
20 never agreed with Brad on this, not at that point in time.

21 Q. Mr. Muglia, we can agree, can we not, that A list means
22 fully documented and supported by Microsoft, correct?

23 A. That is what A list means.

24 Q. And the Cairo group --

25 A. Or meant at the time, I should say. It is not a term

1 we used. I recall it in this context. I don't recall it
2 frequently, but I do remember it in this context.

3 Q. The Cairo group as of October of 1993 understood that
4 it needed to support the Chicago extensions, correct, sir?

5 A. What the Cairo group understood was that the Chicago
6 extensions -- we needed to have a set of extensions that
7 would work compatibly between Chicago and Cairo. We needed
8 to have apps be compatible. We were still, however, arguing
9 about the form of those extensions at this time.

10 Q. Let me show you what has been marked as Plaintiff's
11 Exhibit 86.

12 Was this a document that you reviewed in preparation
13 for your testimony here today?

14 A. In the current form, no. In other words, the reason I
15 say that is I want to just confirm that this is the same
16 e-mail for a second here. I don't recall this exact form.

17 Yeah. This e-mail is in another exhibit, Defendant's
18 Exhibit 58, which I did review, but the version of it that I
19 am seeing where Dennis is responding to Brad, that is not
20 something that I have seen. In fact, you know, I never saw
21 this variant of the e-mail trail, in other words, where
22 Dennis has responded. But I did see the original e-mail
23 from Brad, which we talked about earlier in my testimony,
24 which was in Defendant's Exhibit 58.

25 MR. JOHNSON: If we could bring out the from and

1 to in Mr. Silverberg's e-mail there.

2 BY MR. JOHNSON

3 Q. The subject is shell issues, October 1st, 1993. You
4 can see that a copy of this e-mail went to Steve Madigan,
5 right?

6 A. That is right.

7 Q. Mr. Madigan was the program manager for Cairo, right?

8 A. He was a program manager in Cairo, yes.

9 Q. And he worked for you at the time, right?

10 A. He did, indeed.

11 Q. Mr. Silverberg writes in his e-mail at the top, I
12 talked to Paul Ma -- and that is Mr. Maritz, right?

13 A. That is correct.

14 Q. -- today about some shell issues, especially at the
15 global level such as apps plans in Cairo. He goes on to say
16 in the third paragraph that the applications will not be in
17 a position to have their Chic/Cairo -- I'm not sure how to
18 pronounce that --

19 A. Chic/Cairo I think is the pronunciation.

20 Q. Just Cairo?

21 A. It is a term that was almost never used, but it is the
22 idea of some merger, I guess. Chic/Cairo is how you
23 pronounce it.

24 Q. It is bringing together Chicago and Cairo, right?

25 A. Yeah. Again, I don't know if it has been used in any

1 other discussion, but it was not a commonly used term.

2 Q. And he says they won't be ready, the apps won't be
3 ready until very late '95 or '96, and certainly will not
4 require that Chicago/Cairo shell at that point, right?

5 A. Yeah. That is what it says.

6 Q. And he goes on to say that means that they, meaning the
7 applications, plan to write a bunch of shell extensions to
8 the Chicago version one shell. Capone, for starters.

9 Do you see that, sir?

10 A. Yes.

11 Q. Capone was the e-mail client being developed by -- it
12 was an application being developed by Microsoft, right?

13 A. Yeah. It is an interesting thing, this paragraph
14 refers to Capone and REN. It turns out that this is sort of
15 another example of waring teams at Microsoft. Capone was
16 the e-mail client that was being built by originally the
17 exchange group as an e-mail client for exchange.

18 REN was another application code base that was being
19 built ultimately by the Office group, which eventually
20 became Outlook. So whenever you see REN that is today
21 Outlook. That code eventually turned into Outlook. Capone
22 was killed. But it is an interesting note that there were
23 two of those at the same time, and those teams got along
24 about as well as the Chicago and Cairo teams did.

25 Q. So Capone was an application, right, a Microsoft

1 application?

2 A. Yeah. It was also viewed as being something that
3 potentially could have shipped in the operating system at
4 the time, although I don't believe it ever did.

5 Q. Well, it certainly wasn't developed by the systems
6 division, right?

7 A. No, it wasn't. It was developed by the exchange group.

8 Q. And he goes on to say, in addition, REN is going to be
9 transferred over to work for Chris Peters who is going to
10 own Office and be done as a Chicago shell extension,
11 correct, sir?

12 A. That is what it says, although that was never done. I
13 mean, there are subsequent e-mails that I have reviewed, in
14 fact, I think it was the later mail that I was talking about
15 with -- I think it was later. I don't remember the dates
16 right now. The one with Chris Peters where it is very clear
17 that REN was not meant to be compatible with Chicago and, in
18 fact, it was never -- it was never -- while REN, slash,
19 Outlook uses the Chicago shell extensions, it never used the
20 namespace extensions.

21 Q. Well, you would agree, sir, that the plan at least at
22 this time period, in October of 1993, was that REN was going
23 to be done as a Chicago shell extension.

24 Isn't that correct, sir?

25 A. I don't know that. Let me describe that, which is that

1 this was a mail that Brad sent mostly to his guys, and he
2 copied Steve Madigan, explaining his view of what was
3 happening. But, again, I mean, the teams at Microsoft are
4 independent. This is not -- the guy who ran REN is a guy
5 that still works at Microsoft by the name of Brian McDonald.
6 This is not a mail from Brian McDonald saying this is the
7 plan of REN. It is a mail of Brad saying he thinks this is
8 the plan of REN.

9 Remember, this is a guy, Brad Silverberg, who is
10 strongly advocating for these Chicago shell extensions.
11 That is what Brad says, but I don't know that that was
12 Brian's plan. And certainly Brian never used the namespace
13 extensions.

14 Q. Can we at least agree, Mr. Muglia, that by October of
15 1993 REN was part of the Office group?

16 A. It did move over to Office, and it appears to have done
17 so at that time.

18 Q. Mr. Silverberg also says that other things that Office
19 wants from the shell will also be done at Chicago shell
20 extensions, correct?

21 A. That is what Brad says.

22 Q. Do you have any reason to doubt that, sir?

23 A. I don't -- I have no reason to doubt Brad said that. I
24 don't know what he ultimately referred to and what was done.
25 Again, I mean, the apps in general wound up using the shell

1 extensions in a focused way. They didn't use them as
2 broadly as was anticipated in 1993.

3 Q. Then he goes on to talk about the online services
4 project under Russ S. That would be Mr. Siegelman, correct?

5 A. That is right. That project was the work that
6 ultimately became what we know of as MSN.

7 Q. But back then it was called Marvel, correct?

8 A. That is right. There was a dedicated Windows client
9 for that online service.

10 Q. And Marvel, in fact, used the namespace extensions to
11 integrate into Chicago.

12 Isn't that a fact, sir?

13 A. Marvel was using them. What they ultimately shipped
14 with I don't know. They were certainly looking at using
15 them, and they certainly did work to use them. Again, these
16 namespace extensions were ultimately not important
17 commercially in the marketplace, and so I don't even know if
18 they shipped with them.

19 I do know for sure that none of it made any difference,
20 because about the same time that these products were coming
21 to market, 1995, there was this other thing called the web
22 and HG mail that happened, which made all of that
23 irrelevant. In fact, MSN ultimately became a web
24 application. It didn't matter ultimately. Again, I don't
25 even think they shipped with it.

1 Q. So, Mr. Muglia, you would have to agree that at least
2 as of October of 1993 there were a lot of groups within
3 Microsoft who appeared to like this dog meat?

4 A. No. I mean, the Marvel guys were using it. I don't
5 know that -- I don't know that the Office group ever used it
6 at all for anything. I mean, they obviously do shell
7 extensions that you needed to do in order to run on Windows
8 95, but they certainly never implemented these namespace
9 extensions.

10 Other than those groups, I don't know of anyone else
11 who was even discussing using them. Ultimately, like I say,
12 nobody wound up using the namespace extensions in any
13 commercially significant way.

14 Q. Mr. Muglia, he goes on to say, Mr. Silverberg, this
15 means, of course, that Cairo is going to have to run those
16 Chicago shell extensions. This means that we really have to
17 work well with the Cairo guys to develop the extensions so
18 they can support both.

19 Do you see that, sir?

20 A. I do. This is Brad basically saying that, you know,
21 our team is going to win and beat those Cairo guys, but
22 let's at least work well with them as we move forward. He
23 did it in a fairly nice way, actually.

24 Q. The idea at this time period was to have the extension
25 mechanism for applications that was based on OLE2 or

1 something that was simply wrapped to OLE2, right?

2 A. That is correct. It is that alternative mechanism
3 that, you know, that I mentioned that Satoshi designed that
4 I thought was clever.

5 Q. In fact, the Chicago shell extensions were made to be
6 OLE compatible, right?

7 A. Well, they used a mechanism that was compatible with
8 OLE. But, once again, that does not mean they were
9 compatible with Cairo.

10 Q. Let's turn to the second page of this e-mail.

11 MR. JOHNSON: Highlight the first full paragraph.

12 BY MR. JOHNSON

13 Q. Mr. Silverberg states, Paul has discussed this in
14 detail with Bob Mu and he fully supports.

15 Now, Paul would be Paul Maritz, right?

16 A. That would be who Brad is referring to, yes.

17 Q. And Paul Maritz was your boss?

18 A. Well, no. I mean, yes, but he was my boss's boss. I
19 worked for Jim Allchin who worked for Paul.

20 I do think it is really important, I mean, you're
21 asserting earlier in the e-mail that was sent from Brad
22 Silverberg to Dennis Adler that this plan had been decided
23 on September 27th because of this meeting that I had. This
24 whole e-mail chain is dated a few days later, October 1st.

25 But, I mean, what is really interesting is if you look at

1 Defendant's Exhibit 58, and you look at other e-mails that
2 were sent, my boss, Jim Allchin, the guy I worked directly
3 for, was really pissed off by this e-mail that Brad sent. I
4 mean he writes, you know, I just read this mail. I phoned
5 both of you. You were both gone. You both know this was a
6 critical issue to me. I can't believe that neither one of
7 you discussed this with me personally.

8 He goes on to rant and rave about how he disagrees with
9 what Brad is saying in this e-mail. I mean, this issue was
10 very alive and being argued actively between our teams, and
11 certainly by my boss, my direct boss, Jim Allchin. So
12 Brad's assertion that Paul -- that I fully supported this
13 was certainly not correct, because I certainly supported my
14 boss, Jim Allchin, and he was pissed off by this e-mail that
15 Brad wrote.

16 Q. Mr. Muglia, did you just say that Office never used the
17 namespace extensions?

18 A. No. I don't think they did anywhere, the namespace
19 extensions. They used the shell extensions, certainly. I
20 don't believe they ever used the namespace extensions.

21 Q. Do you recall that you so testified in 2001 that
22 Office, in fact, used the namespace extensions?

23 A. No. I don't know what I said explicitly then, and I
24 don't know what you're saying that I was referring to.

25 Q. All right. We'll get to that.

1 Mr. Silverberg goes on to say Bob, and that would be
2 you, right?

3 A. That would be me.

4 Q. Accepts now that it has to be this way, that Cairo will
5 have to support the Chicago extensibility approach, and that
6 they may have to give up some of their pet ways of doing
7 things.

8 A. Yep, our pet ways.

9 Q. Is it fair to say, sir, that by this time period,
10 October of 1993, that you fully supported the idea that
11 Cairo would have to support the Chicago extensibility
12 approach?

13 A. No. I mean, I have said this a number of times today.
14 I knew that Cairo and Chicago had to support a common
15 approach to writing applications. That is certainly true.
16 Did I support these extensibility mechanisms that Chicago
17 was defining? No.

18 In fact, I clearly advocated very vociferously in the
19 months that followed this to not move forward with the
20 Chicago namespace -- or the Chicago shell extensions,
21 although ultimately that is what we did do by and large.

22 Q. So if the Chicago shell extensions were compatible with
23 OLE, then the Chicago applications would also work on Cairo,
24 correct?

25 A. No. I have said this before. OLE is a mechanism for

1 how you make a programming interface call. You can define
2 many APIs using that mechanism. The Chicago team defined
3 one set of APIs. The Cairo team had a different set of
4 APIs. Just because Chicago used OLE does not mean that it
5 is compatible with Cairo.

6 Q. I hand you now what has been marked as Plaintiff's
7 Exhibit 94.

8 This is an e-mail that Mr. Maritz sent to Bill Gates on
9 October 13, 1993 entitled strategy, about the subject
10 strategy. Now, was this a document that you reviewed in
11 preparation for your testimony here today?

12 A. No, it was not.

13 Q. Now, Mr. Maritz was your boss's boss. Did I get that
14 right?

15 A. That is correct.

16 Q. He was also Mr. Silverberg's boss, right?

17 A. That is right. He was Jim and Paul's -- Jim and Brad's
18 boss, that is correct.

19 Q. I would like to direct your attention to the paragraph
20 with the number one in front of it. It is the third
21 paragraph down.

22 A. Yep.

23 Q. Where Mr. Maritz states, recognizing that Chicago is
24 the next ISV target, and he goes on to say ensure that the
25 APIs exposed by Chicago are as close as we can make to the

1 OLE direction we want to go. Mainly, can we get shell
2 extension APIs to be OLE? Answer, yes, we can by using
3 lighter weight OLE implementation for just those scenarios
4 that shell uses, i.e., not for general in place editing, et
5 cetera. This will mean that any Chicago UI exploitative
6 apps would work decently on Cairo, i.e., no need for ISVs to
7 do different work to run on Cairo.

8 That is what Mr. Maritz, your boss's boss, was telling
9 Mr. Gates in October of 1993, correct?

10 A. Yeah. That is what Paul said. As I said, I was not
11 originally copied on this mail and I don't believe I have
12 ever seen it before. I just saw it right now. I can't
13 comment on it.

14 I will tell you that of what Paul said I don't believe
15 that last sentence is correct. Everything else he said I
16 would agree with. I mean, I would agree with Chicago being
17 the next target at the time. I agree with the work that the
18 Chicago team had done and, in fact, said something about and
19 testified on this that Chicago had done some OLE work to
20 make their APIs compatible. But that did not mean, that in
21 last sentence that Paul said, was not to my knowledge
22 correct.

23 Q. In fact --

24 A. Certainly we argued about it afterwards. You know,
25 there were many arguments after this came out on October

1 13th. It was by no means a decision that decided anything.

2 Q. In fact, Mr. Maritz in this e-mail to Mr. Gates in
3 October of 1993 states, and immediately following what we
4 have just read, contain Cairo to meet the following
5 criteria. Number one, a proper superset of Chicago, all
6 apps including shell extension must run.

7 So Mr. Maritz was telling Mr. Gates in October of 1993
8 that Cairo would have to be able to run the shell
9 extensions, correct, sir?

10 A. That is what Paul is saying to Bill.

11 Q. That is your boss's boss, and the boss of the bosses,
12 right?

13 A. That is right. I mean, it is interesting that this
14 mail didn't copy Jim, I will point out. That is kind of an
15 interesting thing. I have no idea what discussions Jim and
16 Paul might have had about this, but this is what Paul was
17 certainly advocating. At least this is what he appears to
18 be advocating in this mail I have never seen before.

19 Q. Now, in fact, Mr. Muglia, Mr. Nakajima, the inventor of
20 the namespace extensions APIs, was working hard in the fall
21 of 1993 to make the shell extensions OLE compatible so that
22 they would run fine on Cairo.

23 Isn't that correct, sir?

24 A. He was making the shell extensions OLE compatible
25 mostly to make it easier for OLE apps to work with the

1 shell. Just because those -- I continue to say the same
2 thing -- just because those APIs were OLE compatible did not
3 mean they ran on Cairo. Cairo exposed a different set of
4 OLE interfaces. They were different.

5 What Paul is asserting in this mail to Bill was not
6 technically correct. That last sentence was not technically
7 correct. Again, it is interesting that Jim was not copied
8 on this mail. Because, again, when you make a plan and you
9 decide something and you have two teams waring over
10 something, usually you include the guys that have been
11 waring with each other in the mail.

12 This is a case where Paul is advocating to Bill that we
13 move forward in a given direction, and he was trying to
14 drive a decision. I mean, it is his job to drive a
15 decision. He was making sure that he could get agreement
16 from his boss, Bill Gates, on driving a decision forward.
17 What happened, in fact, was that the decision was not
18 finalized fully until months later.

19 Q. Let me show you PX-114.

20 At the top here is an e-mail, if we go to the top
21 e-mail, from Mr. Cole. I'm sorry, the second one down.

22 It is from Mr. Cole to Brad Silverberg and others. Mid
23 month status report, November of 1993. And you see there
24 where it states Satoshi, and that would be Mr. Nakajima,
25 right?

1 A. Yes, that would be Mr. Nakajima. Satoshi.

2 Q. Satoshi. I'm sorry. Thank you very much.

3 Satoshi has been busy for the past month working on new
4 interfaces that Cairo will support. In total he has spent
5 about six to eight weeks on this stuff and he is about
6 halfway done now.

7 Do you recall, sir, that in fact you assigned Mr.
8 Nakajima to do this work, to make these extensions so that
9 they would be compatible with Cairo?

10 A. No, I didn't. Satoshi didn't work for me. He worked
11 in the Chicago group at this time. So I didn't assign
12 Satoshi. Perhaps Brad did. I wouldn't know. This is an
13 e-mail I have never seen before, literally.

14 I will point out something kind of interesting, which
15 is this so-called plan that Paul Maritz had written to Bill
16 Gates, the strategy, was on October 13th of that year. This
17 mail is dated December 2nd. You know, and if you take a
18 look at the sentence above the one that is highlighted,
19 David is asking -- David Cole, the guy that ran Chicago --
20 where do we stand in the great shell extension debate, the
21 war I have been talking about, on coming up with APIs that
22 we and Cairo can live with?

23 Very clearly a month later after Paul sent his mail of
24 the plan, the strategy, there wasn't a set of APIs that the
25 two teams agreed with. Here is the guy who runs Chicago

1 asking the question where are we in getting these APIs
2 defined? Satoshi is off working on defining a set of APIs,
3 which ultimately we did -- we did use, but not in Cairo.
4 Cairo had to be killed to support those darned APIs.

5 So, I mean, ultimately those APIs went forward, but
6 here we are a month later and this thing is sure not closed.

7 Q. The divergence of approaches between Windows 95 and
8 Cairo certainly didn't effect the users of the lightweight
9 OLE implementation of the shell extensions, correct?

10 A. No. They totally -- well, again, none of this ever
11 amounted to anything, because in the end the Chicago shell
12 extensions were published, hundreds of thousands of ISVs
13 have used it, and billions and billions -- tens of billions
14 of dollars have been earned by the industry as a whole by
15 writing to Windows applications over a period of time and
16 Cairo was killed. So in that sense, no, it never effected
17 anybody.

18 But ultimately those shell extensions were different in
19 1993, and the teams were fighting like crazy over it still,
20 and they continued to fight well into 1994, frankly, until
21 Bill made the decision to not move forward with the
22 namespace extensions because my team was advocating so
23 strongly against it.

24 Q. Isn't it a fact, sir, that Windows 95 could have
25 switched to full OLE implementation without ISVs even

1 knowing the difference with respect to the shell extensions?

2 A. Not exactly. The issue was the memory constraint.

3 When Satoshi did that work to make the interfaces compatible
4 with the mechanism of OLE, what that meant was that if you
5 had a machine that was running more memory, that had more
6 memory, let's say eight megabytes, and you were running an
7 OLE compatible application in that machine, in fact, that
8 application in the shell could interoperate with each other.
9 That was the clever work that Satoshi did. The actual OLE
10 mechanism could be used.

11 But the reason Satoshi did what he did was so that
12 Windows 95 would run on a four megabyte machine for some
13 class of applications. At the time applications that used
14 OLE probably wouldn't have run well on four meg. In fact,
15 by '96, you know, we saw eight to 16 meg computers, which
16 are still tiny by today's comparison, but we saw computers
17 that had a bit more memory.

18 Q. Isn't it more accurate to state, sir, that Mr. Nakajima
19 designed the lighter weight implementation because he had to
20 deal with the memory limitations of the four meg machine?

21 A. That is correct. That is absolutely correct.

22 Q. Let's go to Plaintiff's Exhibit 176.

23 I would like to direct your attention to the e-mail at
24 the bottom of page 1, which is the first e-mail in this
25 chain from Mr. Seres.

1 Do you know who Mr. David Seres was?

2 A. I don't recall. I was not copied on any of this e-mail
3 and I have not reviewed it. I have never seen it before. I
4 don't think I am copied on any of it.

5 Q. He was forwarding the latest Chicago/Ole questions and
6 answers for a bunch of folks on May 11, 1994. It states,
7 please forward as appropriate. And you'll see Mr. Belfiore
8 forwards this e-mail to Mr. Nakajima and others the next
9 day.

10 Do you see that?

11 And Mr. Nakajima responds a couple hours later,
12 correct?

13 A. I see that, yes. Again, this is an e-mail I have never
14 seen before.

15 Q. So this is not something that you reviewed in
16 preparation for your testimony?

17 A. No, I did not.

18 Q. Okay. At the bottom of Mr. Nakajima's e-mail he states
19 that his specific comments are identified by three pound
20 signs.

21 Do you see that, sir?

22 A. I read it, yes.

23 Q. I would like to turn to some of Mr. Nakajima's comments
24 now. If you turn to the second page of this document and
25 focus on the first full question and answer. As set out by

1 Mr. Seres, the question stated is does the Chicago shell use
2 OLE2? What about the Explorer? And the answer given there
3 was, no, the new 32 bit implementation of OLE2 was not
4 available early enough in the Chicago development cycle to
5 make it a practical candidate for supporting the Chicago
6 shell extensions. This does not effect users. Future
7 versions of the shell will support OLE. The same is true
8 for the explorer.

9 Mr. Nakajima responds to this and says the answer must
10 be yes. To achieve our size goal we decided to put a subset
11 implementation of OLE2, lightweight binder, in the shell so
12 that we can run the shell and old Windows apps without
13 loading OLE2. But it uses the same algorithm when loading
14 inproc server DLLs. When we switch to the real OLE2, nobody
15 will notice the difference.

16 Do you see that, sir?

17 A. I do.

18 Q. And Mr. Nakajima was telling Mr. Seres that, in fact,
19 nobody is going to notice the difference when we go to OLE2.
20 These shell extensions will run just fine there.

21 Isn't that correct, sir?

22 A. That is correct. To my knowledge that is technically
23 correct. Again, this is an e-mail I have never seen before,
24 but technically to my understanding that sentence -- what
25 Satoshi said is correct.

1 Q. Now, the reference to inproc server means in the same
2 process, right?

3 A. Right. You note here it says that we use the same
4 algorithm in loading inproc DLL. See, the thing about OLE
5 is OLE allowed these -- it was a mechanism, a general
6 purpose mechanism that allowed different applications to
7 talk to each other, so it was called a cross process. All
8 of that conversation I had earlier today about the
9 robustness concerns I had about the Chicago shell extensions
10 was true, because the implementations Satoshi did ran these
11 shell extensions in process, which is validated here in his
12 e-mail. Technically everything he says is correct. It has
13 the side effect of having robustness issues, but technically
14 what he says is right.

15 Q. So if and when Microsoft wanted to upgrade to a full
16 implementation of OLE in later versions of its operating
17 system, such a change would not effect in any way the
18 applications written to the lightweight OLE implementation
19 of the namespace extension APIs, correct?

20 A. Well, first of all, I will point out that this is
21 not -- we are not referring just to the namespace extension
22 APIs. I guess we are with the Explorer, but even there it
23 is not just namespace extensions. This is, again, referring
24 to more than the namespace extensions. It is all of the
25 Chicago shell extensions. We are not just talking about the

1 namespace extensions here. We are talking about a broader
2 set of interfaces.

3 Again, technically Satoshi had this clever mechanism
4 that was a subset of the full OLE, which is what he says
5 here, and he calls it a lightweight binder, which would be
6 an accurate way of describing it, and you can replace that
7 with OLE and everything continues to work. That is to my
8 knowledge technically what would happen.

9 Q. Just to be clear here, Mr. Muglia, this is talking
10 about including the namespace extensions, correct? In fact,
11 you reference the fact that Mr. Nakajima talked about the
12 Explorer, and that would be in reference to the namespace
13 extensions, correct?

14 A. Yes, it does include -- the reference here would
15 include the namespace extensions, but the Explorer has other
16 shell extensions besides the namespace extensions. The
17 second question -- the answer to the second question is no,
18 it includes the namespace extensions, but there are other
19 shell extensions here.

20 Q. If you would turn to the -- well, it actually says page
21 134 at the bottom, but of this e-mail which has a Bates
22 stamp ending in 1072, if you could turn to that, sir.

23 And drawing your attention to the question and answer
24 the --

25 MR. JOHNSON: The second full question and answer,

1 could we bring that up?

2 BY MR. JOHNSON

3 Q. The question as originally written was why does the
4 shell extension model look exactly like OLE? It uses the
5 registry database, GUIDS, whatever that is, has things
6 called inproc handlers and even uses identical interfaces to
7 those found in OLE. The answer given to Mr. Seres was the
8 Chicago shell team is clearly influenced by the OLE design,
9 and new pieces of code like a new Windows registry.
10 However, due to scheduling problems, basically the lack of
11 32 bit OLE they had to proceed down their own path. We plan
12 to re-converge these technologies in the future.

13 Mr. Nakajima responds this message is wrong again. We
14 followed the OLE programming model so that we can switch to
15 the real implementation without asking ISVs to rewrite the
16 extensions. This is very important information to be sent
17 to the ISVs. Even if the shell started using the
18 implementation in the OLE 32 DLL, the Chicago shell
19 extensions will continue to work.

20 That is also technically correct, isn't it, sir?

21 A. It is definitely technically correct, and I definitely
22 prefer Satoshi's answer as the answer to this question for
23 ISVs.

24 Q. You certainly have no basis to disagree with Mr.
25 Nakajima with respect to the compatibility of the shell

1 extensions with future versions of Windows?

2 A. That is not what this -- let me be clear here. You're
3 reading things into this. So, no, that is not what this
4 says. What it simply says is that in the future when
5 Windows 95 -- when future versions of Windows 95 ship the
6 full OLE, applications will continue to work.

7 Remember, all this e-mail trail -- which, like I say,
8 I'm seeing for the first time as I sit here, was dated May
9 12, 1994. In that time frame my team was still building the
10 Cairo shell and we were still working on that and we still
11 had compatibility issues we were working through. Now, in
12 the subsequent months that project was canned, but you can't
13 take this and then take it to those next steps you just did.

14 Q. Let's turn to the first page then.

15 MR. JOHNSON: If you can bring up the second half
16 of that first paragraph, please.

17 That is fine. I think we can read that.

18 BY MR. JOHNSON

19 Q. Mr. Nakajima states, starting about halfway through the
20 paragraph, this is very important to tell ISVs that their
21 shell extension DLLs are OLE inproc servers, and those shell
22 extension DLLs are OLE compatible not only in future
23 versions of Windows but also in this version.

24 Once again, Mr. Nakajima is technically correct. Isn't
25 that a fact, sir?

1 A. He is technically correct about the shell extensions
2 being OLE compatible and those will continue to work as the
3 real version of OLE was put in Windows. But when he says
4 not only in future Windows versions but also in this
5 version, he was not referring to Cairo. He does not
6 specifically say that these things are going to work with
7 Cairo.

8 As it turns out, the sentence turns out to be
9 technically correct, because, again, Cairo was killed at a
10 later point and we adopted the Chicago shell in Windows NT.
11 So technically everything that he said there is correct, but
12 at this time in May of 1994 that raging debate between the
13 Cairo and the Chicago shell teams was still going on.

14 Q. If we can sum up here, Mr. Muglia, it is fair to say
15 that sometime prior to May of 1994 any problems with the
16 namespace extensions being compatible with OLE was solved
17 because the interfaces, Mr. Nakajima had made them
18 consistent with OLE, correct, sir?

19 A. Sometime before May of 1994 the issues with the broad
20 set of Chicago shell extensions, which as we have determined
21 does include the namespace extensions, and the compatibility
22 with OLE was resolved.

23 However -- however, the issues of those extensions, of
24 those APIs still remained. They were not compatible with
25 Cairo and they had the robustness issues I have described,

1 so there was still an active problem going on between the
2 teams.

3 Q. Let's switch subjects for awhile. Let's talk about
4 evangelism. Microsoft's system group wants all of the
5 developers to support their platform in the best possible
6 way, even if those developers are competing against
7 Microsoft's applications, correct, sir?

8 A. Yes. That is correct.

9 Q. And you would agree that that statement was true with
10 regard to Windows 95 and during the entirety of the 1990s,
11 correct?

12 A. Yes, it was.

13 Q. And Microsoft's systems group would evangelize the
14 capabilities and features of the operating system and make
15 sure external developers knew everything they needed to know
16 to build great applications on Windows, even if they were
17 competing with Microsoft's applications, correct?

18 A. Yeah. I mean, your words everything they needed to
19 know is not exactly true. I mean, we didn't teach people
20 how to program. What we did do was make sure they had as
21 much information as we could reasonably provide them to do a
22 good job running on Windows. And so we provided, as we
23 learned about what we were going to do with Windows, we
24 would talk to ISVs both in large conferences as well as in
25 more one-on-one sessions to tell them what our plans were on

1 Windows.

2 Q. Do you recall having your deposition taken in this
3 case, sir?

4 A. Yes.

5 MR. JOHNSON: Let's bring up page 53, lines 5
6 through 21.

7 Do we have a copy of the depo I can give him so
8 that he does not have to just read it on the screen?

9 Do you need one?

10 MR. HOLLEY: I have one, Jeff.

11 BY MR. JOHNSON

12 Q. Mr. Muglia, I don't want to spend a lot of time on
13 this, but I just want to just show you that you quibbled
14 about knowing everything, and I just want to make sure that
15 you did in fact agree with that statement in its entirety
16 during your deposition, right?

17 A. Well, I answered the question yes to that. I also -- I
18 mean, with the question to follow, again, I will ask do you
19 recall testifying before -- I say I don't recall the
20 specifics of the testimony. And you agree that is a true
21 statement and I said yes.

22 Like I say it is true and it is consistent with what I
23 said, it is just that when you say everything it is pretty
24 broad. That is all -- I was further refining my testimony.

25 Q. So you didn't quibble with that at your deposition, did

1 you, sir?

2 A. No. And I think I just did a little further
3 refinement. The basic idea that Microsoft focuses on,
4 telling developers what we could realistically tell them so
5 that they could build great Windows applications, that has
6 been correct and continues to be correct.

7 Q. Now, Microsoft actually started evangelizing Windows 95
8 to ISVs even before it officially decided to document the
9 shell extensions, right?

10 A. Yes. Sure.

11 Q. Let me show you what has been marked Plaintiff's
12 Exhibit 68.

13 The second e-mail here is from Glen Thompson and it is
14 to you, right?

15 A. No, it is not to me. It is to WinPro which is the
16 program management group that Dennis ran, so that mail that
17 he sent with that little sentence did not go to me. But the
18 mail underneath from Glen Thompson certainly looks like it
19 went to me.

20 Q. Yes, that is the one I'm talking about.

21 A. Yeah. Well, Glen Thompson and to me, Brad Silverberg,
22 David Cole, et cetera, that is correct.

23 Q. Mr. Thompson indicates that by July of 1993 that ISV
24 interests for Windows 95 was very high, and that one of
25 those ISVs was WordPerfect, correct?

1 A. That is what the mail says, yes.

2 Q. He goes on to say that interest and excitement for
3 Chicago was very high at this point in time, correct?

4 A. That is right.

5 Q. And you would agree that it was in Microsoft's own
6 business interest to have WordPerfect deliver its products
7 timely and in a quality form for Windows 95, correct?

8 A. Oh, yeah, it was in our interest. That does not mean
9 they did it, but it is in our interest to do it, have them
10 do it.

11 Q. In fact, during this time period in 1993 WordPerfect
12 was considered one of the top ISVs that Microsoft was
13 targeting for evangelizing Windows 95, correct?

14 A. Absolutely.

15 Q. And Lotus was also considered one of those top ISVs to
16 evangelize, correct?

17 A. That is right.

18 You know, there is the old saying that you can lead a
19 horse to water, but you can't always make them drink.

20 MR. JOHNSON: I would move to have that struck,
21 Your Honor.

22 THE COURT: Okay.

23 MR. JOHNSON: Thank you.

24 BY MR. JOHNSON

25 Q. PX-98. I would like to direct your attention to the

1 e-mail from David Cole to you and Jim Allchin CC'g Brad
2 Silverberg entitled The Chicago Big Bang. It is dated
3 October 20, 1993.

4 Are you with me?

5 A. I see the mail, yes. This is the first time I have
6 reviewed it. I have not seen it in a long time. Yeah.

7 Q. Mr. Cole writes to you, I think everyone agrees that it
8 is in our best interest to move the market to Chicago as
9 quickly as possible. Getting apps and users over to the
10 knew UI, over to the 32 bit, over to OLE, helps our overall
11 systems product line.

12 You would agree with that, would you not, sir?

13 A. Absolutely.

14 Q. Part of the big bang we would like to generate is
15 getting the ISVs to do Chicago exploitative releases at the
16 time Chicago ships. It goes on to say in the coming weeks
17 the Chicago team will be talking with the top ten ISVs
18 directly to make this pitch to them, and find out what their
19 barriers are to doing this.

20 Do you recall, sir, that that was all part of the
21 Chicago big bang to approach these top ten ISVs directly to
22 get them on board for the Chicago release?

23 A. Well, I didn't have anything to do with these programs.
24 David was sending this to Jim and myself, so I did see this
25 and I do recall the work that was done to evangelize ISVs,

1 but, again, I didn't do anything specifically, personally.

2 Q. Certainly you would agree that Mr. Cole was keeping you
3 in the loop about what was happening with Chicago?

4 A. He was keeping us in the loop at the high level with
5 Chicago. There were areas where, again, we continued to
6 disagree, particularly these shell extensions.

7 Q. Do you recall that shortly after this e-mail Microsoft
8 in fact visited WordPerfect, one of those top ten ISVs to
9 pitch Windows 95 to WordPerfect?

10 A. I believe I reviewed that as part of my preparation for
11 this testimony. I think there might have been some e-mails
12 talking about that, but I didn't personally do that. I did
13 not travel shortly after that to visit WordPerfect. My trip
14 to WordPerfect was in '94, the spring of '94.

15 Q. Let me show you that e-mail again, Plaintiff's Exhibit
16 105.

17 This trip to WordPerfect that we looked at earlier took
18 place about a month after the decision was made to document
19 the shell extensions and to make them A list, correct, sir?

20 A. Well, the trip happened on or around November, middle
21 of November of 1993, and clearly it indicates that
22 WordPerfect was disclosed -- the fact that they would be
23 publishing the shell extensions. Again, I will point out
24 that in a mail from Jim Allchin at the beginning of
25 November, Jim is very angry about this. So perhaps the

1 decision was made -- certainly the decision was made to talk
2 about it, but I think it was still an open discussion that
3 continued.

4 Q. And Mr. Cole reports that WordPerfect was very happy
5 about Microsoft deciding to document the shell extensions,
6 right?

7 A. That is what David seems to be saying.

8 Q. And you would agree, sir, that this e-mail indicates to
9 you that Microsoft had made the decision to commit long-term
10 to fully supporting these extensions in future versions of
11 Windows, correct, sir?

12 A. No. I mean, don't put words in my mouth, please.
13 First of all, this e-mail was not sent to me. I first
14 reviewed it yesterday in preparation for my testimony, so my
15 knowledge of this e-mail is about 24 hours old. And, you
16 know, what this clearly says is that Brad and David were
17 deciding to document those interfaces and they went out
18 talking to ISVs about it. Whether Jim and I agreed with
19 that it does not say, and it is very clear that in the
20 preceding weeks Jim was very angry about those guys going
21 out, and there continued to be ongoing debates about these
22 APIs in the months that ensued.

23 Q. I am sorry. Mr. Muglia, did you just suggest to the
24 jury that you had not seen this document prior to your
25 preparation for your testimony?

1 A. I don't recall seeing it. I was not copied on it.

2 I'm sorry. I was copied. I am sorry. I was copied on
3 it. I see at the top I was copied on it. I appear to have
4 been copied on it. I'm sorry. I stand corrected. I was
5 copied on it, because it appears Brad forwarded it to me.
6 Although, it is a funny forward. It says MSTP Bob Mu, so I
7 don't know whether I had seen it or not.

8 I did, however, definitely review it in preparation for
9 my testimony yesterday.

10 Q. Well, not only that, sir, you also saw it at your
11 deposition?

12 A. That could be.

13 Q. In fact, sir, let's turn to what you said about Mr.
14 Cole's comment at your deposition.

15 MR. JOHNSON: Can we turn to page 172, line 24,
16 through 173, line 15.

17 BY MR. JOHNSON

18 Q. Question, now Mr. Cole reports at the top of this
19 fourth paragraph that they were very happy about us deciding
20 to document the shell extensions, close quote.

21 Do you see that?

22 A. I do. Could you please tell me what page this is on.
23 I would like to review my testimony more fully, please.

24 Q. Sure. Pages 172 and 173.

25 A. Okay.

1 Q. And you answer I do. Question, does that indicate to
2 you that as of this time Microsoft was planning to document
3 shell extensions? Answer, it would appear so. Question,
4 okay. Answer, what I would say is, I mean, given what I
5 know right now, is that what that meant is that we would
6 take the shell extensions off of the B list, essentially
7 eliminating the concept of B lists, and commit long-term to
8 fully supporting those extensions in future versions of
9 Windows.

10 Were those questions asked and those answers given at
11 your deposition?

12 A. Yes. That is correct.

13 Q. So is it in fact true, sir, that this e-mail indicates
14 to you that Microsoft had made the decision to commit
15 long-term to fully supporting those extensions in future
16 versions of Windows.

17 Isn't that correct, sir?

18 A. Yes. I think -- that was a question, right?

19 Q. Yes, that was a question, sir.

20 A. No, that was the question that was asked, wasn't it?

21 Q. Yes, and that was your answer. I am just making sure
22 you're not changing your testimony here today before this
23 jury.

24 A. Well, let me tell you what I -- I reviewed this
25 testimony yesterday, and one of the things I realized when I

1 testified -- excuse me, when I was deposed, was that the
2 sequence of what happened with the shell extensions was
3 something that I did not fully recall when I did my
4 deposition in 1999.

5 If you continue through my deposition I believed that
6 we had always published the shell extensions. In fact, I
7 say that in this deposition that they were always published.
8 Let me find that section here. Question, do you understand
9 that as of this time, November of 1993, which is eight
10 months after the e-mails between yourself and Mr. Cole that
11 were Exhibit 12, that these shell extensions are going to be
12 published? Answer, my answer, right. And to be clear, the
13 documentation for those extensions was available during the
14 whole time and it, in fact, was used broadly by a number of
15 developers, perhaps by WordPerfect during that period given
16 what Mr. Cole said here. But at this point it seems
17 apparent that we had made the decision that we would fully
18 publish them in future versions.

19 Now, what I said in my deposition, based on what I know
20 actually to be true today was just wrong because, I mean, I
21 think it is an issue that is being debated in this case,
22 because I said here that the documentation for these -- the
23 documentation for those extensions was available during the
24 whole time, and that apparently was not correct at the time.

25 When I did this deposition I didn't simply remember the

1 sequence of what was done on which day, you know, to whom.
2 And the details have been refreshed since then and I have
3 had a chance to understand more about the timeline and what
4 actually happened during that period since I was deposed in
5 1999.

6 In 1999 when I was deposed there were a lot of things
7 that were being discussed, and these namespace extensions
8 were just one of many, so the specific details of it I
9 didn't recall at the time. Clearly in preparation for this
10 testimony I became more educated on the sequence of events.

11 Q. Just to be clear, Mr. Muglia, when you stated that
12 Microsoft was committed long-term to support them, you were
13 talking about iShellBrowser and the other shell extensions
14 as well.

15 Isn't that correct, sir?

16 A. Well, yes, and, in fact, we do support them today. I
17 mean, to this day they are supported in Windows.

18 Q. I'm not talking about today, Mr. Muglia. I'm talking
19 about at the time Microsoft came to WordPerfect and told
20 them that they were going to document these shell
21 extensions, and you told us in your deposition that that
22 meant to you that Microsoft was committed long-term to fully
23 supporting those extensions in future versions of Windows.

24 Isn't that a fact, sir?

25 A. What I said in my deposition was that based on an

1 e-mail that I had seen that it appeared that that is what we
2 were doing. Again, during my deposition the specifics of
3 the events were confused. I also said that they were fully
4 documented during the entire time, and that issue is
5 apparently -- that statement was also incorrect back then.

6 Q. Mr. Muglia --

7 A. Could I finish, please?

8 Q. Sure.

9 A. My specific recollection of the events was not fully
10 understood when I did my deposition in 1999. I now
11 understand the sequence of events much better.

12 Q. Who were you represented by at your deposition?

13 A. I was represented by Microsoft counsel.

14 Q. Which counsel, sitting here?

15 A. Yeah. I believe Steve Holley and Steve Aeshbacher.

16 Q. Okay. And you prepared for that deposition, didn't
17 you?

18 A. Sure. Yes, I did.

19 Q. Now, you would agree with me, Mr. Muglia, that it is a
20 goal of Microsoft to make sure that all of the developers in
21 Windows have early access to Microsoft's plans to add new
22 interfaces, right?

23 A. That is right. Of course.

24 Q. And that it is important to share plans for the
25 operating system because it helps Microsoft's ISV community

1 to know where Microsoft is going so that ISVs can plan their
2 applications accordingly and move forward, right?

3 A. To the best of our ability. I will point out that as
4 we -- you know, these are early versions of the operating
5 system that we're providing and early information, and early
6 information is subject to change and it frequently does
7 change, frankly, before the operating system is released.

8 Q. Mr. Muglia, I am not sure, but I think you agreed with
9 me. Was that a yes to my question?

10 A. Yes, inasmuch as what we know at the time, but our
11 plans change.

12 Q. Well, sir, this was just a general statement with
13 respect to what you're doing when you're evangelizing. I
14 want to make sure that we are on the same page on this. It
15 is important to share plans for the operating system because
16 that helps Microsoft's ISV community know where Microsoft is
17 going, and then the ISVs can plan their applications
18 accordingly and move forward, right, sir?

19 A. Yes, that is correct.

20 Q. Thank you, sir.

21 A. Can I finish, please?

22 The only thing I would add is that if it is early in
23 the process sometimes things change.

24 Q. And Microsoft shares its plans for Windows 95 to help
25 ISVs come to market at essentially the same time Windows 95

1 releases, correct, sir?

2 A. Absolutely.

3 Q. And it was in Microsoft's business interests to have a
4 wide variety of applications available at the time Windows
5 95 released, right?

6 A. Yes.

7 Q. And it was in Microsoft's own interest to give
8 WordPerfect early access to its plans to add new interfaces
9 in order to help WordPerfect come to market with a product
10 at roughly the same time Windows 95 released, correct, sir?

11 A. Yes.

12 Q. And these Chicago shell extensions were in fact
13 evangelized almost continuously to ISVs during this entire
14 period in 1993 and 1994 when Chicago was being evangelized.

15 Isn't that correct, sir?

16 A. It appears -- I don't know the exact dates when they
17 were evangelized. It appears that they were first discussed
18 with WordPerfect in November of 1993. That was when the
19 David Cole mail went out. I don't believe that the APIs
20 were even available until well into 1994. It was really at
21 the tail end of the pre 95 days, but certainly we did
22 discuss them during that period.

23 Q. Well, you recognize, sir, that Microsoft held many
24 design reviews and similar ISV events where Microsoft
25 evangelized the features that were going to be coming in

1 Windows 95, including the namespace extensions, right?

2 A. Microsoft certainly held many design reviews, but the
3 shell extensions in general were not discussed until very
4 late in the process, late '93, '94, and I do not believe
5 they were made broadly available to any ISVs until sometime
6 in '94. And even during that period I believe the namespace
7 extensions were held out as a set of APIs that should be
8 used for only special purposes and that might change.

9 Q. And the purpose of these design reviews is to explain
10 to the leaders of the ISVs what Microsoft was doing in their
11 operating system so ISVs could take advantage of the
12 features, right?

13 A. Right.

14 Q. In fact, as you just stated, Microsoft did provide
15 partial documentation of the namespace extension APIs in the
16 June 1994 M6 beta, correct?

17 A. Yes, and that may have been the first time we ever made
18 it available, but they definitely were made available is my
19 understanding at that time frame.

20 Q. And approximately 20,000 copies of the M6 beta were
21 distributed, correct?

22 A. I don't know what the number is.

23 Q. Does that sound about right to you?

24 A. Could be. It certainly could be.

25 THE COURT: Let's break for lunch. We'll come

1 back at around 12:15.

2 (Recess)

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