

1 THE COURT: Let's get the jury.

2 (Jury brought into the courtroom.)

3 THE COURT: Yes. Mr. Johnson.

4 MR. JOHNSON: Thank you, Your Honor.

5 Q. BY MR. JOHNSON: Mr. Belfiore, I'd like to show you
6 what's been marked Plaintiff's Exhibit 82. Now, this is an
7 email chain that includes some emails written by yourself in
8 September of 1993. Have you seen this document before, sir?

9 A. I've -- I just need a minute to read it and then I can
10 answer your question.

11 Q. Sure.

12 A. Okay.

13 Q. Okay. And the question was, have you seen this
14 document before?

15 A. I believe that I wrote part of it, so, yes.

16 Q. Do you recall seeing it since you wrote it?

17 A. No.

18 Q. Do you recall seeing it at your deposition?

19 A. I don't recall.

20 Q. Do you recall seeing it in preparation for your
21 testimony?

22 A. No.

23 Q. This email chain is all about whether to publish the
24 NameSpace extensions that Capone is using to integrate into
25 the Chicago shell, right?

1 A. Yes.

2 Q. And at this period of time, Capone was using the
3 NameSpace extensions to integrate into the shell, correct?

4 A. At this point in time, yes.

5 Q. If you go to your email to Mr. Evslin, which is -- the
6 header of it is shown there on the screen, and to the text of
7 that email.

8 If we could bring that up, Mr. Goldberg.

9 You state. "It's unclear whether we'll publish them
10 or not for our release. Bill is very aware of this as an
11 issue, so you can bring it up with him. He may be
12 instrumental in deciding whether or not it's important for us
13 to do the work to make them palatable."

14 Do you see that, sir?

15 A. Yes.

16 Q. And, once again, we have that use of the asterisk
17 around the word "very". You were emphasizing that Bill was
18 very aware of this as an issue, right?

19 A. Yes.

20 Q. And how did you know that Mr. Gates was very aware of
21 this as an issue in September of 1993?

22 A. I don't know how I knew that.

23 Q. Certainly must have picked it up somewhere, right?

24 A. I'm not denying that I did know, I'm just saying, as
25 you asked the question, do I remember a meeting or a

1 discussion, I don't remember a specific instance of that, but
2 I'm not denying that I said that.

3 Q. If we turn up to the top portion of this email, would
4 you agree that Mr. Lazarus, Mr. Jon Lazarus disagreed with
5 Bill's view on whether the NameSpace extensions should be
6 published?

7 A. Hang on. Let me read this again. Okay. Sorry. Could
8 you ask me your question, again?

9 Q. Sure. Would you agree, having now reviewed the top
10 portion of this email chain, that Mr. Lazarus disagreed with
11 Mr. Gates' view on whether the NameSpace extensions should be
12 published?

13 A. He's clearly saying that he thinks this idea is dumb,
14 so you might infer that he thinks that, although I don't know
15 what he actually thought.

16 Q. Well, if you look down just a little further, you'll
17 see another email from Mr. Lazarus who says, If we use them,
18 we have to publish them.

19 So, again, sir, I'll state to you, would you agree
20 that Mr. Lazarus disagreed with Mr. Gates' view on whether
21 the NameSpace extensions should be published?

22 A. It wouldn't surprise me if Jonathan Lazarus thought we
23 should publish them, but I don't know for sure what he
24 thought.

25 Q. And, in fact, that was Mr. Silverberg's view as well,

1 wasn't it, sir?

2 A. It wouldn't surprise me if he thought that.

3 Q. And, in fact, that was your view as well, wasn't it,
4 sir?

5 A. Generally, I thought we should publish them.

6 Q. I would like to move forward a couple of days to
7 September 27, 1993, and I show you what's been marked
8 Plaintiff's Exhibit 473. You'll see at the bottom there is
9 an email from Mr. Silverberg to Mr. Adler and Mr. Cole,
10 subject Capone and Chicago. Do you see that, sir?

11 A. Yes. I see it.

12 Q. And, again, you reported directly to Mr. Adler at the
13 time, correct?

14 A. Yes.

15 Q. And Mr. Silverberg says that David and he met last week
16 with BobMu and JimAl. That would be a reference to Bob
17 Muglia and Jim Allchin, correct?

18 A. Yes.

19 Q. Now, Mr. Muglia, he was in charge of Windows NT at the
20 time, right?

21 A. That sounds right to me, although it's easy for me to
22 forget the specific chronology.

23 Q. And Mr. Allchin, he would have been in charge of Cairo,
24 right?

25 A. Under the same caveat, yes, that's a reasonable

1 assumption, although I forget the chronology.

2 Q. And Mr. Silverberg is reporting here that the decision
3 has been made to document the shell extensibility after we
4 have finalized on the API.

5 Correct?

6 A. He's writing about a meeting that he had that I wasn't
7 in, so I'm not sure what you're asking me.

8 Q. Well, sir, when Mr. Silverberg reports that the
9 decision has been made to document the shell extensibility,
10 you understood the decision had been made to document the
11 NameSpace extensions, right, sir?

12 MR. HOLLEY: Objection. Your Honor. This document
13 is not one that Mr. Belfiore has ever seen before.

14 THE COURT: Sustained.

15 Q. BY MR. JOHNSON: Mr. Silverberg states in this email
16 that we have decided it's A-List, and Mr. Muglia is having a
17 team determine how to wrap the API's under Cairo. Do you see
18 that, sir?

19 A. I see it.

20 Q. Do you recall, sir, that Mr. Nakajima was, in fact,
21 tasked with ensuring that the Chicago shell extensions would
22 be compatible with Cairo?

23 A. I don't recall that.

24 Q. Now A-List means fully documented and supported by
25 Microsoft, right?

1 A. Generally, yes.

2 Q. And you, in fact, were involved in this decision
3 whether or not to publish these extensions, correct?

4 A. I certainly had an opinion, and I expressed my opinion,
5 although I wasn't a final decisionmaker on it.

6 Q. Sir, asking you directly, were you involved in the
7 decision whether or not to publish the extensions? You were,
8 right, sir?

9 A. Not in deciding, no. I was involved in the process of
10 discussing pros and cons. I was not part of making the
11 decision.

12 Q. Let's turn to your deposition, sir, in this case, taken
13 on January 13, 2009, referring you specifically to page 67.
14 We'll bring it up for you in just a moment.

15 A. Okay.

16 Q. If you would like to see the entire deposition, we've
17 got a full copy for you.

18 A. Okay.

19 Q. Do you recall being asked the following question and
20 giving the following answer?

21 "Were you involved in the decision whether or not to
22 publish extensions?"

23 A. I see it, yes.

24 Q. "Answer. Yes."

25 A. I see that. Yes.

1 Q. And you gave that answer to that question, did you not,
2 sir?

3 A. Yes, I believe I did. I believe this is probably
4 accurate.

5 Q. And you're not changing your testimony here today, are
6 you?

7 A. In the context of the deposition, if "decision" meant
8 the decision process, then I would agree with that.

9 Q. And there were certain factors that you took into
10 consideration in connection with your involvement in making
11 this decision, correct?

12 A. Sure.

13 THE COURT: Involvement in the decision-making
14 process. Whatever he said in the deposition, what he said
15 today is he did not make the decision, but he was involved in
16 the decision-making process.

17 Q. And the factors taken into consideration were, first,
18 how beneficial it would be to the end user, correct?

19 A. Sure. Yes. That's a factor that you might take into
20 consideration, yes.

21 Q. No. That's a factor you did take into consideration,
22 correct, sir?

23 A. Well, I'm drawing the distinction between making the
24 decision and being involved in the process to make the
25 decision.

1 Q. Again, I'm asking you, sir, that is a consideration you
2 took into account in connection with your involvement with
3 this decision?

4 A. Yes.

5 Q. And the second consideration was how beneficial it
6 would be to ISV's, correct?

7 A. Yes.

8 Q. The third consideration that you took into account was
9 the degree to which the mechanism itself worked well with
10 consideration of the variability of the software code that
11 ISV's would write. Correct?

12 A. Sure. That is another consideration. Yes.

13 Q. And, in fact, you testified on direct that you spent --
14 Microsoft spent months and months making sure that this code
15 was both smooth and reliable, correct, sir?

16 A. Generally speaking, yes.

17 Q. And the fourth consideration that you took into account
18 in your involvement in making this decision was Microsoft's
19 technology road map, correct, sir?

20 A. Yes. That would have been factor in thinking about the
21 decision.

22 Q. And, lastly, you would take into account and did take
23 into account what Microsoft would expect to happen over time.
24 Correct, sir?

25 A. Yes.

1 Q. And all six of those factors were taken into account
2 when the decision was made to publish these extensions,
3 correct?

4 A. I can't speak to that because I didn't personally make
5 the decision.

6 Q. Didn't you, in fact, think, sir, that those were the
7 factors that had been taken into account in making this
8 decision?

9 A. I think those certainly were taken into consideration,
10 yes.

11 Q. So, these factors were all taken into account when the
12 decision was first made to publish them; is that correct?

13 A. Yes. I think those considerations were taken into
14 account.

15 Q. Now, given that decision, the Cairo group, as of
16 October of 1993, shortly after this decision was made,
17 understood that it needed to support the Chicago extensions,
18 correct, sir?

19 A. I -- I'm not sure I know what they understood at this
20 point in time.

21 Q. Let me show you what's been marked Plaintiff's Exhibit
22 86. This is an email. The second email in the chain after
23 "this is great," from Mr. Adler, your boss, but the second
24 email in the chain is from Brad Silverberg to you, among
25 others, right, dated October 1, 1993?

1 A. Yes.

2 Q. And it's all about shell issues, right?

3 A. I need to read it to answer that.

4 Q. Well, you can see the "re" line, the subject line is
5 shell issues, right?

6 THE COURT: Let him read it.

7 Q. BY MR. JOHNSON: Take your time. Please read it to
8 yourself.

9 A. Okay. I have read it.

10 Q. Okay.

11 THE COURT: I think the question is, pertaining to
12 shell issues?

13 THE WITNESS: Generally, yes.

14 Q. BY MR. JOHNSON: And if we look at the first paragraph
15 of Mr. Silverberg's email to you and others, he states, "I
16 talked to PaulMa" -- I guess that's Mr. Maritz, right?

17 A. Yes. That would be Paul Maritz,.

18 Q. And Mr. Maritz was in charge of the entire systems
19 division at Microsoft, correct?

20 A. At some point in time he was, although I forget which
21 point in time he had exactly what job, but, generally, yes.

22 Q. Certainly, at this point in time, he was a high
23 executive in the systems division at Microsoft?

24 A. Yes.

25 Q. And he says, "I talked to Paul Maritz today about some

1 shell issues, especially at the global level, such as apps
2 plans and Cairo." Do you see that, sir?

3 A. Yes.

4 Q. And apps plans would refer to applications, correct?

5 A. Yes.

6 Q. And since you have now had a chance to read that email,
7 does this refresh your recollection, sir, that, in October of
8 1993, Microsoft planned to use the NameSpace extensions
9 broadly, correct?

10 A. I don't know that I can draw that conclusion from my
11 seeing the email. It describes shell extensions. I need to
12 look at it again to see if it specifically called out the
13 NameSpace extensions.

14 Q. All right. Let's go down to the fourth paragraph. And
15 this says, "this means that they," -- and this is referring
16 to the applications, Office, from the prior paragraph. "They
17 plan to write a bunch of shell applications, extensions to
18 the Chicago version 1 shell." That was the shell you were
19 working on, right?

20 A. Yes.

21 Q. "Capone, for starters." And we talked about that
22 previously, right? Capone was using the NameSpace
23 extensions?

24 A. It did at some point and then it didn't at a later
25 point.

1 Q. "And at this point in time, Ren is going to be
2 transferred over to work for Chris Peters who is going to own
3 Office, and it's going to be done as a Chicago shell
4 extension as well." Do you see that, sir?

5 A. Yes.

6 Q. And so Office, of course, refers to Microsoft's suite
7 of office productivity applications, right?

8 A. It does.

9 Q. And Ren refers to what became Outlook?

10 A. Eventually.

11 Q. And then it says, "Other things Office wants from the
12 shell will be done with Chicago shell extensions as well."
13 Do you recall that, sir?

14 A. I don't recall this specific email, but I do recall
15 that Office was interested in taking advantage of lots of the
16 shell extensions.

17 Q. "And so will the online services project under RussS."
18 And that, of course, is referring to Mr. Siegelman and
19 Marvel, correct?

20 A. Yes.

21 Q. And Marvel was in fact using the NameSpace extensions
22 as well, correct, sir?

23 A. Marvel did use the NameSpace extensions.

24 Q. And Mr. Silverberg goes on in the next paragraph and
25 states, "This means, of course, that Cairo is going to have

1 to run the Chicago shell extensions." Right?

2 A. Yes.

3 Q. And, of course, that was the case because, as you've
4 said, compatibility is key between operating systems,
5 right?

6 A. He's asserting the same point, that because we placed
7 compatibility as such a high value, he would assume that if
8 people used them, then Cairo should support them as well,
9 yes.

10 Q. Well, not only if people used them, but you have now
11 decided to put them -- make them put them in the A-list,
12 right? They are going to be fully supported and documented
13 by this point in time. That decision has been made.

14 A. I don't know that that's true.

15 Q. He goes on to say in the next paragraph, "And this
16 means that we will really have to work well with the Cairo
17 guys to develop the extensions so that they can support
18 them."

19 Do you see that, sir?

20 A. Uh-huh.

21 Q. And that's exactly what you did, didn't you, sir?

22 A. We -- we developed the shell extensions knowing there
23 were tradeoffs, as I described earlier, around reliability
24 and performance. And I think, as we architected them
25 originally, we made the trade off for performance at the cost

1 of reliability. And that was an issue for the Cairo team,
2 and that led to the email that you guys already showed which
3 is Bill saying we shouldn't publish them.

4 So, you know, whether we worked -- I don't know what
5 -- I'm not sure what you read into in terms of working well
6 with the Cairo guys. We did not, at that point in time, come
7 up with a solution that satisfied all the requirements,
8 although we discussed it with each other. So, from that
9 perspective, we did work well, but we didn't find an answer.

10 Q. Okay. If you look down in the next paragraph in
11 Mr. Silverberg's email he states, "The ideal is to have an
12 extension mechanism for applications that is based on OLE2 or
13 something that is simply wrapped OLE 2."

14 And, in fact, sir, isn't it a fact that the Chicago
15 shell extensions, including the NameSpace extensions, were
16 made to be OLE compatible.

17 A. I don't think I'm qualified to declare whether they
18 were OLE compatible or not. I'm not sure I know specifically
19 what that means well enough to say.

20 Q. Certainly you would agree, sir, that Mr. Nakajima is
21 qualified in that regard?

22 A. Yes.

23 Q. If you turn to the next page of this email, in turning
24 to the first full paragraph there, "Paul has discussed this
25 in detail with BobMu, and he fully supports" -- once again,

1 that's Mr. Muglia, right?

2 A. Bob is, yes.

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

7 So, once again, that's a recognition that
8 compatibility, going forward, is very important, and Cairo
9 needs to be on board, right?

10 A. Brad is saying that he thinks Bob accepts that Cairo
11 will have to support them, yes.

12 Q. But turning to the compatibility point, that's why
13 Cairo has to get on board, right? You have to have
14 compatibility between releases?

15 A. Well, it's a highly desired thing.

16 Q. I'd like to show you now what has been marked
17 Plaintiff's Exhibit 94. You're not copied on this email,
18 Mr. Belfiore. This is an email between Mr. Maritz to
19 Mr. Gates re: Strategy, dated Wednesday, October 13, 1993,
20 and I'd just like to ask you a couple questions about
21 paragraph 1, on the first page. It has a numeral 1. And it
22 has two subpoints, a letter i and double ii, if you could
23 just read that to yourself, please.

24 A. Okay.

25 Q. So, you would agree with Mr. Maritz that, at this point

1 in time, October of 1993, Chicago was the next ISV target,
2 right?

3 A. Well, I think that Paul is asserting to Bill that it's
4 important that we recognize if Chicago ships first that it
5 will be -- you phrased it as if it were an established well
6 understood fact, but I'm not sure that that's true
7 at that time.

8 Q. Well, certainly, there was nothing shipping with Cairo
9 on it was there?

10 A. No, not at that time, but there still might have been a
11 question about the relative timing of those releases.

12 Q. Mr. Maritz goes on to say, "Ensure that the API's
13 exposed by Chicago are as close as we can make to the OLE
14 direction that we want to go; mainly, can we get shell
15 extensions API's to be OLE?"

16 "Answer: Yes. We can by using lighter weight OLE
17 implementation for just those scenarios that Shell uses,
18 i.e., not for general in place editing, etc."

19 A. Uh-huh.

20 Q. "This will mean that any Chicago UI exploitive apps
21 would work decently on Cairo, i.e., no need for ISV's to do
22 different work on Cairo."

23 So you agree with me, Mr. Belfiore, that Mr. Maritz
24 is here telling Mr. Gates that the shell extensions are being
25 made compatible with Cairo so that there would be no need for

1 ISV's to do different work on Cairo, correct?

2 A. I don't know that that's the case. He may be -- it's
3 not an infrequent occurrence at Microsoft that people will
4 send emails that assert claims about what we should do, and I
5 would agree he's saying that there's an important value in
6 doing these things. But you phrased it as if it were a final
7 decision and done, and I don't know whether that's the case.

8 If he were saying that this is a final decision then
9 I don't think he probably would have said it in sort of an
10 argumentative way in that we should be recognizing that
11 Chicago is the next ISV target. So I don't know. I can't
12 draw the distinction between whether he's arguing that we
13 should do something or whether, as you said, it's a final
14 plan that's occurred.

15 Q. Okay. I'm just a little unclear. Where is "should
16 be"? Where is that in that sentence?

17 A. I haven't read what comes before it. There's this list
18 of things that he's saying to Bill Gates, and I don't know
19 what -- how he has prefaced them.

20 Q. Okay. Well, just point number 1, recognize that
21 Chicago is the next ISV target. There is no "should be" in
22 that sentence, is there, sir?

23 A. Well, no, but earlier on he says he's trying to get a
24 handle on things, which says to me that things are still
25 being figured out. So that's why I'm saying I'm not really

1 certain what, that in that particular period in time meant in
2 terms of finality or certainty.

3 Q. Mr. Belfiore, you would agree with me that the Chicago
4 shell extensions, including the NameSpace extensions, were
5 evangelized by Microsoft to API's during Windows 95
6 development, correct?

7 A. Yes.

8 Q. And you wouldn't have done that unless a decision had
9 been made to publish and document those API's, correct?

10 A. No. That's not necessarily the case. We, in the early
11 part of product development, routinely describe to people
12 what we think is the expected outcome and describing risk --
13 in fact, acknowledging up front that there is variability in
14 what will actually happen. So as these things are going,
15 you're making a gut call continuously about what you think is
16 going to happen or what you expect the outcome to be, and the
17 way you phrased it would be to imply that we would never talk
18 to a third party ISV until we had followed a formal process
19 to finalize things.

20 And it doesn't work that way. That would take too
21 long. It would be inefficient, and, generally, people have
22 an understanding that there is flexibility in what the final
23 outcome will be.

24 Q. In fact, you gave the presentation to the ISV's about a
25 month later, in December of 1993, which specifically

1 evangelized the NameSpace extension API functionality,
2 correct?

3 A. Yes.

4 Q. And I believe we looked at that on your direct
5 examination. I would just like to call that up. It's
6 PX-113, which is our colored version. I think you have a
7 black-and-white one in your stack there, if you need to look
8 at that. And I believe you stated that you were the author
9 of this presentation, right?

10 A. Yes.

11 Q. I'd like you to turn to the page ending with Bates
12 number 373, and specifically the first bullet point. "We're
13 providing new controls you can and should use."

14 Do you recall encouraging WordPerfect and other
15 ISV's to use these new controls?

16 A. I encouraged all ISV's to use those controls.

17 Q. And one of these new controls would make it possible
18 for ISV's to extend the shell as shown in your third bullet
19 point, correct?

20 A. Not as you said it. There is not a direct relationship
21 between those two things.

22 Q. Okay. Let's try it this way. You told ISV's in
23 WordPerfect that Microsoft was making it possible for the
24 ISV's to extend the shell. Correct?

25 A. I did say that. Yes.

1 Q. And that would include the Namespace extensions,
2 correct?

3 A. Yes.

4 Q. I'd like to direct your attention to the page Bates
5 stamped 389 which is -- contains the slide entitled Shell
6 Extensibility. This details the various ways that ISV's
7 could extend the shell, right?

8 A. Yes.

9 Q. And I don't know, you said something about 10 or 11
10 ways. I don't count 10 or 11 ways here. Were there some
11 features that were so minor that you didn't even put it in
12 your presentation?

13 A. Yeah. Well, I don't remember why I put it in the
14 presentation or not but I would characterize drag and drop
15 extensibility as a distinct mechanism from showing summary
16 properties and from adding verbs. This is probably not a
17 complete list. It doesn't include the icon handler, which
18 I know we added and shipped, so this is, at least at that
19 moment in time, a reasonably good approximation of what our
20 intent was and what we were doing.

21 Q. And the last one, explorer UI integration is all about
22 Namespace extensions, correct?

23 A. Yes.

24 Q. And here you're explicitly telling all these ISV's that
25 are watching this presentation, thousands and thousands of

1 them, right?

2 A. I actually was a break out, so I don't think there were
3 thousands and thousands in my room, but there were plenty.

4 Q. And you were telling them that if you have an
5 application that displays a collection of file-like objects,
6 you can create your own custom container displayed in the
7 folder explorer heirarchy, right?

8 A. Yes.

9 Q. Let's turn to the next slide entitled Explorer
10 Integration Details. Now, one of the things you said on your
11 direct is you did this presentation, and if you had something
12 that was -- that might change, you put a big "preliminary"
13 stamp on there, right?

14 A. I gave an example of where I did that, yes.

15 Q. Now, there's no "preliminary" stamp on this slide, is
16 there, sir?

17 A. No.

18 Q. And the first bullet says, "Not for most applications,"
19 and states that explorer integration only should be used if
20 your application displays a pseudo folder, electronic mail,
21 document management, etc.

22 Is that consistent with your recollection that you
23 believed, at this time, December of 1993, that email and
24 document management systems would be good uses of the
25 NameSpace extension functionality?

1 A. I thought they might be appropriate, yes.

2 Q. Were you aware, sir, that WordPerfect developers had
3 told Microsoft developers that that's two of the things that
4 they wanted to do with the NameSpace extensions?

5 A. No.

6 Q. I show you now what's been marked Plaintiff's Exhibit
7 105. Mr. Belfiore, this is an email -- you're not copied on
8 it -- and it memorializes a trip to WordPerfect by -- oh, I'm
9 sorry. You are copied on it.

10 A. Yeah.

11 Q. Take that back. JoeB. That would be you, right?

12 A. Yes.

13 Q. So, if we turn down -- so this visit to WordPerfect was
14 reported to you; is that correct, sir?

15 A. I need to read the mail just to refresh myself with it,
16 but, yes, it looks like it.

17 Q. I'm happy to have you read it if you need to, but I was
18 going to draw your attention down to the fourth paragraph
19 there and it says, "They were very happy about us deciding to
20 document the shell extensions." "I," meaning Mr. COLE,
21 "explained conceptually how the extensibility would work and
22 what controls they would have. Since they just acquired a
23 document management system, I forgot from who, I assume they
24 will want to plug that in plus WordPerfect mail and other
25 parts of WordPerfect Office, too. And I'm sure they will

1 also supply shell property sheets for their docs, too."

2 Does that refresh your recollection that you were
3 aware, in November of 1993, that WordPerfect intended to use
4 the NameSpace extensions for the exact functionality which
5 you were evangelizing to them?

6 A. Yes, it does recollect -- refresh my recall. Yes.

7 Q. Let's turn back then to Exhibit 113, Plaintiff's
8 Exhibit 113.

9 Could you put up Plaintiff's Exhibit 113 for
10 Mr. Belfiore, please.

11 I'd like to turn to the page Bates stamped -- oh,
12 it's up. Ten Keys For Making a Great Windows Chicago
13 Application UI. Which is user interface, right?

14 A. Yes.

15 Q. And you actually talked about this one a bit on direct,
16 which is number 4 I'd like to draw your attention to.

17 A. Yep.

18 Q. It says, "Use the common dialog, file open, or recreate
19 its NameSpace accurately, including network browsing and
20 links."

21 And what you are saying to the ISV's that are coming
22 to learn about Chicago is either use Microsoft's common file
23 dialogue or, if you're creating a custom file open, be sure
24 to recreate the common file dialogue NameSpace accurately,
25 correct?

1 A. Yes.

2 Q. So if an ISV's was creating a custom file open, it was
3 key -- one of the keys that they recreate the full name space
4 right, correct?

5 A. I would have wanted them to do that, yes.

6 Q. And the full NameSpace would include Microsoft's
7 network neighborhood, recycle bin and my briefcase, right?

8 A. Yes.

9 Q. And those were all facilities that were created by
10 Microsoft within Windows 95 using the NameSpace extensions?

11 A. I don't know whether we literally used the NameSpace
12 extensions to create all of those or not. We might have.

13 Q. Well, once again --

14 A. But it is irrelevant to the question of whether a
15 software developer can recreate them.

16 Q. Okay. Once again, though, sir, you would agree that
17 Mr. Nakajima would be well aware of whether that was true or
18 not, right?

19 A. He would be well aware of how the shell implemented
20 each of the things you listed, yes.

21 Q. Now, it would be fair to say that you were aware, in
22 late 1993, that some ISV's would find Microsoft's file open
23 dialogue -- common file open dialogue suitable and some
24 wouldn't, correct?

25 A. Generally, yes.

1 Q. And this problem was not an uncommon one, correct,
2 sir?

3 A. No.

4 Q. And you understood that, even though Microsoft was
5 providing a common file open dialogue, that some ISV's would
6 have good reason to choose not to use the common dialogues,
7 correct?

8 A. Yeah.

9 Q. And part of that good reason would be if an ISV, for
10 instance, desired to implement features that went beyond what
11 Microsoft had provided and implemented in its common
12 dialogue, right?

13 A. Yes.

14 Q. But even if an ISV was doing a custom file open, you
15 still wanted to provide them with all the tools to help them
16 do what Microsoft did, even though the ISV is implementing
17 their own custom file open, correct?

18 A. Generally speaking, yes.

19 Q. So, by December of 1993, it's fair to say that
20 Microsoft had decided to document the NameSpace extensions,
21 and you were actively evangelizing the NameSpace extensions
22 to ISV's, correct?

23 MR. HOLLEY: Objection, Your Honor. Asked and
24 answered.

25 THE COURT: One more time. Go ahead. You can

1 answer.

2 THE WITNESS: Yeah, I'd say we had assumed we were
3 going to do that, yes.

4 Q. BY MR. JOHNSON: Well, there's no assumption about
5 you're actively evangelizing?

6 A. No.

7 Q. Right?

8 A. No, there's no assumption about that.

9 Q. You have personal knowledge of that, sir?

10 A. Yes. I evangelized them with the expectation that they
11 would be published and available.

12 Q. Do you recall that Mr. Silverberg was very proud of the
13 way Mr. Nakajima developed a light-weight OLE implementation
14 of the shell extensions?

15 A. Yes.

16 Q. Were you proud of that as well?

17 A. I don't think -- I don't think I ever understood it
18 well enough to be proud of it.

19 Q. Well, would you agree with me, sir, that by January of
20 1994, the NameSpace extension API's were basically done,
21 right?

22 A. I actually don't know. No. I couldn't say I agree
23 with that.

24 Q. Let me show you what has been marked Plaintiff's
25 Exhibit 129. This is an email string involving your boss,

1 Mr. Eckhart, right -- no. I'm sorry, not your boss.

2 Mr. Kurt E. Who is that?

3 A. Kurt Eckhart.

4 Q. And what was his job?

5 A. He was a dev manager responsible for the implementation
6 of the shell.

7 THE COURT REPORTER: What kind of manager?

8 THE WITNESS: Sorry. Dev manager, which is
9 shorthand for development manager.

10 Q. BY MR. JOHNSON: And turning down to Mr. -- so he would
11 have been Mr. Nakajima's boss, right?

12 A. I believe that's correct.

13 Q. So he writes to Mr. Nakajima with a copy to you in the
14 second email, dated January 20, 1994, and the subject is
15 Shell Extensions. Do you see that, sir?

16 A. Yes.

17 Q. And Mr. Eckhart says, down in number 1, "We can tell
18 them basically now "-- he's talking about the shell
19 extensions -- "we are basically trying to minimize how much
20 time we spend now on documenting these as to make our M6
21 milestone."

22 Do you see that, sir?

23 A. Yes.

24 Q. And the M6 milestone would have been the beta of
25 Chicago that was being prepared to deliver to ISV's, right?

1 A. I believe that's true, although I don't remember the
2 specific -- what each M number meant in term of Beta versus
3 pre-release.

4 Q. And Mr. Eckhart writes in number 2. "We basically have
5 it done now, although we will probably tweak some of the
6 interfaces to make them look better for us in our current
7 extensions."

8 Do you see that, sir?

9 A. Yes.

10 Q. And Mr. Eckhart certainly would have been in a position
11 to know if the shell extensions were basically done now?

12 A. Yes.

13 Q. Do I understand correctly that you were responsible for
14 keeping a slim document which contained the minimal
15 documentation for the NameSpace extension API's?

16 A. I don't recall that I had that responsibility.

17 Q. Let me show you what has been marked Plaintiff's
18 Exhibit 128. This is your response to the email sent by
19 Mr. Silverberg that we just looked at.

20 A. Sorry. Just looked at as in the other mail thread,
21 or...

22 Q. Yes, the last exhibit that you looked at.

23 A. Okay. Hang on and let me correlate that. Yes.

24 Q. So, in response to Mr. Silverberg's inquiry regarding
25 when ISV's would actually be able to write code implementing

1 the NameSpace extension functionality, you state --

2 And we go down to the response there, if you can
3 bring that up.

4 You state that Mr. Nakajima was currently
5 maintaining a slim doc and a bunch of sample code. Do you
6 see that, sir?

7 A. Yes.

8 Q. Does that refresh your recollection at all that there
9 was a slim doc and a bunch of sample code available for the
10 NameSpace extensions in January of 1994?

11 MR. HOLLEY: Your Honor, I don't mean to be picky,
12 but the earlier question was, Did you have responsibility for
13 maintaining the slim document? And so this couldn't refresh
14 his recollection, since it says something different.

15 THE COURT: That's all true. So just ask him the
16 question.

17 THE WITNESS: Can you ask that again? I'm sorry.

18 Q. BY MR. JOHNSON: I'm sorry. I don't know if I even got
19 an answer. So, does this refresh your recollection that
20 Mr. Nakajima was currently maintaining a slim doc and a bunch
21 of sample code?

22 A. I'm not surprised that Satoshi had a slim document
23 although, as I said earlier, I didn't have responsibility for
24 it.

25 Q. And do you know what is meant by the term "slim doc"?

1 A. Generally speaking, it means a less-involved set of
2 documentation, so, as I described earlier, when we do a full
3 documentation that we give out broadly and evangelize, we
4 will write, you know, a very formal definition of the API.
5 We will describe what happens in all kinds of different
6 cases. We will create sample code. And what this means is,
7 in the interest of speed, there is a document that has had
8 less investment in it, and so that's what I presume it to
9 mean.

10 Q. And so, if you look down a little further in your --
11 your email, we go back to that one we were looking at before.

12 Yeah. Right down there. Thank you.

13 You state, after number 2. "We have sample code
14 now, and I think the API is pretty settled."

15 Right?

16 A. I did write that, yes.

17 Q. And, in fact, these shell extension API's, including
18 the NameSpace extensions, did not change from this time, in
19 January of 1994, until the release of Windows 95, correct?

20 A. That would surprise me if true, but I don't know.

21 Q. Do you recall that the M6 beta was released to
22 approximately 20 thousand sites.

23 A. I don't remember how many people each beta was released
24 to.

25 Q. Okay. Do you recall that it was a fairly widespread

1 distribution?

2 A. I certainly recall that we did betas, although, as I
3 said earlier, I can't remember which M number goes with which
4 beta, but that went out broadly, yes.

5 Q. Just to see if we can refresh your recollection, let me
6 show you what has been marked Plaintiff's Exhibit 179. This
7 would be Mr. David COLE's Chicago project, Fiscal Year '94,
8 fourth quarter report, right?

9 A. I don't know what this is.

10 Q. But you'll see there, under "highlights" -- Mr. COLE,
11 he was responsible for the Chicago -- he was the program
12 manager, right?

13 A. No. David COLE was the group manager for the core
14 components.

15 Q. Okay, would the core components include the shell?

16 A. Yes.

17 Q. So, Mr. COLE reports, in the highlights there at the
18 top, "Chicago beta 1, M6 was shipped June 10 and subsequently
19 rolled out to approximately 20 thousand sites worldwide."

20 Does that refresh your recollection at all that the
21 beta 1 M6 was rolled out to over approximately 20 thousand
22 sites worldwide?

23 A. Yes.

24 Q. And it's also a fact, sir, that by January of 1994, you
25 had decided that it was fine to tell the public at large

1 about NameSpace extensions, correct?

2 A. I presume even earlier than that, since I talked about
3 it in December of '93, yes.

4 Q. Well, you recall, sir, providing information to PC
5 Magazine to write about the NameSpace extensions?

6 A. I have no specific recollection of what I might have
7 talked to PC Magazine about at what point in time.

8 Q. Let me show you what has been marked Plaintiff's
9 Exhibit 130. Can you see your email at the top in response
10 to Mr. Chase's email?

11 A. Yes.

12 Q. And apparently there's a PC Magazine writer by the name
13 of Jeff Prosis -- I'm not sure how you pronounce that --
14 P-r-o-s-i-s-e?

15 A. Yes.

16 Q. He's working on a piece for Chicago. And Mr. Chase
17 suggests you might be able to help him with some of the
18 features of Chicago that he might want to write about, right?

19 A. Yes.

20 Q. And one of the things that you tell him that would be
21 interesting to write about is you can tell him -- this is the
22 third bullet point there -- you can create an application
23 that integrates directly with the shell explorer to provide a
24 custom folder using OLE interfaces. These interfaces are not
25 yet available for public consumption but will be in M6.

1 So, what you were talking about here was the
2 NameSpace extensions, right?

3 A. Yes.

4 Q. And this was important enough for you to tell the --
5 this reporter from PC Magazine, that this is something to
6 write about here, correct?

7 A. I'm giving him a list of things I'm saying we can tell
8 him.

9 Q. Well, certainly, if it was unimportant, you wouldn't
10 have mentioned it, correct, sir?

11 A. If it were completely unimportant, I wouldn't have
12 mentioned it.

13 Q. I'd like to show you now what's been marked Plaintiff's
14 Exhibit 529. This exhibit contains an attachment that you
15 put together to provide some ISV's with some basic
16 information to ensure that their future applications would
17 run well on Chicago, right?

18 A. Yes.

19 Q. And it says -- do you recall putting together this
20 document to give the ISV's basic information on how to be a
21 great app in the Chicago shell?

22 A. Yes, I do.

23 Q. And it looks like you revised this document in February
24 of 1994, correct?

25 A. Yes.

1 Q. And apparently it was still being sent around in the
2 company in September of 1994, right ?

3 A. Yes.

4 Q. I'd like to draw your attention to number 5 on your
5 attachment.

6 A. Yes.

7 Q. And it says, "Use common dialogue, especially file open
8 save as. If you use our file open save as dialogues, for
9 example, you will get links, long file names, sort of, and
10 direct browsing of the network for free. If you cannot use
11 the common dialogue, open/save as dialogue, be sure your
12 open/save as dialogues support the following features for
13 consistency, consistency with the shell, and apps, applets.".

14 And it talks about the NameSpace heirarchy that is
15 the same as the shell, right?

16 A. Yes.

17 Q. And this is what we were talking about earlier, that if
18 you were doing a custom file open, it was very important
19 that, in order to present the user with a consistent
20 interface, that they -- they recreate the functionality of
21 the NameSpace in a consistent manner, right?

22 A. I believed that was very important for a user to be
23 able to learn how to use an app effectively, yes.

24 Q. And included within that NameSpace heirarchy were my
25 computer, my network, etc. Right?

1 A. Yes.

2 Q. Now, these points that you've outlined here apply just
3 as much search to Microsoft's applications as they did to
4 ISV's, right?

5 A. Yes.

6 Q. And you recommended the Microsoft applications also use
7 the common file open and save as dialogues, right?

8 A. I did recommend that.

9 Q. But Microsoft Office, in fact, went against your
10 recommendation, didn't they, sir?

11 A. Yes.

12 Q. Microsoft Office implemented their own custom dialogues
13 instead of the common file open and save as dialogues,
14 correct?

15 A. Yes.

16 Q. And that's because the common file open dialog did not
17 provide sufficient functionality for Microsoft Office,
18 correct?

19 A. Well, I would argue it did provide sufficient
20 functionality, but I would argue that the Office team made a
21 decision to go provide enhanced functionality.

22 Q. Let's turn to number 12 on How To Be A Great App In The
23 Chicago Shell. It says, "Consider major redesign of your
24 user interface to take advantage of the new emphasis on data
25 simplicity and shell integration."

1 A. Yes.

2 Q. And you go onto say in the second bullet point directly
3 under that on the next page. "If you have a hierarchical
4 containment NameSpace that contains specific non-ordered
5 objects, think about integrating it into the explorer as a
6 special folder."

7 And that's all about the NameSpace extensions, isn't
8 it, sir?

9 A. Yes.

10 Q. And you were telling people that was one of the things
11 you should consider doing to be a great app in Chicago.

12 Think about redesigning your entire user interface, correct?

13 A. Well, what I said was consider a redesign of your user
14 interface to take advantage of data centrality and shell
15 integration. The primary case for that was the MBI
16 application, which we talked about already, but this is a
17 secondary case, but, yeah, for those applications that did
18 that kind of thing, as I wrote here, I would have recommended
19 it.

20 Q. In fact, this is a document that was in fact handed out
21 to ISV's, correct?

22 A. I'm sure it was, although I don't specifically remember
23 an event or situation, I guess.

24 Q. I'd like to show you now what's been marked as
25 Plaintiff's Exhibit 136. This is an email that you sent to

1 Mr. Silverberg and David COLE and John Ludwig on February 2,
2 1994. Correct?

3 A. I believe that's true, although I don't -- I have to
4 read it to see what it is.

5 Q. Please do.

6 A. Okay. Okay

7 Q. So, drawing your attention again to the paragraph above
8 the reference to DNA API.

9 If you could bring that up, please.

10 You state, "We have already gone to a bunch of
11 trouble to implement IShell folder, which is an API layer
12 above the file system WinInet and extracts away the
13 enumeration of the Chicago NameSpace heirarchy. We have done
14 this because ISV's will need it to do shell extensions and
15 because some ISV's will really, really want this support to
16 make their own file open save implementations use the same
17 heirarchy as ours."

18 Do you see that, sir?

19 A. Yes.

20 Q. Now, the IShell folder is one of the NameSpace
21 extension API's, correct?

22 A. No. I don't think it is. No. It's a shell extension
23 API, but it's not related to the NameSpace extensions .

24 Q. Do you recall, sir, that IShell folder, when Mr. Gates
25 made his decision, was in fact made private, read only --

1 excuse me. Let me rephrase that. Do you recall, sir, that
2 IShell folder was part of Mr. Gates' decision to de-document
3 the NameSpace extension API's. IShell folder was made read
4 only so there was no longer the ability to do custom
5 implementations?

6 A. This is a little bit of a technical -- let me explain
7 this. If you're an ISV -- if you're an ISV, sorry, that
8 wants to implement your own version of the common file dialog
9 and therefore fill out that tree with desktop and my
10 computer, so what you do is you say to the shell:

11 "Hey, shell, I'd like you to answer the question of
12 the IShell folder."

13 This is an interface. You say to the shell, "Tell
14 me what's next."

15 So first the shell will say, "The desktop."

16 Then you say, "Okay. What's inside the desktop?"

17 And you use IShell folder to do that. And then
18 IShell folder will say, "Here, Draw this icon and use this
19 name."

20 That's how you build the tree. But the thing that's
21 tricky about this is there's two sides to this coin. As an
22 ISV that wants to build -- you want to draw the tree that we
23 make, you ask IShell folder questions, and we give you
24 answers. For the specific case of an ISV that is plugging
25 into that tree, the ISV has to be somebody who answers the

1 question. So the shell would do this. But with Windows
2 Explorer, we would say, "Here's the desktop and here's the
3 email folder."

4 Well, the shell needs to know what icon to draw
5 under that, so it has to ask your code. And the part of the
6 NameSpace extension when Bill sent his mail saying we
7 shouldn't publish this, he was saying that ISV's shouldn't be
8 able to plug in under the A-List, but ISV's could still use
9 it to ask the question.

10 So, I can't remember what language you used. You
11 said something about being involved in. From the perspective
12 of an ISV that is adding things into the tree, the ISV needs
13 to be able to respond to the question IShell folder would
14 have answered.

15 THE COURT REPORTER: Wouldn't answer?

16 THE WITNESS: Sorry. If an ISV is adding things
17 into the tree, the ISV will get asked by the IShell folder
18 questions, and the ISV must answer it. And that's a
19 completely different thing than an ISV being able to ask the
20 question. I'm sorry. This is -- I hope that makes sense.
21 It's a little obscure.

22 Q. Mr. Belfiore, what you're saying here, in the paragraph
23 you just read, which is highlighted on your screen, is that
24 for those ISV's that did not find Microsoft's common dialogue
25 suitable, it was still very important that those ISV's be

1 able to display the same heirarchy that the Windows Explorer
2 was displaying, correct?

3 A. Yes. I thought so.

4 Q. And that heirarchy would include Microsoft's new name
5 spaces: My briefcase, network neighborhood and recycle bin,
6 correct?

7 A. Yes.

8 Q. And you believed that it was important to provide those
9 ISV's with the tools to help them do as much as possible of
10 what Microsoft had done, even though they were implementing
11 their own file open dialogue, correct?

12 A. Generally speaking, we wanted to make it easy for them
13 to do that, yes.

14 Q. And those tools included the NameSpace extension API's,
15 correct?

16 A. No. That's unrelated.

17 Q. Mr. Belfiore, I'm going to represent to you that
18 Mr. Nakajima said IShell folder was a NameSpace extension
19 API. Are you going to dispute him, sir?

20 MR. HOLLEY: Your Honor, the -- Mr. Johnson is
21 misrepresenting what Mr. Nakajima said. There is nothing
22 that Mr. Nakajima said that is vaguely inconsistent with what
23 Mr. Belfiore is saying.

24 MR. JOHNSON: I'd be happy to put it to the screen,
25 Your Honor, if there is a debate about it.

1 THE COURT: In any event, his testimony, you can put
2 it on the screen later. This witness has testified to his
3 his understanding, and if it's contrary to Mr. Nakajima, so
4 be it.

5 Q. BY MR. JOHNSON: Mr. Belfiore, what did you mean when
6 you said, "because some ISV's will really, really want this
7 support to make their own file open save implementations, use
8 the same heirarchy as ours."

9 A. There's a lot of work that's involved in making that
10 API, IShell folder, which answers the question, what is
11 inside this container? And I described that here. I said,
12 it is an API level layer above the file system in WinInet,
13 and it extracts away enumeration. This is an important idea.

14 If you are -- in Windows 3.1 -- I'll go back to that
15 example where a user had to map a network drive because all
16 these technologies were different. The way you would ask the
17 computer a question, "what are the printers?" is a different
18 way of asking the question than the way you ask the computer,
19 "what are the computers on the network?" which is a different
20 way of asking the question, "what are the files inside this
21 folder?"

22 And so, if you are writing an application and you
23 want to build that tree in a way that displays printers like
24 files, like computers on a folder, you have to write a whOLE
25 lot of software that knows four or five or six different ways

1 to ask these questions. So, what I am saying here is, we had
2 gone to a bunch of trouble to build a single question that
3 you can ask, and that question is called IShell folder.
4 "Given the desktop, what is inside of it," you ask. And we
5 would answer. "Given a disk drive, what is inside of it,"
6 you would ask. We answer. We have written all the code to
7 ask the really different detailed questions that need to be
8 asked.

9 So what I am saying here is because we wanted
10 applications to be easier to use and we wanted Windows to be
11 easier to use, we did all that work so that ISV's would not
12 have to worry about that. They could use our common file
13 dialogue or build their own out of our LEGO blocks and ask us
14 the question, What is inside the desktop? What is inside my
15 computer? What is inside the printers?

16 And that is what IShell folder is about. That's
17 valuable to them because they have the flexibility to add
18 whatever features and capability they want and still be
19 consistent with the user experience.

20 Q. Mr. Belfiore, a couple of documents ago, we reviewed
21 that trip report of Microsoft visiting WordPerfect, and you
22 said that refreshed your recollection that WordPerfect told
23 Microsoft that it planned to integrate its email and document
24 management system into the explorer, right?

25 A. Let me look at it to remember exactly what it said.

1 Q. That's all right. I'll withdraw the question.

2 A. Okay.

3 Q. Were you aware that Microsoft started talking to
4 external ISV's like Semantic as early as February of 1994
5 about the NameSpace extensions?

6 A. That doesn't surprise me.

7 Q. Let me show you what has been marked Plaintiff's
8 Exhibit 139. Now, this is an email chain that you're copied
9 on. I would like to direct your attention to Mr. COLE's
10 email in the middle of the page on February 8 at 12 a.m.,
11 where he's responding to questions posed by Mr. Maritz.

12 A. Okay.

13 Q. And Mr. Maritz asks you and David COLE whether
14 Microsoft plans to ship a new set of OLE-like API's for doing
15 right-pane shell extensibility in M6. Right?

16 A. Yes.

17 Q. And Mr. Cole responds. "Correct. These are
18 essentially done today, and we plan to start talking about
19 them with the specific people who ask, like Semantic. They
20 are here on the 16th."

21 Do you see that, sir?

22 A. Yes, although I would have guessed that -- oh, no, I
23 guess David COLE did write that. Yes.

24 Q. So, again, this is further confirmation that the
25 NameSpace API's were essentially done at this time period,

1 correct?

2 A. It's confirmation that there was enough work done that
3 he could talk about it.

4 Q. Well, certainly, yes, enough work done so that you
5 could talk directly to ISV's about it, correct?

6 A. Yes.

7 Q. And Mr. Maritz also asked, What shell API's is Capone
8 using for doing its right-hand pane work?

9 And Mr. COLE answers, The same API's as above.

10 So, again, we see that in February of 1994, Capone
11 was using the NameSpace extensions to integrate into Chicago,
12 right?

13 A. Yes.

14 Q. A moments indulgence here, Your Honor. I am skipping
15 some stuff.

16 THE COURT: Good. That does raise a question.
17 About how long do you think you're going to be?

18 MR. JOHNSON: I don't think -- certainly we're not
19 going to be finished if we're only going 'til 1:30.

20 THE COURT: Well, that's my question.

21 How long -- can you all stay? 1:30 today? 1:30?

22 Two? We can go to two.

23 MR. JOHNSON: Everybody? All right. I might be
24 able to finish by then. I'll certainly try.

25 THE COURT: How long do you anticipate your

1 redirect's going to be? We'll go 'til two in any event.

2 MR. HOLLEY: Your Honor, I'm afraid that it's going
3 to be necessary for me to ask about seven or eight
4 questions.

5 THE COURT: Okay. Well, that's fine. If you all
6 can stay 'til two we will go as long as we can. I don't want
7 to -- the last thing I want to do is interfere with their
8 schedules.

9 Q. BY MR. JOHNSON: Do you recall, sir, that you thought
10 that some of the features provided in Chicago in fact made it
11 better than the Macintosh?

12 A. I definitely thought that, yes.

13 Q. Let me show you what has been marked Plaintiff's
14 Exhibit 202. This exhibit includes an email that you sent to
15 a number of people and to an email alias for Windows
16 Marketing in July of 1994, that details the reason why you
17 believe Chicago better than Mac, right?

18 A. Yes.

19 Q. I'd like to direct your attention to number 9.

20 Could you bring that up.

21 It states, "We include the explorer which let's
22 intermediate, high-end users browse the entire NameSpace,
23 computer plus network plus other stores like the InfoCenter
24 message center using a single window. This explorer can also
25 be extended by ISV's, so we can expect to see this very

1 powerful application be used as a browser for all kinds of
2 information stored in all kinds of places."

3 Do you see that, sir?

4 A. Yes.

5 Q. You go on to say, "The explorer goes way beyond the
6 Finder." Now, the reference to Finder there is the Macintosh
7 Finder, right?

8 A. Yes.

9 Q. Because Finder doesn't enable ISV's to add custom
10 containers such as email stores.

11 A. Yes.

12 Q. So, what you're saying here is this NameSpace
13 functionality that you've been evangelizing to the ISV's and
14 which are going to be documented to them is one of these
15 items that makes you a lot better than Mac?

16 A. One of many, yes.

17 Q. Well, you've only got 11. It's one of the 11, isn't
18 it, sir?

19 A. It depends on how you count. Under 9 I see at least
20 four or five, so if you go to 9 --

21 THE COURT: In any event, 11 is many, so let's go
22 on.

23 Q. BY MR. JOHNSON: So it's fair to say, in July of 1994,
24 you expected ISV's to use the NameSpace extensions to enable
25 the explorer to be used as a browser for all kinds of

1 information stored in all kinds of places, right?

2 A. Yes, that was my expectation.

3 Q. And was Mr. Nakajima's vision as well, wasn't it,
4 sir?

5 A. Yes.

6 Q. And this functionality made Windows 95 innovative and
7 better than the Mac, correct?

8 A. One of many things, yes, in my opinion.

9 Q. Mr. Belfiore, would you agree with me that, once
10 Microsoft made the decision to port the Windows 95 shell to
11 Windows NT, any objections that might have existed around
12 compatibility had been addressed so that there was no reason
13 not to completely promote and publish the NameSpace
14 extensions?

15 A. No. I don't think I would agree with you.

16 Q. Let try it this way, Mr. Belfiore. There has been
17 substantial testimony that Mr. Gates made the decision to
18 both cancel the Cairo shell and to use the Chicago code base
19 on Windows NT in September of 1994. Do you recall that, sir?

20 A. I remember the decision. I believe that time frame.

21 Q. So you accept the representation that it occurred in
22 September of --

23 A. Yes.

24 Q. -- 1994?

25 A. Yeah.

1 Q. And, in fact, the Chicago team always kept Windows NT
2 in mind when designing the Chicago shell, which is why the
3 Chicago shell ported easily to Windows NT. Isn't that
4 correct, sir?

5 A. I would say, generally, yes, we tried to think about
6 the Win 32 API level of compatibility between NT and Windows,
7 yes.

8 Q. And that's why it ported so easily, correct, sir?

9 A. Yes.

10 Q. You have a copy of PX-1 up there I'm sure, sir. Could
11 you find that?

12 A. You'll to have take tell me what PX-1 is.

13 THE COURT: It's part of the defense exhibit. It's
14 on the screen.

15 Q. BY MR. JOHNSON: That's all right. Now, this email is
16 where Mr. Gates says that the decision has been made to
17 postpone publishing the NameSpace extension mechanism until a
18 future release. Correct?

19 A. I'm trying to find where that is in here, and I'll
20 confirm it, but just a second. Sorry. Can you direct me to
21 a -- okay.

22 Q. I'm just ask asking a question, Mr. Belfiore.

23 THE COURT: Go ahead. Mr. Goldberg may be able to
24 help. I don't know.

25 Q. BY MR. JOHNSON: This email is where Mr. Gates is

1 making the decision to postpone publishing the NameSpace
2 extension mechanism until a future release, correct?

3 A. Yes.

4 Q. And the reason he is postponing publishing the
5 NameSpace extensions to a future release is that he wanted
6 Office 96 to take advantage of them first. Correct, sir?

7 A. I don't think that he says that.

8 Q. You believe it to be true though, don't you, sir?

9 A. No. I don't think that's the reason.

10 Q. And wasn't this all for the purpose of enabling Office
11 to do a high level of integration that will be harder for the
12 likes of Lotus Notes and WordPerfect to achieve and which
13 would give Office a real advantage. Correct?

14 A. He did write that in his email.

15 Q. Let me show you what has been marked Plaintiff's
16 Exhibit 243. And I think we looked at this on your direct
17 examination, or at least a version of it. It may have been
18 the same document. And this included your explanation to
19 program management systems, Windows program management about
20 the decision Mr. Gates had made, correct?

21 A. Yes.

22 Q. And I think you testified that that alias refers to all
23 the program management team within Chicago, right?

24 A. Yes.

25 Q. And you state that the most visible result of this

1 decision is that Capone and Marvel will no longer be shell
2 extensions you can brows into with your explorer. Instead,
3 they will be pulled out as separate applications like MS mail
4 is today. Right?

5 A. Yes.

6 Q. And, in fact, you would agree that Marvel continued to
7 use the NameSpace extensions right through the release of
8 Windows 95, correct?

9 A. Yes.

10 Q. So, literally the day after Mr. Gates' decision to pull
11 these API's, it had already been decided that Capone and
12 Marvel would open up in a separate window, right?

13 A. Well, it says that that's the result of his decision,
14 but I'm not sure what you mean by "the day after."

15 Q. Well, it was certainly known the day after that that
16 was what was going to be done to deal with any robustness
17 concerns, correct?

18 A. Yes.

19 Q. You stated in the last paragraph on page 1, if you go
20 down to that, "As mentioned below, the main reason these
21 aren't going to be published is because it will add work to
22 the Ren group. Its goal will be to ship a replacement
23 explorer in Office 96."

24 Now, at this point, the Ren group, which was the
25 code name for what became Outlook, was part of Microsoft

1 Office, right?

2 A. It was part of that team, although I'm not sure it was
3 determined where it was going to ship.

4 Q. And the Office group was planning on shipping a
5 replacement explorer in its Office 96 product, right?

6 A. I would not have used the word "planning to." I would
7 have used the word "thinking about" or -- what I wrote here
8 is that it would be their goal to do that.

9 Q. Okay. And that's the word you used. Their goal was to
10 ship a replacement explorer in Office 96, right?

11 A. Yes.

12 Q. And that's what Mr. Gates wanted to do, didn't he? He
13 wanted to have a replacement explorer to take advantage of
14 those NameSpace extensions before any other ISV could. Isn't
15 that correct, sir?

16 A. I think that Bill always wanted there to be an explorer
17 that was more sophisticated than the one we built in Windows
18 95. He was very into storage and being able to semantically
19 understand the objects in a space, and we didn't build that.
20 And I think when the reorganization happened with the Cairo
21 team merging into the Ren team, I think he thought that that
22 was a team of engineers that shared that value and would try
23 to build that experience.

24 There was no plan for what product, set of software
25 would be distributed in it, if it ever existed. In fact, it

1 didn't get built.

2 Q. If you can answer my question --

3 THE COURT: I think he did, Mr. Johnson. If you
4 want to him again, you can.

5 MR. JOHNSON: I do, Your Honor.

6 Q. BY MR. JOHNSON: Isn't it a fact, sir, that Mr. Gates
7 intended for this Office explorer to use the NameSpace
8 extensions that had been de-documented in order for Microsoft
9 to achieve a higher level of integration that would be harder
10 for the likes of WordPerfect and Lotus Notes to achieve,
11 which would give Office a real advantage?

12 A. I don't know that I know what that means. He wrote
13 those words. Yes. He wrote those words, but I'm not sure
14 I know what that means.

15 Q. Let me show you what has been marked Plaintiff's
16 Exhibit 379. This is the Office 96 spec, sir. You see this
17 is talking about Chicago explorer superset and replacement?

18 A. Yes.

19 Q. If you look down in the summary, starting with the
20 second sentence, it states: "Office explorer will superset
21 and replace the Chicago explorer to become the single place
22 where users can find and manipulate all their information
23 irrespective of its type, including all documents and files;
24 in addition to personal information such as appointments,
25 task lists and mail. By allowing Office users to browse rich

1 views on documents without requiring them to be connected to
2 a group or a store, Office 96 undercuts Lotus Notes, giving
3 away a large part of the Notes functionality for free."

4 Now, sir, isn't that how the Chicago explorer was
5 advertised, as the place, the single place where users can
6 find and manipulate all their information, irrespective of
7 type?

8 A. We definitely had a goal to do much of that. The
9 Chicago explorer did not do literally finding in the sense of
10 search. One of the distinctions between what Bill wanted to
11 have happen and what actually happened was whether you could
12 use the same user experience to do searches, and doing
13 searches means being able to understand sort of semantically
14 what is inside of these objects, and we never built that. So
15 what is described in this document, from my view, is actually
16 a superset of what we were doing.

17 Q. Isn't it fact, sir, in order to achieve the goal of the
18 Office explorer that Chicago was providing the crucial
19 interfaces that Office 96 was going to use?

20 A. I don't -- I don't even -- I don't know how -- can you
21 ask that question differently? I'm not even sure what that
22 question is.

23 Q. Let's turn to the third page of this exhibit,
24 Plaintiff's Exhibit 379, beginning with the Bates stamp 6800.
25 And drawing your attention down to the bottom, after number

1 8.

2 If you can highlight that, Mr. Goldberg.

3 Now the Office explorer -- that's what we're talking
4 about here, right?

5 A. Yes.

6 Q. That's what you said in your email was going on. Ren's
7 goal was to build an Office explorer. Right?

8 A. Let me look in my email and see if I actually wrote
9 that. Yes, I did write that.

10 Q. And it states here, "The Office explorer implementation
11 strategy is to leverage the Chicago shell team's work as much
12 as possible. Chicago provides some of the crucial interfaces
13 that will simplify our work. These include --" and it talks
14 about IShell folder and IShell view. Right, sir?

15 A. Yes.

16 Q. And those are two of the NameSpace extension API's.
17 Isn't that correct, sir?

18 A. They are included in the definition of NameSpace
19 extensions.

20 Q. Now, Mr. Gates did not cite robustness concerns in his
21 October 3, 1994, email as a reason for his decision not to
22 publish the NameSpace extensions, did he, sir?

23 A. Well, he referred to that concern implicitly when he
24 said the Ren team would have a lot of work to do on
25 compatibility.

1 Q. Sir, does he say "robustness" anywhere in that entire
2 document? Does he use the word "robustness"?

3 A. He does not use the word "robustness."

4 Q. In fact, to the contrary, he said that there was
5 nothing wrong with the extensions, didn't he, sir?

6 A. He says -- he doesn't say that there is nothing wrong
7 with them. He says, "This is not to say that there was
8 anything wrong with them." It's subtly different. He's not
9 saying, "These are perfect, and yet I'm going to make a
10 different decision."

11 Q. In fact, he goes on to the say, "On the contrary, they
12 are a very nice piece of work."

13 Correct?

14 A. He does. Yes.

15 Q. And Mr. Gates also noted that the shell group, which
16 would have been your group, the Chicago shell group, did a
17 good job of defining extensibility interfaces. Correct?

18 A. Yes. When he's saying these are a nice piece of work
19 and there is nothing wrong them, he's referring to the
20 definition of the API itself. This is the literal text, the
21 language that an ISV application writes into code and calls
22 in the other code. He's saying that language is defined in a
23 way that is elegant and attractive and thoughtful. And
24 that's a different consideration than the architecture of the
25 system as it relates to the reliability of how they are used.

1 So, I agree he's saying they are a nice piece of
2 work, that they are textually defined in a way that's
3 elegant, but I'm also saying that I think it was a
4 consideration, and he wrote about that by saying the Ren team
5 would have lot of challenges and compatibility would be an
6 extra effort.

7 I think the difficulty about compatibility is
8 implementing compatibility in a robust way, in my opinion.

9 Q. Let me show you now what has been marked as Plaintiff's
10 Exhibit 279. This is an email down below that you sent March
11 6, 1995, correct?

12 A. Yes.

13 Q. And in this email to Mr. Maritz and others you state,
14 "There shouldn't be any issue with shell extensions being run
15 robustly on NT. The big ones, NameSpace extensions, end up
16 in a separate process, and the little ones, icon handler,
17 prop sheet handler, etc., are okay in the shell's process."

18 Right?

19 A. Yes.

20 Q. So -- and that decision to simply have the big ones end
21 up in a separate process, that had been made way back when
22 Mr. Gates made his decision, correct?

23 A. No. I don't think that's true.

24 Q. Isn't it a fact, sir, that within a month of Mr. Gates'
25 decision to de-document the NameSpace extensions, the

1 decision had been made to have applications open up in a
2 separate window?

3 A. I don't think you asked a specific enough question for
4 me to be able to answer.

5 Q. Let me show you Defendant's Exhibit 84. This is a
6 series of talking points prepared by Mr. Struss for
7 Mr. Gates, dated November 12, 1994. That would have been
8 about a month after Mr. Gates' decision, right?

9 A. Yes.

10 Q. And if you look on the second page there -- and one of
11 the issues that Mr. Gates was told to be prepared to address
12 was the NameSpace extensions, right?

13 A. I'm reading it along with you. Okay.

14 Q. And drawing your attention to the -- first we'll start
15 with the last half of this paragraph there. It says, "The
16 semantics of these API's has also changed slightly. Apps
17 that use these will come up in a new explorer window and the
18 left-hand pane will only represent the heirarchy that the
19 application presents."

20 And it goes on to say, "The previous semantics
21 allowed apps to show the heirarchy along with the file system
22 and run in the same window."

23 Does this refresh your recollection that the fix, so
24 to speak, to deal with any robustness concerns was taken care
25 of within a month of Mr. Gates' decision?

1 A. It does appear as if that's true, yes, and that is a
2 month later than his decision, but, yes.

3 Q. Now, there is also reference in the same paragraph to
4 some dead API's. Do you see that, sir?

5 A. Yes.

6 Q. Do you have any understanding of what is meant by dead
7 API's?

8 A. I haven't heard us use the term "dead" before. We
9 talked about this earlier when we used the term B-list, and I
10 described the concept that API's that software developers may
11 want to use and are welcome to use, although by listing them
12 separately, we are indicating that we don't intend to support
13 them in future versions. So we are not -- we are trying to
14 communicate to the ISV that we can't guarantee future
15 compatibility.

16 Q. It says here something about the decision has been made
17 to provide documentation for these dead API's?

18 THE COURT: As dead API's.

19 Q. Do you recall, sir --

20 MR. JOHNSON: I'm sorry, Your Honor. Did I miss
21 something?

22 THE COURT: I thought you left out the word "as" in
23 your question. Maybe I misheard.

24 MR. JOHNSON: Okay.

25 Q. BY MR. JOHNSON: Is this what you were talking about

1 when you were talking about -- something about some B-list
2 API?

3 A. Yeah. I just said that. Yes.

4 Q. Okay. Can you tell me, sir, when Microsoft went to the
5 ISV's and told them about this decision, was there any
6 mention of any decision to provide any documentation as dead
7 API's?

8 A. I don't know.

9 Q. Calling your attention to Plaintiff's Exhibit 255.
10 This is the script that was given to people in the DRG to
11 follow when informing them about this decision. Did you have
12 any involvement in preparing this script, sir?

13 A. I'd have to read it first. I don't recall being
14 involved in it.

15 Q. Well, rather than do that, given the time we have
16 remaining, can you tell me, sir, whether you have any
17 knowledge of whether any ISV's were ever told about any
18 documentation of any dead API's prior to March of 1996?

19 A. As I said, I don't think we would have used the term
20 "dead API's" even though it showed up in Brad's email. And
21 my job responsibility was not explicitly to go and talk to
22 ISV's, though I did do talks occasionally. I don't know
23 whether the DRG team did that or not.

24 Q. So, you don't know whether the NameSpace extension
25 API's were ever contained in any resource kit prior to their

1 republication in 1996, correct?

2 A. I have heard that they were, although I never looked at
3 that resource kit myself to see that firsthand.

4 Q. Has anybody shown it to you in connection with your
5 preparation for this case?

6 A. No.

7 Q. Let me show you what has been marked Plaintiff's
8 Exhibit 259. And I'd like to direct your attention to the
9 email from George Moore on the second page entitled Andrew
10 Schulman and shell NameSpace extensions.

11 A. Yep.

12 Q. Now, this is the same Mr. Schulman that you later
13 communicated with in March of 1996, right?

14 A. Yes. I think that's right. Yes.

15 Q. Apparently Mr. Schulman has been asking about this
16 stuff for a long time, right?

17 A. It appears so.

18 Q. And were you involved in this discussion of how to put
19 off Mr. Schulman with respect to documentation of the
20 NameSpace extensions?

21 A. I don't recall being involved in any discussion about
22 putting off Mr. Schulman, no.

23 Q. If you look up at the top, Mr. Adler there -- who was
24 Mr. Adler, again?

25 A. He was the group program manager for Windows 95.

1 Q. And was he your boss?

2 A. Yes.

3 Q. And he's talking here about these B-list API's, and he
4 says, I'm not inclined to talk about those yet.

5 Do you see that in the top paragraph?

6 A. Yes.

7 Q. Just asking for trouble?

8 A. I see that.

9 Q. And he suggests telling Mr. Schulman something about
10 their secondary importance, lack of support on NT and when we
11 will make the doc available.

12 Do you see that, sir?

13 A. I see that.

14 Q. And you see, he says, the most he would say, if forced,
15 that there are some API's we will still be documenting at the
16 time we release Windows 95. Right, sir?

17 A. I see that.

18 Q. So you didn't release Windows 95 until August of 1995,
19 right?

20 A. Yes.

21 Q. And, in fact, even then, there was still no publication
22 of this B-list of API's was there, sir?

23 A. I don't think that's true, but I don't know.

24 MR. JOHNSON: Your Honor, I'm about to get to
25 another document. It looks like about one before.

1 THE COURT: All right. 8:00 o'clock. Let Theresa
2 know first thing in the morning whether you can stay 'til
3 2:00 o'clock tomorrow, too. If we slip from this schedule,
4 I'm going to be a very angry person. Okay. Thank you very
5 much.

6 Okay, I'll stay with counsel. There are a lot of
7 things to discuss or at least to discuss when we are going to
8 discuss them.

9 (Jury leaves the courtroom.)

10 THE COURT: I guess you ought to step out,
11 Mr. Belfiore. This is nothing about your testimony, but you
12 might as well step out.

13 Was Mr. Belfiore the only live witness you hoped to
14 have today?

15 MR. HOLLEY: Yes, Your Honor.

16 THE COURT: Good.

17 MR. HOLLEY: Yes, Your Honor. I was really hoping
18 to put him back on an airplane, but that didn't happen.

19 THE COURT: But you're not. Okay. Okay. We've got
20 to discuss instructions. I just got your submission, so I'll
21 read this stuff this afternoon.

22 We have to discuss the exhibits. Where do you all
23 stand on talking to one another about the exhibits?

24 Mr. Taras?

25 MR. TARAS: I think, Your Honor, that the

1 contemplation was that we would wait and see their brief.
2 You know, we've been back over the list. I think the issues
3 are sort of of as we framed them the other day. We're going
4 to put them in a brief.

5 THE COURT: But you all are going to discuss whether
6 or not you're going to be looking at the documents you
7 produced.

8 MR. TARAS: There are a couple after that we are
9 going to withdraw objections to.

10 THE COURT: Have they submitted their brief now?

11 MR. JOHNSON: We have not, yet, Your Honor.

12 THE COURT: Okay.

13 MR. JOHNSON: We thought the instructions were
14 perhaps a bit more important.

15 THE COURT: Yeah. I'm going to stick to my format,
16 so you all -- thanks so much for your help. The -- there's
17 an issue about -- I forget his name. Mr. Jet, Microsoft's
18 technical expert, about the scope of his testimony. Did you
19 see something this morning about that?

20 MR. TULCHIN: Yes, Your Honor, we got that late last
21 night. I don't know that we have had a chance to review it.
22 It came in certainly after I was asleep, but maybe others
23 have seen it.

24 THE COURT: Okay. We'll discuss that tomorrow or
25 the next day. And then -- then there's the issue about

1 responding to the jurors' questions. I have a letter. Are
2 you all going to -- do you want to discuss that -- wait
3 until you respond to the letter.

4 MR. TULCHIN: I'm happy to do that, Your Honor. I
5 don't think any response to those questions is appropriate at
6 all. I understood that if a juror had a question that he or
7 she wanted to be put to a witness, that the procedure was
8 that the juror could raise his or her hand and submit such a
9 question to the Court. I'm not sure these questions fall in
10 that category. I'm happy to look at Mr. Johnson's letter.

11 THE COURT: Well, take a look at Mr. Johnson's
12 letter. I frankly see nothing wrong with saying, in
13 response, there are a lot of documents, but there is no
14 single bill of sale, so that really is not -- the only thing
15 to emphasize not quite the way Mr. Johnson wants me to, but
16 to say that the -- you know, don't worry about the timing.
17 It was filed within the right limitations time, and in terms
18 of the international matter, all of the evidence is really
19 in, so it will simply be addressed by counsel in closing
20 argument. That's all I would intend to say.

21 MR. JOHNSON: That's exactly what we would like,
22 Your Honor.

23 THE COURT: That's essentially it, basically, but
24 let me know tomorrow if there is any problem with it.

25 MR. TULCHIN: Certainly, Your Honor.

1 THE COURT: I mean, if the jurors have got a
2 question, we might as well tell them, as far as I am
3 concerned.

4 MR. JOHNSON: I think so. I don't want to ignore a
5 question by the jury.

6 THE COURT: Anything else? Is that it?

7 MR. JOHNSON: I think that's it for today, Your
8 Honor.

9 THE COURT: Thank you very much.

10 MR. SCHMIDTLEIN: Do you want to hear argument on
11 the jury instruction issues?

12 THE COURT: I have to read your submissions. I
13 mean, really, it just goes back -- I mean, as I say, I am not
14 going to -- the one thing -- I haven't read them to know
15 enough whether -- I am going to stick to my format. I'm not
16 going to give a general liability instruction. Maybe I will.
17 Maybe I won't. But the fact of the matter is, I want to save
18 this jury time.

19 I think I might rearrange the questions, so the
20 first question they focus on is the one which might very well
21 be dispositive: If, assuming Microsoft did all kinds of
22 horrendous things, you all haven't proved your case
23 because -- it's like the Hound of the Baskervilles. What's
24 missing from that team is anybody from Quattro Pro. You've
25 got three -- you've got a marketer and three people from --

1 how -- how there was not a member of the Quattro Pro team on
2 Gary Gibb's team still astounds me.

3 But, be that -- as I say -- I think it's on -- I
4 might have the wrong Sherlock Holmes, but it's the dog that
5 didn't bark story. Thank you all very much.

6 MR. JOHNSON: Thank you, Your Honor.

7 MS. NELLES: Thank you, Your Honor.

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