(Recess)

THE COURT: Mr. Jardine.

MR. JARDINE: Thank you, Your Honor.

BY MR. JARDINE

Q. Dr. Warren-Boulton, I would like to turn to one other item that you described in your testimony yesterday as a data point that you looked at for confidence.

Let me put graphic 24-G up.

This is what you described as an estimate of the value of WordPerfect in 1992 by Mr. Peterson. Do you recall your testimony about that?

A. Yes. As I recall, it is a 1994 book he wrote, and the quote is something like he thought the value of WordPerfect was 2 billion.

Q. I think the number is around 2 billion.

Do you recall that this was as of 1992?

A. That is correct, yes.

Q. That is in his book?

A. That is my recollection. It has been a few years.

Q. I think you said this was your bookend. Do you give much weight to his?

A. No.

Q. Let's just explore it for a minute. Do you know if Mr. Peterson engaged in any specific valuation techniques in support of this estimate?

A. No, I don't know of any. I think it was just his -- he had been C.E.O., and that is what he thought the company was worth. I don't know of any specific valuation techniques that he entered into.

Q. This was the same year he sold his stock, correct?

A. Yes.

Q. Isn't it fair to say that this estimate is much higher than the extrapolation of what he actually sold his stock for?

A. Exactly. That is why I said it was the two bookends. On the one hand he said it is worth $2 billion, and on the other hand he sells his stock for much less.

Q. Did you consider not including this at all given the fact that it apparently is not supported by any analysis by Mr. Peterson, and is a disconnect from what he actually sold his stock for?

A. No. I am trying to provide every piece of information I have. If he was the C.E.O. of the company and he said it was worth $2 billion, and I'm putting it up there for exactly what it is, which is the C.E.O. of the company writes a book in 1994 and he says he thought the company was worth $2 billion. That is all that I know and that is what I'm passing on.

Q. I guess you had the option of not including it because you didn't think it had very much credibility?

A. Well, I'm looking at all of the range of numbers that have been offered. I don't know of anybody else that has valued it, certainly not the C.E.O. of the company.

Q. But --

A. It is high. It is the highest estimate that I have seen.

Q. But it is included in the set of bars that you said allowed you to form conclusions about a central tendency?

A. I'm looking at all of them. Some will be high and some will be low. It is like drawing a sample, and I look at all of the possibilities in the sample.

Q. Let's now turn and move on from Mr. Peterson's estimate. As I understand it, you did six different calculations which you called comparable calculations, comparable companies and comparable transactions; is that correct?

A. Correct.

Q. I think that is slide 24-K.

On your chart, on your bar chart we have tried to highlight these, and I think that the green bars are the comparable company calculations that you made, and the gold or yellow bars are the comparable transaction calculations that you made.

A. I think that is right.

Q. As I understand it, if we take the comparable

companies, which are the green bars, you calculated these valuations three different ways. One using EBIT, E-B-I-T, which is earnings before interest and taxes; is that right?
A. Correct.
Q. And then you calculated for the same set of companies a prediction using EBITDA, E-B-I-T-D-A, which I understand is earnings before interest, taxes, deprecation and amortization; is that correct?
A. Correct.
Q. And then you calculated one using sales --
A. Yes.
Q. -- for the same companies?
A. Yes.
Q. And those give --
A. Yes. I think for the comparable, I think it is all the same companies.
Q. If we look at the three green bars, those are the same companies that you're doing calculations for but just plugging in a different measure either earnings, EBIT, EBITDA or sales?
A. Correct.
Q. And those give, as I read it, some pretty dramatic differences for the same companies?
A. That is right.
Q. I asked you this question in connection with your

hardboard, but would one hope, would an economist hope that these calculations would be roughly equal?

A. Well, if they are all equal you would only have to do one of them.

Q. Well, I would prefer to do one, but maybe you would like to do more than one.

A. No. I think -- I think each attempt at valuation is an attempt to look at the value in a different way. I don't mean to beat it to death, these examples, but people who value companies look at a lot of different ways of valuing them. And, you know, the standard way of valuing is to look at these three, with the understanding that each one of them gives you a different flavor, a different sort of look at it.

Because I think a company may be relatively high in sales, may be low in sales, may be high with EBIT relative to EBITDA, and so you kind of do all three. Generally speaking, you know, I have a preference for using EBIT or EBITDA, because it is earnings rather than sales, but in some situations you can't get data on EBIT or EBITDA and so you have to use sales. So these are all multiples that are used by people when they are searching for some kind of valuation, and you just go about it in several different ways, and then I think, you know, what most of us would do is we look for a central tendency.

It is like me walking around the neighborhood, I could look at the prices of three or four houses that were sold in the neighborhood, and I could have different results and I am looking to the average.

Q. So, again, just to make this point clear, we're looking at exactly the same companies. If you use EBIT to the right on the green bar it looks like the average of those companies is worth about 800 million; is that correct?

A. I assume that you have added in QuatroPro and GroupWise and done all of the stuff that you have supposed to have done. I will just credit you for that.

Q. Well, I had to check myself, and I'm assured that we did.

A. I'll certainly take your word for it. You're going to get a range of valuations, yes.

Q. And then if you use the exact same companies and you use EBITDA as the formula, you get what looks like a little over a billion dollars of the average value?

A. Uh-huh. That is correct.

Q. And if you use sales it looks likes like you get $2 billion?

A. Yes.

Q. Wouldn't that disparity give you less confidence rather than more confidence?

A. No. I am trying to basically duplicate the same process that, you know -- I know Morgan Stanley may have gone through. I'm looking at the standard ways that people in the finance business look to value a company. You expect to get, that is why we do several different measures, you expect to get different numbers, and then you look for central tendencies. You know, valuing a privately held company is not obviously a matter of perfect science and physics, and so that is why we try to use all the information that you can.

You look at sales, you look at the EBITDA, you look at EBIT and, you know, this is all kind of grist for the mill. And so to me looking at this, this is exactly what you would do. I mean, I have never been hired by a company to come up with its private valuation, but this is what I would do if I was hired by a company to come up with a private valuation. I would look at it from different metrics.

Q. Now, in both your comparable companies where you look at the company and try to draw, I think you said a value to earnings, and the gold bars which are transactions, you have to select comparable companies or comparable transactions, transactions that you think are an applicable comparable, representative of the company that you're now trying to draw conclusions about Novell?

A. Well, yes, I have to select or somebody has to select for me, you know, comparable companies to compare myself to and I get the comparable, just comparables, and also I have to come up with some way of a selection of comparable transactions.

Q. When I say comparable to Novell, I should have said WordPerfect, because that is what is being valued here along with QuatroPro.

Does context matter? Do you think when you select comparables you need to look at the contents for which you're doing -- you're preparing your calculations to see what comparable companies might tell you about the company you're looking at, WordPerfect or QuatroPro?

A. Well, I think your comparables depend on what your goal is. Our goal here is a comparable in terms of valuation. If this was -- if we were in a different context and we were talking about the market definition in an antitrust case, I would be looking at a comparable in terms of somebody who makes the stuff or is the same market, but a comparable -- the comparables here that we're looking at are comparables for the purposes of valuation. And they could look at completely different companies, but --

Q. Let's take the firms or companies you chose to include in your comparables for the comparable firm calculation, the one in green.

How did you select those?

A. I didn't select them. I believe WordPerfect did.

Q. You took them off a list of companies that were on a document from WordPerfect?

A. That is -- my recollection was that it was a list of companies that WordPerfect thought that they would be the right list of companies to look at if you were trying to come up with a comparable valuation.

Q. Do you think it would have been -- I don't know whether you did -- do you think it is important to look to see what are the circumstances, the products, the markets, whether network effects are present, whether there are trend lines or positive growth or negative growth in deciding whether to include a company in a list of comparables?

A. Well, I have their own management, they say somebody is interested in valuing us. These are the companies that they should look at. These are what we at WordPerfect consider to be our comparable companies for purposes of valuation. You know, should I come along and say I know better than they do as to what is a comparable company in terms of valuation? A, I would be very reluctant to do that and, B, you know, if I did do that, you know -- why can't I just rely on WordPerfect?

Q. Well, again, maybe I can illustrate it this way. At some point in time Myspace and Facebook were two comparable companies, right? They were both in the same business roughly?

A. Uh-huh.

Q. And yet if it had been useful in trying to predict the value of Facebook to look at Myspace whose trend line was in a very different direction?

A. I am not really following the analogy.

Q. Well, let me do it a different way.

MR. JARDINE: Let me have graphic 24-M put up.

BY MR. JARDINE

Q. We took the operating income averages of the firms that you used as comparables and averaged it over 1991 through 1994, the relevant time period. And the average trend line of the comparables that you use is the blue line.

A. Okay.

Q. And the red line is the WordPerfect earnings trend line over those four years.

MR. TASKIER: Your Honor, may we approach?

THE COURT: Sure.

(WHEREUPON, a bench conference was begun.)

MR. TASKIER: I am sure Mr. Jardine has thought this through completely, but he significantly amended the operating income chart for WordPerfect this morning based on the corrections that Dr. Warren-Boulton made, and he is now trying to examine him from his graph from yesterday using yesterday's numbers, so I think it is misleading.

MR. JARDINE: Can I double-check that, Your Honor?

THE COURT: Yes.

MR. JARDINE: I thought it was changed.

MR. TASKIER: It looks like the same chart that I saw yesterday.

MR. JARDINE: I am told this chart has the amended numbers.

MR. TASKIER: It is the exact same chart that you gave me yesterday.

MR. JARDINE: Let me go back and make sure, but we did prepare a chart, and I am told this was fixed last night. I just want to make sure that it is right, Your Honor.

MR. TASKIER: I am sure it is not intentional.

THE COURT: No, it is a perfectly good objection. If it is the wrong chart, switch it.

MR. JARDINE: I will double-check.

(WHEREUPON, the bench conference was concluded.)

THE COURT: We have to make sure that we have the right chart. There were some adjustments made to the WordPerfect operating income this morning which that chart may or may not reflect, and we just have to make sure that the adjustments have been made and if we have the right chart or whatever. Mr. Jardine thinks the adjustments have been made. They maybe haven't. We just have to work this out.

Do we have the right chart?

MR. TASKIER: I am satisfied, Your Honor. Thank you.

THE COURT: Thank you.

MR. TASKIER: It is a very subtle difference and I didn't notice it.

THE COURT: Subtle, but could be important.

MR. JARDINE: Let me just say over the few days charts and numbers have been moving a little, and I am glad to have Mr. Taskier be sure that we are --

THE COURT: It was a valid concern and it has been looked at. Thank you.

BY MR. JARDINE

Q. My question, Dr. Warren-Boulton, is doesn't the fact that the comparables you use have a trend line up, and WordPerfect has this trend line down, cause lack of confidence in the comparables that you used?

A. No, and let me just walk through it. Unfortunately, there are a number of reasons why.

Q. Could you stand a little closer to the mike?

A. My apologies.

Q. I'm having --

A. First of all, I mean, you have an average of all the comparables here so I am not entirely what this is showing me in terms of comparables, but holding that aside, you know, one of the things that we discussed before here is that the decline of WordPerfect's earnings in '93 and '94. And we have talked about some of that decline in earnings, and it is because of the forthcoming expectation of Windows 95 coming out and its effects on the sales of the 32 bit. So, therefore, if you're asking in term of valuation you really want to ask -- valuation is a future looking exercise. The question is what is your earnings now? What is your expectation of earnings in the future?

So if one were to do this, what you're really wanting to look at, if you would, are some sort of expectations of future earnings, if you were going to do this.

Secondly, having said that, you know, my point is that WordPerfect decided that these were companies that were comparable, for whatever reason. They may have certain characteristics in common with WordPerfect. They may have certain characteristics that were different. Overall they said if you're trying to value our company these are the companies that you should be looking at in terms of comparables, if you're doing something like value to sales or something like that. If I had done anything other than what WordPerfect suggested was the best thing to do, we would be here for quite a while.

You know, the other issue is that when I looked at those comparables, we all recognize that we got a range of numbers, and so what I essentially do is I eliminate the outliers and I took the median values, right, the ones that were right in the middle. So even though you get quite a range, and I agree there is quite a range, I just took the median value for that group. Some of them may be growing faster and some of them may be growing slower, some of them may be better prospects, some of them may be lower prospects, I am just going down the middle as the simplist place to go.

You know, finally, of course, is that, you know, I am, once again, looking at one among several ways of valuing companies, so I don't see a better way to value these companies other than the way that we have done it here.

Q. Just to pick up on one thing you said, I think at the beginning of your answer you talked about the impact of the impending arrival of Windows 95.

Did I understand that correct?

A. Yeah. I mean, we talked about the effects of Windows 95 coming in particularly in fiscal -- I guess fiscal '95 earnings.

Q. But the problem is -- excuse me. Are you done?

A. Yes, '94, '95.

Q. But doesn't this chart end in fiscal year '94, which is October of '94, and this is long before the impact of Windows 95?

A. October of '94, yes, you are correct on that.

Q. So at least that point wouldn't apply to this chart?

A. I am not sure why this is doing what it is doing, but --

Q. And so, again, my final question on this chart, doesn't the fact that all of your comparable firms have a trend line up, and WordPerfect has a trend line down, I mean, I gather your testimony is that does not cause you to have less confidence?

A. You know, it does not cause me to have less confidence. It is one way of valuing and I am using WordPerfect -- I guess what we're saying is could we do an inquiry with WordPerfect as to how and why it chose these companies, and why it thought this was the right set of comparables? That I have not done. I am just relying on the thing that they know their business better than I do.

Q. Let's go back to slide 24-K. Let's talk about the three gold bars.

I think you told the jury that in addition to doing comparable firms, that you also looked at a set of transactions, and then you used those comparable transactions to predict a value for WordPerfect, QuatroPro and GroupWise?

A. Yes.

Q. And, again, you didn't do it once, you did it three

time using EBIT, EBITDA and sales?
A. That is correct, I did.
Q. Now, how did you select -- I think you testified, but just remind me briefly, how you selected the transactions that you used to construct those three estimates.
A. Well, the way they were selected was you want to come up with a number of transactions, and the comparable transactions, the criteria were that it had to be an SIC code which was similar, it was either in computer programming services or prepacked software or computer integrated systems devices. The three SIC codes are similar.
The transaction had to occur between 1992 and 1995. It couldn't be a very, very small firm. The transactions price had to be at least $150 million. If you go through those four criteria and you ask what survives, all these screens for similarities, you're down to about six companies.
Q. And you think in the selection of transactions comparability matters, that you try to find transactions involving companies that are similar in the characteristics we talked about, the markets they are in or similar kinds of markets, whether network effects are present, what the trend line is on earnings, that you would try to look for companies that were comparable with respect to those factors to WordPerfect and QuatroPro?

A. Well, you're asking for a much more complex procedure that the data simply does not support. If I only have six companies that survive this screen, and then I start splitting it up into earnings that go up and earnings that go down, I just don't have -- you know, looking at comparable transactions, you know, I can't isolate it out into a bunch of sub effects. You just have to do whatever the standard process is to do to come up with comparable transactions.

Q. Let's look at graphic 24-N, if we could.

We have charted out the operating incomes of the companies you used versus WordPerfect, and it is a little hard to read because we did it by each of the companies, rather than averaging them.

The companies that you use are all you can see, Gull Systems, Systems Center, Chip Soft, Asp Group, Aldus and Medstat and they each have a color. You can see their lines and they all almost at zero, some going up and some going down, but you then see the red estimated or earnings trend of WordPerfect. Does the fact that WordPerfect had a different and greater negative trend line than any of those other companies for the whole period cause you any concern or loss of confidence about the use of this model?

A. No. The point that I think I made in my direct testimony is that I am limited in how many comparable transactions I can come up. There are not that many houses in my neighborhood, and so I have to use the houses that are there, the particular transactions for the houses that are sold.

What I did is, is say the price of the transaction -- these companies have to be worth at least $150 million. We are not talking about anything that is very small. Beyond that, you know, what I said was that WordPerfect is much larger than these companies, and so when I was I think asked on direct, you know, what do I think about the multiple that come out of this? If I recall what I said correctly, I said on the one hand you like transactions data rather than sales data -- I'm sorry, rather than EBIT data -- I am sorry. You want to see transactions rather than sort of comparables, because this is a transaction and there is usually a transaction premium, and so that might be why you have got 18.5 as a multiple.

On the other hand, WordPerfect is much larger, you know, than this set of six companies and it has other characteristics than these other companies, and that might lead me to believe that 18.5 is too high. I mean, beyond going through those two and simply saying there are reasons why you think it might to high and these are the reasons why you might think it is too low, there is really not much more that I can add to this. They are always going to be different. You are never going to find the perfect marriage here, at least not in valuations.

Q. Let me ask you to step back, and we can take that off.

Is it possible for a company that multiple data appoints might not tell you its reality, what it is really worth?

A. Well, that depends on how precisely you want the worth. I would say that you are always better in looking at everything. You're always better at looking at whatever value you have, not throwing it away, and than say I looked at everything, all the information that is available to me, you know, and then I can do -- I looked at that and I can say, you know, what kind of confidence do I have in each part of it? But I do think that a central tendency is a good guide.

You know, there are all these studies that show that if I fill this mug with jellybeans and I ask each of you to estimate how many jellybeans is in that jar, you'll be way off. It turns out if I can get 1,000 people to guess how many jellybeans are in the jar, it turns out if I take the average of that it is remarkably close. And so, you know, this is the law -- you know, what I'm looking for is a central tendency. I'm not looking -- I'm carefully not looking at any one observation.

Q. I'm asking a slightly different question and I will try

to be clear. Is it possible that multiple data points might in a particular case not describe the realities of the company?
A. Well, if you're taking an average --
Q. No, I am just -- I don't want to --
A. Multiple data points.
Q. Okay.
A. I have got a range, and what I did is I said -- I looked at all of the data that I could find of comparables, and I had a pretty wide range, and what I reported to the jury was this is the number that you get if you use the middle number. This is the number you get if you get the range.
Q. I'm trying to take a step -- sorry.
A. Sorry. What else can I do?
Q. I want you to not think about the WordPerfect work you did. I want you to have a step back and think generally and not specific to this project. Is it possible, thinking about any company, that the kind of multiple data points that you used here might not tell you the reality of that company?
A. Beyond saying anything is possible, I don't understand where you are going. Maybe you can be more specific.
Q. Lets look at graphic 30.
I have taken a graphic of a company called Pets.Com.

They existed about ten years ago. You may remember that they did Super Bowl ads with sock hand puppets. I don't know if people watch Super Bowl ads. Anyway, they were a hot text dot and they were going to sell pet food and pet supplies on the Internet.

Do we have a copy? Have you got that?

A. Are we talking during the great dot com boom?

Q. It did an IPO in 2000. I have put multiple data points up to show the reality of Pets.Com. In February of 2000 they did a projected IPO and the low end valuation was over 200 million. They then got an IPO valuation that went higher in February, the same day, and then in March they got valuations from three different investment firms like Morgan Stanley, Merrill Lynch, Warburg Dillon and Bear Stearns at over 400, 500 and then a December target of over 300.

When they finally went to market in June their value was 70 million, and by the end of the year it was near zero. I guess what I'm asking you is this: Would this be an example where the multiple data point central tendency wouldn't tell you the reality of the company?

A. I think this is an example of where you wouldn't want to participate in their IPO. You know, what, 2000, I mean, we're in the midst of the great dot com boom.

Q. Yes.

A. You know, there are hundreds of firms that went public.

I have no idea how you managed to pick -- or the basis you picked Pets.Com. I assume you picked it so that it would be an example in which there was a big difference. Are you telling me that the mark -- that the IPO was issued at a valuation and then failed to sell in December if 2000 -- what was the price that it actually was issued at as an IPO?

Q. My understanding is that when it came out the market value that it was issued in June, and after the market settled it valued it at much less than had been predicted.

A. So, in fact, this is one of those examples, and they are unusual, in which the investment bankers estimate an IPO, floated the IPO, and basically nobody bought because the market value was way low, so instead of getting a pop you got a -- what is the opposite of a pop -- a drop. Okay. You know, obviously, particularly during the boom like this, I think that is possible. If you're talking particularly close to the end of the boom in 2000, it is just -- what I'm saying to you is that while there are extremes of everything, it is my recollection, not done for this case, that in general when IPOs get floated the price pops up, and that is a pretty regular thing that happens.

I can't speak to Pets.Com. I can tell you I didn't buy any of it, but if what I am supposed to infer from this is that the valuation that was placed on it as an IPO was higher than the market value, I wouldn't find that terribly surprising, particularly during this time period. I just don't know where to go. You gave me one example out of hundreds and hundreds.

Q. It is surely just one example and it was for the point that sometimes data points, before something actually is voted on by the market, cannot tell us what the real value is.

I take it from this chart that the clearest evidence of value is what the value of the market put on it and not what people speculated?

A. First of all, it is the clearest evidence of value on 6-20, 2000. Three months have gone by, you know, and I don't know if the dot com crash hit during those three months, so I can't speak to that as a possibility. What you're basically saying to me, is assuming that that is not what happened, is that Merrill Lynch and Warburg and Bear Stearns -- 12 month valuation target. The IPO valuation actually is over here on the left. The IPO valuation seems to be about 270. It is not the big high thing. I just don't know where to go with this.

Q. I just wanted it for the point that sometimes data points --

A. You can lose money in the stock market.

Q. And sometimes data points don't tell what the reality is?

A. I think that is always true.

Q. And in our case isn't the clearest expression, in your terms, the efficiency of the market is what the market said in the two days after the merger?

A. No. I think that what you're trying to show here is that the best estimate of the value of an asset is what a willing buyer pays a willing seller. We have had a market transaction. It is a market transaction between Novell and WordPerfect and neither side was forced into it. I had my willing seller and I had my willing buyer. That is exactly like -- it just disappeared. Can we go back on again?

Q. Sure.

A. Okay. Over here down in the market value that is what a willing buyer bought from a willing seller. Okay. That is the market value. That is the correlate to my 1.555 billion. That is what a willing buyer sold to a willing seller.

Q. Are you telling us that what happened in the market in the two days after the March announcement of Novell's acquisition of WordPerfect were not a series of transactions between willing buyers and willing sellers which devalued Novell by $1.8 billion?

A. They were, and the issue that we have been talking about all day is what happened? Was that a fall in the value of expectations in terms of core netware products, which was the vast majority of Novell, or was it somehow reflecting somebody's view that somehow, despite all the evidence to the contrary, these assets were worth far, far, far less than what were paid for them. You know, we're going around in circles here to some extent.

Q. We're just about finished with method one. I am just trying to show the choices that you made compared to the choices Professor Hubbard made. On that note why don't we turn to -- I have the wrong one. Excuse me. 25. Let's go to 25.

As I understand it, in your method one you arrived at $975.5 million on the choices that you made, and Professor Hubbard will explain when he comes, when the makes the choices he makes the shows essentially that he thinks damages are zero when applying the same approach. And that is just the two competing theories, correct?

A. If what this is showing is that I have damages of 975.5, that is correct. It is my understanding that Dr. Hubbard comes up with negative damages --

Q. Which is zero.

A. -- which is a little strange on the face of it, but considering that he assume liability, you know, he will be here to explain.

Q. I would like to now move from method one down to the October 6, 1995 announcement.

A. Yes.
Q. Now, I think that you said that you preferred method one because you believe in the efficiency of the markets.
Did I understand that correctly from your testimony yesterday?
A. Yes. I like to look at a lot of different methods, but as an economist it is complicated, but, yes.
Q. That is just what I thought I understand you to say yesterday.
A. Yes. But, as I say, you know, you see Lotus as an alternative, which strikes me as perfectly reasonable.
Q. Well, is the purchase versus sale your preferred method? I thought you said that yesterday. If it is not, I just want to be clear.
A. No. The way I started all of this, I started all of this by saying because I have a purchase price and I have a sale price, you know, I'm going to start -- I'm going to start with real numbers. I'm going to start with real numbers, 1.555 billion and 146 million, and if I can anchor my damage estimate to those two numbers, you know, then I feel like I'm not going to go too far under the rocks.
Q. I think you answered yes.
A. Yes.
Q. Okay. Now, the October 6, 1995 announcement approach or method looks just at the market's reaction to the October

6th announcement, correct?
A. Yes.
Q. Would that approach also be one that looks to or be measured or weighed as one that relies on the efficiency of the market?
A. Can you say that again?
Q. Maybe it was too complicated a question.
A. No. No. It sounded like --
Q. This method, the October 6th, 1995 announcement approach, really just looks exactly at the market's reaction to a single announcement?
A. Yes. I have assumed that the movement on that day, and that is net of the S & P 500 number, that that is the reaction to the announcement, yes.
Q. And because that is a market reaction do you give that method as much weight in your thinking as the first method, the purchase versus sale method?
A. Well, the first of the purchase versus sale methodologies involve the same faith in the market. I don't want to call it faith, the same reliance on the ability of the market to be in the best position to valuate the impact on the company of an announcement. That is in both the October 6th estimate, and it is also in the purchase versus sale financial market. As I say, to the extent that you don't want to rely on that ability, you can use the Lotus

conditional bid to get to the same place.
Q. Well, I mean, we have talked about the Lotus conditional bid, and I don't want to go back to that, but we have no idea what the market's reaction to that would be if in fact there had been such a bid and purchase, right? I think we established that.
A. It was a bid, yes.
Q. Sticking with this, let's go back and remind the jury very quickly, and we have talked about this, but what the October 6, 1995 announcement was.
MR. JARDINE: Could you put up PX-335.
If we can just highlight -- there we go.
BY MR. JARDINE
Q. The jury will recall, I think, that this announcement announces that they are going to have earnings below what was expected, and that that was because of lower than expected sales of the products, the WordPerfect family of products. And it also included the announcement that products designed for Windows 95 are not available today but are expected so ship in early 1996. That is what this announcement generally disclosed, correct?
A. I mean, the announcement is what the announcement is.
Q. So, as I understand it, and we'll go back just to remind the jury, the market drop was a little over $1.1 billion in adjustment?

A. That is correct.
Q. And you allocate $41 million of that to the lower earnings announcement, and the balance to the market's reaction to the news that the product is going to be delayed, the Windows 95 products are going be delayed. You and I had this debate, but if I ask you to assume that early meant the same things in the two announcements by about two months --
A. We are back to this issue.
Q. I don't want to debate it, but do you remember that discussion?
A. Yes.
Q. I would like to just show the stock price.
MR. JARDINE: Can we show graphic 27-B.
BY MR. JARDINE
Q. Just so the jury can see, and we looked at this earlier, but that shows what happened, the red line, to the Novell stock when the announcement was made, this October 6, 1995 announcement.
A. Okay.
Q. And that decrease shows about the $1.1 billion if you translate it into the market?
A. Yes.
Q. As I understand it, prior to this week you didn't subtract the $41 million, you treated the entire amount as

attributable to the announcement on the delay of the products?

A. I think the issue was the extent to which part of that $41 million might be the effects of the inability to come up with a Windows 95 product. I think the easiest thing to do is simply to assume that there is no relationship at all, and all of the $41 million was due to the fall in the 16 bit, so rather than argue about it, let's just subtract out the $41 million.

Q. My understanding is that you calculate the 41, and you get to 41 million by simply taking the 11 cents of the actual earnings per share times the number of shares and that gets you 41 million?

A. I think actually I'm following Dr. Hubbard on this.

Q. Well, is that how you calculated the 41 million?

A. Well, I think my staff checked Dr. Hubbard. I did not.

Q. Now, doesn't that approach assume that the market's reaction to the missed earnings was just in the amount of the earnings?

A. It assumes that the market divides up if you like the past and the future. All I'm saying is 41 million is in the past. Okay. So were going to take that out. Whatever is left is the future. So you have to ask the question what are the implications of all of this for the future? And usually changes in earnings announcements have implications, both in the past and they have implications to the future.

If your earnings fall and people think for some reason that means your earnings are going to fall in the future for some reason, then you can get quite a big stock movement with a small earnings fall. It is not that terribly unusual to see something like this. The question is what is the past and what is the future?

Q. So, again, just to be clear, isn't it fair to say that your approach to treating the market to missed earnings, as just the amount of the earnings, ignores other trends? In other words -- well, let me restate that. That was not a very good question.

Your approach assumes that the market's reaction to the missed earnings was just in the amount of the quarter's anticipated missed earnings? That is that there is a one to one relationship between the market drop and the amount of the missed earnings in this instance?

A. No.

Q. What is wrong with that statement?

A. I am saying that the market's reaction is a reaction to two pieces of news. First is $41 million less in the bank. Second is that it is not just the past that is news. We have news about the future. It is the news about the future that accounts for anything more than the 41 million. So we have about a billion dollar fall in the stock price, and we can't ascribe it to not having made $41 million. $41 million is $41 million. So it must be that the market is saying that the future prospects of WordPerfect have declined significantly. There is something that is happening out there that is really important, that has really changed our view of whether or not WordPerfect is going to make as much money in the future.

And when I ask the question, what is that future event, the future event that I see is a combination of both two pieces of information coming to the market. First, the very fact that earnings have fallen by $41 million and the market understands that that is a 16 bit product. It tells them that the potential sales and profits from the Windows 95 product that the market was expecting would have been quite high. And at the same time the other piece of the news is that is not going to be there.

So I'm trying to separate it out into the market reacts to news about things that have happened in the past, and the market reacts to changes and expectations about the future.

Q. Let me try a different approach to clarify this.

If you take the $1.1 billion of market decrease, and you treat $41 million of it, which is a calculation as attributable to the whole missed earnings piece, and the balance to the impact that the new products are going to be out in early '96, isn't that how I understand what you did?

A. Well, I guess I tried to say it before. I treat the $41 million as news about the past. To the extent that the reduction in the $41 million has an implication for the future, I interpret that as the market saying we have a $41 million reduction, and that means that this market is moving even more rapidly to Windows 95 than we thought. And that, therefore, when the market looks at that $41 million loss, it not only sees a $41 million loss, it also sees that it is now really important. $41 million has information. It is really important to get a Windows 95 product out soon.

The bigger that loss, if it had been $80 million of something like that, the more important -- it is clear that Novell has got to get out a product soon for Windows 95. And when you both tell the market that this is really important, and that is what the $41 million signals, and at the same time tell them it is not going to happen, all right, the difference between those two, between what could have happened and what now you expect to happen, that is where our billion dollar fall occurs.

Q. I understand your point, but let me try to say it a different way.

As I understand it, looking forward you don't attribute any of the $1.1 billion decline above the $41 million to future missed earnings related to 16 bit processors or network effects or anything else, you put it all on the delay of two months or whatever it is in the release of these Windows 95 products?

A. That is correct, but that is -- and I have tried to explain why.

Q. No, are you familiar with previous declines in Novell's market capitalization resulting from announcements of missed earnings?

A. Sure.

MR. JARDINE: Why don't we put graphic 27-C up.

BY MR. JARDINE

Q. I have tried to make a list, and I hope it is big enough for the jury to see.

I have tried to put up prior missed earnings at Novell and the market's reaction.

A. Uh-huh.

Q. For instance, if we take July 26, 1993, they announce -- the magnitude of missed earnings was a little over 25 percent, and the market capitalization decreased by $1.3 billion.

A. Yes.

Q. So that was a reaction to missed earnings.

A. Yes. I have seen this chart before.

Q. All right. And so that at least suggests, and if we go through you'll see some other instances of when Novell missed earnings, and sometimes the price goes up and

sometimes it goes down, right?
A. Generally when you miss earnings it tends to go down.
Q. It does tend to go down.
A. Yes.
Q. And when it goes down that is a forward looking judgment by the market, not a past looking judgment?
A. Precisely.
Q. So this chart would at least suggest, wouldn't it, to you, that as a historical matter when Novell missed earnings its stock price dropped?
A. I think that is perfectly correct, and it did in this instance as well.
Q. Well, but it didn't drop for the missed earnings according to you, except for the $41 million?
A. Each time I think what we can all say as a matter of just simple logic, is that each time that Novell announced lower earnings than expected the market said -- broke that up into two parts. It broke it up into how much less money do I have in the bank? And they said what are the implications for the future?
Now, you know, in most situations if a company announced -- for example, let's suppose, and keep life simple, Novell is just making NetWare. Novell announces that its earnings on the NetWare, you know, have fallen by 20 percent. Okay. What would most of us infer from that?

Well, we would infer from that that probably if it fell this quarter by 20 percent, they are also likely to fall in the next quarter and the next quarter and the next quarter.

In fact, if you thought that earnings were going to fall permanently by the amount of -- if you thought this was a permanent signal, then when somebody announced my earnings have fallen by 20 percent, you would expect a 20 percent fall in the market value. And you would get the same relationship, which is the reduction in the value of that quarter dwarfed by the change in expectations into the future.

So you have to look at something like an earnings announcement and you have to say is this a one time event? Is this like I lost or won the lottery? In that case what you would get is the market values would change by just the amount of that earnings change. But if you believe that it was going to continue off into the future, the signal was that it was going to continue into the future, and there was a reason for that, and normally it would be, because if I have a core business and my earnings suddenly drop in my core business, I think the market would probably reasonably expect that my core business is going to be expected to in the future.

Here we have exactly the same situation. I have an immediate effect and I have a long run effect. The long run effect is much, much bigger than the short run effect.

Q. Well, to go back, this chart at least demonstrates that when there have been earnings missed there have been market declines typically much greater than the actual amount of the earnings missed, correct?

A. Well, it is unusual to get a percentage that is that much larger but, yes, you can get that. The market is sensitive to earnings declines. It is sensitive to earnings declines not so much because they are worried about the earnings in that quarter, it is sensitive to earnings declines, and to a lesser extent earnings increases, because it is a signal of some kind of a problem that is going on.

And so if you want to look at any particular case of earning increases and declines and ask what kind effect would I expect to see in the stock market, you have to go look at what information is being released into the market here about the future? And it is that future information that is effecting the vast majority of the change in the stock market value.

Q. I understand your view on that, but, again, just to tie this point up, none of these earnings misses have a one to one relationship between the size of the change, the decline, and the amount of the missed earnings?

A. Are the two columns ever identical? Sometimes they are larger and sometimes they are smaller. I am not sure

what --
Q. I think I have made the point as best I can. Let me move to one other thing.
A. We can take an example --
Q. Excuse me?
A. We can take an example. I don't know.
Q. Well, I looked at July 26th where there was $1.3 billion market decline and the earnings missed was not anywhere near $1.3 billion on the multiplication approach you use, was it?
A. Well, we have August the 24th, which is my other event, which we have not had much of a chance to talk about that, but that was the first information about the product being delayed, and what you'll see is -- well, we can go around this.
Q. Let me move on. You can take that down. Let me move done to one other subject.
If I understand your opinions and the difference, Professor Hubbard believes and his conclusion is that the majority of the decline of the market in response to the October 6th announcement was attributable to the missed earnings and the forward looking view that the WordPerfect product was going to continue to decline in earnings?
A. My reaction to that is the forward looking product here is the product for Windows 95. So if he is saying, and I

can't speak for him, if he is saying that the market is reacting by saying I have a real -- if the market is saying my expectations of earnings on the Windows 95 product are way down, I agree with him. That is exactly the point that I'm trying to make.

Q. Well, he would not allocate most of that to damages because of his view, correct?

A. That is a little different from the point you were making. I thought that you were implying that Dr. Hubbard was going to say, gee, I think the $1 billion reduction is because of the billion dollars in reduced earnings or profits on the 16 bit product. If that is what he is going to say, then I think we have a factual issue.

I think the product that was coming out that was going to make money for Novell was the Windows 95 product and so, yes, this earnings announcement does signal that there is going to be a real reduction in earnings on a future product, and that product is the Windows 95 product, not the old Perfect Office product. That has come and gone.

Q. I understand that that is your view and that is where you would put most of the $1 billion?

A. That is my interpretation of the facts.

Q. We can debate what early means, but that may be two months delay?

A. I don't even want to say it may be two months.

Q. That is fine.

A. We are now just in the realms of low enough probabilities --

Q. Let me just take on one other point. If you're correct that the $1.1 billion decrease is due to the market's assessment that Novell is not going to get out its Windows 95 product, then wouldn't the logic of that be that you would expect to see an increase in the stock price of Microsoft, which would be the beneficiary of that market judgment?

A. Well, yes, I would think this would be a good thing for Microsoft. Microsoft's valuation is so large that, you know, I don't want to say it is a flee bite on a -- but I think it would be hard to find a large valuation. In fact, I think I maybe even looked to see if I could find one. You know, Microsoft's stock value is simply so large that --

Q. But if a billion dollars of this stock drop is attributable to your view that there won't be sales of Windows 95 products by Novell, wouldn't that billion dollars go to Microsoft and/or Lotus? That is not a flee bite, is it?

A. Well, I think that the beneficiaries of this announcement, you can look at this announcement and you can ask the question, who is it good for and who is it bad for? It is clearly bad for Novell in terms of its applications, and you could go through the exercise of looking at competitors to Novell and see if the market -- when they heard this news, what is the best bet? I have really bad news for Novell and I have got moderate news for I guess Lotus and Microsoft. If I want to trade in the market what do I do? I think the answer is I sell Novell. Maybe I also buy Microsoft a little bit. But it is a second order of range of effect.

MR. JARDINE: Let's put up graphic 27-D.

BY MR. JARDINE

Q. This actually shows Microsoft's stock relative to the S & P and NASDAQ and Novell, and as we can see Microsoft's stock actually declined in the same period that Novell's stock declined, so wouldn't that actually be contrary to the theory that you have been telling us, that if the $1 billion decline was due to not having these products, that Microsoft would be the beneficiary?

A. I think that in a perfect world with perfect information that what you could do probably is you could go in here and you would figure out what would have happened to Microsoft's -- if you could do this perfectly, what would have happened to Microsoft's sale price? As a matter of economic theory, what I would say is that if you could precisely determine what would have happened to Microsoft's sales price, you would see buried somewhere in there is a little uptick in Microsoft, but that is a theoretical presumption.

Q. At least the market data is that it declined?

A. It declined but, as we know, these things go up and down for a lot of reasons, and it is very difficult -- I don't think anybody is going to somehow argue that the decline that you see here in Microsoft's stock is somehow attributable to the news that it wasn't going to face much competition in the applications business. That would be a startling result.

Q. Well, we're just trying to look at market efficiencies. Let me turn to --

A. I didn't ever claim the markets were perfect. I mean, I too have got --

Q. But, of course, you have calculated very significant damages that you're laying at the feet of Microsoft based on those kind of calculations.

A. That is why I did it in a number of different ways.

Q. Let's turn to --

A. You can rely on the markets, or not rely on the markets.

Q. Let's turn to one other point.

Does your October 6, 1995 announcement damages model depend on your assumption that but for the withdrawal of documentation for the namespace extension APIs -- excuse me, the withdrawal of support. I missaid that. Let me say that again.

Does your opinion with respect to this depend on the assumption that the withdrawal of support for the namespace extension APIs by Microsoft, that but for that Novell would have had its Windows 95 products in the market by at least September of 1995?

Should I state that again?

A. No. No. No. That is perfectly fine.

It depends on the assumption that Novell would have had its product in the market within a sufficiently short time period so that there would not have been a significant effect on its sales. It is my understanding from the testimony, on which I totally rely of the programmers, that we are talking about something in the order of the time frame August, September, October.

It is my understanding also from that testimony that the expectation was that that was their goal, was to get it out within 30 or 60 days, and that is my but-for world. But, you know, on this, you know, I defer to the prior testimony that has been heard.

Q. I want to ask you a variation of that, because you said in a sufficiently short time. If, in fact, even with the namespace extension APIs Novell would not have released its products until December of 1995, would that render your damage model on October 6th irrelevant or inapplicable? Would that have been too late in your view?

A. I think then you're into parsing how much a delay and how much damages. You know, I have to think about this, and that is sort of off the cuff. You know, my understanding, and, again, on this I would just defer to anything ever said by a programmer, my understanding is that the cost of delay, which an economist would call nonlinear, you have a little delay, a little delay, and it hurts you, and then you reach a point where a delay really becomes very important.

And then eventually, however, as you delay, delay, delay, you're pretty dead, so it does not make very much difference. So I am not suggesting that you could take this damage estimate and say, oh, this damage estimate assumes no delay and the actual delay was nine months, and say as a factual matter there was a two month delay and say, okay, I'm going to take two months or something like that. It is my understanding that the relationship is such that if you get it out within the prescribed time period, and I understand it is an agreement, we agree to get an application out within I think it is 60 days in order to be part of the whole hype of Windows 95, if you make it in that window you're in pretty good shape. It would better to have it on August 23rd, but you're in pretty good shape after a couple months.

Once you get past that it is my understanding that you start getting into a pretty expensive delay. But it is also my understanding that when you get further than that it floats off. You know, I have looked, although we have not talked about this, separately in the reply report, you know, I have tried to empirically estimate what the effects of the delay is, you know, and I have tried to ask the question if I look at a sample of software companies, do I get an effect similar to what I get here and do I find a similar effect? The general answer is it is complicated but there is a window of opportunity to get your product out.

Q. You have testified throughout your answer about your understanding about these timeframes. You're not testifying as a marketing expert on this, are you?

A. Oh, no. I am very clear about this.

Q. So have you relied on anybody, any expert testimony for when it was that it was too late for Novell in terms of getting these products out?

A. I think in terms of either the documents or the testimony, it is my understanding that the -- I don't know whether I should call them -- the programmers, the actual people on the ground, their belief was and their goal, sort of limit goal was to get the product out at least within 60 days, and that that would be roughly acceptable. But, you know, whatever the heck it is that they said, that is what

I'm going on.
Q. Well, I know what the programmers' testimony was but, of course, they are not marketing experts. Is there any testimony you're relying on as to when the delay would have been too late? For instance, is there any testimony you know of that December 1995 would have been too late?
A. You know, you're stretching my memory here. I have read a lot of documents on this, and all I can say is that my recollection was that if you could get it out within 60 days, and I can't tell you the references, but if you can get it out in around 60 days you were in pretty good shape.
Q. I guess what I want to ask you is, is your expert testimony, relying on whatever source it was, that you had to get it out within 60 days and anything after that triggers the damages that you have testified about to the jury?
A. No. I think that, you know, my damage estimate assumes that the product would have been out within a reasonable time frame. You know, if in fact somebody factually determines that even absent the bad acts the product wouldn't have been out until January or February or March, then to that extent you would need to modify the damages because it is partial.
The question you asked me was, I think, do my damage estimates stand if in the but-for world Novell had been able

to release its product within a relatively short time period after the release of Windows 95 and my answer is yes.

Q. I think you have just led me to where I want to go. That is helpful. I think your answer was helpful.

If I understand what you have told me, if in fact they had access to the namespace extensions, but Novell would not have had its Windows 95 product out until December of 1995, then that is beyond the point that you assume for your damages models and they would have to be modified? Is that true?

A. I can't pick December. All my understanding of my recollection is that they were talking about 30, 60 days, the end of August. What are we talking about? The end of September, the end of October, somewhere around the beginning of November. I would say that for each -- I really don't want to get into this, because this is not my area of expertise, but from me reading of what is going on, for every month of delay, at least after November, you're going to start incurring some costs.

And since my damage calculation basically assumes that in the but-for world they would have gotten this out within a reasonable time period, you know, if you somehow present me with the fact that says that are not out until, you know, January 1st in the but-for world I would say, yes, and I can do this if necessary, then I have to adjust my damages for a

different but-for world.
Q. I think that has helped clarify, because in your report you said that you assumed that the products would have been out at least by September of 1995. That was true, correct?
A. That was based at the time on Dr. Alpein's -- Mr. Alepin's testimony that he thought they would be out in September.
Q. But you understand he didn't give such testimony here at trial?
A. That is right, but what I'm relying on is whatever our programming people said they were going to get it out, and what the problems would be if it were late.
Q. I guess what I want to be clear on is these damages models that you provided us in your report, were constructed on the assumption that the products would have been out at least by September of 1995?
A. No. They were constructed on the assumption that they would have been out within a sufficiently short time period, so that it would be no significant harm. Whether that is September or October or November is --
Q. Would you like to look at where you say that in your report?
A. No. In the report I said I assumed that that is September.
Q. Okay. I just want to be clear, so that I am not

misquoting you.
A. But I am not relying Mr. Alepin for a September date.
Q. Well, the next point that I want to talk about is what you did to reach the assumptions. If I understand it, none of these damage numbers take into account or provide the jury with assistance if in fact in the but-for world with namespace extension APIs, Novell still wouldn't have gotten the products out until December or January?
A. Sure. I mean, it is easy to do.
Q. Well, but these numbers don't reflect that, correct? These assume that it would have been out by September?
A. Yeah. But, I mean, the jury can say, well, these numbers assume that the product would have been out by, say, November, it was actually out in May, six months, you know, and if you decide that it would in fact -- as a factual matter if Windows 95 had come out in January, I guess the simplist thing to do is to take one-sixth off the damages.
MR. JARDINE: Your Honor, I will move to strike that answer.
THE COURT: It is struck.
THE WITNESS: I'm sorry.
BY MR. JARDINE
Q. Let me now just turn to another subject.
A. I thought I was answering the question.
Q. The jury has to rely on what you provide them.

Let me turn to this. I think your role has changed, because in your expert report you relied on Mr. Alepin. You relied on another expect. But in the absence of his testimony about when the products would have been out, if they had namespace extension API access, you now say you are relying on the programmers, correct?

A. I think the programmers, as I understand it, you know, have a better grasp of this. I mean, I am not knocking Mr. Alepin, but the programmers were there.

Q. Well, here is my question. Are you now undertaking to evaluate the testimony that has been presented in court by the programmers and others, the documentary evidence, have you attempted to evaluate all of that testimony and reach a conclusion yourself about when it would have been out?

A. No. I thought I had made that very clear. I am relying on their testimony.

Q. So you're picking and choosing among the testimony and evidence that has been presented in this court for the assumption that you're going to make?

MR. TASKIER: Objection, Your Honor.

THE COURT: Sustained.

BY MR. JARDINE

Q. Well, I just want to ask you this. Have you looked at any documents or have you been shown any documents in which Novell talks about releasing its products in December of

1995 or January of 1996 irrespective of the namespace extension API issue?

A. I think I have reviewed some documents that have various different release dates, various different times, yes.

MR. JARDINE: Let me put on the screen very briefly DX-211.

BY MR. JARDINE

Q. This is a paper, which the testimony for Mr. Gibb is was prepared by Mr. Brereton. He was the vice president of development and Mr. Gibb was familiar with it. He was over the Windows 95 Perfect Office project.

I am just going to summarize it, so we don't have to read it, but it lays out three proposals. The testimony is that this is in the fall of '94 before the 16 bit products, the WordPerfect --

THE COURT: Mr. Jardine, haven't you gone on as far as you can with the witness on this point? The jury has heard the evidence. There is a dispute about when it could have come out and critical paths and all of that, and you have established that these figures are based upon it coming out in or about 60 days. It seems to me you can argue that.

MR. JARDINE: I was just going to ask him if he had seen it.

THE WITNESS: Yes, I have.

MR. JARDINE: Can I ask that question, Your Honor?

THE COURT: You can ask that question.

BY MR. JARDINE

Q. Have you seen and evaluated this document --

A. Yes.

Q. And do you reject this document in favor of the testimony of --

A. I have seen Mr. Gibb's description and his reaction to it, and I thought that that seems to be a pretty reasonable reaction.

Q. Do you recall --

A. I am not trying to come in here and say anything about Mr. Gibb. Mr. Gibb was presented with this document and he knows what it is all about.

THE COURT: You have established that this damage estimate is getting in around 60 days after the release of Windows 95. I understand Microsoft takes the position that that is not accurate, but it seems to me that the facts are in and you are not --

MR. JARDINE: If I can just have one follow-up question?

THE COURT: You can ask it, and if it is objected to I will sustain it.

BY MR. JARDINE

Q. You said that you gave credence to Mr. Gibb's reaction to this document. Do you recall what his reaction was?

MR. TASKIER: Objection, Your Honor.

THE WITNESS: I think --

THE COURT: Overruled.

THE WITNESS: Well, yeah, I think --

THE COURT: You're going to have the jury's recollection of his testimony because and you have transcripts and six people can quote it and I think --

MR. JARDINE: Your Honor, I don't want to press it, I am just --

THE COURT: I think you have made your point. This witness is assuming a release within a reasonable period of time which is September or approximately 60 days after the -- you're free to argue that that is not an appropriate assumption.

BY MR. JARDINE

Q. For the assumptions that you have made about when the Windows 95 products would have been out, did you assume that the development of the shared code was a critical path for the Perfect Office product for Windows 95?

A. I assumed it because that is what the developers tell me.

Q. Do you also assume that QuatroPro being ready was also a critical path?

A. I think what the developers said is that QuatroPro was never a critical Path. Mr. Gibb.

Q. So they could have launched Perfect Office for Windows 95 without QuatroPro being ready?

A. No. I am saying that --

THE COURT: I am going to take your rise as an objection and sustain it.

MR. TASKIER: Thank you, Your Honor. We are --

THE COURT: I think we have gone as far as we can with this.

MR. JARDINE: All right.

BY MR. JARDINE

Q. Let's turn to the last line, forecasted revenue and profits.

A. Okay.

Q. Do you recall, and I think we have clarified it, but as I understand your report as of 1996 you have an estimate of 440 million by this --

A. I think we have gone through this before.

Q. Yes.

A. That process is a process --

THE COURT: As you just said, we have gone through this before.

MR. JARDINE: I just want to get a --

THE COURT: The original quote is 440 and he says it should be the present date --

THE WITNESS: I am going to repeat whatever I said before.

THE COURT: We heard it, so don't.

BY MR. JARDINE

Q. You also testified that you did a more complex regression. Do you recall that testimony?

A. Yes, I did.

Q. As I understand it from your report, as of March of 1996 that yielded a number of 378 million?

A. It got a lower number. I tried to take a number of other factors into account to see if I was in the ballpark. Dr. Hubbard objected to this and said that he preferred the first methodology, as far as I can understand, so that is what I have reported.

Q. But was the number 378 million, do you recall?

A. I have no idea. We would have to go look it up.

Q. When you did this calculation, and I won't go through how you did it, but you essentially tried to figure out what Novell's revenues would have been going forward, and do you start in August or September?

A. I begin after -- my baseline is the first two quarters of 1995, but I think I begin in the next quarter. I make an assumption of zero harm over the next quarter after the baseline.

Q. So you start in the third calendar quarter?

A. Yes. And I moved this thing entirely to calendar quarters, yes, which was a bit of a pain.
Q. So to construct your forecast forward, you determine first a starting market share. What was Novell's market share in this but-for world for its products and project those forward as a market share for the Windows 95 products?
A. Well, actually, no. I look at Novell's products using the first half of -- of the share of all of Novell's products in the first half of 1995. I take that share and then I start with that as a base, and then I project forward what WordPerfect's share of all of those applications would have been.
So I am just saying it is not just Windows 95, but it includes future sales of Perfect Office and everything like that. What I have done is I have taken all their sales, which are, you know, word processor and suites, and I am trying to project Novell's total sales in the but-for world of business applications software not just Windows. Not just Windows 95.
Q. So it includes the 16 bit?
A. Yes.
Q. That is fine.
You and Dr. Hubbard, Processor Hubbard disagree on two aspects of where you start in terms of determining a starting market share, correct?

A. That is correct.

Q. And one way you disagree is that you determine that that starting market share by combining the market shares of WordPerfect and Perfect Office and QuatroPro, correct?

A. That is correct. I look at the total.

Q. And he treats them as separate categories?

A. That is correct.

Q. Isn't there a risk of distorting by combining? Let me give an example. If you assume that WordPerfect as a standalone product had 25 percent, and Perfect Office as a suite had five percent, and you therefore said that the combined market share is 15 percent, wouldn't that under weight the suite product if the trend was way up in the market?

A. No. I actually went through in the reply report, as you know. My answer to that is no.

Q. Okay. I will give you a chance to say why.

If I understand it, you do that in part because you believe that the standalone WordPerfect product among installed users predicts into what people will adopt or choose as a suite product?

A. More specific, I think a pretty good predictor is are you a WordPerfect user? If you are somebody who is using WordPerfect, the word processor, and you think it is the best word processor, and particularly if you're somebody like myself who is just basically interested in the word processor, and then what happens is that WordPerfect says we are not going to sell you the word processor as a standalone anymore. What we're going to do is we're going to offer you a suite. Here is a suite. We're going to give you, you know, a whole bunch of other stuff along with your word processor and it is not going to cost you very much more. Anyway, we are not selling the word processor by itself any more.

What do I do? What I do is what is I did. I bought the suite. So, you know, if you have got an installed base of standalone word processor people, and at that point you offer a suite, and the reason why those people are in your install base is because they really like your word processor, then my argument is those people will transition, if they can, to a suite offered by WordPerfect.

Q. Do you know of any market study that supports your theory?

A. I know of none that go against it either. I don't think that there are any market studies out there.

Q. Do you know if there are any network effects at play in this period with respect to the movement to suites?

A. I think there are -- I think I have talked about this. There are network effects in the following sense, and I don't mean to repeat again my testimony, but if you miss the boat here, if because of the pulling of the namespace extensions you don't get your suite out on time, you know, then we have two separate effects and two separate problems. One problem is that some of your loyal customers will now switch to buying Office and once they are gone, they are gone. You just can't get them back.

But the second problem is that as more and more people switch to Office, it is not just that you are switching to Office, now you find that your friends and colleagues are switching to Office. I never would have switched to Office if I didn't have to. I use Office because -- I don't want to get into this too far -- but, you know, it is not because I like Word. I use it because everybody else has Word. That is why I do it. That is the network effect that we're talking about. So when you miss the boat you get hit with a real one two punch, if you like. You get hit with people switching away from your product, and it can't be recovered, and then even your most loyal people who don't switch away from your product find themselves with more and more problems having your product, because they have -- compatibility with whatever is the leading firm.

THE COURT: Let's break for lunch.

See you all in 20 minutes.

(Recess)