

1 (10:10 a.m.)

2 THE COURT: Please be seated.

3 THE CLERK: Are we ready?

4 THE COURT: Absolutely.

5 (Whereupon, the jury returned to the courtroom.)

6 THE COURT: Sorry to bother you with a scheduling
7 issue which really wasn't ripe yet, but a break for
8 everybody doesn't hurt anybody.

9 Mr. Tulchin?

10 MR. TULCHIN: Thank you, Your Honor.

11 Q. (By Mr. Tulchin) Mr. Harrol, I am going to hand
12 you Defendant's Exhibit 98?

13 A. Thank you.

14 Q. Um, which I have given to Mr. Johnson. And just
15 ask you for the moment to look at the first page. Do you
16 recall in 1995 seeing this document or documents like it?

17 A. Let me have a second here. I recall some
18 documents like this.

19 Q. And this particular document says product
20 Thunder. Do you see that, sir, on the first page?

21 A. I do see that.

22 Q. That was a code name used at Novell at the time,
23 correct?

24 A. I don't recall that but, um, possibly called
25 Lightning. It is very possible that they called it that.

1 Q. Mr. Harrol, do you recall that the code name
2 Thunder was used to describe the WordPerfect product that
3 was under development?

4 THE COURT: It is fine to represent that but that is
5 true.

6 MR. TULCHIN: I do represent that Thunder was used to
7 refer to WordPerfect.

8 THE WITNESS: Okay.

9 Q. (By Mr. Tulchin) The product that was being
10 under -- that was under development at the time. And Sid
11 Cragun, do you remember him, he was a software developer?

12 A. I remember Sid Cragun. He was the developer on
13 the WordPerfect team for shell integration.

14 Q. Okay. And he is writing a document talking about
15 shell integration on the Thunder product the WordPerfect
16 product for Windows 95?

17 A. WordPerfect word processor for Windows 95.

18 Q. Right. And this concept design specification
19 document was a document that was written and modified from
20 time to time to describe where in the development process
21 Novell was, am I right?

22 A. I don't -- I don't know with -- I don't know what
23 WordPerfect did for the documentation of their -- of their
24 process.

25 Q. I see. I guess I should ask you then, in the

1 shared code group did you or any of the three people who
2 worked for you from time to time prepare similar documents
3 perhaps with the same type of title concept design
4 specification for what you were working on?

5 A. I don't know. That would have been at Tom
6 Creighton's level, and I don't know who he had prepare
7 documentation for these things.

8 Q. Okay. Do you remember seeing concept design
9 specifications prepared in the shared code group, someone
10 working for Tom Creighton in '94 or '95?

11 A. I recall that the file open systems had concept
12 design documents.

13 Q. Do you know what became of those?

14 A. I don't.

15 Q. Um, in connection with --

16 MR. JOHNSON: Your Honor, objection. Those are
17 exhibits in this case. What became of those as though they
18 disappeared.

19 THE COURT: Well, we'll take that up when it comes up.
20 But right now the objection is overruled. Go ahead.

21 Q. (By Mr. Tulchin) Mr. Harrol, just --

22 THE COURT: Obviously something that is an exhibit in
23 this case or was kept and given to Mr. Tulchin, a design
24 exhibit maybe it isn't, so we'll find out.

25 Q. (By Mr. Tulchin) Maybe I should be more precise

1 in my question. Do you know how often the concept design
2 specification that was written in the shared code group was
3 modified or amended?

4 A. I don't know.

5 Q. Um, do you recall seeing any such documents in
6 connection with your preparation that you did for your
7 testimony here?

8 A. A concept design document for shared code?

9 Q. Yes.

10 A. I don't recall one. Do you have one?

11 Q. Well, Mr. Harrol, um, this document --

12 THE COURT: I'm going strike that answer.

13 THE WITNESS: Okay, I sorry.

14 Q. (By Mr. Tulchin) Let me ask my question if I
15 could, Mr. Harrol. This document, Exhibit 98, apparently
16 written by Mr. Cragun in February of 1995?

17 A. Yes.

18 Q. Was this something that you think you saw in
19 1995?

20 A. I don't know if I saw the document. I know that
21 there was discussions that we had with Sid Cragun that could
22 have led to documents like this.

23 Q. Could I ask you to look at the very last page of
24 Exhibit 98. And at the top there is the word "procedures"
25 and then underneath it says, "filing instructions". "A

1 printed copy should be signed, witnessed and filed with the
2 project director. An electronic copy should be placed in
3 the product directory on the network at a particular
4 address." Do you see that?

5 A. I see that.

6 Q. Was the same requirement in effect for any
7 concept design specifications or similar documents that were
8 prepared in the shared code group?

9 A. I don't know.

10 Q. And you don't remember writing any yourself?

11 A. No, I did not. It would have been the purpose,
12 it would have been the responsibility of the developers,
13 which Mr. Cragun is. It would have been the responsibility
14 of them to produce one for each of the areas that they had
15 responsibility because the architect I would not have enough
16 depth in their individual features to be able to -- I'm fine
17 to consult with them, but I would not have been the one to
18 produce the documentation.

19 Q. All right. And Mr. Harrol, thinking about the
20 period let's say from October 1994 and going forward let's
21 say about six months, so I am just directing you to October,
22 November, December 1994 into the first three months of '95,
23 let's say to April 1st, '95?

24 A. Okay.

25 Q. In that period, do you recall writing any e-mails

1 or memos to any of your superiors at the company in which
2 you lay out what the impact might be on the shared code
3 group or any of the work you were doing of Microsoft's
4 decision to withdraw support for the namespace extension
5 APIs?

6 A. I'm trying to think because I -- I didn't find
7 out that they were withdrawing them. I didn't talk about
8 them. Um, the -- they never told me they were withdrawing
9 them. But as far as laying out the consequences of not
10 being able to use them, those are discussions that I had
11 with Tom Creighton and we transacted e-mails about that, we
12 had discussions in his office, we had discussions with other
13 people outside of our group about those impacts.

14 Q. Well again, Mr. Harrol, um, as far as I know, we
15 don't have any such e-mails?

16 A. Okay.

17 Q. So let me try this question, I hope my last one
18 was clear. In this same six-month period, October '94 until
19 about April 1st, '95 --

20 A. Uh-huh (affirmative).

21 Q. -- do you remember writing any documents to
22 anyone else at the company about the impact that the
23 namespace extension issue, let's say your inability if you
24 want to call it that to use them, had on any of the work you
25 were doing?

1 A. I think I said that I wrote e-mails and those are
2 the documents. So yes, I wrote e-mails to Tom Creighton.

3 Q. Anything else?

4 A. Not that I recall.

5 Q. Um, according to your testimony here in the
6 courtroom, this was an event that was important; correct?

7 A. Uh-huh (affirmative).

8 Q. Um, you said last week that around the October
9 timeframe you learned something about the namespace
10 extension APIs. I thought you said that Microsoft was
11 withdrawing support for them, but maybe it was something
12 else. I don't remember exactly what you said about what you
13 learned then.

14 A. Okay.

15 Q. But whatever it was, um, according to your
16 testimony this had a big impact on you and the work you were
17 doing?

18 A. Uh-huh (affirmative).

19 Q. Is that a yes, sir?

20 A. Yes. Yes, sorry. Yes.

21 Q. Thank you. Um, did you personally convey that
22 information to Bruce Brereton, who we saw in Exhibit 372,
23 was the head of the group, the business applications
24 business unit?

25 A. No, that was Tom Creighton's responsibility.

1 Q. Okay. Um, and did you convey it to anyone above
2 Mr. Brereton like David Moon or Ad Rietveld or Bob
3 Frankenberg?

4 A. No. I never had occasion to do so.

5 Q. And in the period after April 1st, 1995, let's
6 say for the rest of that whole year, calendar year 1995, do
7 you -- do you recall writing anything, other than the
8 e-mails that you talked about to Mr. Creighton, that sets
9 out the impact on the shared code group or on PerfectFit or
10 on any of the work that you were doing of the namespace
11 extension API issue?

12 A. Other than the e-mails, there were no documents
13 that I produced.

14 Q. Am I correct, Mr. Harrol, that when we talk about
15 the namespace extension APIs we're talking about four APIs?

16 A. No, I thought that I -- I thought that I
17 mentioned that, that there is a difference between -- are we
18 talking about our use of them or are we talking about the
19 documentation of them?

20 Q. Well, let me back up for a second. The beta
21 version of Windows 95 that came to Novell in WordPerfect in
22 June of '94, had thousands of APIs that were documented?

23 A. I believe you. I never counted them. I don't
24 know.

25 Q. You didn't count them. That sounds about right,

1 thousands?

2 A. Okay.

3 Q. You agree?

4 A. I would agree that there is probably more than a
5 thousand and probably more than two, so yes, I would agree.

6 Q. All right. Um, am I right that the namespace
7 extension APIs that were in the subject as far as you knew
8 of Microsoft's decision in October '94 to withdraw support
9 for them, that those were four?

10 A. No, it wasn't four it was the whole set. They --
11 I believe they withdraw any because if I am not able to get
12 information from the contacts at Microsoft regarding the
13 other APIs, effectively for me they had to withdraw it as
14 well. And so -- but it still we're still talking about what
15 may be a dozen, maybe two dozen, um, which is still a small
16 set compared to the 2000 plus that you're mentioning.

17 Q. Well, um, let me just make sure I understand one
18 thing, um, and I will go back and show you the e-mail that
19 you looked at on direct examination. But you spoke last
20 week of the fact that Microsoft and Windows 95 was providing
21 functionality to Novell and other ISVs that allowed you to
22 extend the shell, correct?

23 A. To interact and extend it, yes.

24 Q. And the shell extensions were a group of APIs
25 that included much, much more than just the namespace

1 extensions, correct?

2 A. Yes.

3 Q. Um, so -- just so, and I am happy to show you
4 some documents if you want, but let me see if we can agree
5 on a couple of these. And actually, Mr. Harrol, do you
6 remember in 1995 looking at this book, Programmer's Guide to
7 Microsoft Windows 95?

8 A. I don't remember that.

9 Q. This was a book that was published by Microsoft?

10 A. Uh-huh (affirmative).

11 Q. Is that right?

12 THE COURT: Show it to him.

13 MR. TULCHIN: I would be happy to show it to you.

14 THE WITNESS: Thank you. That monitor is in the way.

15 Thank you.

16 Q. (By Mr. Tulchin) This has been marked as
17 Exhibit 559, Your Honor.

18 A. So it is from Microsoft Press so it looks like
19 Microsoft.

20 THE COURT: For the record, plaintiff's or
21 defendant's?

22 MR. TULCHIN: Defendant's, Your Honor, my apologies.

23 THE COURT: Okay.

24 Q. (By Mr. Tulchin) And this was a book that was
25 made available to any developer, any ISV, who wanted to get

1 it, correct?

2 MR. JOHNSON: Your Honor, we do have an objection to
3 this exhibit.

4 THE COURT: As of now, it is just marked for
5 identification.

6 MR. JOHNSON: Thank you, Your Honor.

7 THE WITNESS: Okay, I'm sorry. Say it again.

8 Q. (By Mr. Tulchin) The point is that in 1995
9 Microsoft published this book, the book that is in front of
10 you, and anyone who wanted it could have obtained a copy?

11 A. Do you know when in '95 it was published? If it
12 was December, that was a little late. But if it was
13 January, it might be pertinent.

14 Q. My memory is that it was sometime around the
15 middle of the year, but I can't say that I can remember
16 exactly when.

17 A. Okay.

18 Q. And I may be wrong.

19 A. That would make sense because you would want it
20 to be out about the time that Windows came out which is in
21 the middle. Well it was going to be the middle of '95.

22 Q. Right. Yes and it came out in August ultimately?

23 A. Okay.

24 Q. All right. You don't remember seeing the book
25 yourself?

1 A. No.

2 Q. Other people at Novell had copies of this;
3 correct?

4 A. I don't know.

5 Q. Do you know if this was something published by
6 Microsoft to assist the developers in trying to write their
7 applications for Windows 95?

8 A. I would presume that that is why they wrote it.

9 Q. All right. Um, could I ask you to turn to
10 Page 219 of this book. And Your Honor, I am giving
11 Mr. Johnson a copy of the chapter to which I am now
12 referring. This is article 12. We have marked this as
13 559-A.

14 Mr. Harrol, do you see that?

15 A. I do see that chapter.

16 MR. JOHNSON: Your Honor, if they're going to publish
17 this, we would like to have our objections.

18 THE COURT: Okay. Approach the bench and tell me what
19 the objection is.

20 (Whereupon, a bench conference was held.)

21 MR. JOHNSON: Hi, Your Honor. This is hearsay and
22 irrelevant. I don't believe this discusses the namespace
23 extensions --

24 MR. TULCHIN: The purpose of this --

25 MR. JOHNSON: -- we're talking about.

1 THE COURT: Just speak.

2 MR. TULCHIN: The purpose of this, Your Honor, is to
3 show the witness the shell extensions that were made
4 available in Windows 95 and to see if I can get him to
5 agree. It is a shorthand way, instead of going through
6 these in great depth. All of these shell extensions were
7 made available by Microsoft. Um, the namespace extension
8 APIs were a small subset of the shell extensions as a whole.
9 I don't think that the jury understood that from the
10 testimony last week where he talked generally of shell
11 extensions and at least to my ear made it sound as if the
12 namespace extensions were the shell extensions. It was
13 much, much more functionality that Microsoft made available.

14 MR. JOHNSON: And Your Honor, this is a frolic and a
15 detour. We have -- yes there were other things that allowed
16 certain amount.

17 THE COURT: You can cover that on redirect. The
18 objection is overruled. I think there -- I think the jury
19 is being asked to absorb a lot of information and if they --
20 they may think somehow the API namespace extensions
21 completely affect the shell and it may or may not but you're
22 free to ask on redirect.

23 MR. JOHNSON: Your Honor, so you're sustaining the
24 objection?

25 THE COURT: No, I'm overruling the objection.

1 MR. JOHNSON: Talking about redirect that would be me.

2 THE COURT: Yes, you can ask questions. If you want
3 to clarify something you can. But as far as I'm concerned,
4 there could be jury confusion so Mr. Tulchin can do what he
5 wants to do.

6 MR. TULCHIN: Thank you.

7 (Whereupon, the bench conference concluded.)

8 THE COURT: I am going to overrule the objection. You
9 all can ask questions on redirect. Mr. Johnson can try to
10 clarify what is going on. But basically, we're just trying
11 to find out the relationship between namespace extensions
12 and the shell. I think it would be helpful to ask the
13 question.

14 Q. (By Mr. Tulchin) Mr. Harrol, we're looking at
15 Page 219.

16 THE COURT: I guess the whole exhibit -- well, I'm not
17 going to allow the whole exhibit but I'm just going to allow
18 this page right now to be displayed to the jury.

19 MR. TULCHIN: Thank you, Your Honor.

20 Q. (By Mr. Tulchin) This is Exhibit 559-A. It is
21 one chapter or article from the larger book that I gave you.

22 THE COURT: Ladies and gentlemen, frankly what is most
23 important here is the testimony. By showing this to the
24 witness, Mr. Harrol, it helps the testimony go along. The
25 testimony is really what we are mostly interested in.

1 Q. (By Mr. Tulchin) And here are my questions,
2 Mr. Harrol. In the final version of Windows 95, there were
3 a number of shell extensions that Microsoft made available
4 for ISVs; correct?

5 A. Um, yes, that I recall.

6 Q. These were all shell extensions that were in the
7 first beta from June of '94; correct?

8 A. Yes.

9 Q. And as far as you know they were never modified?

10 A. As far as I know.

11 Q. All right. So one of the shell extensions was
12 context menu handlers, do you see that?

13 A. Yes.

14 Q. And those add items to the context menu for a
15 particular file object?

16 A. Yes.

17 Q. Correct?

18 A. Yes.

19 Q. Next there were icon handlers?

20 A. Yes.

21 Q. We won't go through these in any --

22 THE COURT: Well, the bottom line is that the
23 withdrawal of support for namespace extension APIs did not
24 constitute -- well, I'll ask you because I understand your
25 point is it did not affect all shell extensions, there is

1 still access to some shell extensions is that --

2 THE WITNESS: Is that the question you're asking?

3 Q. (By Mr. Tulchin) Yes.

4 A. And the answer to that is that back in M6 when we
5 first got the extensions, um, see this is -- I am going to
6 go home and get a copy of this actually but --

7 THE COURT: Right now I'm going to take it home and
8 read it during halftime.

9 THE WITNESS: Sleeping is not something I think you
10 want.

11 MR. TULCHIN: This is not a quick read, Your Honor.

12 THE COURT: No.

13 THE WITNESS: No. But the point is that back in June
14 when we got these extensions we were told about getting
15 documentation later on.

16 In October, we were told that there were things that
17 would be unavailable. The problem, one of the big problems
18 that we were having is that what you are looking at right
19 now is what we expected in October. And so, um, and in fact
20 the namespace extensions were not documented until 1996,
21 sometime later on. And the documentation that was available
22 then is pursuant to this. And because I have read that and
23 I was just looking through it while you were talking. And
24 this information is what I would have loved to have had back
25 in October of 1994 and I expected to have. But if it is

1 coming out in the middle of '95, that does me no good.

2 Q. Mr. Harrol, I am right, am I not, that in the M6
3 beta that you got in June of '94, you had --

4 A. Uh-huh (affirmative).

5 Q. -- all of the documentation that you needed for
6 the context menu handlers, the icon handlers, the data
7 handlers?

8 A. No.

9 Q. That is the next one the drop --

10 A. No. This is -- this is documentation for people.
11 I have the machine description of those things. I did not
12 have the people descriptions of what was the behaviors and
13 what are the recommendations. That is what is sitting here.
14 This is what I wanted back when I had those shell extensions
15 back in 1994. And I did not have this in 1994.

16 MR. JOHNSON: Your Honor, may the record reflect that
17 he is talking about 559? Exhibit 559, Defendant's?

18 THE COURT: Sure.

19 Q. (By Mr. Tulchin) Is it your testimony,
20 Mr. Harrol, that in '94 you did not have documentation for
21 these shell extensions: The context menu handlers, the icon
22 handlers, the data handlers, the drop handlers, the property
23 sheet handlers, the copy hook handlers, and the drag and
24 drop handlers?

25 A. I did not have the documentation that we have

1 come to expect from Microsoft for these things for people.

2 I did have them for the machines which is not sufficient.

3 Q. When you say you had them for the machines, you
4 had M6 beta in June, um, the APIs were sent out there for
5 the machines?

6 A. The header files were there. Header files is
7 what the machine reads to be able to tie into the libraries
8 that are provided.

9 Q. Okay.

10 A. And there was some -- there was some rudimentary
11 documentation, for example, that were provided in the M6
12 beta as well, but it is not to the level of what you have
13 presented right here (indicating).

14 Q. Could you go back and look at Exhibit -- I'm
15 sorry, I'm sorry, um, it is Plaintiff's Exhibit 394 which
16 was shown to you last week. Just give me a minute,
17 Mr. Harrol, I'm confused about an exhibit number.

18 A. That is fine, I can't find it either so --

19 Q. Well, let me hand you exhibit -- Defendant's
20 Exhibit 8?

21 A. Okay.

22 Q. Which I believe is an identical copy --

23 A. Okay.

24 Q. -- of a document that you were given last week
25 and somehow I'm not pulling up out of my mind the proper

1 exhibit number for it.

2 A. 369.

3 Q. 369?

4 A. Yes.

5 Q. I think I said 394. I was a little bit off.

6 A. I think that is the same one we're looking for.

7 Q. Right. And I just want to be clear about

8 something. On Defendant's Exhibit 8, you looked at this

9 document last Thursday; correct?

10 A. Yes, I did.

11 Q. And if you look at the second page, just look at

12 the top above the word "requirements"?

13 A. Yes.

14 Q. Um, this was a document written in 1994; correct?

15 A. Yes.

16 Q. And does this not indicate to you, Mr. Harrol,

17 that everything you needed to use the shell extensions was

18 given to you in the June 1994 beta; correct?

19 A. No.

20 Q. I mean the book wasn't published until '95, but

21 the book is just a compilation of information that Microsoft

22 had given ISVs earlier?

23 A. I don't know that.

24 Q. Correct?

25 A. I don't know that.

1 Q. You don't know that?

2 A. No, because, for example, um, when I was working
3 on Windows 3.1, um, I had a discussion with a Microsoft
4 systems engineer about menus. And the person who was
5 working with me, the premier support individual, um, was
6 there listening to my questions with them. That individual
7 later wrote an article for Microsoft Systems Journal based
8 upon our conversation that was published to everybody else
9 in the industry.

10 And so the information can be compiled here, but it
11 doesn't mean it was generally available to everybody. They
12 -- they discovered these things as they go through the
13 process of the beta and eventually it becomes generally
14 available in the form of like a book like this, but it
15 doesn't mean that everybody had that same information
16 individually before the publishing of that book.

17 Q. Well, maybe it doesn't. But in this case am I
18 right that the information in the book, Exhibit 559, was a
19 compilation of things that Microsoft had made available to
20 ISVs earlier?

21 A. I don't know. If you'll give me some time to
22 read the book and to go through it and compare it, I might
23 be able to say that. But from my knowledge right now, no, I
24 don't know that.

25 Q. Could we look at Defendant's Exhibit 8, which is

1 also the same thing as Plaintiff's Exhibit 369, Page 9?

2 A. Okay.

3 Q. Now, at the top under the word extension

4 handlers, and again this was written in -- sorry, in 1994 by

5 Sid Cragun; correct?

6 A. Yes, that is correct.

7 Q. All right. And Mr. Cragun, in 1994, is writing

8 about five shell extension handlers?

9 A. Yes, that is correct.

10 Q. Including the five that I mentioned in my

11 question to you a few minutes ago?

12 A. That is correct, yes.

13 Q. Correct?

14 A. Yes.

15 Q. Does this not indicate to you that um, at that

16 time Novell had from Microsoft all of the documentation it

17 needed to use these shell extensions?

18 A. No, because I -- in fact if you -- there was

19 another exhibit that I was shown of the header file. In

20 fact you showed it to me. The information that Mr. Cragun

21 was able to derive is inside of that machine file. But that

22 doesn't tell me the behaviors of how that API is supposed to

23 work. It doesn't tell me if I go in and I -- it is talking

24 in here about context menu handlers, for example. It

25 doesn't tell me what the different context menu items on the

1 -- on the recycle bin are going to do or when you can or
2 cannot use them or when they may or may not be available.
3 Those -- those semantic behaviors, the way that the system
4 behaves, are what we expect in people documentation that we
5 don't get from machine documentation, can I lift out of the
6 machine documentation a one paragraph summary about what
7 these things do? Yes. Will I be able to do a month's worth
8 of development based just on that? No way.

9 Q. Well, Mr. Harrol, Microsoft, in fact, provided
10 all of this functionality to Novell, for example, these five
11 extensions; correct?

12 A. Provided --

13 Q. In Windows 95, all five of these extensions?

14 A. Are there.

15 Q. Yes.

16 A. Yes. Yes, they are.

17 Q. They were. And, of course, Microsoft is
18 developing that functionality, those extensions?

19 A. Uh-huh (affirmative).

20 Q. Through the efforts of Microsoft's software
21 engineers, correct?

22 A. I presume so.

23 Q. And Novell or WordPerfect before that of course
24 needed to use its own efforts to be able to tie into the
25 APIs that Microsoft was providing to Novell?

1 A. Uh-huh (affirmative).

2 Q. Is that a yes?

3 A. Sorry. Yes. Thank you.

4 Q. So it is not your testimony that it was
5 Microsoft's obligation to do all of the work for Novell, was
6 it?

7 A. It never was.

8 Q. Okay. Novell certainly had to do some of the
9 work itself to figure out how to tie into the APIs and how
10 best to use them for Novell's own products?

11 A. That is correct.

12 Q. And that was partly your job and the job of Sid
13 Cragun and the WordPerfect team and other engineers?

14 A. That is correct.

15 Q. Okay. And again looking at Exhibit 8?

16 A. Uh-huh (affirmative).

17 Q. A copy of PX-369. Could I ask you to turn to
18 Page 3. If you need a hard copy let me know.

19 A. I actually have one. I am trying to be --

20 Q. 369?

21 A. Okay.

22 Q. Good. My apologies earlier for getting the
23 number wrong. Too many numbers.

24 A. Yes. I agree.

25 Q. Um, on Page 3 of the very bottom you will see

1 Mr. Cragun writes, "functional requirements". Do you see
2 that?

3 A. I do at the bottom of the page.

4 Q. Right, the very bottom. And then he has some --
5 a list of features currently provided by WordPerfect at the
6 shell level. And it goes on to the next page. Um, you will
7 see at the top continued list of features currently provided
8 by WordPerfect at the shell level; right?

9 A. Yes.

10 Q. Drag and drop printing support. Drag and drop
11 opening of documents. Support for OLE drag. Do you see
12 that?

13 A. Yes, the one with a D there?

14 Q. Yes. And then below that Mr. Cragun writes,
15 features that should be implemented using shell extensions?

16 A. Yes.

17 Q. Do you see that, sir, next to the number two?

18 A. Yes, number two.

19 Q. And this was a list of features that Mr. Cragun
20 thought at the time, in October of 1994, WordPerfect might
21 want to use features in Windows 95?

22 A. That WordPerfect the word processor might want to
23 use.

24 Q. Correct?

25 A. Uh-huh (affirmative).

1 Q. And he starts with A, and then there is a B and a
2 C and a D. And then if you look at the next page, Page 5,
3 right in the middle it says, um, "the following option will
4 not be implemented" and he says "a detailed view menu item
5 will not be implemented," right? Page 5, next to the item
6 three?

7 A. I'm reading through it so --

8 Q. Towards the top.

9 A. Just let me read through. Okay. Okay, I see. I
10 have read through that.

11 Q. And then we go through the rest of page 5 on to
12 Page 6. These are again items that Mr. Cragun is saying
13 might be put into WordPerfect, the word processor; correct?

14 A. Right.

15 Q. And when we get to K, at the bottom of Page 6,
16 and K, I think, is the eleventh item, I think K is the
17 eleventh later, we see A through K there, he says
18 registration of custom folders which function as object
19 containers with the same behavior as a folder.

20 A. Yes.

21 Q. Do you see that?

22 A. Uh-huh.

23 Q. And that was the functionality that the namespace
24 extension APIs would have provided to WordPerfect?

25 A. I think they would have needed that to do that

1 feature that he is outlining here.

2 Q. Right. You see the very next sentence he says
3 this type of shell extension is referred to as a namespace
4 browser. Do you see that?

5 A. I do see what he wrote.

6 Q. And then it is bolded in what Mr. Cragun wrote he
7 says, last sentence, "we will not take advantage of this
8 feature since Microsoft has discontinued support of the
9 required API since this document was originally written."

10 A. Okay.

11 Q. Do you have that?

12 A. I see that there.

13 Q. Now, is it fair to conclude from what Mr. Cragun
14 wrote in October of 1994?

15 MR. JOHNSON: Objection, where did that date come
16 from?

17 THE COURT: I thought the witness testified it was a
18 date that came on the first page of the document I thought
19 but I --

20 THE WITNESS: Well is that -- so well, it is easier to
21 go back to the revision history and see what is the latest
22 one here. So the latest revision we have is September 30th.
23 So October, I guess that should be okay because the last
24 time he says he updated was the 30th of September, 1994.

25 Q. (By Mr. Tulchin) Right. And um, let's just

1 spend a couple of minutes on this. The first page this is
2 just a document that Mr. Cragun wrote; correct?

3 A. Uh-huh (affirmative).

4 Q. Okay. And the first page says revision history,
5 most recent first?

6 A. Okay.

7 Q. And the most recent then says 30 September '94?

8 A. Uh-huh.

9 Q. Correct?

10 A. Uh-huh (affirmative).

11 Q. But we know this had to be in October, right,
12 because --

13 A. Or later.

14 Q. -- or later because in item K that we just looked
15 at and we'll go back to, on Page 6?

16 A. Uh-huh.

17 Q. There is reference to this decision to
18 discontinue support for the namespace extension APIs?

19 A. We really can't tell when this was written, in
20 fact, because there is no revision history. This could have
21 been just an intermediary revision that Mr. Cragun was even
22 doing. So we really don't know when this was written.

23 Q. Well, Mr. Harrol, we can agree, can we not
24 that --

25 A. It should be after the time that the

1 documentation of the -- the documentation of the APIs
2 happened.

3 Q. Let me just finish my sentence.

4 A. Sorry.

5 Q. Sorry. This was written after the namespace
6 extension APIs were de-documented?

7 A. Yeah, that is what -- that is yeah -- that is
8 what I'm saying.

9 Q. So it couldn't have been earlier than October
10 of '94?

11 A. I don't think so.

12 Q. All right. And, um, to go back to where we --

13 THE COURT: Just for the sake of the jury, there is a
14 date at the top, I think you covered it before much later,
15 but that is immaterial, correct? Isn't there a
16 November 15th, 2000 --

17 MR. TULCHIN: Yes, Your Honor.

18 THE COURT: That is just irrelevant. Everybody agrees
19 that is irrelevant.

20 MR. TULCHIN: Yes, sir.

21 THE COURT: I just wanted to point that out.

22 Q. (By Mr. Tulchin) Okay. Mr. Harrol, my question
23 about this item K?

24 A. Uh-huh.

25 Q. Is that what Mr. Cragun is indicating is that for

1 Thunder, that is the project to develop a version of
2 WordPerfect for Windows 95, there wasn't going to be any
3 need to take advantage of the namespace extensions?

4 A. That is --

5 Q. Right?

6 A. That is a leap. Um, what he is saying is that
7 WordPerfect doesn't need to commit any resources to do this.
8 They're not going to write any and they didn't need to any
9 way. Um, the only thing that WordPerfect was looking at was
10 maybe most recently used file view inside of their product.
11 The shared code would have a different perspective. The
12 mail product would have a different perspective. But for
13 Sid Cragun and the people that he was talking to to gather
14 information, um, it would be reasonable to say that a most
15 recent files view though would being useful would not be
16 impactful enough for them to take that effort to do that.
17 And so, yes, from his perspective with the product, they
18 would not need to have that to release their product.

19 Q. Right. And you testified last Thursday, and here
20 are your words, quote, "I don't know anything that
21 WordPerfect word processor needed to do for a namespace
22 extension," unquote?

23 A. That is what I just said here. I don't think he
24 needed to do that for his product. That is correct.

25 Q. Okay. So I hope this isn't repetitive, just to

1 be clear. As far as you know now, and you knew in 1994 and
2 1995, WordPerfect, the word processor, had no need for the
3 namespace extension APIs?

4 A. To ship their product.

5 Q. Correct.

6 A. But they were dependent upon our product.

7 Q. Okay. Um, in your testimony last week when you
8 were talking about customers of the shared code group and I
9 think we said today that is the same thing as PerfectFit,
10 correct? PerfectFit product was what the --

11 A. PerfectFit product was an incarnation of the
12 shared code.

13 Q. Okay. Um, did those customers pay to use the
14 PerfectFit product that they licensed from Novell?

15 A. I don't know.

16 Q. Um, is it correct, Mr. Harrol, that Novell gave
17 PerfectFit to other ISVs without any fee or charge?

18 A. I actually don't know what their licensing model
19 was.

20 Q. In that last sentence when you said their, their
21 licensing model who are you referring to?

22 A. I do not know what Novell's licensing model was
23 for PerfectFit.

24 Q. So PerfectFit, which was the product of the
25 shared code team, right?

1 A. Uh-huh (affirmative).

2 Q. Was a product that Novell was licensing to
3 customers?

4 A. Uh-huh (affirmative).

5 Q. Is that a yes?

6 A. Yes.

7 Q. Thank you.

8 A. Thank you.

9 Q. Sorry to keep doing that.

10 A. No, keep going. That is fine.

11 Q. And as far as you know, Novell wasn't charging
12 for it?

13 A. I do not know whether or not they were charging
14 for it.

15 Q. Are you aware one way or another, Mr. Harrol,
16 that in October 1994 Mr. Struss of Microsoft --

17 THE COURT: You better say someone at Microsoft
18 because he doesn't know Mr. Struss.

19 THE WITNESS: I don't know Mr. Struss.

20 MR. TULCHIN: Okay. Thank you, Your Honor.

21 Q. (By Mr. Tulchin) Someone at Microsoft told
22 Mr. Creighton, who was running the shared code group, right?

23 A. Yes.

24 Q. Someone at Microsoft told Mr. Creighton that
25 Microsoft had decided to withdraw support for the namespace

1 extension APIs?

2 A. No, I'm not aware of -- the conversation was that
3 he, Mr. Creighton, had told me that they were considering
4 it. I don't -- he did not convey to me that there was a
5 decision. So that is all I know.

6 Q. Do you know whether or not Mr. Creighton, who was
7 your boss's boss, right, you reported to Johnson, Johnson
8 reported to Creighton?

9 A. Yes.

10 Q. Do you know whether Mr. Creighton ever indicated
11 to Microsoft in October of '94 that Novell and WordPerfect
12 were okay with the withdrawal of support for those APIs?

13 A. I have been made aware in the -- through the
14 course of this whole thing that Mr. Creighton did convey to
15 Microsoft that he was not okay with the removal of the
16 namespace extensions.

17 Q. Is that something that you were made aware of in
18 preparation for your testimony?

19 A. It was something that -- um, yes.

20 Q. Well, let me go back now to the period in
21 question. Let's say 1994.

22 A. Uh-huh.

23 Q. Last three months of the year. Did you become
24 aware at that time that Mr. Creighton, your boss's boss at
25 Novell, had indicated to Microsoft that Novell was okay with

1 the decision to withdraw support for the APIs?

2 MR. JOHNSON: Objection, asked and answered.

3 THE COURT: Well, it was asked but not answered. Go
4 ahead.

5 THE WITNESS: Okay. He had indicated to me, um, okay
6 so I'm sorry, say it again so I can get the right answer.
7 Sorry.

8 Q. (By Mr. Tulchin) I'm sorry, sir, do you want me
9 to ask the question again?

10 A. Please, again. Thank you.

11 Q. At any time in the last three months of 1994, did
12 you become aware that Mr. Creighton had told someone at
13 Microsoft that Novell was okay with the decision to withdraw
14 support for the namespace extension?

15 A. I was never made aware of the time that
16 Mr. Creighton had conveyed to Microsoft that it was okay to
17 withdraw the namespace extension.

18 Q. Have you talked to Mr. Creighton about this
19 recently?

20 A. No, I have not actually.

21 Q. So the information that you have come from the
22 lawyers for Novell?

23 A. No.

24 MR. JOHNSON: Objection.

25 THE WITNESS: No, that is not.

1 THE COURT: We are so -- we are so in the realm of
2 hearsay right now just move on.

3 MR. TULCHIN: Thank you, Your Honor.

4 Q. (By Mr. Tulchin) You mentioned last week of a
5 product called Quickfinder. Do you remember that?

6 A. I do remember that product.

7 Q. And I think you said, tell me if I have this
8 right, that Quickfinder was a product that the shared code
9 group was working on?

10 A. No, they were brokering it. We had a division at
11 WordPerfect. I didn't mean to mischaracterize that if I
12 did. Um, there were many efforts in many technologies that
13 WordPerfect would work on. The -- what we called the word
14 tools. Word tools, sorry, the speller, Thesaurus, the
15 Quickfinders search technology, grammar checker, Wonderware
16 was another one that they had internally. These were all
17 produced by the languages division. And normally these
18 would be -- they would evangelize these products to the
19 products at WordPerfect. But when the share code group came
20 into being, because we already had a good rapport with the
21 other divisions, the languages division then worked through
22 us to be able to deliver their product and so we could -- we
23 could help evangelize their products along with the other
24 things that we did.

25 So we did not write the Quickfinder, but we did

1 distribute it to the other applications that we were aware
2 -- that we were aware of.

3 Q. Okay. Maybe I will get it right this time. Let
4 me try. I hope I understand this.

5 A. Okay.

6 Q. Was it the case that the Quickfinder product was
7 being included in what the shared code group was making
8 available for the other products?

9 A. Yes.

10 Q. And that was what you were doing in 1995 in part
11 was putting Quickfinder into the PerfectFit product that was
12 going to run with WordPerfect and PerfectOffice?

13 A. We did distribute Quickfinder was one of the
14 things that we had with the products.

15 Q. All right. Just a couple of things about
16 Quickfinder and let me see if I get this right. Quickfinder
17 was something that could run by itself?

18 A. It could also do that. There was a -- there was
19 an application that was written that would use the
20 Quickfinder technology and present it as an application of
21 its own. That was one of the things that there was with it.

22 Q. When this suite was actually released by Corel in
23 1996 um, the suite that you were working on, right, that
24 Novell was working on in 1995?

25 A. Uh-huh.

1 Q. That was released in 1996 by Corel?

2 A. Okay.

3 Q. Right?

4 A. I think so.

5 Q. Okay. When the product was released, is it
6 correct that there was an option given to the user on
7 whether or not you wanted to include Quickfinder?

8 A. Um, I don't know. That would have been a call of
9 the install team.

10 Q. Well was it right that --

11 A. There may -- there could have been.

12 Q. Was it correct that WordPerfect could run without
13 it? The WordPerfect that came out from Windows 95?

14 A. With the Quickfinder inside WordPerfect or with
15 the separate product outside of the WordPerfect. Which one
16 are you referring to?

17 Q. Either?

18 A. Um, I think that both were an option. You could,
19 just like in Word, whether I could include language
20 dictionaries or not I can also include in WordPerfect I
21 would assume that they had the ability to say whether or not
22 you wanted the Quickfinder as part of the application or
23 whether you wanted it in or not in the shell.

24 Q. Okay. And am I right that Quickfinder was
25 something very difficult to write?

1 A. I don't know that. I didn't work on it.

2 Q. All right. Do you know how much time it took to
3 write the Quickfinder product?

4 A. I do not. I do not.

5 Q. And am I right that Quickfinder itself has
6 nothing to do with the namespace extension APIs?

7 A. I don't know what they intended to do with it. I
8 don't know.

9 Q. All right. Well, let me ask you it this way. As
10 far as you know, the Quickfinder product used none of the
11 functionality that the namespace APIs provided and never
12 intended to?

13 A. Okay. I know that we had discussions with them.
14 That they never intended to, that would not be true.
15 Because if I wanted to, um, if I wanted to show a list of
16 documents that had the -- the results of the search, then
17 that would have been a namespace because it would have been
18 on the desktop, it would have been on the list of folders
19 and it qualifies as a namespace at that point. If I wanted
20 to go further and maybe show a little highlight of what was
21 the text that I found inside of those documents, then that
22 would have actually been a -- that would have required
23 IShell browser, IShell View to do, to be able to change the
24 view to do that. Whether they intended to do that or not,
25 um, I don't know what their -- what their milestone

1 documents were for what they intended to do, but I do know
2 that we had discussions about how they could use the
3 namespaces in the product. But I did not control their -- I
4 did not control their releases and I can't speak to what
5 they intended to do.

6 Q. One thing I am hoping we can clear up and that is
7 whether or not, um, the Windows common file open dialog in
8 Windows 95 allowed a user to browse through the Windows
9 namespace including network neighborhood and my briefcase.

10 A. In the versions that we looked at for Windows, we
11 could browse into the briefcase, we could browse in the
12 recycle bin, we could browse through the network
13 neighborhood.

14 Q. Okay. So am I right then that in the beta
15 version of Windows 95, and in the final product that came
16 out in August of 1995, Windows 95, a user using the Windows
17 common file open dialog could get to and browse network
18 neighborhood, my briefcase, the Windows namespace?

19 A. Uh-huh (affirmative). From what we could tell,
20 they could browse all of the namespaces.

21 Q. And that was functionality that Microsoft put
22 into Windows 95 that was available for Novell to use if it
23 had chosen to go that route?

24 A. If -- okay. All right. Could Novell have chosen
25 to use the common dialog and they would have had the ability

1 to browse those namespaces if they used the common dialog?

2 Is that what you're saying? Yes.

3 Q. Yes, sir?

4 A. Yes.

5 Q. I'm sorry your answer is yes?

6 A. Yes. They would have been able to have use
7 the -- the namespaces that were in Windows if they had used
8 the common dialog.

9 Q. Now, Mr. Harrol, I want to hand you what we have
10 marked as Defendant's Exhibit 114?

11 A. Thank you.

12 Q. Now, you will see on the very first page of
13 Defendant's Exhibit 114. It says at the top PerfectFit 95,
14 open file dialog function and issues. And then the date on
15 the right hand side July 11, 1995; correct?

16 A. I see that that is -- yup, I see that.

17 Q. Is this a document that you think you saw way
18 back in 1995?

19 A. I don't -- I would have to read through it to
20 see.

21 Q. Okay. Well, um, let's just look at the first
22 paragraph. It says right at the beginning, this main
23 purpose of this document is to provide a functional
24 description of the open dialog for Storm. Do you see that?

25 A. Okay. I see that at the top, first paragraph.

1 Q. Do you remember that Storm was Novell's code name
2 for PerfectOffice?

3 A. I recall that, yes.

4 Q. All right. And does this appear, just looking at
5 the first page, and take a look at if you want to, does this
6 appear to reflect a debate about what open dialog
7 functionality would be included in the new PerfectOffice for
8 Windows 95?

9 A. I would have to go through the list here. It
10 would take me -- do you want me to take a moment?

11 Q. Yes, if it --

12 A. Okay.

13 Q. If you can.

14 THE COURT: A moment, yes.

15 THE WITNESS: Okay.

16 THE COURT: An hour, no.

17 THE WITNESS: I don't want to either. This looks --
18 looking at the history, I was looking at the history, it
19 appears that there appears to be a discussion about what --
20 with people that I recognize as worked on the file open
21 dialog.

22 Q. (By Mr. Tulchin) Well Mr. Harrol, just to move
23 along --

24 A. Go ahead. No.

25 Q. If you need time, let me know but --

1 A. That is fine go ahead.

2 Q. But I'm sensitive to trying to move along a
3 little bit. Um, right at the top in the first paragraph it
4 says, "this document was necessary to alleviate differences
5 of opinion of how this dialog would be implemented." Do you
6 see that?

7 A. I do.

8 Q. And we're talking here about the open -- the file
9 open dialog, correct?

10 A. Yes.

11 Q. And one of the questions even in July of 1995, so
12 this is now ten months after the decision to withdraw
13 support for the namespace extensions, one of the decisions
14 that Novell was facing was whether to use the common file
15 open dialog provided by Microsoft in windows?

16 A. That would be --

17 Q. Or --

18 A. -- sorry.

19 Q. Or some special file open dialog that Novell was
20 working on?

21 A. Yes. One of the things that I have said before
22 is that every time the discussion came up, we were willing
23 to look at if there was enough information out there to be
24 able to fulfill our needs. We never took an option off the
25 table and including the one that you just mentioned.

1 Q. Okay. So to be clear, even as late as July, this
2 says July 11th, um, no decision had been made yet about
3 which file open dialog to use, the one that came from
4 Microsoft or some special file open dialog that the shared
5 code group was working on?

6 A. That is not true. Um, what I said is we would
7 revisit it. It didn't mean that works did not happen. Um,
8 as we were going through, for example, um, we might have
9 conquered the recycle bin but maybe briefcase was giving the
10 developer an extraordinary amount of problem. And all of
11 the time, while our work is going on, while we are trudging
12 through the mire, so to speak in this, we are willing to
13 come back and say you know what, if we have to refocus all
14 of the people that we have and see if we can get a better
15 solution because we are worried about our customers, then we
16 will -- we will bring everybody to bear and we will do it.
17 But this does not indicate that there was not work being
18 done at all. All this says is that we are willing to
19 reconsider something at any time if we have gotten enough
20 information from Microsoft to be able to take another
21 course.

22 Q. I hope I didn't indicate in my question that I
23 didn't think work was being done. But what the document
24 says it was necessary to alleviate differences of opinion?

25 A. There were some people outside of shared code

1 that would raise the question is there another way to do
2 this? And they were right to do so because they were
3 dependent upon it. But the decision had been made, the
4 decision was being acted upon. And like I said, if somebody
5 wanted if a -- as you have pointed out, if a business
6 decision maker decided that we needed to take a different
7 road, we would listen to that. But the decision had been
8 made until they changed their mind which they didn't.

9 Q. Okay. Fair enough. Um, could you look on the
10 same page, the first page of Exhibit 114?

11 A. Yes.

12 Q. There is an entry next to the date June 9th, June
13 9, 1995?

14 A. Yes, Tom Creighton. Tom C.

15 Q. Tom C. that is Tom Creighton; right?

16 A. That should be, yes. I would think so.

17 Q. Right. And what this document indicates is that
18 it was not until June 9th that Tom C. instructed all not to
19 pursue the alternative design. Do you see that?

20 A. Yes.

21 Q. So it was not until June 9th, '95, almost half
22 way through the year, that Mr. Creighton decided which
23 design would be used for the file open dialog; correct?

24 A. Okay. It says alternative design. This could
25 just as easily have been, and like I said I haven't read

1 this, this could just as easily have been we also looked at
2 multiple ways of how we would reimplement the features. He
3 could just as easily in alternative design be talking about
4 maybe we were looking at some better way to implement that
5 design. We were going to not pursue the alternative design
6 because we were going to pursue what we had already done.
7 There is not enough information here to tell which way this
8 goes.

9 Q. Well, you're certainly not testifying that it
10 means anything other than what I have said; right?

11 A. Um --

12 MR. JOHNSON: Objection.

13 THE WITNESS: I am.

14 MR. JOHNSON: He just did.

15 MR. TULCHIN: Well --

16 THE WITNESS: I am. I am saying that there is not
17 enough information here to be able to say that this
18 alternative was an alternative to the common dialog or to a
19 rewrite of what we had. There is not enough information to
20 do that. So the alternative could just as easily be an
21 alternative to the work we were already working on, he could
22 be saying, plow straight ahead, keep going, we're not going
23 to be distracted by the alternative design.

24 (Whereupon, the reporter slowed the witness down.)

25 THE WITNESS: Okay, plow straight ahead because it was

1 not uncommon for the business makers to come back with
2 the -- with the critical path being the file open dialog to
3 re-investigate whether there was an alternative to what we
4 could do. This alternative design would more likely be,
5 from my experience in shared code, an alternative proposed
6 by somebody higher up that we take. And I would say that
7 this alternative design he would say do not pursue it, we
8 would -- we would continue to pursue what we had been
9 working on all the time. That would be my interpretation in
10 lack of not being able to read the entire document.

11 Q. (By Mr. Tulchin) Well, let me just try a couple
12 of questions, Mr. Harrol.

13 A. Okay.

14 Q. The entry right below that for June 2nd?

15 A. Uh-huh.

16 Q. Refers to a meeting that was called by Jack Young
17 on June 2nd. Do you see that?

18 A. Uh-huh.

19 Q. Apparently it was a meeting you didn't attend;
20 correct?

21 A. No. Apparently not. I don't see my name on the
22 list.

23 Q. And it was a meeting to discuss a proposal for
24 the file open dialog, correct?

25 A. Um, let me -- hold on. In fact, I would assume

1 that is the alternative that Tom C. is talking about.

2 Q. Okay. And then on June 9th, as we saw --

3 A. Uh-huh.

4 Q. Exhibit 114 says that Tom Creighton instructed
5 all not to pursue the alternative design?

6 A. So to me it says that he is discounting what was
7 said on the 2nd.

8 Q. And it wasn't until June 9th, 1995 that
9 Mr. Creighton made a decision about which design for the
10 file open dialog would be pursued. Is that fair?

11 A. He made a decision that that would be pursued.
12 He made that decision many times during this whole course.
13 He decided when he first assigned this and every time that
14 this came down he decided again. So, yes, he decided again,
15 um, that this is not a beginning of the decision. This is a
16 decision about whether we're going to change gears or
17 whether we're going to proceed. Um, he decided back in
18 October that we were going to pursue, there was a design
19 that we're writing against and so, um, the inference that
20 there is a beginning here is unfounded. There is no
21 beginning here. Yes, a decision was made, but it is a
22 decision between proceed as follows or do what we were
23 doing. That is how I see this.

24 Q. Well, um, Mr. Harrol, now you're providing an
25 interpretation of this document though you say you didn't

1 see it at the time, am I right?

2 MR. JOHNSON: Your Honor, that is what he was asked to
3 do.

4 THE COURT: That is true.

5 MR. JOHNSON: Thank you.

6 Q. (By Mr. Tulchin) Am I right, Mr. Harrol, that
7 coding was supposed to occur beginning in June and
8 July 1995?

9 A. No. Coding did occur back in June of '94.

10 Q. Well, was more coding necessary once
11 Mr. Creighton made a decision in June 1995 not to pursue the
12 alternative design for the file open dialog?

13 A. There was still work to be done that -- and that
14 would be why a query would be made of Mr. Creighton do we
15 need -- the upper management wanted to understand what was
16 going on. They wanted to help. And we were working through
17 issues. Um, okay, so part of -- and maybe that is -- maybe
18 that is something that bears explanation. Um, when we work
19 on the file open dialog, we are able to get it to a point
20 where it is usable and we have to deliver that to the
21 application so that they can begin coding as well. Um,
22 sometimes we call that a strawman, sorry.

23 THE COURT: No problem if you want to pick it up that
24 is fine.

25 THE WITNESS: We call that a strawman so that the

1 applications can -- can proceed with their functionality.
2 But whether I can drive and drop a file inside of the open
3 dialog has little pertinence to whether the engine can open
4 up and let you edit it. But that is a burden that falls
5 upon the file open team to make sure that all of their
6 features are grounded and working properly. So even though
7 we were able to using the documentation that Microsoft
8 provided, we were able to get our file open dialog up and
9 functioning to where we could hand it to the applications
10 with the strawman. But it was as we were trying to work out
11 the details of can we get the namespaces on board which is
12 our problem, not the applications, that is work that we have
13 to do and we're continuing to do. And we were not late
14 because WordPerfect was late, we were late because we
15 couldn't ship because our responsibilities were because I'm
16 sorry I will -- I will -- because shared code was late.
17 WordPerfect was not late. Quattro Pro was not late. It was
18 shared code that was late. We needed to finish our features
19 so that when people got into our file open dialog, it
20 behaved properly and as expected. So I can -- I can see the
21 -- both of these scenarios happening which is, um, the
22 management is coming down and saying why is shared code
23 being late because it is not tradition in the case that we
24 are, but it is now and they're trying to help us. And so
25 they want to come in and say, well, you know, make an

1 executive decision, you know, can we move aside or can we do
2 something else. And so we were, through this entire
3 process, we were forever remaking this decision. Is there
4 something better we can do? We were not blind sided that we
5 could do something else. But the answer is, it always came
6 back that the executives could see at least from inferring
7 from the fact that we were never redirected to do anything
8 else, is we needed to proceed as we had, we were going to
9 give the users what they wanted, and preserve functionality
10 for the franchise of WordPerfect products. So here I would
11 say that Tom Creighton, you asked me, you know, what do I
12 see even though I wasn't here for this document, what do I
13 see? This is one of the queries that Tom -- that was made
14 of Tom about are you guys doing everything you can or is
15 there a better way to do it and somebody had this discussion
16 and we're not going to go and do alternative, we're going to
17 proceed like we had because I have talked to them and it is
18 -- and I have talked to them and it appears that it is still
19 the best course to do what we had done and continue to do.
20 We needed to fix our bugs and get it shipped.

21 Q. (By Mr. Tulchin) Was it the case, Mr. Harrol,
22 that around this time, June July of 1995, Novell decided to
23 support the file open dialog from Microsoft, the one in
24 Windows 95?

25 A. I don't know those details because I was not the

1 one who was actually -- I would council with the developers,
2 but there were other people who would direct their
3 day-to-day. They would only ask me if they needed some
4 direction for where Windows was going and maybe what options
5 were available. But I was not directing the file open
6 dialog's day-to-day efforts. That was somebody else. I
7 wasn't even the developer nor the person directing them.

8 Q. And when you spoke last Thursday about the file
9 open dialog, you didn't mean to tell the jury or the court
10 that you were involved in the decision about whether to use
11 Microsoft's?

12 A. I was consulted on that and yes, I did help make
13 that decision but I did not say which APIs to use, whether
14 it was the common dialog. That is what I inferred from your
15 question which is did I infer or was I saying um, was I
16 aware that they would use the common open dialog or not.
17 That was the decision of the developer to whether they would
18 do that and that went back and forth a number of times, it
19 was my understanding.

20 Q. Could I ask you to turn to Page 10 of
21 Exhibit 114.

22 A. Okay.

23 Q. Towards the bottom of the page there is a heading
24 MISC, perhaps means miscellaneous, and then there is item
25 three below that. Do you see common open dialog?

1 A. I see that.

2 Q. And underneath it says, "we will support common
3 open dialog functionality within our open wrapper."

4 A. Uh-huh (affirmative).

5 Q. Now, did that mean, as far as you know, looking
6 at this document and given your experience at the company,
7 that a decision had by then been made to support the common
8 open dialog provided by Windows 95?

9 A. I don't know that from here because when it says
10 functionality, we can still mimic it and provide
11 functionality and not have provided dialog. I can't tell.
12 The person who wrote this wasn't detailed enough to be able
13 to tell that.

14 Q. All right. Right under that it says, "the
15 installation default would be the PerfectFit," right, PF
16 open dialog?

17 A. Uh-huh.

18 Q. And then the user, this is what people were
19 thinking at the time, June and July '95, the user specifies
20 to use the common open dialog that would be what Windows
21 provides, or the Novell PerfectFit open dialog at custom
22 installation; correct?

23 A. That is what it says here.

24 Q. And as far as you can tell, that was the plan in
25 the middle of '95 to allow the user to use either the file

1 open dialog in Windows 95, or the Novell PerfectFit open
2 dialog, correct?

3 A. It looks that they had both of those options.

4 Q. And what you were working on was the PerfectFit
5 open dialog, right?

6 A. Um, no. Okay, I was working on that.

7 Q. The shared code team?

8 A. The shared code team would have worked on both of
9 those potentially because the -- there would have been one
10 call to the open dialog and it would have been up to shared
11 code. If that switch were possible, which I assume it is
12 from here, it would still have been shared code they would
13 have been calling. So it would not have been outside of
14 shared code to do that.

15 Q. Is it correct to say that given what this
16 document says that at the time in the middle of '95, Novell
17 was planning in its products to allow users either to
18 utilize the Windows common file open dialog or Novell's own
19 technology that was being created by the shared code group?

20 A. So in this incarnation of the document, it looks
21 like that they were pursuing an option for doing that. So I
22 don't know what the final incarnation was because I know
23 that there are comments in the documents that say that there
24 are things missing and so I don't know what the final
25 incarnation of the document is but it looks like in this

1 incarnation that was something that they were considering.

2 Q. In the product that ultimately came out, the
3 product Corel released the next year?

4 A. Uh-huh.

5 Q. Could you, if you were a user, utilize either the
6 Windows file open dialog or the Novell technology the
7 PerfectFit open dialog?

8 A. I don't know the answer to that.

9 Q. And am I right that if Novell had chosen, had
10 made the choice in 1995, to put out a product that used only
11 the Windows file open dialog, there would have been no need
12 to wait for the work of the shared code group on the
13 PerfectFit open dialog?

14 A. If they had made that decision?

15 Q. Yes.

16 A. You're asking me to make the decision for the
17 business makers of the -- I don't know what they -- they had
18 reasons to want the functionality. We're talking what,
19 we're talking 1996 now? When they released?

20 Q. 1995 my question was?

21 THE COURT: I think yours was about the Corel release.

22 THE WITNESS: Yeah, so we're talking 1996.

23 MR. TULCHIN: That was the prior question, Your Honor.

24 THE COURT: Sorry. Rephrase, I'm confused.

25 MR. TULCHIN: May I ask a new question, Your Honor?

1 THE COURT: I'm confused. I'm sorry.

2 THE WITNESS: Sorry.

3 Q. (By Mr. Tulchin) Sorry about that. Mr. Harrol,
4 if it had been the case in 1995, around the time that
5 Exhibit 118 was written, that Novell had decided that it was
6 going to release PerfectOffice with -- allowing the user to
7 use the Windows common file open dialog, that could have
8 been done, correct?

9 MR. JOHNSON: Objection, calls for speculation.

10 MR. TULCHIN: This witness has testified about lots of
11 choices.

12 THE COURT: Overruled. Overruled.

13 THE WITNESS: Okay. So could they have made the
14 decision in 19 -- early on at the beginning to use the
15 common dialog?

16 Q. (By Mr. Tulchin) Well, I asked about '95?

17 A. The 1995, the Windows 95 dialog, could they have
18 made that decision earlier? Um, I think yes I said that
19 they could have made that decision. The question is whether
20 it was -- whether it was desirable to do so.

21 Q. I gotcha.

22 A. Okay.

23 Q. And I think what you said last Thursday is that
24 as far as you were concerned --

25 A. Uh-huh (affirmative).

1 Q. -- it made sense to try to add functionality to
2 what Windows provided?

3 A. Yes.

4 Q. That is, to add this Novell technology, the
5 PerfectFit open dialog?

6 A. No, to add it to the common dialog.

7 Q. Right.

8 A. Yes.

9 Q. Maybe I misspoke.

10 A. Sorry.

11 Q. Let me try it again. I'm sorry.

12 A. All right.

13 Q. What you said last Thursday and what you're
14 telling us now is that Novell could have come out with a
15 product in '95 that utilized the Windows common file open
16 dialog. That was a choice that Novell had?

17 A. That was the choice that they had.

18 Q. You thought, in your testimony, and I think
19 you're telling us the same thing now, that it made sense for
20 Novell to develop some additional technology that could be
21 put on top of the Windows 95 file open dialog?

22 A. No. We weren't developing new technology. We
23 had existing technology that had been there for a number of
24 years and we were needing to make sure that it was
25 represented in Windows 95. So it is more of an issue of

1 servicing, we're not writing anything new, we're just trying
2 to figure out what Windows 95 is doing.

3 Q. Okay. So let me modify my question. What you're
4 saying is, um, what you thought Novell should do was to
5 utilize these other Novell technologies with Windows 95 so
6 that users of Windows 95 would be able to get to the
7 PerfectFit open dialog as well as the Windows file open
8 dialog?

9 A. To get to the technologies they had already come
10 to expect.

11 Q. From Novell?

12 A. From Novell.

13 Q. Right. And that was a choice Novell had to try
14 to, in effect, with the PerfectOffice product that was going
15 to come out for Windows 95, to try to provide to users of
16 PerfectOffice this Novell technology that you say they had
17 been used to using the PerfectFit technology, correct?

18 A. Yes.

19 Q. And as far as you're concerned, that was a choice
20 that was necessary to make sure that customers got the same
21 Novell technology, the PerfectFit open dialog that they had
22 been used to seeing in prior versions of the product?

23 A. Uh-huh (affirmative).

24 Q. Right?

25 A. Yes.

1 Q. At the same time, if you had wanted to get a
2 product out around August of '95 or some time not long
3 thereafter, that could have happened using just the windows
4 file open dialog. That was a choice?

5 A. I guess that is -- I don't want to say anything
6 inappropriate. In regards to that there are lots of choices
7 you can make. Um -- um, Michael Dell told Steve Jobs to
8 liquidate Apple. Michael Dell told Steve Jobs to liquidate
9 Apple. That is a choice he could have made. At the time,
10 we could have made the choice to use the common open dialog
11 in 1994 so to ship '95 but that also would have been a
12 choice to have disenfranchised our customer base
13 and apparently they were not willing to make that choice at
14 that time.

15 Q. Mr. Harrol, you remember, sir, that last Thursday
16 Mr. Johnson showed you some figures or slides I think
17 sometimes they're called. Could we show figure seven. This
18 was, I think you will remember, something that you looked at
19 last week, correct?

20 A. Yes. I recall this from last week.

21 Q. And this -- sorry. This is a screenshot of the
22 Windows 95 desktop with some things on top of it; correct?

23 A. Yes.

24 Q. Now, I think you said that using Windows 95,
25 Novell could have put an icon for WordPerfect or

1 PerfectOffice right on the desktop; correct?

2 A. Yes. I know -- whether they wanted to or not
3 they could do that.

4 MR. TULCHIN: And if I may approach the screen, Your
5 Honor.

6 THE COURT: I think it is a good idea to show. I
7 think I know where but --

8 Q. (By Mr. Tulchin) So you could have had an icon
9 saying WordPerfect or Quattro Pro or PerfectOffice right on
10 this sort of light blue stuff right here (indicating)?

11 A. Yeah.

12 Q. I mean there is a lot of stuff blocking the
13 screen?

14 A. Or up above it or yeah.

15 Q. I can't reach that.

16 A. I don't want you to try to stand up there.

17 THE COURT: Somebody had a neat laser. Do you have
18 that, Mr. Johnson?

19 MR. JOHNSON: Yeah, we do have a laser around here
20 some where.

21 THE COURT: Do you want to use his laser?

22 MR. TULCHIN: That would be great if it is handy.

23 THE COURT: If it is not handy, just do what you were
24 doing.

25 MR. TULCHIN: I wish I were taller.

1 Q. (By Mr. Tulchin) That was something that
2 Microsoft provided to Novell in Windows 95, the ability to
3 put --

4 MR. JOHNSON: Mr. Tulchin, there you go.

5 THE COURT: The cooperation is breaking in.

6 MR. TULCHIN: I hope I know how to use it.

7 MR. JOHNSON: Just push the little red button there.
8 Just press it and don't point it at anybody's eyes.

9 MR. TULCHIN: High tech.

10 Q. (By Mr. Tulchin) So right there, for example?

11 A. Yes.

12 Q. Or over here (indicating)?

13 A. Uh-huh (affirmative).

14 Q. And, in fact, here is an icon for network
15 neighborhood?

16 A. Yes.

17 Q. Right. And so that was technology that Microsoft
18 gave Novell so that Novell could put an icon for WordPerfect
19 or PerfectOffice or Quattro Pro right on the desktop;
20 correct?

21 A. Yes.

22 Q. And in addition on Windows 95, there is something
23 called the start button, right here (indicating)?

24 A. Yes.

25 Q. Thank you for letting me borrow this,

1 Mr. Johnson. And um, if you clicked on the start button,
2 you could also get to a point on the start button, though it
3 is not shown here, where again you could find WordPerfect or
4 PerfectOffice?

5 A. Yes.

6 Q. And you could click there and get to those
7 products and --

8 A. And they did that, in fact.

9 Q. Right. I just want to make sure that is correct.
10 And that was all stuff that Microsoft gave to Novell without
11 charge?

12 A. That was all things -- a lot of that was already
13 available industrywide, in fact.

14 Q. Are you sure that --

15 A. Yeah. There is a place in the application
16 browser in Windows 3.1 where I could put my icon and I can
17 click on it and start it up.

18 Q. Same for the start menu?

19 A. Start menu was a new thing. That was a nice
20 addition that they made.

21 Q. Okay. And it allowed Novell to make sure that
22 users of its products could get to those products very
23 easily?

24 A. Uh-huh (affirmative).

25 Q. And use all of the functionality that those

1 products provide, true?

2 A. Use all of the functionality that those products
3 traditionally provided, yes.

4 Q. Right from the start button. Okay.

5 THE COURT: Or the icon.

6 MR. TULCHIN: Correct.

7 Q. (By Mr. Tulchin) Now, um, Mr. Harrol, I want to
8 look at your figure nine from last week if you could put
9 that up. And I just want to make sure that we understand
10 something. Was it your testimony last week that this is a
11 screenshot from Windows 95?

12 A. This appears to be a Windows 95 open dialog.

13 Q. That is not correct, is it, sir? It is actually
14 a screenshot of Windows 2000; isn't that right?

15 A. I don't -- I wouldn't know the nuances to be able
16 to tell the difference.

17 Q. Well, My Network Places, you see that, maybe I
18 can come back on the screen, I can reach this one?

19 A. Yes.

20 Q. My Network Places there (indicating)?

21 A. Yes.

22 Q. That was something first made available on
23 Windows 2000, am I right?

24 A. Um, I don't know because you also have the
25 ability to rename the icon. So I didn't know if the person

1 who was actually doing this might have just renamed them.

2 Q. Well, let me just understand it. Is it your
3 testimony that this is a screenshot of Windows 95 or
4 something else or you don't know?

5 THE COURT: He doesn't know. He doesn't know.

6 THE WITNESS: I don't have enough time to be able to
7 discern that nor the machine on which it was taken. If I
8 had that, I could tell you.

9 Q. (By Mr. Tulchin) All right. Let's look at slide
10 11. This is something that you prepared or was prepared for
11 you; is that correct?

12 A. Yes.

13 Q. And the red box on the left, the left pane is the
14 tree view, right?

15 A. Yes, that is -- that is what some people call it,
16 yes.

17 Q. I think you called it that last week. If I am
18 wrong tell me?

19 A. It is a tree. It is a folder browser view
20 because you browse the folders there and then you browse the
21 files on the other side. So I try to use different terms
22 depending on the people I talk to to make sure I communicate
23 properly. That is why there are different names for these
24 things.

25 Q. Okay. Are we comfortable calling it the tree

1 view?

2 A. Yeah, I think that is fine.

3 Q. All right. Now, um, the material within the red
4 box that was placed on this slide 11, that is what is known
5 as the custom folders; is that right?

6 A. These are the folders on the disk that I see
7 right now. The disk is the physical hard drives that are on
8 the machine or, you know, and then I see my computer above
9 it, so these are the folders underneath the C drive on this
10 computer.

11 Q. Well, the functionality that the namespace
12 extension APIs provided to ISVs including Novell --

13 A. Uh-huh (affirmative).

14 Q. -- was the ability to put custom folders in the
15 tree view within the red box, am I right?

16 A. That is one of the things that it provided. That
17 was not all it provided, but that is one of the things that
18 it provided.

19 Q. Well, is it correct, Mr. Harrol, that everything
20 to the right of the tree view, and let's look at the pane
21 just to the right in the center, do you see that?

22 A. Uh-huh (affirmative).

23 Q. Everything in that pane was something that if
24 Novell wanted to do that it was going to have to do for
25 itself. The namespace extension APIs didn't provide that

1 ability?

2 A. No, that is actually IShell view. That is what
3 IShell view provides is that panel.

4 Q. The center panel. You're saying that the IShell
5 view, the IShell View API was provided by the center panel?

6 A. Yes.

7 Q. Um --

8 A. Now, there are -- there are default ones inside
9 of Windows and they provide these lists. But part of IShell
10 View and IShell browser is like the dialog, or it is like
11 the browser window. It is the place where everything is
12 going to live. And IShell view is okay I have got my like
13 you said I have got this folder, I got a place and what am I
14 going to present in that place. The person presenting it
15 could choose to present a list. The person could just as
16 easily as in one incarnation of the file open dialog, he
17 chose to present web pages. So I could put a web page up
18 there and we did that in a later incarnation. It just
19 depended upon how much effort a programmer wanted to put
20 into IShell view. And our mail product, for example, this
21 is their intention but they wanted to put the mail system
22 over in that pane. And so that was one of the de-documented
23 APIs. That is why the mail group, unlike the shared code,
24 Lynn Monson, as I talked with him my understanding from him
25 was that he was, um, much more concerned about the

1 de-documentation because it affected their whole product
2 more so than it did the shared code.

3 Q. Well, let's just talk about a shared code for a
4 minute.

5 A. Okay.

6 Q. Um, the material in the right pane where it says
7 compensation proposal, do you see that?

8 A. The view?

9 Q. Um --

10 A. On the right hand side.

11 Q. All the way to the right.

12 A. Yes. Yes, I see that.

13 Q. Everything in this pane, this box?

14 A. Uh-huh.

15 Q. That was material that Novell itself would have
16 to provide?

17 A. Yes, they did. Yes.

18 Q. And the namespace extension APIs didn't give you
19 that ability?

20 A. Um, when you say that do you mean icon dialog
21 browser as well or just are you talking about the four APIs
22 or talking about the namespace extensions themselves?

23 Q. The namespace extension APIs that Mr. Gates
24 decided to withdraw support for in October of '94?

25 A. It would include that.

1 Q. It is your testimony that those APIs would have
2 given you the ability to write compensation proposal to put
3 that in the right pane?

4 A. What -- okay. So one of the things that the
5 common dialog browser did is that you could -- when you, um,
6 built it, and a common dialog came up, it gave you the
7 ability to change what space was available on the dialog.
8 So for example if you can go back to the previous, um, file
9 open view on the regular common so that I can --

10 Q. I think it was figure nine. The one --

11 A. I'm glad you keep track of these because I can't.

12 Q. Is this the one you wanted us to go back to?

13 A. That is the one. Thank you very much. So, okay,
14 so to represent the other dialog, I need when this dialog
15 comes up to be able to create space on the side where this
16 list is at. And I can't do that except through icon dialog
17 browser. That is where I negotiate with these dialogs and
18 say I need more space over here, I need a new button down
19 here. So being able to get to be able to control the place
20 where things are displayed, that was one of the things that
21 we needed access to. So, yes, one of the de-document APIs
22 directly affected our ability to tie into the common dialog
23 and leverage it with what we were trying to do in the shared
24 code.

25 Q. Have you spoken to Ronald Alepin, Novell's

1 technical expert in this case about that point?

2 A. I have never -- I do not know who Ronald Alepin
3 is.

4 Q. Never talked to him?

5 A. I have never had -- not that I know of. If I
6 knew his face, maybe I might say but I don't know who he is.

7 Q. Let's look at figure 12. And here I think that
8 what you were depicting is that a user had clicked on the
9 find file tab. I should have brought that pointer back.
10 The find file tab up here, is that right? Is that what your
11 slide 12 was meant to depict?

12 A. Slide 12.

13 Q. This is figure 12?

14 A. Uh-huh.

15 Q. You saw this last week.

16 A. Right.

17 Q. You were testifying about the find file tab?

18 A. This is -- this is -- okay. So find file would
19 be one, we're coming to this because this is the Quickfinder
20 being leveraged, this isn't about file open dialog. The
21 Quickfinder being leveraged that is why the different tabs
22 here and not the find open dialog. So like the question you
23 asked about could the Quickfinder be there or not, I would
24 assume if you said not then this tab would disappear, for
25 example.

1 Q. Okay. Well I think you answered my question
2 which was, um, the find file utilized the Quickfinder
3 technology; correct?

4 A. Yes. Not having written it, and my understanding
5 is that the find file used the Quickfinder technology.

6 Q. And that was Novell's technology and had nothing
7 to do with the namespace extension APIs; right?

8 A. The file, the Quickfinder didn't have anything to
9 do with the namespace APIs.

10 Q. Right. And if we could look at slide 13, here
11 this is similar except now the tab that has been clicked on
12 towards the top is find content. Do you see that?

13 A. I do.

14 Q. And again, that would be some way of utilizing a
15 specific Novell technology; right?

16 A. It is where you are -- it is an application
17 listing from Novell, yes. Now, keep going I'll tell -- I'll
18 say it later.

19 Q. Now the question, Mr. Harrol, and then we can
20 move on is that in figure 13, that you showed the jury last
21 week, this was all technology that Novell wanted to install
22 to augment Windows; correct?

23 A. This is part of the technology. Okay, so the
24 Quickfinder team I think wanted to install this technology
25 in Windows.

1 Q. And again, Quickfinder was something that was
2 built without using the namespace extension APIs?

3 A. That is correct.

4 Q. There was no need to use them to build
5 Quickfinder?

6 A. No, not to build Quickfinder. Um, well, okay,
7 there is a problem there. And so the answer I have to give
8 is yes on the surface but no not really. Um, they did need
9 the namespace technologies in a way as well because the --
10 they can't adequately browse the documents in a briefcase,
11 for example, unless we give them access to that. Um, they
12 can't edit, they can't traverse network neighborhood to get
13 it out to the file to get out to the network. Um, they --
14 because what we found is the cases that when we got out into
15 the namespaces trying to get to the network through the
16 namespaces, that when we would get into the namespace to a
17 new -- let me back up. When we would try to list the
18 networks that were there, Network Neighborhood had a special
19 way of showing those networks. And if we could not make
20 sense of that space, we couldn't jump off into the networks.
21 And so Quickfinder had some dependencies on shared code.
22 And even though the -- just like every other product, just
23 because the Quickfinder team did not use namespaces, they
24 still used shared code and shared code was the bridge that
25 they were going to get. So if Quickfinder wouldn't be able

1 to search and show you the documents in your recycle bin
2 properly unless shared code could interpret the recycle bin
3 properly. So we're reading again the namespaces and we
4 can't see them.

5 Q. Now, Mr. Harrol, when Novell sold --

6 THE COURT: We're going to break for lunch. I think
7 their lunch is here. Let's take 20 minutes for lunch and
8 then continue.

9 (Lunch recess.)

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