

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

_____)	
NOVELL, INC.,)	
)	
)	
Plaintiff,)	
)	
vs.)	Case 2:04-CV-1045 JFM
)	
MICROSOFT CORPORATION,)	
)	
Defendant.)	
_____)	

BEFORE THE HONORABLE J. FREDERICK MOTZ

DATE: OCTOBER 26, 2011

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL
VOLUME VII

Reported by: KELLY BROWN HICKEN, CSR, RPR, RMR
ED YOUNG, CSR, RPR
PATTI WALKER, CSR, RPR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

FOR THE PLAINTIFFS:

DICKSTEIN SHAPIRO
BY: PAUL R. TASKIER, ESQ
JEFFREY M. JOHNSON, ESQ
MIRIAM R. VISHIO, ESQ
1825 EYE STREET N.W.
WASHINGTON, D.C. 20006

WILLIAMS & CONNOLLY
BY: JOHN E. SCHMIDTLEIN, ESQ
725 TWELFTH STREET N.W.
WASHINGTON, D.C. 20005

SNOW, CHRISTENSEN & MARTINEAU
BY: MAX D. WHEELER, ESQ
10 EXCHANGE PLACE, 11TH FLOOR
SALT LAKE CITY, UTAH 84145

NOVELL
BY: JIM LUNDBERG, ESQ

FOR THE DEFENDANT:

SULLIVAN & CROMWELL
BY: DAVID B. TULCHIN, ESQ
STEVEN L. HOLLEY, ESQ
SHARON L. NELLES, ESQ
125 BROAD STREET
NEW YORK, NEW YORK 10004

MICROSOFT CORPORATION
BY: STEVE AESCHBACKER, ESQ
ONE MICROSOFT WAY
REDMOND, WASHINGTON 98052

RAY, QUINNEY & NEBEKER
BY: JAMES S. JARDINE, ESQ.
36 SOUTH STATE STREET, SUITE 140
SALT LAKE CITY, UTAH 84145

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

WITNESS	EXAMINATION BY	PAGE
GARY LAWRENCE GIBB	DIRECT BY SCHMIDTLEIN	731
	CROSS BY NELLES	820
	REDIRECT BY SCHMIDTLEIN	893
	RECROSS BY NELLES	909

1 SALT LAKE CITY, UTAH, THURSDAY, OCTOBER 26, 2011

2 * * * * *

3 THE COURT: Good morning, Your Honor. The jury as
4 usual is prompt, so we will begin.

5 (Whereupon, the jury returned to the court
6 proceedings.)

7 THE COURT: Good morning. Please be seated.
8 Mr. Schmidtlein?

9 MR. SCHMIDTLEIN: Good morning, Your Honor.
10 Plaintiffs call Gary Gibb to the stand.

11 THE COURT: Good morning, Mr. Gibb. Please come
12 forward.

13 Incidentally, everybody, we're a little bit behind
14 schedule, but pretty much we are on schedule. So things are
15 going along well.

16 THE CLERK: Raise your right hand, please.

17 GARY LAWRENCE GIBB,
18 called as a witness at the request of Plaintiff,
19 having been first duly sworn, was examined
20 and testified as follows:

21 THE WITNESS: Yes.

22 THE CLERK: Please be seated.

23 Please state your full name and spell it for the
24 record.

25 THE WITNESS: Full name is Gary Lawrence Gibb,

1 spelled G-A-R-Y, L-A-W-R-E-N-C-E, G-I-B-B.

2 DIRECT EXAMINATION

3 BY MR. SCHMIDTLEIN:

4 Q. Good morning, Mr. Gibb.

5 A. Good morning.

6 Q. Mr. Gibb, can you tell the people of the jury where
7 do you live currently?

8 A. I live in Linden, Utah.

9 Q. And where are you from originally?

10 A. I'm -- well, I've moved around a lot as I grew up.
11 I was born in Salt Lake City and spent most of my life in
12 Utah.

13 Q. Are you currently employed?

14 A. I am.

15 Q. By whom?

16 A. I work at a place called Domo Technologies, kind of
17 a new company. We do business intelligence, web solutions.

18 Q. And can you describe your job there?

19 A. I'm over product management, so I determine what we
20 build and, you know, how we solve customer's problems in the
21 business intelligence space.

22 Q. And how long have you worked there?

23 A. So I just went there this last April.

24 Q. Can you give the jury a summary of your post high
25 school education?

1 A. Yeah. So post high school, I graduated from
2 Skyline High School here in Salt Lake City, went to the
3 University of Utah for one year and then took a break. Went
4 on a two-year mission. And then I went to BYU, so I'm split
5 between University of Utah and BYU. And I went to BYU for
6 three years and got my bachelor's degree in computer science.
7 And then after that I went another couple years and got my
8 master's degree in computer science at BYU, and then went on
9 and got an MBA at the University of Utah after that. Lots of
10 school.

11 Q. Since you're under oath I'm not going to ask you
12 where you sat at the football game this year.

13 THE COURT: On the 50-yard line.

14 Q. BY MR. SCHMIDTLEIN: After you left college, where
15 did you begin work?

16 A. So when I graduated I started at a place called
17 WICAT, World Institute of Computer-Aid Teaching. It was just
18 a place in Utah, in Orem, actually, where we built -- I was on
19 the operating system team, so we helped write the tools
20 that they built these applications on top of so that they
21 could put together these entire training programs to teach
22 kids. It was the whole school around operating systems and
23 these programs.

24 Q. And how long did you work there?

25 A. So, let's see. About three years.

1 Q. And what did you do next?

2 A. So I left WICAT to go to a company called
3 WordPerfect.

4 Q. And approximately what year did you start working
5 at WordPerfect?

6 A. So about, let's see. Probably about '86.

7 Q. And when you began working at WordPerfect can you
8 describe what your job responsibilities were?

9 A. Yes. So when I first started WordPerfect, I
10 worked -- I actually came on and interviewed, and they wanted
11 to hire me and said, where would you like to work? And they
12 had the DOS group, and they had MacIntosh group. And
13 MacIntosh sounded kind of fun and different and exciting, so I
14 started at the MacIntosh group. And I was put over what's
15 called the display. So that's what I wrote, the display stuff
16 at WordPerfect on MacIntosh.

17 Q. Can you describe a little bit more what you mean by
18 the display?

19 A. So really everything that you see on the screen, on
20 your computer screen that was the display. So there was a
21 back end that was called kind of the formatter and Spell
22 Checker and those kind of tools. Everything you saw on the
23 screen where we rendered the documents so could you see it on
24 your screen, that's what I did. I wrote what's called the
25 display. So the graphics, the layout, the fonts, all of those

1 kind of things, that's what I did.

2 Q. After the Mac group, where did you go to work next?

3 A. So after the Mac group, they asked me to help out
4 on the Windows team. So I went over to -- it was a team
5 called the engine group. And what the engine group was it was
6 a cross-platform team. So it was word processing expertise
7 kind of centralized in one place so that we had, you know,
8 actually VAX/VMS group and UNIX group. So these were
9 different operating systems that we worked with. So there was
10 UNIX, there was VMS. There was OS2, and we even had NEX
11 machines, which was Steve Jobs' new adventure.

12 So we wrote this word processing engine, we called
13 it, which was this, you know, core word processing technology
14 that you could run on all those different operating systems.
15 So we didn't have to write it over each time, you had the word
16 processing expertise in one place, and they took that chunk
17 and put it on the tools operating systems, if that makes
18 sense.

19 Q. Going back for a minute, when you were in the Mac
20 group, did you actually do software coding?

21 A. Yeah, a lot of coding. I was -- display was a big
22 chunk of the entire program, actually. So I did a whole lot
23 of coding.

24 Q. And when you went to the engine team, were you
25 doing coding initially in the engine team?

1 A. I was, yeah. Started, when I first went over
2 actually I was writing what was called the border's code, so,
3 you know, it was specific. It was a big team about 30 people.
4 And so I wrote borders around pages, around columns, around
5 graphics and things like that. So when you see cool page
6 borders, that's me.

7 Q. Now, you mentioned a number of the different
8 operating systems that WordPerfect was developing for. Is it
9 fair to say that WordPerfect was developing versions of its
10 word processing software for all of the major operating
11 systems at this time?

12 A. Oh, yeah. That was the whole point of the engine
13 group was so that we could, again, leverage that so you didn't
14 have to rewrite it each time. So it also made it consistent
15 between the platforms so they could do WordPerfect and
16 exchange documents, all those kinds of things.

17 Q. In terms of staffing allocation, when you went to
18 work in the Windows, work on the Windows platform, can you
19 give an estimate of sort of the relative size of how many
20 people were working in the different platform groups?

21 A. You mean when I was on the engine team working on
22 it and the different teams?

23 Q. Yes.

24 A. So, yeah. I mean, the biggest -- actually, the
25 engine team was probably about 30 people. The Windows group

1 was probably about 30 people. That was WordPerfect specific.
2 Shared code team was fairly big, you know, 20 to 30 people.
3 And then, you know, your OS2 team was probably the same,
4 probably a little smaller, probably 20 people on the OS2 team.
5 The VAX/VMS group and the UNIX groups, they were probably the
6 same. They were probably even a little smaller, maybe 15 to
7 20 people specific tools platforms. That would be the
8 relative size.

9 Q. The jury has heard a little bit over the last week
10 or two about 16-bit versus the 32-bit operating systems. Can
11 you describe sort of a 16-bit and 32-bit, what that refers to?

12 A. Yeah. I mean, 16-bit just means that -- it's hard
13 to explain. But 16-bit is less bits, right? So what you did
14 is when you wanted to address something or you wanted to
15 actually work with something, you had 16 bits of information
16 to work with. 32-bit was twice as much, for those math
17 experts out there. So, anyway, 32-bit was just bigger. And
18 you could address more information. You could make things
19 faster.

20 So 16-bit was kind of an older technology,
21 something that was a little more limiting. 32-bit was the
22 newer thing so that you could address more space, and you
23 could do -- anyway, 32-bit was the newer, bigger world we were
24 trying to get into.

25 Q. Now, when you went to work on the engine team, was

1 the engine team working on 16-bit or 32-bit operating systems?

2 A. Both. So we worked on 16- and 32-bit. Everything
3 was 32-bit except for Windows. The Windows 3.1 platform was
4 just 16-bit, but we built cross-platforms. So as a developer
5 we would sit down, every one of the developers on the engine
6 team had two computers. So they would have one computer that
7 would be, for example, a NEX computer or OS2 computer, and
8 next to it they would have a Windows machine, so they would
9 have both.

10 So they would build their code. They would test it
11 on the two platforms before they would check it into a common
12 depository and then work across all the platforms. It was
13 tested every night.

14 Q. Is it fair to say it began -- before you began
15 work, the engine team began work on the 32-bit product for
16 Windows that you had already been working on 32-bit operating
17 systems?

18 A. Oh, yeah.

19 Q. Throughout?

20 A. I think probably more than half the code, and it
21 was all 32-bit because, like I said, it was cross-platform.
22 And everything under the Windows was 32-bit. So it was
23 certainly 32-bit.

24 Q. You mentioned earlier that you got an MBA at some
25 point. Did you get -- when exactly did you get your MBA?

1 A. So I started my MBA program the same time I started
2 WordPerfect. It was, you know, the busiest three months of my
3 life. It was a scary time because I was trying to finish up
4 my thesis, my master's degree thesis in computer science, and
5 started my MBA and also moved over to WordPerfect. So a
6 little vivid memory of mine. When I kind of started there it
7 was a scary time.

8 Q. And what were some of the things that you were
9 studying while you were getting your MBA, at least as it
10 relates to your job responsibilities at WordPerfect?

11 A. So, you know, well, in general the MBA is to learn
12 how to manage and direct in large companies. So we would do
13 case studies and things like that. And I talked about it
14 frequently that one of the things I learned in the MBA program
15 was project management and Critical Path of how, you know, you
16 would make sure that you would optimally perform in teams.
17 And one of the things which you would measure, one of the
18 things that, you know, you would put up tasks, and say
19 everybody was trying to do a certain task, and you would say,
20 which one of these tasks is going to take the longest? And
21 you try to optimize around that so that you could, you know,
22 minimize the overall scope of the project. And so that was
23 one of the things I studied in MBA that is relevant to this
24 case.

25 Q. Do you remember what exactly your title or position

1 was when you first began working with the engine team?

2 A. Well, when I first began, it was, you know,
3 developer. I don't know what else. But it was a very short
4 time when I was asked to be the director. So I was director
5 over it, over the engine team within a few months of actually
6 being over there, and partly because I actually had some ideas
7 about how to manage a project and help deliver more quickly.

8 Q. And how many people were you put in charge of when
9 you were made director of the engine team?

10 A. I think it was about 30 people. About 30 people.

11 Q. And how long did you have that position?

12 A. So it was again a couple years, two or three years,
13 I think.

14 Q. You talked a little bit about the term
15 cross-platform. Why was WordPerfect developed to be
16 cross-platformed?

17 A. Well, we -- you know, we wanted to serve all the
18 different operating systems. There were customers on all
19 those platforms. We started cross-platform since we started
20 on DOS. And then there was Windows, and both of those
21 products were doing well. There was interest on OS2 and
22 interest on UNIX. So as customers requested it, we wanted
23 to -- you know, whenever they -- because there were reasons
24 why everybody went to these different operating systems, and
25 we just wanted them to be successful wherever they were on

1 WordPerfect. So we wrote the engines so they could go cross
2 any of those platforms.

3 Q. Back in sort of the mid '90s period when you were
4 in these positions, what functionality was driving sales of
5 computers?

6 A. Well, you know, I'm not the expert on that, but I
7 think, you know, word processing and spreadsheets were 80,
8 90 percent of everything that people did. You know, now I
9 think it's still a big part of what everybody does. You know,
10 word processing and spreadsheet, you add an e-mail in browsing
11 you probably have a huge chunk of what most people do on the
12 computer.

13 Q. Are you familiar with the term middleware?

14 A. Yes.

15 Q. What does that mean to you?

16 A. Well, middleware -- you know, I don't know exactly
17 the origin of it. I know in my own head the way I grew up
18 there was -- you know, we have what's called hardware, the
19 computer you bought. And then there was software, which was
20 the same kind of thing run on top of it. And you had an
21 operating system, and then you had other layers. And so
22 middleware was just something in-between the final, you know,
23 thing that you were working in, the application you were
24 working in.

25 So middleware means, it's a tool that you can

1 leverage to -- it's a layer that you use in your, you know --
2 it's hard to describe. But the architect, it's a layer that
3 you use to build the applications that you finally live in
4 when you're on the computer. So it's just a layer.

5 Q. Was WordPerfect middleware?

6 A. Yeah. For a lot of applications it was middleware
7 because we had technology built in so that you could control
8 and manage all of your documents. As a matter of fact, it was
9 something that was even -- it was a little language that
10 published thousands of access points into WordPerfect. So,
11 for example, you could take something from a database and
12 actually insert that into your document. You could use
13 document management services. You could do all of these
14 things you could build on top of WordPerfect, and actually
15 people live there. So you could customize it, like I said,
16 build custom applications. All of that was built on top of
17 WordPerfect and the API, you know, language of choice,
18 actually.

19 Q. Are you familiar with the term custom solutions?

20 A. Sure.

21 Q. Can you describe that?

22 A. Well, custom solutions is kind of what I was
23 talking about. Is that if you think about it, you know, doing
24 word processing or doing a spreadsheet calculation, all of
25 those could be part of a solution if you build on top of these

1 things.

2 So, you know, so custom development just means that
3 I need a specialized version of, you know, WordPerfect or
4 customized version of a spreadsheet, which is a piece of the
5 spreadsheet or I need a piece of the word processor to build a
6 solution that's specific for what I am doing. So it's, you
7 know, a customized version of a product that's built on top of
8 these chunks or these components underneath.

9 Q. Are you familiar with a program called PerfectFit
10 partners program?

11 A. Yes.

12 Q. What is that?

13 A. So PerfectFit partners, to help partners build
14 these custom solutions, we would publish, it actually took a
15 lot of work to build documentation. For example, when we
16 wanted to publish it to Visual Basic, we had to put it in a
17 certain format and get it out there so that people could then
18 build these custom applications on top of Word Perfect and
19 Quattro Pro.

20 So we just called it a partners program where we
21 supported the partners so that they could build their custom
22 applications. We gave them, you know, documentation about how
23 it worked, what APIs could do, examples of what you wanted to
24 do, that kind of thing.

25 Q. Have you heard people talk about living in

1 WordPerfect?

2 A. Oh, yeah. From the very early days, even on DOS,
3 what we would -- you know, we had toll-free customer support
4 so people would call all the time and we would hear these
5 questions. And a lot of people, actually, you know, first
6 thing they did when they turned on their computer, they just
7 boot it into Word Perfect, and they kind of thought that was
8 the computer. In essence, I do my word processing, and, you
9 know, that's the bulk of what I do. So they viewed that kind
10 of as their world.

11 Q. While you were director of the engine team, did
12 Novell merge with WordPerfect?

13 A. Yes.

14 Q. From your perspective, did you see any impact that
15 the merger had on the pace of software development for the
16 WordPerfect engine team?

17 A. Very little, if any.

18 Q. Were there any people in your group that were laid
19 off after the merger?

20 A. No. Like I said, it was perceived as a positive.
21 Most of my group, because there was this, you know, we were
22 proud of Novell. This was another Utah company. It was a big
23 company, And we thought it's cool to have big backing.

24 Q. And you continued to work for Novell after the
25 merger with WordPerfect?

1 A. Yes.

2 Q. After the merger, did your position change?

3 A. It was close around that time that it changed that
4 they asked me to be over the suite as opposed to just over the
5 engine team.

6 Q. And at some point in, I guess it would be 1994,
7 were you made the director of the PerfectOffice product?

8 A. Yes.

9 Q. And what is PerfectOffice?

10 A. The PerfectOffice is just a collection of
11 applications. It was WordPerfect -- or it was word
12 processing, spreadsheet, Presentations, a little product we
13 call Envoy, And we had a GroupWise client piece in there that
14 was for e-mail. The core things, the biggest two were word
15 processing and spreadsheet.

16 Q. Was there technology that was referred to as
17 PerfectFit, technology that was included within the
18 PerfectOffice suite?

19 A. Yes. So PerfectFit was the -- you know, we changed
20 names now. But PerfectFit was the same thing I referred to
21 called the shared code group. So PerfectFit, shared code, the
22 same thing. That was just the team that we worked with that
23 was specific to the operating system. So like the engine team
24 was specific to doing word processing across all those
25 platforms, the PerfectFit or shared code team were the experts

1 on the Windows operating system. So they -- that's what they
2 would specialize in.

3 Q. Do you recall what operating systems Novell was
4 developing the PerfectOffice suite for?

5 A. So the suite, the entire suite?

6 Q. Uh-huh (affirmative).

7 A. I think we only did it for, you know, Microsoft
8 platform, we did for -- well, I guess we had -- we had a DOS
9 offering. But suite, the entire thing we were doing was
10 really based on Windows 3.1 and Windows 95.

11 Q. Did Novell have a long-term plan to make the
12 PerfectOffice suite available on multiple operating systems?

13 A. Oh, yeah. Same way we did the engine group there,
14 we wanted to make everything cross-platform and go across the
15 different operating systems.

16 Q. Had Novell already begun developing for Windows 95
17 before you started working on the PerfectOffice 95 team?

18 A. Yeah. I knew there were teams that had started
19 working on it, specifically shared code, because again, those
20 were the guys who were the experts on the platform. So they,
21 you know, they were always getting the latest and greatest
22 stuff from Microsoft and would experiment with it and look at
23 it so that they could be ready for the next suite.

24 Q. What was different about Windows 95 from past
25 Windows operating system?

1 A. Well, from a technology standpoint, Windows 95 was
2 a huge step forward, because before that, we had, like I said,
3 Windows 3.1, I don't know how many of you remember, but it
4 used to come to the DOS prompt and you type, start up Windows?
5 It was really old technology. I mean, all the other platforms
6 we were writing in the engine were newer technologies. And
7 Win95 was, at least the whole operating system was now, you
8 know, 32-bit. It was multitasking. It was -- so Windows 3.1
9 we viewed kind of as a pretty face on a very poor technology
10 architecture. And Windows 95 was coming up to be, you know,
11 pretty much a part of what everybody else was. So Windows 95
12 was considered a big step forward.

13 Q. How did you compare that with some of the other
14 operating systems that you had been working on previously?

15 A. Windows 95?

16 Q. Uh-huh (affirmative).

17 A. Comparable. In a lot of ways, it had -- you know,
18 the technology -- it was not revolutionary in its technology.
19 It was just -- but it was big platform. I mean, it was a very
20 popular platform. A lot of people started on DOS, and they
21 slowly migrated to Windows 3.1. So it was an evolutionary
22 process for people to do. And so it was moving a lot of
23 masses into this new world of 32-bit, multitasking, such that,
24 you know, like I said, that kind of operation system I
25 actually worked on prior back at WICAT. So it had been around

1 for a long time, but it was finally coming around to Windows.

2 Q. How long did you have the position as director of
3 the PerfectOffice suite?

4 A. How long? For two to three years, I guess
5 basically.

6 Q. Did you have that position all the way through the
7 time up until when Novell sold WordPerfect to Corel?

8 A. Yes.

9 Q. And did you go over and work at Corel?

10 A. I did.

11 Q. What position did you hold at Corel immediately
12 after the sale?

13 A. Well, immediately after I was still working for
14 PerfectOffice, but Corel kind of came in and put their own guy
15 in charge, Paul Skillen. And I was asked to kind of do
16 product management over Quattro Pro, the spreadsheet.

17 Q. How long did you work at Corel?

18 A. Another couple years.

19 Q. And after Corel, where did you go?

20 A. So from Corel I went to a company called TenFold,
21 which was a company here in Salt Lake, where we built mission
22 critical applications for large Fortune 500 companies.

23 Q. And did you go then from TenFold to Domo?

24 A. No. From TenFold I went to a company called
25 Ancestry. I don't know if you know about that, Ancestry.com,

1 a company that's centered down in Provo. They do family
2 history, software, family history. Probably seen
3 Ancestry.com. So I was there for about 12 years.

4 Q. Going back to the time that you were working as the
5 director of the PerfectOffice, do you recall a development
6 project that was code named Project Storm?

7 A. Yes. That was my project. That was the suite for
8 Windows 95.

9 Q. Was that also sort of referred to as
10 PerfectOffice 95?

11 A. Yes.

12 Q. And I believe you described previously the various
13 components of the PerfectOffice suite. When did you
14 personally begin working on the PerfectOffice 95 project?

15 A. You know, early -- I guess maybe late '93, early
16 '94, kind of time frame.

17 Q. What was your role on the project?

18 A. So I was over the suite. So specifically it was to
19 pull together all of the pieces, you know, WordPerfect,
20 Presentations, Quattro Pro, pull all of those together and
21 make sure that it's a consistent looking field, make sure that
22 they operated together well. The, you know, bottom line that
23 it helped customers do all of the projects they wanted to
24 without having new learning curves and things like that so
25 that they could, you know, leverage their knowledge from one

1 application suite to the others.

2 Q. You testified previously that you had actually been
3 doing software coding in some of your prior positions at
4 WordPerfect. Were you actually doing software coding on the
5 PerfectOffice '95 suite?

6 A. No. No. There was about 300 people on this
7 project, so there was a lot to just keep track of and keep it
8 going and move it forward aggressively.

9 Q. How many people reported to you in your position as
10 director of PerfectOffice?

11 A. So there were only about 30 people who reported to
12 me directly because the way it was set up there was a director
13 over each of the areas of the suite. And so they used to talk
14 about a dotted line to me, but it wasn't a direct reporting
15 line. So most of the time I had 30 people that worked
16 directly for me, and then all of these directors, like
17 director of WordPerfect, director of Presentations, director
18 of Quattro Pro, they all -- all of us reported to
19 Bruce Brerton.

20 Q. And I think you just mentioned that there were
21 several hundred people working on the PerfectOffice suite?

22 A. Yeah. I always -- I think it was about 300 people.

23 Q. Okay. And do you recall again just roughly how
24 many software developers were working on that project?

25 A. It was -- most of them were software developers. I

1 don't know exactly. But it's got to be, you know, over 200,
2 250, somewhere in that range.

3 Q. And were -- was Adam Harral and Greg Richardson
4 some of the software developers who were working on the
5 PerfectOffice suite?

6 A. Yes.

7 Q. You mentioned that one of your responsibilities had
8 to deal with sort of managing a project. Can you describe for
9 the jury what your responsibilities were with respect to the
10 schedule of the PerfectOffice 95 Project Storm time?

11 A. Yeah. So what we did is we had a coordination --
12 we would plan together, and I worked with all the teams to
13 help, you know, prioritize and develop the feature set for our
14 customers. And on the scheduling time, we had weekly meetings
15 where we talked about status. And like I talked about for my
16 MBA program, one of the things we did is we had a huge Gantt
17 chart where we kept track of every one of the individual tasks
18 and where people were headed so we could assess and say, you
19 know, what was again Critical Path? What's the piece, that
20 is, do we need to focus on to make sure we all can deliver at
21 the same time?

22 Because as you can imagine, we have a whole lot of
23 people working on a project together, you need to coordinate
24 those efforts and make sure that you help people that are
25 falling behind or whatever it takes so that you all deliver at

1 the same time.

2 Q. You made mention of this term of Critical Path. I
3 think you mentioned it earlier when you were describing some
4 of the things you were studying at business school. Can you
5 describe in a little more detail what Critical Path meant in
6 the context of your work?

7 A. Yeah. So, like I said, you know, we would plan the
8 next release of PerfectOffice, and everybody would sit down
9 and say, you know, these are the key things that we want to
10 accomplish. And then they would sit down and estimate, how
11 long will it take to do each of these steps along the way? So
12 when they put together this estimate of how long it would take
13 them to do these tasks, you know, you put those together and
14 you try to balance those projects between all of the people
15 you have allocated on the project, and then you would track
16 their progress. So every week they would report and say, you
17 know, I told you it was going to take two weeks to bring up
18 this, you know, dialog. And then I was going to do the back
19 end of that, and that was going to take another two weeks.
20 And the next step was going to take another two weeks.

21 So you would track to see if they are getting those
22 checked off. So they would report every week and say, I'm
23 this far complete on this part of the project. So we would
24 track that and say, oh, you're ahead of schedule, or, if you
25 were behind schedule, that's when I might change and a

1 different person or group might become Critical Path if they
2 were falling behind.

3 Q. And if something is denoted as Critical Path, does
4 that mean it was the piece that's currently going to take the
5 longest to complete?

6 A. Yes. Sorry. I didn't explain that well. Critical
7 Path means that this specific path through the Gantt chart, I
8 mean, these are the things, these are the tasks that this
9 group of people need to do that looks like it's going to take
10 the longest amount of time. That's what we call the Critical
11 Path.

12 Q. Who is responsible for setting the PerfectOffice 95
13 development schedule, if anyone?

14 A. Well, so we worked on it together. So, you know, I
15 would probably be the central piece to that. But certainly
16 every one of the applications groups, you know, they would put
17 together their plan and we would coordinate that. So, you
18 know, I'd be the central owner of that, and then each of the
19 directors of each of the specific application would drive
20 their group.

21 Q. And how did the development schedule affect the
22 release date?

23 A. Well, it's the same thing, I guess. The
24 development schedule you had to develop the product and
25 complete it so you could release it, if that's what we're

1 talking about.

2 Q. How frequently did the Project Storm team meet to
3 discuss development issues?

4 A. So at least every week. So, like I said, we had a
5 team meeting every week where everybody would come in and talk
6 about it. We already had the report of -- you know, everybody
7 reported every week, so we already had gathered that. And
8 then we would sit down together and discuss, what's the latest
9 Critical Path, or, what are the things we need to focus on
10 right now as a team to make sure that we deliver together? So
11 at least every week and possibly more, if there were
12 additional concerns that we needed to address. So at least
13 once.

14 Q. In terms of positions, who attended these meetings?

15 A. So all of the directors of each of those areas
16 would attend. So the director of WordPerfect would attend,
17 director of Presentations, director of Quattro Pro, director
18 of PerfectFit or shared code. So all of the leads would
19 attend. And then as needed, additional people would attend if
20 their area were critical. Or we wanted to discuss that
21 specific aspect in more detail, then we would invite
22 additional people. We'd have -- I'm sorry. There's also --
23 I'm ignoring the others. But there was like, you know, the
24 marketing group, the director of marketing, the quality group
25 were represented. So lots of different teams were

1 represented.

2 Q. When you first took over the Project Storm project,
3 do you remember when Windows 95 was scheduled to be released?

4 A. Well, it varied a lot, you know, because early on
5 they were trying to ship it I think back in -- I think Chicago
6 was early, scheduled trying to ship in '93. And then later as
7 they got into '94, later in '94, they were projecting they
8 would ship in the first half of '95 until later when they
9 started projecting the second half of '95.

10 Q. Did Novell want to ship PerfectOffice 95 as soon as
11 practicable after the release of Windows 95?

12 A. Oh, yeah. That was a huge priority for us. And so
13 I was over that project. So, you know, our number one
14 priority was to release a great suite that was awesome on
15 Windows 95. Yeah. It was, because like I said, we thought it
16 was a significant step up in technology, so this would be a
17 much better platform. We thought people would adopt it pretty
18 quickly.

19 Q. What sorts of contact did an ISV like Novell have
20 with an operating system like Microsoft to develop products
21 for new operating systems?

22 A. So, you know, you had a relationship where early on
23 they would give you what they call beta versions of the
24 operating system. They'd give you development platforms so
25 that we could start -- you know, way in advance of the

1 release, we could start building these applications and make
2 sure they ran when the operating system was released so that
3 you didn't have an operating system that went out and nothing
4 to do on it.

5 Q. Did Novell's goal of releasing a suite of products
6 close in time with the Windows 95 release, did that ever
7 change?

8 A. No.

9 Q. Was Novell able to release the PerfectOffice suite
10 within 60 to 90 days after the release of Windows in August of
11 '95?

12 A. No. I mean, we didn't.

13 Q. And why not?

14 A. Well, you know, there's lots of reasons. But I
15 mean, as far as my take on why we didn't make it is because of
16 Critical Path stretch, right? So there's Critical Path pieces
17 that's more ready. Specifically PerfectFit or shared code
18 team was our Critical Path. You know, about midway through
19 the project they became Critical Path and stayed Critical Path
20 clear up until we were up to release them.

21 Q. Were Mr. Harral and Mr. Richardson two of the
22 developers who were in the shared code team?

23 A. Yeah. They were two of the best and the brightest,
24 and they were on that team.

25 Q. I'm going to go back a little bit in time. Can you

1 describe some of the areas that historically differentiated
2 the WordPerfect product from other word processing
3 applications?

4 A. Yeah. So there were, you know, lots of interesting
5 features. We had legal features that were big. But the most
6 common thing that we were known for is what we call print
7 services and the open dialog. Both of those were things that
8 we did to help customers out, especially early on, where, like
9 I said, some people lived in word processing. So when they
10 booted up and it came up, they needed to be able to easily
11 find, and they actually renamed their files from within the
12 open dialog. They did all kinds of things because it didn't
13 go out to the operating system to do it because DOS was scary.
14 So there were all kinds of things they would do inside of
15 WordPerfect.

16 And then printing, print drivers, as every new
17 printer came out what they would do is we would try to
18 specialize and make it so that your documents would print with
19 extreme high quality on each individual printer. It seems
20 like it would naturally work, but it just doesn't. You have
21 to actually write all this specialized code to make that
22 printer perform its best so that it would have best
23 resolution, that it would, you know, break the lines well, it
24 laid out well, it showed graphics the best it could. So all
25 of those were the print drivers.

1 Q. Was the open dialog or sometimes referred to as the
2 file open dialog technology, was that something that
3 WordPerfect thought it had a competitive advantage with?

4 A. Yes. I mean, because people just lived in it. I
5 mean, they used it so much that we thought of it as a key
6 thing for us.

7 Q. Was the file open dialog technology planned to be
8 part of the PerfectOffice suite?

9 A. Yes, absolutely. It has to be, of course. And it
10 was a key thing for us.

11 Q. And which group was responsible for developing
12 that?

13 A. So that was PerfectFit because, again, that's where
14 you're dealing with the operating system. So when you're
15 dealing with the operating system, that was shared code or
16 PerfectFit. And so the file open dialog was from the shared
17 code group, PerfectFit group.

18 Q. Are you familiar with something called QuickFinder?

19 A. Yes.

20 Q. What is QuickFinder?

21 A. So QuickFinder was really a technology that when
22 you're in the open dialog and you're not sure of what the file
23 was or not sure where it -- you know, how to find it,
24 QuickFinder basically was a technology that went out and
25 indexed all of those documents so you could quickly go find

1 them. And so you're saying, oh, I know I had this word
2 processing document that has something to do with Novell. And
3 so you search Novell, and you find and bring those back to you
4 quickly, QuickFinder, and bring it back so you can then
5 actually access those files and find and use them.

6 Q. WordPerfect believed the QuickFinder technology
7 provided a competitive edge over competing products?

8 A. Yes. I mean, we spent a lot of effort on it and
9 thought it was a very cool technology, because it was not only
10 for the open dialog, it was something that we thought would be
11 applicable in broader areas. Lots of future potential there
12 from indexing things that you did on the Internet to, you
13 know, your local hard drive to your network. We thought it
14 was a very cool technology.

15 Q. And was QuickFinder technology planned to be part
16 of the PerfectOffice Windows 95 product?

17 A. Oh, yeah. It was core. It's integral into the
18 file open dialog which is, like you said, one of the things we
19 were working on.

20 Q. And were all of these features we are talking
21 about, the print drivers, the file open dialog, QuickFinder
22 technology, were these all features that WordPerfect
23 historically had provided in earlier versions of its products?

24 A. So we'd always had, yeah, print drivers and file
25 open and had specialized in those areas to make them stronger.

1 So, yeah. They were part of our products from the DOS days
2 forward.

3 Q. And were these technologies made available for
4 WordPerfect versions that ran on operating systems other than
5 Windows?

6 A. So we did a version of all of those -- we did a
7 version of those things for other operating system. But
8 specifically, you know, we spent most of our efforts -- the
9 shared code team that was for Windows was much bigger than,
10 you know, when I was talking about, for example, the OS2 team
11 or the VAX/VMS team, those guys had 20 people altogether to do
12 both the, you know, version of the word processor and things
13 like specializing open dialog and print drivers and things
14 like that. So we did a lot more with the Windows platform
15 than we did with any of the other platforms.

16 Q. Mr. Gibb, I show you what I'm going to mark -- that
17 has already been marked as PX374. Just take a moment to take
18 a look at that.

19 Do you recognize this document?

20 A. Yes.

21 Q. Okay. And what is it?

22 A. So it's just kind of a real quick high level of the
23 features for Storm. Again, Storm was the code name for
24 PerfectOffice for Windows 95.

25 Q. And if you scroll down that document a little bit,

1 there's a -- the part where it says QuickFinder?

2 A. Uh-huh (affirmative).

3 Q. That's the product you were just talking about?

4 A. Yes.

5 Q. And it says:

6 QuickFinder will work with Netscape so users
7 can later search for words or phrases and go
8 directly to the URL where the words or phrases are
9 found.

10 Can you describe what that means?

11 A. Yeah. I was hinting to that earlier in my comment
12 that basically you could search not only through your
13 documents, but you can search also web content and so find,
14 you know, when you are working on that, you know, Novell
15 document you could actually also say, oh, what was I searching
16 on the Internet about Novell, and they can index those things
17 for you, also.

18 So that was basically saying that QuickFinder could
19 then -- a URL is just, you know, this universal resource
20 locator kind of thing. It's where you type in at the browser
21 at the top, that's a URL. So it was basically that you could
22 find that address and then go directly to it on the web and
23 find that.

24 Q. If you go a little further down the document,
25 there's a feature referred to as file/new file open/save as

1 dialogs?

2 A. Uh-huh (affirmative).

3 Q. I believe that reads:

4 File open will have all the functionality of
5 the common Windows open dialog plus additional
6 functionality including the ability to browse
7 NameSpaces.

8 Do you see that?

9 A. Yes.

10 Q. And is this the file open dialog technology that
11 you were previously talking about?

12 A. Yes.

13 Q. If you go down two more, there's an entry for
14 enhanced PerfectScript and Visual Basic support. And the
15 description there says:

16 We will provide better support for customers
17 who want to create custom solutions with
18 PerfectOffice.

19 Can you describe what that means?

20 A. So that is similar to what I was talking about
21 before. This was -- PerfectScript was this scripting language
22 where we publish the APIs to WordPerfect and Quattro Pro and
23 Presentations, all of those applications. This is a way that
24 you can control those, all of those pieces. And Visual Basic
25 was a fairly popular, high-level language programming basic.

1 Anyway, it was, Visual Basic was a program where you could
2 write code. And inside of your Visual Basic applications we
3 published APIs so you could say, in your Visual Basic program
4 you could say, you know, WordPerfect.something, and you could
5 access these different elements in WordPerfect document or
6 capability inside of WordPerfect.

7 So what this means is that we were publishing this
8 PerfectScript so that you could write it just if you had the
9 suite or if you were actually were kind of a little more
10 serious developer you could use Visual Basic and build your
11 own applications on top of the PerfectOffice suite.

12 Q. Thank you. You can take that down.

13 Now, you testified earlier about this concept
14 called Critical Path. Do you recall when the PerfectOffice
15 suite 95 finally shipped?

16 A. In '96.

17 Q. And did it ship after the time that Novell sold the
18 WordPerfect business to Corel?

19 A. Yes.

20 Q. What proved to be the Critical Path element during
21 the development of PerfectOffice 95?

22 A. So what turned out to be the Critical Path, you
23 know, in this rollup version of the whole thing was that
24 PerfectFit or shared code team, so, like I said, you would
25 track individual progress. And then what we would do is we

1 would roll those together into, you know, like -- eventually
2 it rolled all the way up to WordPerfect, Presentations,
3 Quattro Pro, right? So you would have a ton of tasks for each
4 individual that was in that, and they were rolled up into that
5 group. So the group was PerfectFit, shared code technology.
6 And the specifics out of that, file open dialog was one of the
7 most critical pieces inside that group.

8 Q. Do you recall at about what time it became apparent
9 to you that the file open dialog or the shared code piece of
10 this had become Critical Path?

11 A. So it was sometime in, you know, you know, towards
12 the end of the first quarter of '95, I think. I'm piecing it
13 together because we had months of these meetings where we
14 talked about, to the PerfectFit team, and said, you guys are
15 critical. What can we do to help? I'll try to help you any
16 way we can.

17 And it was months that they were on Critical Path
18 until we finally built up, until we had this kind of emergency
19 meeting in about July. And so it was -- it had been for
20 several months before that. So anyway, it's close to the
21 start of second quarter, Q2 or the end of Q1, the end of the
22 first quarter.

23 Q. And at this point in time when you became aware
24 that the shared code group was Critical Path, did they know or
25 did you know exactly how long it was going to take to solve

1 the problems that they were having?

2 A. No. No.

3 Q. Were there any other components that would have
4 held up the release of PerfectOffice 95 in terms of it making
5 its release schedule for the 60- to 90-day period after the
6 release of Windows 95?

7 A. So I don't think so. There's no way to really know
8 because shared code was Critical Path. But when you have a
9 project like this, this large in scope, having this particular
10 project in Critical Path for so long, you say, you know,
11 obviously that's the problem. That's what's going to extend
12 it out. And there was no evidence that any of the others were
13 going to be Critical Path. They never became Critical Path
14 for months and months. So....

15 Q. Do you recall Quattro Pro, the development of
16 Quattro Pro causing a delay in the shipment of
17 PerfectOffice 95 suite?

18 A. No. I mean, early on, like I said, when we were
19 first speccing out Storm, we thought Quattro Pro might be
20 Critical Path. So early on before we had project plans and
21 before we tracked the progress, we were nervous about
22 Quattro Pro because they had a lot of things to do. We were
23 nervous that they might have a hard time getting the schedule.
24 But they were very conservative in their estimates and kind of
25 over delivered. So it turned out to be a pleasant surprise.

1 Q. Where were the Quattro Pro developers located?

2 A. They were down in California.

3 Q. And did you meet with or communicate with
4 Quattro Pro developers in terms of their giving you estimates
5 of when they thought they'd be able to deliver the Quattro Pro
6 product for PerfectOffice?

7 A. Why. We worked with them. Like I said, the weekly
8 meetings involved everybody including Quattro Pro. So they
9 were, you know, they would call in to all of these meetings
10 where we talked about it. But they were also in the same, you
11 know, project management system where we would keep track of
12 how they were doing and track if they were in Critical Path
13 versus anybody else. Yeah, we were all on the same project.

14 Q. Did they initially express concern to you about
15 whether they could meet sort of a September/October time
16 period release for the PerfectOffice 95 suite?

17 A. Yes. Yeah. They were very concerned. Like I
18 said, they were a pretty conservative group, but they were
19 really solid developers. And so again, so they were, you
20 know -- but truthfully, most teams are kind of a little
21 nervous when you start a new big project, right? Developing
22 on time is a big thing. It's hard to project that perfectly,
23 and it was -- everybody was nervous. But Quattro Pro was
24 certainly nervous, yeah.

25 Q. Was this the first sort of project that they were

1 going to deliver on after the merger? In other words, the
2 acquisition of Quattro Pro to Novell?

3 A. Let's see. So Win95 -- oh, you mean when Quattro
4 Pro went over to Novell?

5 Q. Yes.

6 A. Yeah; because obviously they had to deliver for
7 PerfectOffice for Windows 3.1, so....

8 Q. Now, during the opening statements in this case,
9 Microsoft's counsel made a reference to a document that stated
10 that numerous Quattro Pro developers had submitted
11 resignations before the PerfectOffice 95 product shipped and
12 suggested that this was a cause for the delay in
13 PerfectOffice 95 shipping, some 10 months after Windows was
14 released. Do you recall this incident of Quattro Pro
15 developers resigning?

16 A. Yes.

17 Q. And do you recall when that incident took place?

18 A. So it was like the end of the year, right end of
19 '95. December-ish, in there.

20 Q. And can you tell -- can you tell me sort of what
21 impact, if any, that had on the PerfectOffice suite delivery?

22 A. Well, you know, it wasn't good. I mean, it's not
23 like it was good news. But they had fixed -- you know, they
24 were basically code completed and had basically everything in
25 there. And so again, it surprisingly wasn't Critical Path for

1 releasing the product, even though the bulk of the team quit,
2 because they were basically done. Again, the focus was to be
3 Windows 95 compliance, so that's what they got from shared
4 code. So that they kind of got for free. And the Quattro
5 Pro, they had made it 32-bit, and then the core changes that
6 had to be there and the few features they wanted to add, and
7 they got those done. So even though we lost the bulk of the
8 team, it surprisingly didn't turn out to be Critical Path.

9 Q. If the shared code team had delivered their product
10 on time, would Quattro Pro have caused PerfectOffice to have
11 shipped outside this 60- to 90-day period after the release of
12 Windows 95?

13 A. I don't think so. You know, there's no way to
14 perfectly know. But every indication was that we would have
15 shipped, and so we would have.

16 Q. Do you recall the work that the -- strike that.

17 Was the Quattro Pro team dealing with bug fixes in
18 December of 1995?

19 A. Well, so I was involved with -- when we took it
20 over, I was involved with taking it over. So all we did is
21 bug fixes. There were no additional features added, no
22 additional things added, just cleaning and polishing for
23 release.

24 Q. Do you recall exactly what led to the delay in
25 developing the file open dialog?

1 A. So again, at my level, you know, I was managing
2 this cross-platform thing, which was WordPerfect and
3 Presentations, Quattro Pro, all of these big projects, and
4 shared code was a piece of that. And underneath shared code
5 was file open dialog. And underneath that, you know, there
6 were references that I went to meetings where they talked
7 about, you know, NameSpace browsers and things like that. So
8 I think that was one of the key things in this case.

9 But really, my level was, you know, file open,
10 which is key for our customers, and then shared code being
11 Critical Path for the overall project. So my level is super
12 invested in knowing shared code Critical Path, also very
13 interested in the file open dialog delivery for our customers,
14 and then, you know, very little direct information about their
15 dealing with the operating system and what specific things
16 they needed to build a file open dialog.

17 Q. Who would know the details about the file open
18 dialog problems the shared code team was experiencing?

19 A. Well, people on the shared code team. But
20 specifically Adam, Greg, I think you've talked to or heard
21 from. Those were the actually, two of the guys who knew it
22 inside out.

23 Q. When you determined the file open dialog was
24 Critical Path, can you describe what steps you took to try to
25 push the development of that component to completion?

1 A. Well, so we were super motivated to make it happen.
2 So we talked about ways to reward them, to incent them to
3 stay. You know, as a matter of fact, Bruce Brerton again was
4 over the team. I was just over the suite. But, you know, we
5 talked to Bruce about saying, add any resources you can to
6 help them out because, you know, when you're Critical Path you
7 do everything you can to help the slow guy, right, the slow
8 team, whatever it is.

9 So we tried to add resources. We tried to add
10 incentives. We tried to give key architects from other areas
11 and say, hey, can they help solve some problems for you?
12 Everything you could do. But there's only so much you can do
13 to add to a complex problem like building code. So anyway, I
14 tried to do everything I could to add and help them out, you
15 know.

16 Q. Were there any resource constraints put on you in
17 terms of trying to help the shared code?

18 A. No. No. Like I say, we had, again, 300 people or
19 so working on this. And, you know, when you have something
20 that's Critical Path, you're willing to move everybody -- you
21 know, worse case you move all 300 onto it. What I'm saying
22 you can move as many as you could to really help. It just
23 doesn't help to put all 300 on, right, because it would slow
24 down. It wouldn't speed it up.

25 Q. How would you describe the caliber of the software

1 developers in these shared code group?

2 A. They were -- you know, I mean, I couldn't give an
3 assessment of everybody, but many of them were the sharpest
4 and brightest people we had. They were very forefront. They
5 had to be very bright to understand new and changing things
6 that happened in the operating system. And so, you know, very
7 bright developers. Sharp people.

8 Q. Did -- in these meetings that you described as sort
9 of regular weekly meetings where Critical Path was discussed,
10 did Mr. Harral or Mr. Richardson ever attend those meetings?

11 A. Yeah. I mean, I don't think they wanted to. But
12 they -- as they became Critical Path, you know, we wanted to
13 talk about it and say, hey, what's going on here? What can we
14 do to help? And so as they became Critical Path for many
15 months, I think they were uncomfortable, but they still came.
16 We had a little adversarial relationship there because I was
17 driving to get released, and they were kind of Critical Path.
18 So it's not a happy position to be in.

19 Q. Mr. Gibb, I'm going to hand you what we've marked
20 as Plaintiff's Exhibit 322.

21 Do you recognize this document, Mr. Gibb?

22 A. Yes.

23 Q. And what is this document PX322?

24 A. Well, it was in regards to the PerfectFit schedule
25 for the release of PerfectOffice Windows 95. And we called it

1 panic mode because it was getting so late. And again, this
2 Critical Path element from PerfectFit team, we were saying,
3 we're panicking. What can we do to help you guys out?

4 And so that's the essence of this meeting saying,
5 do we need to take some drastic efforts, you know, drastic
6 means or whatever we can do? And this was the document that
7 kind of we -- where we discussed all of those ways to address
8 this issue.

9 Q. I see that the date of the document in the lower
10 left-hand corner is July 28th, 1995.

11 A. (Witness indicates by nodding head up and down.)

12 Q. Were you aware of sort of the critical
13 circumstances that underlie this document prior to July of
14 1995?

15 A. Yeah. I mean, obviously we didn't wait 'til last
16 minute to have this. This is something, like I had mentioned
17 towards the end of Q1 and first of Q2, they had started to
18 become Critical Path. So in the regular reports we received
19 every week, we said, PerfectFit. PerfectFit. PerfectFit.
20 Perfect Fit. So this was like, okay, we've done everything.
21 We've thrown resources at it. We tried to bribe you guys. We
22 tried to do everything we can to help you out. We're now
23 reaching panic mode because everybody else is going to be
24 finished. You guys are not going to be finished. We called
25 this panic mode.

1 Q. There are a number of different technologies that
2 are referenced in the document. If you look at what's Page 4
3 here, there's a reference to NameSpace browser, aka file open
4 dialog. Do you see that?

5 A. Yes, I see it.

6 Q. And this is the file open dialog that you testified
7 to earlier today?

8 A. Yes.

9 Q. And is this the shared code product that you've
10 identified as Critical Path?

11 A. Yes.

12 Q. It says:

13 Deliver NSB component implemented with the
14 common open dialog by required code complete date.
15 The application programming interface will be
16 locked down at that time, too.

17 And then it says:

18 Deliver a fully functional NSB -- I assume
19 that's NameSpace browser -- including a functional
20 NameSpace provider, NSP, for the file system
21 during beta.

22 Can you describe what that's describing?

23 A. Well, so the NameSpace browser again is this
24 technology that they were using inside of the open dialog.
25 And we were getting close to going to beta with the entire

1 suite. And what we were basically saying is that we weren't
2 going to have a fully functional version available for the
3 beta, the early beta release or the -- you know, they weren't
4 going to be code complete. So we're saying, okay, we'll try
5 to add this in a little bit later. You try to make it a hard
6 rule where you don't -- the idea behind code complete is you
7 stop changing everything and you're completely done and now
8 you're fixings bugs until you're released.

9 So all the elements had kind of got to that point.
10 And we were having a special meeting to say, okay, we'll give
11 you guys a little bit of special extension because you're
12 still Critical Path, and you're still not done. So....

13 Q. Were you able to make the code complete date by
14 August 22nd?

15 A. No. No.

16 Q. During the development process, did Novell consider
17 cutting functionality to help speed up the development of
18 PerfectOffice 95?

19 A. Always. Like I say, when we're talking about
20 Critical Path, I guess I didn't mention that. But certainly
21 one of the things you do is you talk about cutting the scope.
22 So what we're going to deliver, but, you know, we talked about
23 it. File open had been a code competency and something that
24 people looked to for a long time to be -- you know, this is --
25 WordPerfect is synonymous with doing that well. And so

1 customers who come from our previous products would expect us
2 to do very well in that same area.

3 And so it was painful to consider, you know,
4 dropping back -- we actually -- I mean, we talked about it in
5 here, it says, you know, the --

6 THE REPORTER: I'm sorry?

7 THE WITNESS: Okay. I can't do that? What?

8 THE COURT: They couldn't understand you.

9 THE WITNESS: Oh, sorry. I thought I couldn't do
10 that for some reason.

11 All I was trying to refer to is that -- sorry. I
12 lost my train of thought there.

13 Q. BY MR. SCHMIDTLEIN: Did Novell actually reduce
14 functionality --

15 A. Oh, sorry, yeah.

16 Q. -- in the PerfectOffice suite to help speed up
17 development process?

18 A. So we certainly cut back some. So part of that
19 panic mode, we had like 90 features that we were going to add
20 inside the file open dialog. And so one of the steps we took,
21 as painful as it was, we cut back some. But we didn't want to
22 cut back to an extreme because, again, it was core
23 differentiator was one of the areas we would like to lead out
24 in. And so we did have painful meetings where we, you know,
25 evaluated cutting options and kind of did everything we

1 thought we could.

2 Q. Now, do you recall in October of 1995 that Novell
3 announced the sale of the applications business, the
4 WordPerfect business?

5 A. Yeah.

6 Q. And how did Novell's announcement of the sale
7 affect your team's timing for delivering the product?

8 A. So, you know, I don't think the announcement -- you
9 know, there was no significant impact on anything we did. It
10 was sort of like, wow, okay. They're selling it. But people
11 just worked and worked on it, and then you wondered who your
12 new boss was going to be.

13 Q. And did the sale to Corel in 1996 affect the time
14 it took to develop the product?

15 A. You know, I think that it had a little affect on
16 it, because, like I said, Corel wanted to re-brand it a little
17 bit and call it Corel. So there was some small impact, but
18 not huge impacts.

19 Q. Let's skip ahead. Do you remember the launch of
20 Windows 95 product?

21 A. Yes.

22 Q. And that happened in --

23 A. August.

24 Q. -- August of 1995?

25 A. (Witness indicates by nodding head up and down.)

1 Q. What do you remember about the launch?

2 A. Well, the reason I remember it is I went up to it,
3 so my path, you know, my background, I'd been working on, for
4 example, MacIntosh, and I'd been involved on key releases on
5 MacIntosh and gone to operating system releases. And this one
6 kind of stood out in my memory because I went up to Redmond
7 for the big launch. And there was a big main tent where
8 Microsoft was supposed to be releasing and talking about the
9 Windows 95 launch. And I went up there, and there's Jay Leno,
10 and all he's demonstrating is Office. And I was going, Geez,
11 this isn't a Windows 95 launch. This is like an Office
12 launch.

13 And I just remember because also, you know, we were
14 pretty big players, and we were down about a mile from the
15 core tent. I was sitting down, you know, very much a second
16 class citizen, and Jay Leno was showing Office Windows 95, and
17 saying, wow, this doesn't really seem very fair. So pretty
18 vivid memories for me.

19 Q. Did -- when you were in the Mac group at
20 WordPerfect, did -- were you familiar with how Apple handled
21 product launches?

22 A. Oh, yeah. So like I said, they worked with us.
23 And even though they had a little product called Mac Write,
24 they looked at WordPerfect as the key contributor. And we
25 were, you know, very much treated like first-class partners.

1 And they helped us in all kinds of ways to help make releases
2 and coordinate with us.

3 And that's what I'm saying. It was a stark
4 contrast from that to what we had with Windows.

5 MR. SCHMIDTLEIN: No further questions, Your Honor.

6 MS. NELLES: Well, Your Honor, I'm very slightly
7 embarrassed to ask. Could we take a quick break?

8 THE COURT: There's no reason to be embarrassed.
9 We'll take a short break. And I'm ready whenever anybody else
10 is.

11 (Recess.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF UTAH)

2) ss.

3 COUNTY OF SALT LAKE)

4 I, KELLY BROWN HICKEN, do hereby certify that I am
5 a certified court reporter for the State of Utah;

6 That as such reporter, I attended the hearing of
7 the foregoing matter on October 26, 2011, and thereat reported
8 in Stenotype all of the testimony and proceedings had, and
9 caused said notes to be transcribed into typewriting; and the
10 foregoing pages number from 769 through 819 constitute a full,
11 true and correct report of the same.

12 That I am not of kin to any of the parties and have
13 no interest in the outcome of the matter;

14 And hereby set my hand and seal, this ____ day of
15 _____ 2011.

16

17

18

19

20

KELLY BROWN HICKEN, CSR, RPR, RMR

21

22

23

24

25