

1 THE CLERK: Please rise for the jury.

2 (Jury comes into the courtroom.)

3 Please be seated.

4 THE COURT: Okay. We'll pick up.

5 (Playing of video deposition of James Allchin continued.)

6 Q. You write, "We should get all ISV's to write to Win32."

7 Let me ask, what is Win32?

8 A. It was a collection of API's that were common -- well,
9 first, it was a collection of API's that were 32-bit in
10 length over the 16-bit length that had existed, and that, to
11 the degree possible, they were common between Chicago and the
12 NT system. And we even created a smaller subset of those
13 called Win32S, I think, that was a subset of those that was a
14 little layer that you could put in your applications to run
15 on the 16-bit systems, at least that's what I think.

16 Q. Do you know -- strike that. Do you know why you
17 recommended that we should get all S -- all ISV's to write to
18 Win32?

19 Without reading the rest of the sentence, I say --
20 oh, acknowledge it goes on to discuss other technologies as
21 well.

22 A. Why? Because, longer term, we were going to -- at
23 least our dream was to move to the NT code base, and so,
24 writing to the common set would have those applications be
25 able to take advantage of NT systems along with, like, a

1 Chicago-based system.

2 Q. You described, in one of your depositions, that
3 browsing for information was part of the original vision of
4 Information At Our Fingertips by the early 1990's. Do you
5 recall that?

6 A. Do I recall writing it? Saying it? I recall --

7 Q. Right now, do you recall testifying to that effect?

8 A. No.

9 Q. Is it, in fact, the case that browsing for information
10 was part of the vision known as Information At Our
11 Fingertips, by the early 1990's?

12 A. Yes.

13 Q. By browsing for information, you're talking about more
14 than just browsing on the internet, correct?

15 A. Yes.

16 Q. And, in fact, in the early 1990's, as you told us
17 earlier, the internet existed but was largely unknown,
18 right?

19 A. Yes.

20 Q. You testified at one point that you thought there were
21 a lot of similarities between web and local browsing. Do you
22 continue to believe that that's true?

23 A. Yes.

24 Q. What about network browsing? Are there similarities
25 between local internet and network browsing?

1 A. Yes.

2 Q. Okay. What would those similarities be?

3 A. Well, conceptually, the only difference is where the
4 data is.

5 Q. And it was part of your own vision, I think you said,
6 since your early days, even as a student, to unify the views
7 so that the issue where the data is, is not terribly
8 transparent or important to the user; is that correct?

9 A. Yes.

10 Q. The ability to browse without regard to where the data
11 is stored, is that an ability that was valuable to ISV's?

12 A. Yes.

13 Q. And how so?

14 A. Less code that they would have to -- to write in order
15 to access a particular remote object.

16 Q. And they would have to write less code because a
17 Windows API was providing the functionality that we've been
18 talking about?

19 A. I don't know. You made a huge jump there. I don't
20 know if it was one API or many API's or the like, but, yes,
21 that some part of the operating system was providing some
22 help to create this transparency.

23 Q. Is that part of the concept of the best line of code
24 being the line of code that the ISV doesn't have to write?

25 A. Well, I didn't say that line -- that comment about

1 ISV's. Or let me say, it doesn't relate just to ISV's. If
2 you don't write code, it's hard to have any bugs in it.

3 Q. Right.

4 A. And it's a lot less work, so it applies to everything.
5 And, yes, it would apply in this particular case.

6 Q. Okay. And let's look at the case. I've been asking
7 about ISV's kind of in the abstract. Let's look at the case
8 of a word processing application. What about the Windows
9 platform's ability to unify views would be of use to a word
10 processing application?

11 A. I'm going to be just surmising here. Do you want me
12 to?

13 Q. Please.

14 A. Well, in the case that you have physical places you
15 have to go to get something or load something, then a user
16 has to know where it is. In the cases that you don't need to
17 know that, then it would be nice that it just was completely
18 transparent.

19 In other words, if a document, for this word -- this
20 word processor resided on server 1 or server 2 or server 3,
21 whether one was in L.A. and one was in London shouldn't make
22 any difference to you because you don't really have to go
23 there physically, as a human. You'd just want the document
24 to be edited and then saved back. And it would be nice that
25 you didn't have to think about where it was stored.

1 If you needed to know physically, like it's on this
2 diskette or something, then you don't want it to be
3 transparent. You want the system to say, "Go load tape 3,"
4 or whatever, "so I can get to this file."

5 Q. Okay. Now, as part of your work at Microsoft, you were
6 developing technology to provide that kind of unified viewing
7 to end users, correct?

8 A. As part of -- that was a vision, and part of the --
9 there were teams underneath me doing that, yes.

10 Q. And, as you worked on your vision, did you intend that
11 word processors, spreadsheets, other common applications,
12 would take advantage of the unified views that you envisioned
13 and were working to provide.

14 A. Yes.

15 Q. Was it your understanding that independent software
16 vendors had equal access to Windows 95 API's, as Microsoft's
17 own applications developers?

18 A. Windows 95?

19 Q. Yes.

20 A. Was it my understanding? Yeah, but I wasn't the man
21 making that decision.

22 Q. Exhibit 7, Mr. Allchin, is a series of emails, on some
23 of which you are a recipient and at least one of which you
24 are an author. And if you could take a moment to look at
25 these, I'll have just a few questions.

1 A. You want me to read it?

2 Q. Feel free to read as much as you want. My questions
3 are probably going to be fairly limited and specific, and
4 I'll direct you to some of the language.

5 A. Okay. Tell me where, and I'll decide.

6 Q. Okay. The email down below from yourself to
7 Mr. Silverberg and Mr. Maritz.

8 A. Matitz.

9 Q. Mr. Maritz. Okay. Thank you. You are, at the risk of
10 characterizing it, complaining to him about some decisions
11 they have purported to have made without your input; is that
12 correct?

13 A. Yes. It looks that way.

14 Q. Do you remember complaining about this issue?

15 A. No.

16 Q. In Mr. Maritz's response to you, in the first line
17 of his last paragraph, he refers to Cairo interfaces. Do you
18 see that?

19 A. This is the third paragraph?

20 Q. Yes.

21 A. Correct.

22 Q. My question is actually pretty simple. And that is,
23 what did Cairo refer to at this time?

24 A. In October 3, 1993? I'm not 100 percent sure
25 at that time frame. It was a code name for a set of

1 technologies that were part of NT, but, at this period of
2 time, I don't know.

3 Q. Okay. A little further down some that same paragraph,
4 Mr. Maritz is asking you and/or Mr. Silverberg to let us know
5 what would be needed for Chicago to use OLE2-based shell
6 interfaces, i.e., for Chicago and Cairo to have the same
7 API's for shell extensibility. Do you see that?

8 A. Yes.

9 Q. Do you know whether Chicago and Cairo did, in fact,
10 ultimately have the same API's for shell extensibility?

11 A. Well, I cannot remember the time frames, okay, but
12 conceptually what happened was the user interface team got
13 moved over. Was this before or after that? I don't know.
14 And when that happened, that was -- it got unified. Did
15 Chicago have OLE2 interfaces for shell extensibility? I
16 don't know. Did NT and -- or Windows -- I don't know whether
17 it would be NT 3.5 or which one it was.

18 Did they end up having the same or to the degree
19 they could have the same, between the Windows NT version and
20 the Windows 95? The goal was to have them be the same, but I
21 can't answer this.

22 You're taking a snapshot in time of a lot of churn
23 of us discussing stuff, and I don't know how it all ended up.

24 Q. Okay. You, in your answer, referred to a time when the
25 interface group went over. Let me just clarify that. I

1 think I -- we probably know what each other means, but just
2 so the record is clear, you're referring to the interface
3 group that was in your NT group that you earlier told us
4 moved over to Mr. Silverberg's Chicago development group; is
5 that correct?

6 A. That's right. And I just don't remember when that took
7 place. It could have been after this. I -- I really don't
8 know.

9 Q. Okay. You were asked various questions by
10 Mr. Engelhardt about Windows 95, and I just want to make sure
11 the record is clear. Were you responsible, in the hierarchy
12 in Microsoft, for the development of the original version of
13 Windows 95?

14 A. No.

15 Q. Who was the person responsible for that product?

16 A. Brad Silverberg.

17 Q. And did you have any official role in deciding what
18 technologies would be included in Windows 95?

19 A. No.

20 Q. Did you have any official role in determining what
21 information would be provided about Windows 95 to independent
22 software developers?

23 A. No.

24 MR. JOHNSON: That concludes Mr. Allchin.

25 THE COURT: Thank you. Who's next?

1 MR. JOHNSON: I'm looking at the clock, Your Honor,
2 trying to decide which is better. We could do -- probably,
3 I'd say we would do Mr. Henrich now. He's 39 minutes. And
4 we could slip in a short one at the end if we have time.

5 THE COURT: Okay. We'll try to do that.

6 MR. JOHNSON: Okay. Thank you, Your Honor.

7 Oh, I guess I should say this is Mr. Douglas
8 Henrich, a Microsoft executive, January 8, 2009. This is 39
9 minutes long.

10 THE COURT: Thank you. We've seen that guy
11 before.

12 MR. JOHNSON: He's the one that didn't have any
13 sound last time.

14 THE COURT: Oh.

15 MR. JOHNSON: Apparently the feed was mono.

16

17 THE VIDEO DEPOSITION OF MR. DOUGLAS HENRICH WAS PLAYED AS
18 FOLLOWS:

19 Q. Could you provide your full name for the record,
20 please.

21 A. Douglas P. Henrich.

22 Q. You were an employee of Microsoft, correct?

23 A. Yes.

24 Q. When did you begin your employment with Microsoft?

25 A. April of 1990, roughly. I don't remember the exact

1 date.

2 Q. Was that right out of college?

3 A. Nope. I wish it was. I graduated from college in --
4 undergraduate in '81, so about nine years earlier.

5 Q. When did you end your employment at Microsoft?

6 A. Roughly September of 2001.

7 Q. What was your first job with Microsoft?

8 A. Technical evangelist was the title. It always raises a
9 few eyebrows. It was my job to help Novell and a variety of
10 technology-oriented companies write network interfaces to
11 work with Windows and DOS.

12 Q. What does that mean in layman's terms?

13 A. I help them support the Windows operating system, so
14 whatever hardware/software interactions Windows needed to run
15 successfully on customer, you know, equipment, if you will,
16 we helped other third-party players build that software. So,
17 for example, Novell had a very successful network operating
18 system, and we helped them interface that, get the physical
19 drivers, software drivers that made it work with Windows.

20 Q. Okay.

21 A. So whatever technical information they needed, whatever
22 support they needed, we helped make that happen.

23 Q. So, was -- as a technical evangelist, would the
24 software developer come to you and say, "We need help with
25 some issue. Can you please provide us with help?" Or how

1 would that work?

2 A. It could happen either way. They could come to us,
3 which many people -- many software companies tried to do, and
4 we were a pretty small staff at that time, but primarily we
5 targeted what we thought were the important applications,
6 important software that had to work with Windows.

7 So, as the product team said, for Windows, you know,
8 to be successful, we need these industry players to work with
9 us, and so, you know, primarily we'd go out after them or
10 target them, and then they would, once that relationship was
11 established, clearly they would keep coming back to us for
12 more information. We need this. We need this. We need
13 this.

14 Q. So, when you started as a technical evangelist, were
15 you interacting directly with the independent software
16 vendors?

17 A. I was.

18 Q. Okay. What were the dates of your -- approximate dates
19 that you were a technical evangelist?

20 A. It's a hard question to specifically answer. I spent
21 my first -- most of the first five years at Microsoft in what
22 would be called a developer relations role. So, roughly the
23 first year, I had specific customers, specific ISV's,
24 software vendors, independent software vendors -- you've
25 heard that term, I suppose -- that I had as accounts, if you

1 will, to really work with to get their software delivered.

2 I spent the next four years primarily managing
3 larger and larger groups of people, all working with
4 independent software vendors or developers, as we called
5 them, outside developers.

6 Q. Which specific vendors were --

7 A. Did I personally work with?

8 Q. Yes.

9 A. Boy --

10 Q. To the extent you know.

11 A. Somewhat limited with Novell in their -- purely their
12 network operating systems part, a company called Banyan
13 software, which is out of the Boston area, and then a number
14 of other people that did network-oriented stuff, Ungerman
15 Bass. I don't remember them, but they were companies that
16 basically made this network thing work between Windows
17 machines at that time.

18 Q. So, from approximately 1990, to sometime in, let's say,
19 1991, then, you were --

20 A. Roughly, yeah, somewhere in that time frame, maybe a
21 year, maybe even less that I was on the job, I then began
22 managing multiple evangelists.

23 Q. And what did that job entail?

24 A. As you can imagine, there were people that were working
25 as I was in the network area. There were people working with

1 the database vendors. There were people working with
2 people -- with companies that were writing applications that
3 you'd be more familiar with, like Lotus 123, WordPerfect.
4 Borland had a whole variety of products.

5 Q. Okay. Lotus 123?

6 A. Yeah, Lotus 123, and I said Borland, and I said
7 WordPerfect in there, but there were different classes of
8 applications or software that was needed for Windows. So
9 some of it was low-level networking things. Some of it was
10 server oriented, with database products. Other portions of
11 it were traditional end user applications, like word
12 processing and spread sheets and e-mail clients, all kinds of
13 things.

14 And so we had people -- I had people in each of
15 these areas.

16 Q. Now, this group that you were managing, was that
17 referred to as the developer relations group?

18 A. At that point, it was probably just called the ISV
19 group or something, but it became the developer relations
20 group. It took on that Moniker somewhere in that time
21 frame.

22 Q. Okay. And that was sometimes referred to as the DRG?

23 A. DRG. Yeah, the DRG. Could be.

24 Q. You were the -- was your title at some point director
25 of the DRG?

1 A. Yeah, at some point. I don't remember when.

2 Q. Okay.

3 A. At that point, early on, my boss, Cameron Myhrvold, was
4 maybe also considered, you know, the director of the DRG.
5 Somewhere in there I became that. I don't remember exactly
6 when.

7 Q. Do you recall approximately how many people reported to
8 you when you were a director?

9 Roughly -- and that number changed dramatically. In
10 '92, I would say it was about 10 to 15 people. In '93, it
11 was probably in the range of 80 to a hundred. In '95, '96,
12 it could have been up to about 7-, 800 people.

13 Q. What was the reason for the changes in the number of
14 people in your group?

15 A. The first two years, it was primarily technical
16 evangelists that worked for me, so, in '92, there was maybe
17 eight or ten of us as technical evangelists. And these,
18 again, are just real rough, ball-park numbers. In '93, it
19 was in the range of 75 to a hundred. And then, beyond that,
20 it was other groups that were reporting to me, developer
21 marketing, a product offering and a team called MSDN.

22 And that was a very large team because, as our
23 business grew with the software development community, we
24 targeted five companies, we targeted a hundred companies, and
25 all of a sudden we were working with millions of developers.

1 And so we built tools and product offerings that would scale
2 to those different customer bases.

3 Q. You mentioned MSDN. Could you explain what that is,
4 please?

5 A. Msdn stands for Microsoft Developer Network, and it was
6 a vehicle for delivering the information and content that we
7 delivered one-on-one, hand -- you know, each evangelist
8 delivered to a software company. It was a vehicle to take
9 that information, package it up onto DVD's -- or CD's
10 at that time, and to put it online so that, you know,
11 millions of developers could get access to that same
12 information.

13 So, it was really trying to get the information out
14 as broadly as possible and to enable anybody to build a great
15 Windows application.

16 Q. Could you -- when you talk about the information that
17 you were delivering to developers --

18 A. Uh-huh.

19 Q. -- give some brief summary -- what did that information
20 look like? What kind of information were developers -- were
21 you giving to the developers?

22 A. There is no simple way to categorize the information we
23 were giving to developers. We -- you know, on an individual
24 basis, we would try to give them whatever we could figure out
25 or they could figure out was needed. Sometimes that was

1 software development kits. Sometimes that was documentation.
2 Sometimes that was actually bringing them onto campus in a
3 lab where we could work hand-in-hand. Sometimes that was
4 access to a Windows developer that only knew the answer to
5 that question.

6 You know, again, very broadly, whatever jointly,
7 between them and us, we could determine would help them get a
8 great application built. It was our job to dig that out of
9 Microsoft. If you can imagine, at that time frame, nothing
10 was pre-packaged in these great development kits that we have
11 today. I mean, this was a new emerging market, and people
12 were trying to do things that nobody had thought of, so we
13 had to be real creative in terms of figuring out how to help
14 them get it done.

15 Q. So, was your group actually writing any code itself
16 or --

17 A. Yes, in the sense that we would write sample code to
18 demonstrate for a software company how to do something. We
19 didn't write Windows code. We did not write code for our
20 customers, other than, you know, we might assist them while
21 they were in the lab working on something, but it wasn't our
22 job to write software. That was part of Windows.

23 Q. So, the sample code, would it be correct to say that,
24 if there was a feature, say, in Windows that a developer
25 could take advantage of, you would -- your group would write

1 up some sample implementation of it to say, "Here's how you
2 can -- here's how you can take advantage of this. Here's how
3 you can work with a particular interface," or something.

4 Would that be a correct way --

5 A. Rough.

6 Q. -- to say that?

7 A. I'll try to wait until you're done. Roughly, between
8 what we thought was capable of Windows, what the Windows team
9 suggested as things you could do with Windows, or what we
10 heard our customers, the software vendors, tell us they
11 wanted to do, we would brainstorm ways to do that stuff, and,
12 whenever it made sense, we would write sample code to
13 showcase that capability, if you will. And generally that
14 was when we thought there were maybe tens or hundreds of
15 other developers that would want to do the same thing.

16 And that actually became a core capability, a core
17 feature of the MSDN offering. We would pre-package on these
18 disks or put online lots of sample code. And if you think
19 about the evolution, we'd work with a few leading vendors to
20 test these features and to make sure that they worked and
21 they were exciting to them.

22 And, as we understood it better, we'd package it up
23 in a way that hundreds, thousands and literally millions of
24 developers could take that sample code and modify it to their
25 application, but technically get the right implementation

1 started with our sample code.

2 Q. Where did the DRG fit within Microsoft's corporate
3 structure?

4 A. Well, it moved around a bit. Initially it was under --
5 I'm going to say it was under Steve Ballmer, when he ran the
6 Windows team, and that would be 1990, '91. At some point, it
7 moved under John Lazarus, who was marketing for Windows and
8 worked for Bill. And it was just a -- he was someone that
9 had bandwidth to have it underneath him.

10 And then, over a time, I think there was a period
11 there where I worked for Paul Maritz, who ran all of Windows
12 development in the '93, '94, '95 time frame. And then
13 eventually it ended up under Roger Heinen, who ran the
14 developer tools group, and I'm not sure where it went after
15 '96 or '97. It moved around again.

16 It was a group unlike any others in the company in
17 the sense it wasn't really a product team, but it was in the
18 product area because it was very close to the engineering of
19 Windows, so it could, sort of, sit anywhere from a lot of
20 perspectives, because primarily either Cameron Myhrvold, when
21 he was running it, or when I was running it, were very
22 independent of the product teams.

23 Q. So, when you say it was close to engineering of
24 Windows, what do you mean by that?

25 A. Well, we were taking out the new features of Windows,

1 the programming interfaces of Windows that were going to be
2 exposed to the software development community. Those
3 interfaces were being written by the Windows development
4 teams.

5 Q. Would it be fair to say that one of your
6 responsibilities was to try to get developers excited about
7 writing to the Windows platform?

8 A. Absolutely.

9 Q. And why was that?

10 A. A very simple belief that, if you had the best
11 applications on Windows, that would make Windows successful.
12 Customers did not want to buy an operating system. They
13 wanted to buy a series of applications that provided a lot of
14 value for them, and most of the value of Windows is provided
15 through the applications that it hosts and so the more and
16 the better and the great and the exciting Windows
17 applications generally promoted Windows itself.

18 Q. So, to get developers excited, like you said, about
19 developing for Windows, you needed to communicate information
20 about Microsoft's platform plans; is that correct?

21 A. That is correct. The process -- there were multiple
22 steps in that process. From very early on, we'd share ideas
23 or thinking about what the next version of Windows would
24 provide for them in terms of programming interfaces, to build
25 new applications.

1 They'd give us lots of feedback on that. There
2 would be an iteration where those interfaces might change.
3 Then we would take those out, with a Beta release of Windows
4 to these software developers with tools, software development
5 tools, and let them start working on it, and we'd keep
6 iterating.

7 When they would find things that work, you know,
8 we'd say, "Hey, that's great. We'll keep moving in that
9 area." If they didn't work, we would then take that back to
10 the Windows team and say, "Fix this." or, "Is this right?"
11 or, "Do we understand this?"

12 And it was a very iterative cycle that would take,
13 you know, a lot of times two or three years until the Windows
14 release that supported those interfaces, were made public.

15 Q. You referred to a Beta release. Can you explain what a
16 Beta release is?

17 A. Beta release. It's very -- it's a very amorphous term.
18 Before you release a piece of software, you have multiple
19 builds of it, multiple versions, Beta versions of it, if you
20 will, and they all have different goals and objectives. So,
21 for the software developer community, we would get them
22 something very early of the actual operating system, but they
23 cared more about the programming interfaces, the software
24 development kit that went on top of that, that was going to
25 be hosted on top of that version of Windows. So that might

1 be a developer Beta, if you will.

2 And there would actually be an Alpha or pre-Alpha.
3 There would be lots of versions of software that would come
4 out prior to a customer Beta, or an end-user Beta. So we'd
5 have early Alpha releases or what we just called builds of
6 Windows. A build is something -- is a version of software
7 that is created every day out of development.

8 We take a build. At some point that would be called
9 a Beta. At some point it would be called a customer Beta,
10 you know, marketing Beta, all kinds of terms for various
11 releases, pre-releases of a version of Windows.

12 Q. So, was it important to get this information, then, to
13 developers before the final release of the Windows product?

14 A. Critical. And it happened multiple years before the
15 final release, in most cases.

16 Q. Why was that important?

17 A. When Windows launches, you want to have the
18 applications launch, so we obviously would need to get them
19 the pre-releases of the operating system and the software
20 development kits and the programming interfaces well in
21 advance of the Windows release because it's going to take
22 them 18 months, two years, to potentially create a new
23 release of their existing Windows product that supports all
24 these new capabilities.

25 Q. Was one of your goals to get -- when a new release of

1 Windows would come out, was one of your goals to get
2 developers outside of Microsoft to be taking advantage
3 specifically of new features in Windows?

4 A. That was my job. That was job number 1. That's how I
5 was reviewed by Bill Gates.

6 Q. That was actually -- my next question was just going to
7 be, how did you define success in your group?

8 A. Just as you described, the quality of the new outside
9 software vendors' applications that were available when that
10 version of Windows launched.

11 Q. Did you have any interaction with applications
12 developers within Microsoft, with the DRG?

13 A. Very limited. Our charter was all application vendors
14 except Microsoft, and Microsoft, again, has lots of product
15 teams. They have the Windows operating system, which is
16 really our platform. And then there were lots of
17 applications like Word and Office and PowerPoint and whatnot.
18 It wasn't my job to evangelize the Microsoft applications
19 team.

20 Q. You've mentioned certain I -- certain developers being
21 bigger and more important developers, and I don't want to
22 mischaracterize exactly how you said it, but something along
23 those lines. Do you recall saying --

24 A. Yeah, I did say something like that. Again, maybe a
25 little history is needed here. In the 1990 time frame, the

1 number of Windows independent software vendors, ISV's, or
2 developers, it's probably less than 50. And it was probably
3 in the range of five to ten that were maybe 80 percent of the
4 market share in terms of applications.

5 So those, generically, I called the bigger ones
6 because, in terms of revenue, in terms of customers, in terms
7 of product sales, in the '93, '94, '95 time frame, they were
8 still, you know, very significant.

9 And so they obviously had a very targeted effort
10 from my team to get their applications early, and what I'd
11 call showcase or premier users of the new technology. It was
12 a goal for us to have those early, large, independent
13 software vendors to be the showcase accounts for new
14 technology, new capabilities of Windows.

15 Q. Who were some of those showcase vendors, if you will?

16 A. At that point in, again, the '93, '94 time frame, it
17 was clearly -- Lotus, I think, was number 1 and then probably
18 WordPerfect. Borland had several products. Micrographics
19 had products in the imaging -- image-editing area. There was
20 a whole bunch more. I can't remember them. But those were
21 the three or four biggest of the whole group, and there were
22 probably another seven or eight that were maybe a half or a
23 third or a fourth of the size of any of those.

24 Q. Exhibit Number 7 to your deposition appears to be an
25 email from a Jeff Theil to several recipients, including you,

1 with subject: Forward. WP scraps OS/2 version, November 18,
2 1993. Do you recall receiving this email?

3 A. No, I do not.

4 Q. Do you know who Jeff Theil was?

5 A. I'm not sure. I think he's probably part of the
6 Windows team, but I don't know for sure.

7 Q. Do you recall becoming aware that, at some point,
8 WordPerfect scrapped it's OS/2 version of software?

9 A. Yes.

10 Q. What do you recall about that?

11 A. They stopped doing it. You know, one of my objectives
12 was to keep track of who was doing what, and at this point we
13 wanted ISV's to build for Windows and not OS/2, so we would
14 have kept track of this.

15 Q. Now, Mr. Theil writes, "I think this is a great example
16 of how we Kill OS/2 by sucking up ISV bandwidth. If we do it
17 right, the PDC, can nail -- can be the nail in OS/2's
18 coffin."

19 Did you see, as one of your objectives, getting --
20 by getting ISV'S to focus on Microsoft technologies, that
21 they could not develop or expend developer resources on other
22 products?

23 A. I didn't look at it that way. I mean, clearly, if they
24 were busy doing ours, they couldn't do the Mac, they couldn't
25 do OS/2, they couldn't do Netware, they couldn't do anything

1 else. But I also thought we had the compelling message. We
2 had the compelling platform. We had the compelling consumer
3 demand.

4 So, you know, sure, it's a zero-sum game. We only
5 had so much cycles, but I didn't work that way. We worked to
6 the way of, you know, let's get these guys to write great
7 Windows applications.

8 Q. Mr. Henrich, you have been given what's been marked as
9 Exhibit 8, a several-page long document with the production
10 numbers, MS-PCA 1673786, through MS-PCA 1673792, the -- it
11 appears to be a Microsoft internal memorandum from Brad
12 Struss and yourself to Brad Chase. The subject: Chicago
13 evangelism draft. And a date of January 29, 1994.

14 Do you recall writing this memorandum?

15 A. I do. Probably Brad probably wrote it, but I recall
16 it, Brad Struss.

17 Q. Who is Brad Struss?

18 A. He worked for me at that time. He was responsible for
19 Chicago evangelism.

20 Q. What was -- was this a document that was prepared in
21 the ordinary course of your job duties at Microsoft?

22 A. No. This is special for Brad Chase because Brad's the
23 V.P. of marketing and Brad liked things like this.

24 Q. But you prepared this as part of your job duties?

25 A. Oh, yes. Yes. It was summarizing all the stuff we were

1 doing. Is this my handwriting on here, or is this somebody
2 else's? Do you know?

3 Q. I don't know. I was going to ask you. Do you know
4 whose handwriting this is?

5 A. Some of it looks like mine, and some of it doesn't.

6 Q. Do you know which handwriting --

7 A. Page 5 --

8 Q. -- is yours?

9 A. Or, let's see, 1, 2, 3 -- yeah, page 5 looks like my
10 handwriting all over that page.

11 Q. And page 5, here, appears to be dealing with -- one of
12 the bullets is, "Create marketing incentives to motivate
13 ISV's to support Chicago and sim-ship. Launch exposure top
14 ISV's September." And in all caps, in parentheses,
15 "critical." Off to the left of that, "How do we close?
16 ASAP."

17 Is that, I think, your --

18 A. I think so. I don't know if this is the final document
19 or if this is -- you know, it says draft on here, so if Brad
20 Struss had prepared this and gave it for me to review, I'm
21 not clear on this.

22 It would seem weird to me that I would have all
23 these edits on here -- a few edits at least that are mine
24 before this was actually distributed.

25 Q. Who would this have been distributed to?

1 A. I don't know. Brad Chase. Besides Brad Chase, I'm not
2 sure.

3 Q. Do you recall what the purpose of the memo was?

4 A. To placate his politics. I don't -- I mean, it's the
5 kind of thing that I would never -- I would never normally
6 do, I mean, so this is the guy that's running marketing for
7 Windows, and this could have been -- there were several
8 periods where Brad Chase and Brad Silverberg were trying to
9 acquire my division, my group, and so I may have been fending
10 him off. I'm not sure.

11 Q. You may have been trying to fend off Brad Chase?

12 A. Correct.

13 Q. Why would that have been?

14 A. Very top level, Brad Silverberg and Brad Chase wanted
15 DRG reporting to them, and I vigorously fought that,
16 primarily because I no longer would have the independence to
17 do what software developers needed. Brad Silverberg would
18 have holed me up, put me in a cubical somewhere, and made
19 every message go right through him.

20 Q. And how do you think that would have impacted your
21 ability to to do your job?

22 A. It would have taken away my ability to do my job.

23 Q. Your job, as you saw it, was advocating on behalf of
24 developers?

25 A. I felt like I had two core responsibilities: Number 1

1 is to create third-party Windows applications that supported
2 the new features and capabilities that we were building in
3 Windows, i.e., drive the success of Windows through customers
4 having lots of great Windows-based applications to choose
5 from. Secondly, was a bond or a trust with these ISV's to
6 really represent them, advocate for them within Microsoft.

7 It was a two-way street. We're asking them to do
8 lots of things to help us, and, likewise, I'm trying to make
9 sure that they get the things that they need to be
10 successful.

11 Q. Could you turn to the second page of this memorandum,
12 please. In the second paragraph, it states, "We can achieve
13 DRG's ISV goals by getting a set of quality applications that
14 exploit Chicago features, i.e., LFN's, shell extensibility,
15 OLE2, PnP Event-aware, viewers, etc., and a huge number of
16 compatible 32-bit applications with Win32S, Win32 on Chicago,
17 or Win32 on Windows NT."

18 What are LFN's.

19 A. Long file names.

20 Q. What is that, in lay person's terms?

21 A. We're probably all familiar with 8.3, so the old MS DOS
22 format for file names. It could be eight characters long
23 with a period and then a three-letter extension. Okay?

24 Windows 95 must have been the first version of
25 Windows that allowed you to have a very friendly file name.

1 It could be, you know, my favorite word, my favored document
2 dot something else, so it was something longer than eight
3 characters per line.

4 Q. And OLE2, what is that?

5 A. The second version of the OLE programming interfaces.

6 Q. The OLE that we talked about earlier?

7 A. Correct.

8 Q. What is a PnP Event-aware?

9 A. Plug-n-Play Event-aware, stick a new device -- you plug
10 something into your computer and all of a sudden it
11 recognizes that there is a new device there. So the event is
12 new device. New device is plugged in. It tells the
13 operating system, "I'm here." And the operating system says,
14 "Oh, I recognize you. Tell me more about who you are."
15 Plug-n-Play.

16 Q. Is this something that was new to Windows 95 or new to
17 Chicago?

18 A. Correct. And this -- also, you know, I believe this is
19 Brad Struss' list, not my list.

20 Q. Okay. And shell extensibility, what would that be
21 referring to?

22 A. I think that's what we referred to earlier, I assume.

23 Q. So, when you say this is Brad Struss' list, these
24 aren't necessarily the features that you saw as the most
25 important or compelling features of Windows 95?

1 A. To the best of my recollection, I would say OLE2 and a
2 32-bit interface were my number 1 and 2 priorities. Lots of
3 other things were available, and for some vendors they were
4 interesting, some they weren't. And, again, I'd reiterate,
5 with Windows 95, we didn't provide a lot of new capabilities
6 in the programming interfaces, so we were stretched to create
7 interesting things.

8 Q. Was one of those interesting things shell
9 extensibility?

10 A. Not in my mind. OLE2 was.

11 Q. Do you know if people in the DRG were talking to
12 developers about shell extensibility capabilities of Windows
13 95?

14 A. I'm sure they were. I'm sure -- I mean, I have no
15 reason to doubt that those were the things that were
16 discussion points for every ISV.

17 Q. Could you turn to the next page, please. And there is
18 a heading or a subheading saying Measuring Success. And then
19 it lists five different -- five points, I guess, beginning 25
20 key applications shipping with Chicago, and ending with 1,000
21 applications shipping within six months.

22 We talked earlier -- at one point I had asked you
23 about whether -- what your criteria was for defining success
24 in your group. Is this a way or is this a set of criteria
25 that you had developed for trying to measure success?

1 A. Could be. I would -- from this document, I'd say it
2 was probably more what Brad Chase wanted to have as his
3 success criteria.

4 Q. Why do you say that?

5 A. We're writing to Brad, and we're keeping Brad, the
6 vice-president of marketing, happy. But, again, those are
7 the right kind of metrics.

8 Q. Exhibit 10 is a document with production -- memo with
9 production numbers MS 7045839 through MS 7045842, and dated
10 April 7, 1994, to WWSMN attendees from Doug Henrich, Re: DRG
11 business plan.

12 Now, this memo -- have you had a chance to --

13 A. I recognize it, yeah.

14 Q. Okay.

15 A. I mean, it's a slight modification of the previous
16 one.

17 Q. Do you recall something called a First Wave Program
18 with respect to Chicago developers?

19 A. I do.

20 Q. What was the First Wave Program?

21 A. Very broadly, targetting the top or key independent
22 software vendors to have great Windows 95 or Win32
23 applications available for Windows 95 shipping.

24 Q. Exhibit 11 is a three-page document, appears to be an
25 email string, with production numbers MS-PCA 2405196 through

1 true MS-PCA 2405198.

2 A. Okay.

3 Q. This appears to be an email string on which you are
4 copied or the recipient -- or copied in a couple of
5 instances, recipient in a couple of instances, and the top of
6 the first page, you appear to be forwarding an email. The
7 subject line is WordPerfect.

8 Do you recall this conversation?

9 A. I don't recall this email. I recall the topic.

10 Q. Can you describe what is going on.

11 A. WordPerfect was bought by Novell. Novell was
12 considered a competitor by the Windows 95 team, and we were
13 working very closely with WordPerfect from the DRG group, and
14 the Chicago folks wanted to cut them off to early builds of
15 Windows 95 because they saw them now as a competitor, being
16 part of Novell.

17 Q. And you appear to be copied on this e-mail, subject:
18 Forward. WordPerfect, from April 12, 1994 -- 19 -- excuse
19 me, 1995 -- strike that -- 1994.

20 And the text of the message says, "The meeting with
21 WordPerfect regarding FirstWave should happen this week. One
22 of the key FirstWave benefits is access to interim builds.
23 As it stands now, we will not be able to offer this to
24 WordPerfect. This will be problematic first and foremost
25 because it will hamper their ability to develop --" excuse

1 me -- "to deliver a Chicago product shortly after Chicago
2 ships, and we need to be able to justify why Borland and
3 Lotus had access to interim builds as part of FirstWave but
4 WordPerfect could not. I think this would probably be
5 worthwhile discussing at your war meeting today."

6 Do you know what Mr. Struss is referring to here by
7 a "war meeting"?

8 A. Sure. That's every Monday morning or Monday afternoon,
9 or Tuesday morning, it's sometime a week where they just
10 review all the thorny issues in the development problems they
11 are having with Windows 95. So they triage bugs, whatever
12 things they have to get done. They just call it a war
13 meeting.

14 Q. Who would -- who would be attending these war meetings?

15 A. David Cole, John Ludwig, Dennis Adler, the key program
16 managers for Windows 95, development managers and program
17 managers. It's their meeting.

18 Q. Okay. And does this refresh your recollection as to
19 whether or not WordPerfect was a FirstWave member?

20 A. Based on this -- I mean, I'm 99 percent sure they were,
21 but based on Brad's comment here, he says they are.

22 THE COURT: Is that it?

23 MR. JOHNSON: That's it, Your Honor.

24 THE COURT: Do we time -- what's next?

25 MR. JOHNSON: We've actually got a 12-minute one, if

1 we can get it up. It will be just about right.

2 THE COURT: Just about perfect. Twelve minutes.

3 MR. JOHNSON: This is portions of the deposition of
4 Microsoft executive Steven Sinofsky. This one was taken on
5 December 18, 2008, and it's about 12 minutes long.

6

7 THE VIDEO DEPOSITION OF STEVEN SINOFSKY WAS PLAYED AS
8 FOLLOWS:

9 Q. And could you state your name for the record, please.

10 A. My name is Steven Sinofsky. S-i-n-o-f-s-k-y.

11 Q. Okay. And can you just tell me what your jobs were in
12 1998?

13 A. I was in the Office team. I changed jobs four
14 different times throughout Office, so I just don't remember
15 what my titles were at specific times. I'm sorry. It's just
16 been a long time ago.

17 Q. In any event, you were an executive within the Office
18 group, depending on what level it was?

19 A. Well, I was an executive. One date I do know for sure
20 is in December of 1998, I was promoted to vice-president, so
21 that was when I became the executive of the Office team.

22 Q. Okay. And you had that vice-president job through at
23 least 2001; is that right?

24 A. Correct.

25 Q. First some definitions. What was Ren?

1 A. Ren was an internal name used to refer to a project
2 that was under development in the email group. Today we
3 would call it Outlook. At the time, Ren was the code -- the
4 internal code word for that project, but I wouldn't say it
5 was Outlook at the time. So, it underwent a significant
6 metamorphosis over its course of its development, which I
7 think was four or five years.

8 Q. Nineteen and 20 are on the right-hand side. You gave a
9 quick description of what your job duties were. Maybe that
10 will help you put things in context, and maybe it won't.

11 A. Right. That's what I thought. That's why I got
12 confused because I did move -- in the summer of '94, I moved,
13 so I wasn't in the Office team, as you said.

14 Q. Okay.

15 A. That's why -- that's why I got confused. You stated
16 emphatically I was in the Office team in '94, and I agreed.

17 Q. No. I'm sorry. I apologize for that.

18 A. No. So, no, I was still working for Bill as his
19 technical assistant to the chairman in '94, and so that's why
20 this now makes sense to me.

21 Q. Fair enough. So, for the -- your responses earlier,
22 when you weren't sure what your job was, and I said I thought
23 up were a member of the Office team, you weren't. You were a
24 technical advisor?

25 A. Technical assistant, yes, and although vaguely unsure

1 of what my job was, and the timing, I think I'd know better
2 than you.

3 Q. Okay. Let's go with Exhibit 18. It's FL AG 0047255
4 through 323. And just take a second and tell me if you
5 recall this document.

6 A. It's a very long document, and, no, I don't rerecall it
7 at all that well.

8 Q. The front page says, "Contact Stevesi." Was that an
9 alias that you used?

10 A. Yeah. I still do.

11 Q. And then there's a list of authors. All appears to,
12 again, be by aliases; is that right?

13 A. Correct.

14 Q. And did you write this document?

15 A. No.

16 Q. Did you oversee the writing of this document?

17 A. I think you could say I was -- I aggregated it.

18 Q. Okay. I wouldn't have thought to say it that way, but
19 thank you. I do have a few questions about it. On the
20 second page, one, two, three, four, five, fifth paragraph,
21 last sentence:

22 "We will integrate this into Ren further in Office
23 '96. Progressing through Office '98, we will make document
24 management more full-featured and leverage the key operating
25 system storage technologies."

1 Do you see that?

2 A. Yes.

3 Q. And do you recall an effort to make document more
4 full-featured in the office productivity suite?

5 A. Well, I didn't have responsibility for it, but we had a
6 separate group to do document management, so presumably it
7 would become more full-featured each iteration of the product
8 cycle.

9 Q. And what does that mean, "document management"?

10 A. Well, the industry term for document management is --
11 means the capabilities for storing and retrieving files, much
12 like you use at a law firm to find documents, and that's the
13 industry term. And so we had a group that did features along
14 those lines that we referred to, apparently, as the document
15 management group.

16 Q. Okay. And do you recall what the reference to the "key
17 operating system storage technologies" refers to?

18 A. I don't. It doesn't seem to refer to anything
19 specifically, so my guess is, it refers to the evolution of
20 the operating system.

21 Q. Okay. Second paragraph after Communicating Between
22 Users and Workgroups. It says, "Leveraging the significant
23 messaging infrastructures is a key component of our workgroup
24 strategy."

25 A. Yes.

1 Q. What was the workgroup strategy, as you recall it?

2 A. I think workgroup strategy means not a specific
3 strategy, but the -- how does -- how do applications work
4 when you can assume -- remember our discussion earlier that
5 computers didn't have networks and things like that, so what
6 would happen if, instead of giving copies of files to people
7 over with floppy disks, how would the use of, you know, Excel
8 and PowerPoint change if you had them all connected by a
9 network.

10 And so we often referred to that as the workgroup
11 strategy because, back then, networks only connected to the
12 people that were close by.

13 Q. Okay. And what was the significant messaging
14 infrastructures?

15 A. Well, email was just becoming a thing that people had,
16 and so we referred to customers that had email as having
17 messaging infrastructure.

18 Q. Okay.

19 A. And so something as simple today that we don't think
20 twice about, like mailing an attachment, was a huge
21 invention, and so how you did that, how you should surface it
22 and things were big deals to customers.

23 Q. Was the exchange product, was that also part of the
24 work group strategy?

25 A. No, I would call exchange part of the messaging

1 infrastructure.

2 Q. If you could turn to what's page 48, there is a section
3 headed Document Management (Stevebr). Do you see that?

4 A. Yes.

5 Q. Who is Steve BR?

6 A. Steve Brandli, B-r-a-n-d-l-i, was the person on the
7 PowerPoint slide earlier.

8 Q. So he was the person responsible for the document
9 management group at the time?

10 A. Yes.

11 Q. I might as well ask. The second paragraph says, "With
12 the WordPerfect/SoftSolutions merger, we can expect document
13 management to be integrated into the Perfect Suite line more
14 so than it already is. Lotus is in a position to exploit
15 Notes as its document management store and has already taken
16 steps to do so. Microsoft is behind in this category, only
17 now responding to WordPerfect's Quick Finder technology."

18 And it goes on. Do you have any recollection of
19 discussions about Microsoft being behind in the document
20 management category and responding to WordPerfect's Quick
21 Finder technology?

22 A. I don't recall any specific discussions, but you can
23 just read -- what you just read makes it perfectly clear what
24 the status was at the time.

25 Q. Okay. And you don't have any recollection of any

1 discussions, other than what you are reading; is that right?

2 A. I don't have any specific discussions in mind, no.

3 Q. Okay. And if you go to page 57, under the heading

4 Novell WordPerfect, it says, "The current suite of

5 applications in PerfectOffice are world class, and there is

6 reason for us to follow the progress of this suite very

7 carefully, especially given the strength of Novell's

8 networking and sales force."

9 Do you see that?

10 A. Yes.

11 Q. Do you recall any discussions about the suite of --

12 strike that. Do you know what PerfectOffice was?

13 A. PerfectOffice was the current suite of applications

14 from Novell WordPerfect.

15 Q. Okay. And do you recall any discussions about the

16 quality of PerfectOffice in that time period?

17 A. Well, we obviously would have had many conversations

18 about the feature set, the quality and the suite. It was a

19 competitor.

20 Q. Okay. And is it your recollection that, at the time

21 in -- whenever this document was written?

22 A. March.

23 Q. -- March of '95, that the view within Microsoft was

24 that the suite of applications in PerfectOffice was world

25 class?

1 A. Well, the document certainly says that.

2 Q. Do you have any recollection beyond what the document
3 says?

4 A. No.

5 Q. Do you have any recollection -- did you have any
6 responsibility for following the progress of the
7 PerfectOffice suite?

8 A. Well, yes, I did, and, at the time, my responsibility
9 would have been to track the features of PerfectOffice that
10 were the same across all the applications.

11 Q. Okay. The shared code?

12 A. Well, it didn't have to be shared code. The features
13 could have been the same without sharing code.

14 Q. You're right. And what features were those, as you
15 recall?

16 A. I actually don't remember any -- any specific features.
17 I just don't.

18 Q. Okay. It did or did not include the file open
19 dialog?

20 A. Well, it -- my responsibility didn't -- the file open
21 dialog we had carved out as the special group, and so they --
22 I didn't manage them. They were sort of a peer -- a peer
23 group during this time frame.

24 Q. Okay. So that's an exception to your responsibility
25 for viewing whatever was consistent across the PerfectOffice

1 suite; is that right?

2 A. Correct, which is why, when you look at this memo, you
3 see that one of the key authors would have been Steve
4 Brandli, so each of the key authors would have represented
5 people contributing to their part of the responsibility and
6 expertise to the overall framework. And, like I said, that's
7 why I used the phrase "aggregate," like I brought it
8 together. I didn't edit it. I didn't take responsibility
9 for the whole document.

10 Q. Okay. Who was responsible for the marketing decisions
11 for Office 95 and the release of Office 95 for Windows 95?

12 A. We had a series of leadership changes during the course
13 of development, so there were different decisions made at
14 different times. You know, the -- it was -- at one point, it
15 was Hank Vigil, who we described earlier, and then I don't
16 recall who took over. I don't recall the successions there
17 because there were several people, several leadership changes
18 that happened, and the organization also changed over time
19 within Office marketing, and since I didn't have
20 responsibility, it was hard to track.

21 Q. Okay. Do you recall who was responsible for making the
22 decision to ship Office 95 simultaneously with Windows 95?

23 A. I -- I don't -- I think that -- no. I don't recall who
24 made that decision. It was always the plan, from my
25 perspective. Certainly, from the time that I joined the

1 Office team, that was the plan.

2 Q. Okay. Were you involved that decision at all?

3 A. No, not that.

4 THE COURT: All right.

5 MR. JOHNSON: Very good, Your Honor.

6 THE COURT: Very good. See everybody at 8:00
7 o'clock in the morning. Have a nice afternoon, nice evening,
8 and I'll stay her with counsel. There may be one issue I
9 have to address.

10 I think we're pretty much on schedule.

11 (Jury leaves the courtroom.)

12 Please be seated. And what do we have tomorrow?

13 MR. JOHNSON: Your Honor, we'll be bringing
14 Mr. Alepin in. I understand that Mr. Schmidlein -- has he
15 left?

16 THE COURT: He's gone.

17 MR. JOHNSON: And Mr. Holley have spoken, and I
18 don't think we have any issues to discuss prior to that,
19 based on that conversation. Is that right, Steve?

20 MR. HOLLEY: I think that's fair, Your Honor. I
21 have spoken to Mr. Schmidlein, and my understanding is that
22 Mr. Alepin is not going to talk about the printing
23 allegations as well as the licensing allegations. He's not
24 going to talk about things like Kerberos tickets and various
25 other --

1 THE COURT REPORTER: Things like what?

2 MR. HOLLEY: Kerberos, K-e-r-b-e-r-o-s, is the dog
3 that guards the gates of Hell. But the -- we're not going to
4 talk about all those things, and we agreed that if he
5 ventured off into other areas that I thought were outside the
6 scope, I could object at the time.

7 THE COURT: Sure. I just -- I really think that's
8 helpful. And then tell Mr. Schmidlein. I'm sure he could
9 go figure it out anyway. The only general guidelines that I
10 would have, unless it's inconsistent with what you all have
11 agreed upon, would be I don't want Mr. Alepin to say what he
12 thinks Mr. Gates was thinking.

13 On the other hand, as both sides have done and I
14 commend you for it, for not objecting, I think it's helpful
15 for the jury to know the context in which testimony is being
16 given. So both of you, from-time-to-time, have shown memos.
17 Mr. Tulchin has shown memos from Microsoft, you know, to
18 Novell witnesses, and vice versa. You can assess,
19 Mr. Johnson, which assesses the context of the testimony, so
20 I don't think that the experts should be opining about what's
21 in somebody else's mind. I don't think that they should be
22 the equivalent of a summation witness essentially making
23 closing arguments, as you guys are good.

24 On the other hand, I certainly -- and I'm sure it's
25 consistent with the other guideline, and I certainly think

1 it's fair, as you all have done so far, to put something up
2 so the jury can say, "Oh, this is what the testimony is about
3 and why it's being testified to."

4 That's really the only guidelines, and I'm sure
5 that's consistent with what you have talked to
6 Mr. Schmidtlein about.

7 MR. TULCHIN: That's correct, Your Honor, and I
8 guess the only other point that I would make is that, as I
9 understand it now, we have heard the last of Novell's live
10 fact witnesses. And there may be other tapes coming in which
11 would have facts in it, and we also have facts in findings of
12 fact, but I'm hoping that we are not going to have experts
13 try to augment a factual record by telling the jury facts
14 that they haven't otherwise heard. That does not seem
15 appropriate to us, Your Honor.

16 THE COURT: That would be problematic.

17 MR. JOHNSON: Well, Your Honor, obviously there are
18 facts that we have yet to get in.

19 THE COURT: I know, but by the time the experts
20 testify --

21 MR. JOHNSON: Mr. Taskier --

22 THE COURT: -- we still --

23 MR. JOHNSON: Mr. Taskier --

24 THE COURT REPORTER: Excuse me. One at a time,
25 please.

1 MR. JOHNSON: I'm sorry. Mr. Taskier says findings
2 agreed. We have waived other things, so, certainly, with
3 respect to the expert testimony, there will be other things
4 we are talking about, and with respect to your prior comment,
5 yes, we understand that. And we understand the purpose of
6 showing something in context, and we understand that the
7 experts are not to gaze into the mind of Mr. Gates and try to
8 suggest what lurks, there.

9 THE COURT: You can.

10 MR. JOHNSON: Thank you, Your Honor.

11 MR. HOLLEY: Thank you, Your Honor.

12 THE COURT: All right. Anything else? You're
13 making it awful easy for me. Okay.

14 MR. JOHNSON: We're trying, Your Honor.

15 THE COURT: I don't blame you. Okay. I guess
16 that's it.

17 MR. TULCHIN: Thank you, Your Honor.

18 MR. JOHNSON: Thank you, Your Honor.

19 THE COURT: One other thing. It's not a big deal.
20 I mean, I think it's not a big deal at all. An exhibit came
21 in that wasn't objected to. I just want to make sure that I
22 have not given a contrary rule. It's a minor thing. I think
23 it was a list of people who were discharged or something from
24 WordPerfect, which I thought I said could come in for
25 identification but it wasn't going to come into evidence. I

1 think it actually came into evidence. It's the only thing
2 that's happened that I didn't really expect. It's not a big
3 deal at all.

4 MR. JOHNSON: Well, in fact, Your Honor --

5 MR. TULCHIN: It's a different document.

6 MR. JOHNSON: It is the same document. It has the
7 list of all the employees. Now that I think of it, David,
8 you're right. That document that came in was all right, Your
9 Honor.

10 THE COURT: All right. Fine.

11 MR. JOHNSON: There was another one that had to deal
12 with docking people's pay.

13 THE COURT: That one didn't come in.

14 MR. JOHNSON: That's right.

15 MR. TULCHIN: Correct, Your Honor.

16 THE COURT: Thank you.

17 MR. TULCHIN: Thank you, Judge.

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25 (Whereupon the proceedings were concluded for the day.)