UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, PLAINTIFF, V. MICROSOFT CORPORATION, DEFENDANT.	C.A. NO. 98-1232
STATE OF NEW YORK, ET AL., PLAINTIFFS, V. MICROSOFT CORPORATION, DEFENDANT.	C.A. NO. 98-1223
MICROSOFT CORPORATION, COUNTERCLAIM-PLAINTIFF, V. DENNIS C. VACCO, ET AL., COUNTERCLAIM-DEFENDANTS.	JANUARY 13, 1999 WASHINGTON, D.C.

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TRANSCRIBED DEPOSITION EXCERPTS

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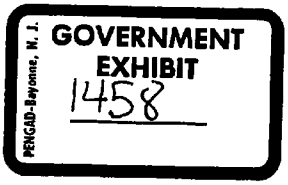

1 (DEPOSITION EXCERPTS OF TIMOTHY SCHAAFF.)

2 Q. SO, ONE OF THE PURPOSES, OR ONE OF THE

3 THINGS DISCUSSED AT THE MEETING, WAS SOME

4 EXCHANGE BETWEEN MICROSOFT AND APPLE OF THEIR

5 RESPECTIVE COMPRESSION TECHNOLOGIES SO THAT EACH

6 COULD UTILIZE THE OTHER'S?

7 A. YES.

8 Q. WHAT ELSE WAS DISCUSSED AT THIS

9 MEETING?

10 A. SO, THE TOPIC OF THE--THE SECOND TOPIC

11 THAT WE DISCUSSED WAS A MATTER ABOUT MICROSOFT'S

12 FEELINGS AND PERSPECTIVE ON THE WORK WE WERE

13 DOING TO BRING QUICKTIME TO THE WINDOWS PLATFORM.

14 Q. WHO ADDRESSED THAT ISSUE ON BEHALF OF

15 MICROSOFT?

16 A. I DON'T RECALL IF--I DON'T RECALL IF IT

17 WAS BROUGHT UP BY ERIC ENGSTROM OR CHRIS

18 PHILLIPS, BUT THEY BOTH WERE SPEAKING TO THE

19 POINT.

20 Q. AND WHAT DID THEY EXPRESS TO YOU ON

21 THAT POINT?

22 A. BASICALLY, IT WAS A DISCUSSION THAT

23 SAID MICROSOFT IS NOT INCLINED TO WANT TO SUPPORT

24 THE DEVELOPMENT THAT WE ARE DOING ON THE WINDOWS

25 PLATFORM AROUND QUICKTIME, AND THAT THE WORK WE

1 WERE DOING TO BE ABLE TO CREATE, EXTEND OR
2 BROADEN THE DISTRIBUTION OF QUICKTIME AS A
3 PLAYBACK SOLUTION FOR MULTIMEDIA CONTENT WAS
4 SOMETHING THAT WAS IN DIRECT CONFLICT WITH THEIR
5 CURRENT STRATEGY.
6 AND THE IDEA WAS THAT APPLE SHOULD
7 CONSIDER SCALING BACK ITS EFFORTS IN THOSE AREAS
8 AND THAT IN RETURN FOR THAT KIND OF A SCALED-BACK
9 EFFORT ON THE PLAYBACK SIDE, THAT MICROSOFT WOULD
10 CONSIDER TAKING A MORE AGGRESSIVE SUPPORTIVE
11 STANCE AROUND QUICKTIME BEING UTILIZED AS A
12 CONTENT CREATION ARCHITECTURE.
13 SO, I HAVE TO EXPLAIN ONE DISTINCTION
14 HERE, AND THAT IS, QUICKTIME IS BOTH A CONTENT
15 CREATION AND AN OFFERING (SIC) SOFTWARE
16 ARCHITECTURE, AS WELL AS A PLAYBACK SYSTEM.
17 THE MICROSOFT SOFTWARE, AT THE TIME,
18 WAS BASICALLY ONLY A PLAYBACK ENVIRONMENT, SO THE
19 CHALLENGE FOR MICROSOFT IS TO HAVE SOME GOOD
20 AUTHORING CAPABILITIES ON THEIR WINDOWS OPERATING
21 SYSTEM.
22 Q. YOU REFERRED TO THEM EXPRESSING A
23 DESIRE TO SCALE BACK YOUR EFFORTS.
24 WHAT DID THEY SAY ABOUT SCALING BACK,
25 WHAT EFFORTS?

1 A. WELL, BASICALLY--I MEAN, TO THE BEST OF
2 MY RECOLLECTION, THE CONVERSATION WAS SORT OF,
3 "YOU GUYS REALLY SHOULD RECONSIDER YOUR EFFORTS
4 TO ESTABLISH QUICKTIME AS A STANDARD FOR
5 PLAYBACK, BECAUSE WE ARE INVESTING A LOT OF MONEY
6 IN THIS TECHNOLOGY AREA, AND WE ARE DETERMINED TO
7 CONTROL THE USER INTERFACE AND THE TECHNOLOGY
8 THAT THE USER WILL UTILIZE FOR MULTIMEDIA
9 PLAYBACK; AND WE ARE A VERY STRONG COMPETITOR,
10 AND WE USUALLY WIN IN THESE MATTERS, SO YOU MIGHT
11 WANT TO GIVE UP NOW IN THAT SPACE WHILE THERE IS
12 STILL A BASIS FOR YOU TO BE SUCCESSFUL IN SOME
13 OTHER AREAS RATHER SPENDING YOUR TIME AND HAVE TO
14 COMPETE WITH US."
15 Q. THIS WAS PLAYBACK ON THE WINDOWS
16 PLATFORM?
17 A. YES, PLAYBACK ON THE WINDOWS PLATFORM.
18 (EXCERPT.)
19 Q. NOW, YOU TESTIFIED THAT THEY SAID THEY
20 HAD TO CONTROL THE USER INTERFACE.
21 DID THEY SAY ANYTHING ABOUT WHAT THEIR
22 STRATEGY WAS WITH REGARD TO CONTROLLING API'S ON
23 THE WINDOWS PLATFORM?
24 MR. EDELMAN: OBJECT TO THE FORM.
25 THE WITNESS: WELL, MY RECOLLECTION--MY

1 RECOLLECTION WAS THAT THERE WERE TWO BASIC
2 STATEMENTS THAT WERE MADE. ONE STATEMENT WAS
3 THAT MICROSOFT WANTED TO HAVE CONTROL OVER THE
4 USER INTERFACE THAT THE END USER EXPERIENCED, AND
5 THAT MICROSOFT WAS DETERMINED THAT THE ESSENTIAL
6 API'S THAT WERE THE FOUNDATION OF THE OPERATING
7 SYSTEM SHALL ALL COME FROM MICROSOFT AND NOT COME
8 FROM A THIRD PARTY.
9 AND SO, TO THE EXTENT THAT THE NATURE
10 OF THE MULTIMEDIA IN THE OPERATING SYSTEM HAS
11 BEEN EVOLVING OVER RECENT YEARS, MY UNDERSTANDING
12 WAS THAT THEY WERE REFERRING--THAT QUICKTIME, THE
13 KIND OF FUNCTIONALITY THAT QUICKTIME PROVIDED,
14 WAS NOW BEING CONSIDERED AN ESSENTIAL PART OF THE
15 OPERATING SYSTEM; AND, THEREFORE, SOMETHING THAT
16 MIGHT HAVE BEEN FINE FOR US TO BE INNOVATING ON
17 IN 1992 WAS NO LONGER GOOD FOR US TO BE DOING,
18 FROM THEIR PERSPECTIVE.
19 BY MR. COVE:
20 Q. BECAUSE...
21 A. BECAUSE IT HAD BECOME MORE IMPORTANT.
22 Q. AND BECAUSE IT DELUDED (SIC) THEIR
23 CONTROL--
24 A. YES.
25 Q. --OF THE API SET?

1 A. YES.
2 (EXCERPT.)
3 Q. DID YOU MEET WITH MR. ENGSTROM ON THAT
4 OCCASION SEPARATELY FROM THE PUBLIC MEETING?
5 A. YES. SO, I PARTICIPATED IN THE PUBLIC
6 PRESENTATION--I WAS IN THE AUDIENCE AT THE PUBLIC
7 PRESENTATION.
8 AND THEN DURING LUNCH, I SAT DOWN WITH
9 ERIC ENGSTROM AND DISCUSSED SOME ISSUES WITH HIM.
10 Q. WAS ANYBODY ELSE PRESENT?
11 A. NO.
12 Q. DID HE RAISE THE ISSUE OF APPLE
13 PROMOTING QUICKTIME ON THE WINDOWS PLATFORM?
14 A. YES. AS IN THE PREVIOUS MEETINGS, HE
15 REITERATED MICROSOFT'S INTENTION THAT THEY WERE
16 GOING TO CONTROL THE API'S FROM MULTIMEDIA
17 PLAYBACK ON THEIR PLATFORM AND THAT THE
18 OPPORTUNITY THAT HE SAW FOR APPLE WAS FOR
19 QUICKTIME EFFORT TO FOCUS ON THE CONTENT
20 AUTHORING, CONTENT CREATION AREA OF THEIR
21 PLATFORM.
22 Q. DID HE SAY ANYTHING ABOUT MICROSOFT'S
23 POTENTIAL ACTIONS ON THE AUTHORING SIDE OF THE
24 EQUATION?
25 MR. EDELMAN: OBJECT TO THE FORM.

1 THE WITNESS: SO HE INDICATED THAT
2 MICROSOFT--HE INDICATED HIS PERSONAL PREFERENCE
3 THAT HE DID NOT WISH TO HAVE TO CREATE AN
4 AUTHORING ARCHITECTURE FOR WINDOWS AT MICROSOFT.
5 HE INDICATED THAT THEY HAD ATTEMPTED TO
6 DO THIS ON OTHER OCCASIONS AND HAD NOT HAD GREAT
7 SUCCESS DOING SO. BUT THAT HIS INTENT WAS THAT
8 THEY HAD--HE WAS RESPONSIBLE FOR INSURING THAT
9 THEY HAD AN AUTHORING STORY FOR THE WINDOWS
10 PLATFORM AND THAT, IF IT WAS NECESSARY FOR HIM TO
11 BUILD ONE HIMSELF, WITH HIS TEAM, THAT HE WOULD
12 HAVE THE SUPPORT OF HIS MANAGEMENT TO GO DO SO.
13 AND I TOOK--
14 Q. DID HE GIVE YOU AN INDICATION OF WHAT
15 KIND OF RESOURCES HE WAS WILLING TO DEVOTE TO
16 THAT PROJECT?
17 A. WELL, I WOULD SAY THAT THROUGHOUT OUR
18 MEETINGS WITH MICROSOFT--AND WE WILL--THROUGHOUT
19 ALL OF THE MEETINGS WITH ERIC AND CHRIS PHILLIPS,
20 THERE WAS A CONSISTENT THEME OF, "WE HAVE A
21 CAPACITY TO THROW A LOT OF PEOPLE AT THESE
22 PROBLEMS IF WE WANT TO," AND THAT THEIR INTENTION
23 IS TO ACHIEVE A CERTAIN GOAL, CONTROL THE
24 PLAYBACK API'S, ENSURE THAT THERE IS AN OFFERING
25 (SIC) STORY ON MICROSOFT WINDOWS PLATFORM FOR

1 MULTIMEDIA; AND THAT, IF NECESSARY, HE WOULD
2 CREATE NEW TYPES TO BE ABLE TO PURSUE THOSE
3 THINGS.
4 MY RECOLLECTION WAS THAT HE REFERRED TO
5 A WILLINGNESS TO CREATE A TEAM OF A HUNDRED OR A
6 HUNDRED AND 50 ENGINEERS TO WORK ON THE AUTHORING
7 SIDE, IF THAT WAS WHAT HE DEEMED TO BE NECESSARY
8 TO ENSURE THERE WOULD BE A SOLUTION FOR WINDOWS.
9 Q. YOU SAID YOUR RECOLLECTION WAS, IS
10 THAT--
11 A. MY RECOLLECTION IS--
12 Q. OKAY. DID HE REFER TO MR. GATES,
13 ANYTHING--MR. GATES'S THOUGHTS ON THIS ISSUE, IF
14 ANY?
15 MR. EDELMAN: OBJECTION. LACK OF
16 FOUNDATION.
17 THE WITNESS: AS I STATED BEFORE, HE
18 HAS EXPRESSED--HE HAD EXPRESSED TO ME AN
19 UNDERSTANDING THAT BILL GATES WAS NOT INTERESTED
20 IN CREATING MULTIMEDIA AUTHORING SOFTWARE AS A
21 CORE PART OF THEIR BUSINESS, BECAUSE HE DID NOT
22 BELIEVE THAT THIS WAS A VERY SIGNIFICANT BUSINESS
23 OPPORTUNITY.
24 HOWEVER, IF CONTROLLING THE AUTHORING
25 WAS A NECESSARY ELEMENT OF ULTIMATELY OWNING THE

1 PLAYBACK STORY, THAT THAT WOULD MAKE IT AN
2 ACCEPTABLE STRATEGIC MOVE, EVEN IF IT DIDN'T MAKE
3 SENSE FROM A BUSINESS STANDPOINT.
4 Q. DO YOU REMEMBER WHETHER HE EXPRESSED
5 THIS IDEA AT THIS MEETING OR AT SOME OTHER TIME?
6 A. MY RECOLLECTION IS THAT THIS WAS A
7 THEME THAT HAD BEEN DISCUSSED ON SEVERAL
8 OCCASIONS. I BELIEVE IT WAS DISCUSSED AT THIS
9 MEETING AS WELL AS AT PRIOR MEETINGS.
10 Q. HOW DID YOU FEEL WHEN MR. ENGSTROM
11 SUGGESTED THAT HE COULD STAFF A HUNDRED TO 150
12 ENGINEERS ON THE AUTHORING PROJECT?
13 A. WELL, THE QUICKTIME--MY QUICKTIME TEAM
14 IS ABOUT A HUNDRED ENGINEERS, SO THE IMPLICATION
15 I TOOK AWAY FROM THAT WAS THAT HE HAD AN ABILITY
16 TO FLIP A SWITCH, IF YOU WILL, AND DOUBLE THE
17 SIZE OF HIS TEAM OR SUBSTANTIALLY INCREASE THE
18 SIZE OF HIS TEAM TO COMPETE AGAINST ME.
19 AND SO I TOOK THESE STATEMENTS AS A
20 THREAT IF I DIDN'T--IF I DIDN'T DO WHAT I WAS
21 BEING ASKED TO DO ON THE PLAYBACK SIDE OF THINGS;
22 NAMELY, BACK OFF, THAT HE WOULD NOT ONLY COMPETE
23 WITH US ON PLAYBACK, HE WOULD ALSO COMPETE WITH
24 US ON THE AUTHORING SIDE.
25 Q. DID YOU PROVIDE--DID YOU RESPOND TO HIM

1 ON THIS ISSUE?

2 A. NO.

3 LET ME CLARIFY. I STATED AT THAT

4 MEETING, AS WELL AS AT ALL OF THESE MEETINGS,

5 THAT I WOULD TAKE HIS FEEDBACK BACK AND DISCUSS

6 IT WITH MY PEERS AND MANAGERS TO SORT OF TRY TO

7 COME TO A DECISION ABOUT WHAT THE RIGHT THING FOR

8 APPLE WAS TO DO IN LIGHT OF THE INFORMATION HE

9 HAD SHARED WITH US.

10 (EXCERPT.)

11 Q. DID YOU EVER HAVE A--DID YOU HAVE A

12 MEETING WITH CHRIS PHILLIPS IN OCTOBER--

13 A. OH--

14 Q. --OF LAST YEAR?

15 A. YES, THANK YOU.

16 YOU'RE RIGHT. I HAD ANOTHER MEETING

17 WITH CHRIS PHILLIPS, JUST CHRIS PHILLIPS, AT

18 APPLE COMPUTER FOLLOWING SOME WEEKS AFTER THE ASF

19 INTRO EVENT THAT WAS HELD IN SAN JOSE.

20 Q. DO YOU RECALL WHO INITIATED THAT

21 MEETING?

22 A. THAT WAS AT CHRIS PHILLIPS'S REQUEST.

23 Q. AND WHAT DID HE SAY THAT THE AGENDA OF

24 THE MEETING WOULD BE?

25 A. AGAIN, IT WAS A FOLLOW-UP TO SEE IF ANY

1 PROGRESS HAD BEEN MADE IN THE AREA OF LICENSING
2 OF CODEC TECHNOLOGY.
3 (EXCERPT.)
4 Q. WHAT DID MR. PHILLIPS SAY AT THIS
5 MEETING?
6 A. SO WE TALK ABOUT WHETHER OR NOT
7 PROGRESS HAD BEEN MADE ON THE CODEC LICENSING
8 FRONT.
9 Q. WHEN YOU SAY "CODEC"--I'M NOT SURE--IS
10 THAT THE VIDEO?
11 A. I'M SORRY, WHEN I SAY "CODEC," I'M
12 REFERRING TO THE VARIOUS PIECES OF TECHNOLOGY
13 THAT ARE UTILIZED TO COMPRESS THE VIDEO. "CODEC"
14 IS AN ACRONYM THAT STANDS FOR
15 COMPRESSOR/DECOMPRESSOR, AND IT IS COMMONLY USED
16 IN REFERRING TO THESE VIDEO TECHNOLOGIES.
17 Q. OKAY. BESIDES THE POSSIBILITY OF
18 EXCHANGE--
19 A. WE TALKED ABOUT THAT, AND I INDICATED
20 WE HAD NOT MADE--WE HAD NOT MADE ANY DECISIONS OR
21 PROGRESS IN TERMS OF LICENSING OUR TECHNOLOGY TO
22 MICROSOFT.
23 THEN WE DISCUSSED--HE BASICALLY SPENT
24 SOME TIME DISCUSSING SOME OTHER ALTERNATIVES TO
25 HOW THE--HOW APPLE MIGHT APPROACH PROVIDING

1 SOFTWARE TO THE INDUSTRY IN THE AREA OF
2 MULTIMEDIA THAT WOULD BE MORE ACCEPTABLE TO
3 MICROSOFT.
4 Q. DID HE EXPRESS WHAT HIS CONCERN WAS
5 WITH THE WAY YOU WERE DOING--PROVIDING IT AT THAT
6 TIME?
7 MR. EDELMAN: MAY I HAVE THE QUESTION
8 READ BACK, PLEASE, BEFORE HE ANSWERS?
9 MR. COVE: I'M SORRY, LET ME REPHRASE
10 THE QUESTION.
11 BY MR. COVE:
12 Q. PRIOR TO GOING INTO HIS SUGGESTIONS
13 THAT YOU JUST MENTIONED, DID HE EXPRESS TO YOU
14 ANY CONCERN WITH WHAT APPLE WAS DOING AT THAT
15 TIME WITH REGARD TO QUICKTIME ON WINDOWS?
16 MR. EDELMAN: I OBJECT TO THE FORM.
17 THE WITNESS: WELL, HE REFERRED AGAIN
18 TO THE BASIC ISSUE THAT MICROSOFT HAD EXPRESSED
19 IN PREVIOUS MEETINGS ABOUT QUICKTIME BEING
20 PROMOTED AS A PLAYBACK TECHNOLOGY ON THE WINDOWS
21 PLATFORM.
22 AND MY RECOLLECTION IS THAT HE
23 DISCUSSED SOME ALTERNATIVES TO THAT THAT WERE, IN
24 EFFECT, THE SAME KINDS OF PROPOSALS THAT HE HAD
25 HEARD PREVIOUSLY, BUT PERHAPS ELABORATE ON SOME

1 OF THESE DETAILS.

2 BY MR. COVE:

3 Q. WHAT DID HE SAY, TO THE BEST OF YOUR

4 RECOLLECTION?

5 A. WE TALKED ABOUT THE WAYS THAT--WE

6 TALKED ABOUT HIS PROPOSAL THAT APPLE COULD WORK

7 WITH MICROSOFT TO PROVIDE, IN THE MICROSOFT

8 PLAYBACK ARCHITECTURE, THE KINDS OF CAPABILITIES

9 THAT QUICKTIME WAS PROVIDING, SO THAT IT WOULD

10 NOT BE NECESSARY FOR APPLE TO PROVIDE ITS OWN

11 PLAYBACK ARCHITECTURE ON THE WINDOWS PLATFORM.

12 AND IN DOING THAT, IT WOULD NOT CONSTRAIN US ON

13 THE AUTHORING SIDE OF THINGS.

14 WE HAVE TALKED PREVIOUSLY ABOUT THE

15 CONCERN THAT IF I'M NOT--IF I'M ONLY CREATING

16 OFFERING SOFTWARE AND I'M NOT ALSO PROVIDING

17 PLAYBACK SOFTWARE, THERE MAY BE DISCREPANCY IN MY

18 ABILITY TO DO INNOVATIVE THINGS FROM THE CONTENT

19 AND CREATION SIDE BECAUSE I WOULD HAVE NO WAY FOR

20 THE USER TO VIEW THAT CONTENT.

21 HE DISCUSSED THAT THEY COMMONLY LICENSE

22 TECHNOLOGIES FROM THIRD-PARTY COMPANIES AND

23 INCORPORATE THOSE INTO THE WINDOWS OPERATING

24 SYSTEM PLATFORM AND OTHER PARTS OF THE MICROSOFT

25 SOFTWARE PORTFOLIO, IN ORDER TO PROVIDE THE

1 CAPABILITIES THAT KIND OF THAT SOFTWARE WOULD
2 HAVE OTHERWISE BEEN PROVIDING, BUT TO HAVE BEEN
3 ABLE TO DELIVER IT THROUGH A MICROSOFT OFFERING.
4 Q. DID YOU VIEW THAT AS ATTRACTIVE FROM
5 APPLE'S POINT OF VIEW?
6 A. WELL, BASICALLY, NOT THAT ATTRACTIVE
7 BECAUSE AT THE END OF THAT PROCESS, MY PERCEPTION
8 IS THAT APPLE WOULD HAVE BEEN REQUIRED TO GIVE TO
9 MICROSOFT A LARGE BODY OF INTELLECTUAL PROPERTY
10 THAT WE BELIEVE TO BE OF GREAT VALUE AND A
11 COMPETITIVE ADVANTAGE, IF YOU WILL, IN THE
12 MARKET.
13 IT APPEARED THAT THE WAY THAT WE WERE
14 TALKING ABOUT THIS TECHNOLOGY EXCHANGE IS THAT WE
15 WOULD BE REQUIRED TO AGREE NOT TO TRY TO CONTINUE
16 IN INNOVATING IN THAT PARTICULAR AREA.
17 Q. WHAT IS THAT PARTICULAR AREA?
18 A. THE AREA OF PLAYBACK--
19 Q. ON WINDOWS?
20 A. --OF MULTIMEDIA ON WINDOWS.
21 AND I HAD SOME SKEPTICISM ABOUT WHETHER
22 OR NOT, JUST ON A TECHNICAL LEVEL, IT WOULD BE
23 POSSIBLE FOR US TO PUT INTO THE MICROSOFT
24 MULTIMEDIA SOFTWARE ARCHITECTURE THE KINDS OF
25 CAPABILITIES THAT WERE CURRENTLY EMBODIED IN

1 QUICKTIME IN A WAY THAT WOULD BE COMPATIBLE AND
2 ALLOW APPLE TO HAVE THE KINDS OF THINGS IT WANTS
3 TO HAPPEN CONTINUE IN THE MARKET.
4 Q. DID MR. PHILLIPS EXPRESS ANY BENEFITS
5 THAT MICROSOFT COULD PROVIDE APPLE AS A RESULT?
6 A. WELL, I MEAN, THE PRIMARY BENEFIT WAS,
7 AS WITH EACH OF THOSE MEETINGS, WAS A FAIRLY
8 VAGUE STATEMENT OF MICROSOFT'S ABILITY TO HELP
9 PROMOTE QUICKTIME AS A MULTIMEDIA CONTENT
10 CREATION TECHNOLOGY. AND HE WAS RESPONDING TO A
11 CONCERN OF WHAT WILL APPLE'S BUSINESS MODEL BE
12 FOR QUICKTIME ON THE WINDOWS PLATFORM.
13 (EXCERPT.)
14 Q. DID HE MENTION OPTIONS FOR QUICKTIME ON
15 THE MAC PLATFORM?
16 A. THROUGHOUT OUR DISCUSSIONS TO THAT
17 POINT, BOTH ERIC ENGSTROM AND CHRIS PHILLIPS HAD
18 STATED THAT THEY WERE COMFORTABLE WITH APPLE
19 CONTINUING TO DEVELOP QUICKTIME ON THE MACINTOSH
20 PLATFORM ON MAC OS.
21 MR. LINZER: FOR PLAYBACK?
22 THE WITNESS: FOR PLAYBACK, YES, AND
23 AUTHORING.
24 BY MR. COVE:
25 Q. DID MR. PHILLIPS EXPRESS IN ANY MORE

1 DETAIL WHY APPLE'S ACTIVITIES ON THE WINDOWS
2 PLATFORM WITH QUICKTIME WERE A PROBLEM FOR
3 MICROSOFT?
4 MR. EDELMAN: OBJECT TO THE FORM.
5 THE WITNESS: MY RECOLLECTION IS MERELY
6 THAT HE WOULD HAVE--HE REITERATED THE KINDS OF
7 CONCERNS THAT HE AND ERIC HAD RAISED PREVIOUSLY
8 ABOUT MICROSOFT'S INSISTENCE THAT THEY CONTROL
9 THE PRIMARY API'S AND SOFTWARE THAT RELATES TO
10 CONTENT DELIVERY, CONTENT VIEWING, BY THEIR
11 CONSUMERS.
12 BY MR. COVE:
13 Q. DID HE OFFER ANY OTHER POSSIBILITIES IN
14 RETURN FOR WHICH--LET ME START OVER.
15 IN RETURN FOR DRAWING BACK OR PULLING
16 BACK APPLE'S EFFORTS ON QUICKTIME FOR WINDOWS,
17 DID MR. PHILLIPS OFFER ANY OTHER INDUCEMENTS FOR
18 APPLE?
19 A. THE ONE OTHER THING THAT I RECALL WE
20 DISCUSSED WAS A PROPOSAL THAT PERHAPS MICROSOFT
21 WOULD VIEW OUR QUICKTIME PLAYBACK EFFORTS MORE
22 FAVORABLE WERE WE TO WORK WITH MICROSOFT IN
23 BRINGING THAT TECHNOLOGY OVER TO THEIR WINDOWS
24 C-E OPERATING SYSTEM PLATFORM, WHICH AT THAT TIME
25 I PERCEIVED--I UNDERSTOOD WAS SOMEWHAT LACKING IN

1 SOME OF THE BASIC SOFTWARE SERVICES, AND IT
2 CERTAINLY HAD NOT BEEN AS WIDELY ADOPTED IN THE
3 CUSTOMER BASE OR BY THE DEVELOPERS AS THE CORE
4 WINDOWS OPERATING SYSTEM HAD.
5 AND, FOR THOSE REASONS, HE ARTICULATED
6 THAT THE WORK THAT WE WERE DOING WITH QUICKTIME
7 WOULD NOT BE CONSIDERED AS THREATENING ON THAT
8 PLATFORM AS IT WOULD BE ON THE MAIN WINDOWS
9 OPERATING SYSTEM PLATFORM THAT THEY PUT ON THE
10 PC'S.
11 AND THAT PERHAPS THAT WAS ANOTHER
12 DIRECTION THAT WE WOULD PURSUE AS A POSSIBLE, YOU
13 KNOW, GOOD BUSINESS MODEL FOR APPLE IN TRYING TO
14 EXPAND THE MARKET FOR QUICKTIME.
15 (EXCERPT.)
16 Q. DID YOU SAY ANYTHING ELSE TO
17 MR. PHILLIPS--OR EXCUSE ME--DID YOU RESPOND TO
18 MR. PHILLIPS IN RESPONSE TO HIS PROPOSAL THAT YOU
19 PULL BACK ON QUICKTIME AND PURSUE THESE OTHER
20 AREAS INSTEAD?
21 MR. EDELMAN: OBJECT TO THE FORM.
22 BY MR. COVE:
23 Q. YOU CAN ANSWER THE QUESTION.
24 A. MY RECOLLECTION IS THAT I CONTINUED TO
25 EXPRESS THE SAME SORTS OF SKEPTICISM THAT I HAVE

1 MENTIONED EARLIER TODAY ABOUT YOUR ABILITY TO DO
2 THAT, BECAUSE WE SEE THIS COUPLING BETWEEN THE
3 CONTENT CREATION AND THE PLAYBACK.
4 BUT, AS WITH EACH OF THESE MEETINGS, I
5 SAID I WOULD TAKE THESE IDEAS BACK AND DISCUSS
6 THEM FURTHER WITH THE REST OF THE PEOPLE THAT ARE
7 INVOLVED, HAVE A ROLE IN MAKING THAT DECISION.
8 Q. DID MR. PHILLIPS SAY ANYTHING ELSE IN
9 THIS CONVERSATION?
10 A. HE INDICATED--HE--AT THE END OF THE
11 MEETING, WE HAD A MORE INFORMAL CONVERSATION
12 ABOUT WHAT WAS GOING ON AT MICROSOFT RELATED TO
13 THE LAWSUIT THAT I HAD--THAT HAD JUST RECENTLY
14 BEEN FILED, I BELIEVE, RELATING TO JAVA, AND I
15 WAS--
16 Q. SUN'S LAWSUIT?
17 A. SUN'S LAWSUIT AGAINST MICROSOFT.
18 AND I WAS JUST INQUIRING WHAT THE MOOD
19 AT MICROSOFT WAS AND HOW THE PEOPLE INSIDE OF
20 MICROSOFT VIEWED THIS LAWSUIT.
21 AND HIS RESPONSE TO THAT WAS
22 INTERESTING. I MENTIONED IT IN THIS PREVIOUS
23 DEPOSITION AS WELL. HE INDICATED THAT THERE WAS
24 A POINT OF VIEW INSIDE OF MICROSOFT FAIRLY WIDELY
25 HELD THAT THESE KINDS OF INVESTIGATIONS GENERALLY

1 DID NOT THREATEN MICROSOFT TERRIBLY. THERE WAS A
2 SENSE THAT THE PACE AT WHICH THE INVESTIGATIONS
3 PROCEEDED RELATIVE TO THE PACE AT WHICH
4 TECHNOLOGY MOVES AHEAD WERE SO--THERE WAS SUCH A
5 DISCREPANCY BETWEEN THE TWO OF THEM THAT BY THE
6 TIME THE DEPARTMENT OF JUSTICE OR OTHER, YOU
7 KNOW, KINDS OF GOVERNING BODIES THAT MIGHT HAVE A
8 STAKE IN WHAT OCCURS HERE--BY THE TIME THEY WERE
9 ABLE TO FIGURE OUT WHAT WAS REALLY GOING ON, THAT
10 IT DIDN'T MATTER IF THEY UNDERSTOOD THE WHOLE
11 PICTURE, BECAUSE MICROSOFT WOULD--IT WOULDN'T
12 MATTER ANYMORE.
13 EFFECTIVELY, WHATEVER THE ISSUE WAS
14 THAT WAS AT STAKE, HOWEVER IT ENDED UP BEING
15 RESOLVED, THE TECHNOLOGY WOULD HAVE MOVED AHEAD,
16 AND IT WOULD SORT OF BE MOOT.
17 SO I RECALL THIS MAINLY BECAUSE I WAS
18 SORT OF SURPRISED AT THE OPEN EXPRESSION OF THIS
19 KIND OF CYNICISM ABOUT THE PROCESS AND ARROGANCE
20 THAT MICROSOFT WOULD BE ABLE TO--COULD GET AWAY
21 WITH THESE THINGS, AND THEY WERE ABLE TO ASSUME
22 THAT EVERYONE ELSE WOULD NOT MOVE FAST ENOUGH TO
23 EVER BE ABLE TO STOP THEM. AND BY THE TIME THE
24 FACTS ACTUALLY CAME OUT, IT WOULDN'T MATTER.
25 Q. DID HE SAY ANYTHING ELSE IN THAT PART

1 OF THE CONVERSATION?

2 A. WELL, THE OTHER INTERESTING THING THAT

3 HE STATED AT THAT TIME WAS--AND I DON'T RECALL

4 EXACTLY HOW THIS PARTICULAR POINT CAME OUT, BUT

5 HE INDICATED THAT PART OF WHAT MADE--PART OF WHAT

6 MADE IT DIFFICULT FOR PEOPLE TO TRACK WHAT

7 MICROSOFT'S THINKING WAS ON PARTICULAR TOPICS WAS

8 THAT THERE WAS AN UNDERSTANDING THAT YOU

9 DON'T--YOU DON'T NECESSARILY SAVE ALL YOUR

10 E-MAILS.

11 Q. "YOU" BEING--

12 MR. EDELMAN: I THINK YOU HAVE TO LET

13 THE WITNESS FINISH THE ANSWER BEFORE YOU

14 INTERRUPT HIM.

15 MR. LINZER: CONTINUE YOUR ANSWER.

16 THE WITNESS: HE WAS TALKING ABOUT

17 HIMSELF.

18 AND MY UNDERSTANDING WAS THAT THAT WAS

19 A VIEW THAT WAS HELD MORE BROADLY WITHIN THE

20 COMPANY. AND THE POINT OF VIEW WAS THAT YOU

21 DON'T SAVE ALL YOUR E-MAILS BECAUSE THOSE CREATE

22 A PAPER TRIAL THAT CAN BE USED AGAINST YOU IN

23 MANY OF THESE CASES, AND THAT THAT WAS A LESSON

24 HE HAD LEARNED EARLY ON IN HIS TIME IN MICROSOFT.

25 AND WE DIDN'T REALLY EXPLORE THAT IN

1 DEPTH. I DON'T KNOW THE EXTENT TO WHICH THAT IS
2 REALLY A PREVAILING POINT OF VIEW, BUT I WAS
3 QUITE SURPRISED TO HEAR HIM INDICATE THAT.
4 BY MR. COVE:
5 Q. SINCE THE CONVERSATION WITH
6 MR. PHILLIPS, HAVE YOU HAD OTHER CONVERSATIONS
7 WITH REPRESENTATIVES OF MICROSOFT ABOUT THE
8 GENERAL SUBJECT OF APPLE WITHDRAWING FROM THE
9 QUICKTIME PLATFORM? I MEAN--EXCUSE ME.
10 --ABOUT APPLE DRAWING QUICKTIME FOR
11 WINDOWS?
12 A. SO THE OTHER MEETING THAT WE HAVE HAD
13 RELATED TO THIS TOPIC TOOK PLACE, I BELIEVE IT
14 WAS, IN JUNE, AGAIN ON THE APPLE CAMPUS.
15 (EXCERPT.)
16 Q. WHEN DID YOU FIRST BUILD A PLUG-IN FOR
17 THE INTERNET EXPLORER BROWSER?
18 A. SO, WHAT HAPPENED IS THAT WE HAD
19 ORIGINALLY BUILT A PLUG-IN FOR NETSCAPE
20 NAVIGATOR. I DON'T RECALL THE EXACT DATE THAT
21 THIS WAS INTRODUCED, BUT IT WAS DESIGNED TO BE
22 COMPATIBLE WITH NAVIGATOR VERSION 2.0, WHICH WAS
23 THE FIRST VERSION OF NETSCAPE'S BROWSER THAT
24 INCORPORATED THIS EXTENSIBILITY FEATURE.
25 Q. JUST BRIEFLY, WHAT WAS THE PURPOSE OF

1 THAT PRODUCT?

2 A. THE PURPOSE OF THIS WAS TO ENABLE OTHER
3 DEVELOPERS TO EXTEND THE FUNCTIONALITY OF THE
4 BROWSER PRIMARILY IN THE AREA OF CREATING NEW
5 WAYS OF DISPLAYING THE VARIOUS TYPES OF INTERNET
6 DATA THAT THE BROWSER WAS GOING TO ACCESS IN
7 ORDER TO CREATE A BETTER USER EXPERIENCE. SO, AT
8 THAT TIME, THIS EXTENSIBILITY FEATURE WAS NOT
9 BUILT INTO MICROSOFT'S IE BROWSER.

10 Q. WHICH VERSION WAS THAT?

11 A. AT THAT TIME, I BELIEVE THE IE VERSION
12 WAS VERSION TWO AS WELL.

13 WHEN MICROSOFT INTRODUCED INTERNET
14 EXPLORER VERSION THREE, THEY PROMOTED AS ONE OF
15 THE CAPABILITIES OF THAT BROWSER COMPATIBILITY
16 WITH THIS PLUG-IN API THAT HAD ORIGINALLY BEEN
17 PROPOSED BY NETSCAPE.

18 AND AT THAT TIME, I DON'T RECALL IF WE
19 HAD TO DO A LOT OF ENGINEERING OR JUST A LITTLE
20 BIT OF ENGINEERING, BUT WE MADE THE CHANGES
21 NECESSARY TO ENSURE THAT OUR PLUG-IN WOULD BE
22 COMPATIBLE WITH BOTH NETSCAPE NAVIGATOR BROWSER
23 AS WELL AS WITH THE EXPLORER BROWSER.

24 SO THAT WOULD HAVE BEEN APPROXIMATELY
25 THE TIME IN WHICH IE 3 WAS INTRODUCED.

1 (EXCERPT.)

2 Q. OKAY. DID THERE COME A TIME WHEN YOU

3 BEGAN TO EXPERIENCE PROBLEMS WITH YOUR--WITH THE

4 QUICKTIME PLUG-IN WORKING WITH INTERNET EXPLORER?

5 A. WELL, WITH EACH NEW VERSION OF THE

6 BROWSER, WE HAVE EXPERIENCED COMPATIBILITY

7 ISSUES. AND SPECIFICALLY, THE CHALLENGES THAT WE

8 HAVE HAD MOST RECENTLY HAVE BEEN IN BEING ABLE TO

9 PROVIDE CUSTOMERS ACCESS--BEING ABLE TO PROVIDE

10 THE CAPABILITY OF HAVING THE QUICKTIME PLAYER BE

11 ABLE TO BE USED TO PLAY BACK A VARIETY OF

12 INTERNET FILE FORMATS THAT ARE NOW SUPPORTED BY

13 QUICKTIME IN THE IE BROWSER.

14 SO, THESE ARE CAPABILITIES WHICH WE ARE

15 ABLE TO PROVIDE TO OUR SATISFACTION WHEN USING

16 THE PLUG-IN INSIDE OF THE NETSCAPE BROWSER. BUT

17 IF I TAKE THE SAME PLUG-IN, AND I TRY TO UTILIZE

18 IT INSIDE OF THE IE BROWSER, I FIND THAT THE

19 FUNCTIONALITY THAT I'M ACTUALLY ABLE TO PROVIDE

20 THE CUSTOMER IS MUCH REDUCED.

21 Q. IS THIS A PROBLEM THAT BEGAN WITH THE

22 INTRODUCTION OF INTERNET EXPLORER VERSION 4.0?

23 A. EFFECTIVELY, YES. SOME OF THESE

24 PROBLEMS ARE PROBLEMS THAT BECAME APPARENT WHEN

25 VERSIONS OF QUICKTIME THAT WERE ABLE TO ACCESS

1 MORE TYPES OF MEDIA BECAME AVAILABLE. AND THEN
2 WHEN SUCCESSFUL RELEASES OF IE 3, IE 4, AS WELL
3 AS SUCCESSFUL RELEASES OF THE MICROSOFT MEDIA
4 PLAYERS--THERE ARE LOTS OF DIFFERENT NAMES
5 ASSOCIATED WITH THOSE, BUT THEIR MULTIMEDIA
6 SOFTWARE LAYER, AND THEN MOST RECENTLY WITH THE
7 RELEASE OF WINDOWS 98, WE HAVE SEEN PRETTY STEADY
8 DEGRADATION OF YOUR ABILITY TO BE ABLE TO USE
9 QUICKTIME TO PLAY BACK A VARIETY OF MEDIA TYPES
10 THAT QUICKTIME IS, IN THEORY, COMPATIBLE WITH.
11 Q. AND HAVE YOU ENGAGED IN EFFORTS
12 INTERNALLY TO SOLVE THESE PROBLEMS?
13 A. YES. AT THE TIME WHEN WE WERE NEARING
14 THE END OF THE DEVELOPMENT OF OUR VERSION THREE
15 QUICKTIME SOFTWARE, WHICH WAS THE MOST RECENT--IS
16 THE MOST RECENT VERSION OF THE SOFTWARE FOR
17 WINDOWS, WE SPENT--I HAD SEVERAL OF MY BEST
18 ENGINEERS SPEND SEVERAL WEEKS TRYING TO FIGURE
19 OUT HOW TO MAKE THINGS WORK THE WAY WE WANTED
20 THEM TO WORK INSIDE OF THE BROWSER.
21 Q. DID YOU ALSO TAKE EFFORTS TO WORK WITH
22 MICROSOFT TO ATTEMPT TO SOLVE THESE PROBLEMS?
23 A. WE DID TAKE SOME LIMITED EFFORTS. WE
24 EXCHANGED A COUPLE OF E-MAILS WITH ENGINEERS UP
25 AT MICROSOFT TRYING TO DESCRIBE THE PROBLEMS WE

1 WERE HAVING AND SEEKING ASSISTANCE.

2 THAT PROCESS WAS MOVING SOMEWHAT SLOWLY

3 AND WAS HAPPENING AT A TIME WHEN WE WERE ALSO

4 TRYING TO FINISH THIS PRODUCT, SO WE WERE

5 SOMEWHAT UNDER A LOT OF PRESSURE TO FINISH UP.

6 SO WE DIDN'T--WE DIDN'T NECESSARILY

7 FOLLOW THROUGH ON OUR END WITH THE SORT OF

8 AGGRESSIVENESS THAT WE SHOULD, BUT THE BASIC IDEA

9 WAS THAT WE WERE NOT ABLE TO SUCCESSFULLY RESOLVE

10 THESE ISSUES. AND EVEN TODAY, WE ARE STILL

11 LOOKING AT A NUMBER OF PROBLEMS THAT WE HAVE NOT

12 BEEN ABLE TO SOLVE, IN SPITE OF CONTINUING

13 DIALOGUE WITH MICROSOFT.

14 (EXCERPT.)

15 BY MR. COVE:

16 Q. WE WILL GO BACK AND TALK ABOUT THE

17 DISCUSSIONS A LITTLE BIT MORE, BUT LET ME ASK YOU

18 TO EXPLAIN, AS BEST YOU CAN TO A LAYPERSON, THE

19 MOST IMPORTANT PROBLEMS THAT YOU WERE

20 EXPERIENCING.

21 A. THE BASIC PROBLEM IS THAT THE BROWSER

22 SOFTWARE IS THE GATEWAY OF HOW AN END USER IS

23 ABLE TO VIEW AND DISPLAY THE CONTENT THAT IS IN

24 THE KINDS OF FILES THAT ARE OUT IN THE WEB SITES,

25 OUT ON THE INTERNET.

1 AND TYPICALLY, WHAT OCCURS IS THAT FOR
2 A VARIETY OF THOSE FILE FORMATS, THE BROWSER IS
3 ABLE TO DISPLAY THAT DATA DIRECTLY IN THE BROWSER
4 WITHOUT ANY ADDITIONAL ASSISTANCE REQUIRED. BUT
5 THEN IN MANY CASES, THESE FILE FORMATS ARE
6 SPECIALIZED ENOUGH THAT IT REQUIRES ADDITIONAL
7 SOFTWARE TO BE INVOKED IN ORDER TO DISPLAY OR
8 VIEW THE MEDIA TYPES.
9 WE HAVE ENDEAVORED TO BUILD INTO
10 QUICKTIME A FAIRLY BROAD SET OF CAPABILITIES FOR
11 WORKING WITH A VARIETY OF MULTIMEDIA FILES, OR
12 DISPLAYING A VARIETY OF MULTIMEDIA FILES, THAT
13 ARE COMMONLY FOUND IN THE INTERNET.
14 SO THE PROBLEM WE WERE TRYING TO SOLVE
15 WAS TO BE ABLE TO ENSURE THAT WHEN THE FILES ARE
16 ACCESSED THROUGH THE BROWSER, THAT THE BROWSER
17 WOULD PASS THAT FILE DATA TO QUICKTIME SO THAT
18 QUICKTIME COULD BE USED TO DISPLAY IT.
19 AND THIS WAS THE PLACE WHERE WE WERE
20 HAVING SUCH DIFFICULTIES. THERE ARE MECHANISMS
21 IN THE WINDOWS OPERATING SYSTEM THAT ARE UTILIZED
22 BY THE BROWSER TO BASICALLY TELL THE BROWSER WHAT
23 SOFTWARE TO INVOKE IN ORDER TO DISPLAY THESE
24 DIFFERENT MEDIA TYPES, AND THE SPECIFIC
25 MECHANISMS THAT ARE USED ARE MECHANISMS THAT WE

1 HAVE NOT--HAVE NOT BEEN ABLE TO UNDERSTAND AND/OR
2 UTILIZE IN ORDER TO ACHIEVE THE EFFECTS THAT WE
3 ARE HOPING TO ACHIEVE.
4 Q. IS THERE A PARTICULAR PART OF THE
5 WINDOWS OPERATING SYSTEM THAT THESE MECHANISMS
6 ARE FOUND IN?
7 A. THE SOFTWARE THAT I'M REFERRING TO IS A
8 MECHANISM CALLED THE "WINDOWS REGISTRY," AND IT'S
9 BASICALLY A DATABASE OF INFORMATION THAT
10 DESCRIBES CAPABILITIES OF VARIOUS KINDS OF
11 SOFTWARE, AS WELL AS INFORMATION ABOUT HOW TO
12 ASSOCIATE FILE TYPES WITH APPLICATIONS, YOU KNOW,
13 OR SOFTWARE THAT KNOWS HOW TO PROCESS THOSE FILE
14 TYPES.
15 AND THERE IS (SIC) LOTS AND LOTS OF
16 OTHER INFORMATION IN THE REGISTRY AS WELL, BUT
17 FOR THE PURPOSES OF THIS DISCUSSION, THAT IS THE
18 FUNDAMENTAL PIECE.
19 Q. DOES MICROSOFT PUBLISH TO THIRD-PARTY
20 DEVELOPERS INFORMATION ABOUT THE REGISTRY?
21 A. TO THE BEST OF MY KNOWLEDGE, THIS
22 IS--THIS IS AN AREA OF THE OPERATING SYSTEM THAT
23 IS NOT FULLY DOCUMENTED. WE HAVE SOME EVIDENCE
24 TO SUGGEST THAT THERE ARE PIECES OF THE REGISTRY
25 WHICH HAVE BEEN DOCUMENTED TO A CERTAIN EXTENT.

1 BUT IT IS MY POSITION THAT THE INVESTIGATIONS WE
2 HAVE DONE HAVE NOT INDICATED CLEARLY HOW THE
3 ASSOCIATIONS WITH THAT WOULD TIE INTERNET MEDIA
4 FILE TYPES THROUGH THE BROWSER TO QUICKTIME, THAT
5 THOSE MECHANISMS--MY POSITION IS THOSE MECHANISMS
6 DO NOT APPEAR TO BE PUBLICLY DOCUMENTED.
7 Q. SO, GOING BACK FOR A MINUTE TO THE
8 LAYMAN'S PERSPECTIVE, WHAT HAPPENED--WHAT IS THE
9 PROBLEM THAT IS PRESENTED FOR A USER WHO IS
10 ATTEMPTING TO ACCESS INFORMATION OVER THE
11 INTERNET--
12 A. RIGHT.
13 Q. --THAT IS IN A QUICKTIME FILE?
14 A. OKAY. SO WHAT OCCURS--I'LL GIVE YOU A
15 SCENARIO. ASSUME THE USER IS RUNNING INTERNET
16 EXPLORER 3.0, AND THEY HAVE THE QUICKTIME PLUG-IN
17 INSTALLED, AND THEY ARE ABLE TO SURF THE INTERNET
18 AND VIEW CERTAIN KINDS OF CONTENT.
19 FOR EXAMPLE, IF YOU THEN GO IN AND
20 INSTALL INTERNET EXPLORER 4.0, WHAT THEIR
21 EXPERIENCE WOULD BE IS THAT CERTAIN FILE TYPES
22 THAT WOULD HAVE BEEN ROUTED TO QUICKTIME IN THE
23 PAST WOULD NO LONGER GET TO QUICKTIME. AND THOSE
24 CASES, AND/OR--WELL, I GUESS I CAN LEAVE IT AT
25 THAT. CERTAIN FILE TYPES THAT USED TO GET TO

1 QUICKTIME WILL NO LONGER BE SENT TO QUICKTIME, SO
2 QUICKTIME WILL NOT BE INVOKED TO DO THAT SORT OF
3 MEDIA VIEWING OR PLAYBACK.
4 THAT IS A PROBLEM FOR US, BECAUSE THERE
5 ARE CERTAIN FEATURES THAT WE PROVIDE THAT WE
6 BELIEVE ADD VALUE FOR THE CUSTOMERS, SO THOSE ARE
7 GONE. AND INSTEAD, WHAT WILL OCCUR IS SOME PIECE
8 OF MICROSOFT SOFTWARE WILL BE INVOKED TO PROVIDE
9 THAT VIEWING EXPERIENCE, AND THAT MAY OR MAY NOT
10 BE WHAT THE CUSTOMER HAD INTENDED OR DESIRED.
11 (EXCERPT.)
12 BY MR. COVE:
13 Q. DO YOU HAVE EXAMPLES OF SOME OF THE
14 SPECIFIC AUDIO OR VIDEO FILES THAT HAVE BEEN
15 AFFECTED BY INTERNET EXPLORER'S FAILURE TO INVOKE
16 QUICKTIME?
17 A. UH-HUH, UH-HUH.
18 I CAN ENUMERATE A FEW EXAMPLES OF
19 THINGS THAT DON'T WORK THE WAY WE WOULD LIKE THEM
20 TO WORK.
21 WE HAVE DONE FAIRLY EXTENSIVE TESTING,
22 YOU KNOW, OVER THE LAST SEVERAL MONTHS. I DON'T
23 HAVE THE COMPREHENSIVE RESULTS OF THOSE TESTS
24 WITH ME, BUT GENERALLY WE HAVE FOUND THAT CERTAIN
25 QUICKTIME FILES WITH CERTAIN EXTENSIONS TO THE

1 FILE NAMES ARE ALWAYS ROUTED TO THE MICROSOFT
2 MEDIA PLAYER INSTEAD OF TO QUICKTIME.
3 WE HAVE FOUND THAT A VARIETY OF
4 STANDARD INTERNET AUDIO FORMATS, SUCH AS AIFF;
5 MIDI, M-I-D-I; AU, WHICH IS THE SUN AUDIO FORMAT;
6 WAV, W-A-V, WHICH IS A MICROSOFT-INVENTED FORMAT
7 FOR AUDIO; AVI, WHICH IS ANOTHER MICROSOFT MEDIA
8 FORMAT--THERE ARE PROBABLY OTHER EXAMPLES--BUT
9 FOR THOSE EXAMPLES, WE FIND THAT THE MICROSOFT
10 SOFTWARE IS--NEWER MICROSOFT SOFTWARE IS
11 BASICALLY TAKING THOSE ASSOCIATIONS FROM
12 QUICKTIME, AND QUICKTIME IS NOT ABLE TO--IS NEVER
13 ABLE TO BE INVOKED TO PLAY THOSE MEDIA TYPES.
14 (EXCERPT.)
15 BY MR. COVE:
16 Q. ARE YOU AWARE OF ANY TECHNICAL
17 JUSTIFICATION FOR THIS, THE MICROSOFT PRODUCT
18 OPERATING IN THAT FASHION?
19 A. NO.
20 (EXCERPT.)
21 Q. OKAY. HAVE YOU HAD PROBLEMS WITH THE
22 PLAYBACK OF COMPRESSED AUDIO FORMATS WITH THE
23 MICROSOFT MEDIA PLAYER?
24 A. WELL, YES. AS I MENTIONED PREVIOUSLY,
25 WE HAVE HAD CHALLENGES GETTING THE--WE HAVE BEEN

1 UNABLE TO MAKE CERTAIN FILE FORMATS, NAMELY AIFF,
2 AU, WAV, TO BE PASSED TO QUICKTIME BY THE
3 BROWSER.
4 ONE OF THE EFFECTS OF THAT IS FORMATS
5 THAT QUICKTIME IS ABLE TO CREATE AND STORE IN THE
6 AIFF FILE FORMAT ARE--THESE FORMATS ARE NOT ABLE
7 TO BE PLAYED BY THE MICROSOFT MEDIA PLAYER
8 SOFTWARE. SO IF WE DON'T--IF WE ARE NOT THE
9 ONES--IF THE QUICKTIME SOFTWARE IS NOT THE
10 SOFTWARE TO BE INVOKED, THEN IF ANY OTHER
11 SOFTWARE IS INVOKED TO PLAY THEM, THEY WON'T PLAY
12 PROPERLY.
13 SO THIS IS ACTUALLY A PRETTY IMPORTANT
14 ISSUE FOR APPLE. WE HAVE INTRODUCED IN THE
15 LATEST VERSION OF QUICKTIME A COUPLE OF NEW
16 FORMATS FOR COMPRESSED AUDIO THAT ARE VERY--THAT
17 WERE DESIGNED TO BE USED IN INTERNET KIND OF
18 ENVIRONMENTS. THEY CREATE VERY SMALL FILES, WHEN
19 YOU ENCODE THEIR AUDIO IN THESE FORMATS.
20 Q. WHAT ARE THEIR NAMES?
21 A. ONE FORMAT IS QDESIGN, USED FOR MUSIC
22 AUDIO; AND THE OTHER IS CALLED QUALCOMM,
23 PUREVOICE. QUALCOMM IS SPELLED Q-U-A-L-C-O-M-M.
24 AND THEN THE NAME OF THE PRODUCT IS PUREVOICE.
25 THESE ARE TWO TECHNOLOGIES THAT WE

1 LICENSED FOR INCLUSION WITH QUICKTIME 3, AND THEY
2 ARE LICENSED EXCLUSIVELY TO APPLE.
3 Q. SO, ARE THEY PLAYABLE BY ANY OTHER
4 STREAMING PRODUCT?
5 A. ONLY QUICKTIME.
6 (EXCERPT.)
7 Q. IF A USER, A CLIENT USER, IS SITTING AT
8 HIS DESK WITH WINDOWS AND INTERNET EXPLORER AND
9 QUICKTIME ALL LOADED ONTO HIS SYSTEM AND ATTEMPTS
10 TO ACCESS INTERNET CONTENT THAT IS FOUND IN ONE
11 OF EITHER THE QDESIGN OR THE QUALCOMM VOICE
12 COMPRESSOR FORMAT, WHAT WILL HAPPEN?
13 MR. LINZER: WHICH VERSION OF INTERNET
14 EXPLORER?
15 BY MR. COVE:
16 Q. OH, VERSION 4.0.
17 A. WHEN THE USER CLICKS ON THE FILE THAT
18 WOULD CAUSE THAT AUDIO TO BE PLAYED, INSTEAD OF
19 INVOKING QUICKTIME, SOME PORTION OF THE MICROSOFT
20 MEDIA PLAYER WILL BE INVOKED.
21 NOT KNOWING HOW TO DECODE THAT FORMAT,
22 THEN THE SYSTEM WILL PUT UP A DIALOGUE THAT SAYS,
23 "I DON'T KNOW WHAT TO DO WITH THIS DATA. THIS IS
24 NOT IN A FORMAT THAT I UNDERSTAND." AND THEN IT
25 BASICALLY SAYS, "YOU ARE OUT OF LUCK." AND I'M

1 OBVIOUSLY PARAPHRASING THE DIALOGUE.

2 Q. WILL THE RESULT--

3 A. WILL NOT ATTEMPT TO PLAY THE AUDIO.

4 Q. WILL THE RESULT BE DIFFERENT IF SOMEONE

5 HAD INTERNET EXPLORER OR IE 3?

6 A. IT ACTUALLY WOULD NOT BE DIFFERENT

7 UNDER IE 3 IN THAT CASE BECAUSE THE MECHANISM FOR

8 ACCESSING THESE AUDIO FORMATS WAS SOMETHING WE

9 WERE NOT ABLE TO FIGURE OUT, EVEN IN THE CONTEXT

10 OF IE 3, SO--

11 (EXCERPT.)

12 Q. ARE YOU FAMILIAR WITH THE EXTENT OF

13 USAGE OF QUICKTIME SOFTWARE?

14 A. YES, REASONABLY.

15 Q. USING WHATEVER GAUGE YOU USE OR CAN

16 USE, WHAT IS THE EXTENT OF THAT USAGE, AS OF

17 TODAY?

18 A. WE BELIEVE, I BELIEVE, THAT QUICKTIME

19 IS ONE OF THE MOST WIDELY UTILIZED PIECES OF

20 MULTIMEDIA SOFTWARE IN THE MARKETPLACE TODAY.

21 WE--I HAVE SEEN MARKET RESEARCH REPORTS

22 THAT INDICATE THE FOLLOWING: IF YOU REMOVE

23 MICROSOFT SOFTWARE FROM THE LIST, THAT QUICKTIME

24 IS, IN FACT, THE MOST WIDELY INSTALLED PIECE OF

25 SOFTWARE ON THE PC PLATFORM, ACCOUNTING FOR

1 APPROXIMATELY 65 TO 70 PERCENT OF THE INSTALLED
2 BASE.
3 Q. DO YOU HAVE AN UNDERSTANDING AS TO HOW
4 MANY COMPUTERS HAVE QUICKTIME INSTALLED ON THEM?
5 A. ESTIMATIONS THAT I HAVE SEEN, BASED
6 UPON OUTSIDE MARKET RESEARCH, AS WELL AS RESEARCH
7 THAT WE HAVE DONE INTERNALLY, SUGGESTS THAT THERE
8 ARE UPWARDS OF 40 TO 50 MILLION COMPUTERS
9 CURRENTLY RUNNING QUICKTIME.
10 Q. AND THAT IS YOUR BEST UNDERSTANDING AS
11 OF TODAY?
12 A. THAT IS MY BEST UNDERSTANDING AS OF
13 TODAY.
14 (EXCERPT.)
15 Q. LET ME DIRECT YOUR ATTENTION TO PAGE
16 THREE, WHICH BEARS PRODUCT NUMBER MAC 07123,
17 MICROSOFT TRIAL EXHIBIT 1457.
18 A. YES.
19 Q. DO YOU SEE, ABOUT A THIRD OF THE WAY
20 DOWN THE PAGE, THERE IS A BOLD HEADING,
21 "EXECUTIVE SUMMARY"?
22 A. UH-HUH.
23 Q. AND JUST BELOW THAT, IT SAYS, "TODAY,
24 QUICKTIME ENJOYS TREMENDOUS MOMENTUM. MARKET
25 RESEARCH INDICATES THAT QUICKTIME IS THE INDUSTRY

1 STANDARD ARCHITECTURE FOR DEVELOPING AND
2 PUBLISHING NEW MEDIA CONTENT, EITHER ON CD-ROM,
3 DVD, THE WORLD WIDE WEB, OR FOR BROADCAST."
4 DO YOU SEE THAT?
5 A. YES.
6 Q. RECOGNIZING THAT YOU MAY NOT HAVE SEEN
7 THIS DOCUMENT BEFORE, DO YOU HAVE ANY KNOWLEDGE
8 AS TO WHETHER THAT STATEMENT IS ACCURATE?
9 A. MY UNDERSTANDING WOULD BE THAT THAT
10 WOULD BE A REASONABLE STATEMENT TO MAKE.
11 Q. AS YOU UNDERSTAND THE TERM, "INDUSTRY
12 STANDARD ARCHITECTURE," WHAT DOES THAT MEAN?
13 A. I BELIEVE IN THIS CONTEXT THE MEANING
14 IS EFFECTIVELY EQUIVALENT TO SAYING IT'S VERY
15 WIDELY ADOPTED.
16 (EXCERPT.)
17 Q. YES. HAS ANYONE EVER SUGGESTED TO YOU
18 THAT HAVING A SINGLE STANDARD, A SINGLE APPROACH,
19 AS OPPOSED TO TWO DIFFERENT APPROACHES OFFERED BY
20 ONE MICROSOFT AND ONE BY APPLE, HAVING A SINGLE
21 APPROACH, WOULD OPTIMIZE THE USER EXPERIENCE FOR
22 THE PLAYBACK OF MULTIMEDIA CONTENT?
23 A. WELL, I THINK MICROSOFT HAS SUGGESTED
24 THAT.
25 Q. THAT IS YOUR UNDERSTANDING OF WHAT

1 MICROSOFT HAS SUGGESTED?

2 A. YES.

3 Q. OKAY. AND DID MICROSOFT EXPLAIN TO

4 YOU--LET ME BACK UP.

5 WHO AT MICROSOFT MADE THAT SUGGESTION?

6 A. THAT IS--I UNDERSTAND THAT TO BE ONE OF

7 THE THINGS THAT I HAVE BEEN HEARING FROM ERIC

8 ENGSTROM AND CHRIS PHILLIPS IN OUR DISCUSSIONS.

9 (EXCERPT.)

10 Q. WERE YOU EVER INVOLVED IN A

11 COMMUNICATION IN WHICH IT WAS ASSERTED THAT APPLE

12 HAD CONSIDERED ASKING MICROSOFT TO ACCEPT A PAID

13 LICENSE FOR QUICKTIME AND TO DROP ACTIVEMOVIE?

14 A. WELL, I CERTAINLY HAD BEEN INVOLVED IN

15 DISCUSSIONS WITH STEVE JOBS WHERE THE NOTION THAT

16 MICROSOFT MIGHT PAY APPLE SOME MONEY FOR A

17 LICENSE TO QUICKTIME, AND THAT THEY WOULD ALSO

18 STOP DEVELOPMENT OF ACTIVEMOVIE WOULD OCCUR. NOT

19 IN THIS TIME FRAME, BUT--

20 Q. LATER, YOU THINK IT WAS.

21 A. LATER.

22 (EXCERPT.)

23 Q. MICROSOFT TRIAL EXHIBIT 1314 HAS BEEN

24 PLACED IN FRONT OF YOU, MR. SCHAAFF.

25 DO YOU RECOGNIZE THIS AS THE HARD COPY

1 OF SEVERAL E-MAILS?

2 A. I HAVE A RECOLLECTION OF HAVING SENT

3 SOME SORT OF AN E-MAIL LIKE THIS.

4 (EXCERPT.)

5 Q. DO YOU SEE THE SECOND SENTENCE OF THE

6 PARAGRAPH WE HAVE BEEN FOCUSING ON THAT SAYS,

7 "STEVE SUGGESTED THAT WE STICK TO RELATIVELY

8 LOW-LEVEL ISSUES AND MOSTLY STAY AWAY FROM ANY

9 CONVERSATIONS ABOUT GETTING THEM TO ADOPT

10 QUICKTIME"?

11 A. YES.

12 Q. YOU WROTE THAT SENTENCE?

13 A. SEEMS--YES, LOOKS THAT WAY.

14 Q. YES?

15 A. LOOKS THAT WAY, YES.

16 Q. WHAT DOES THAT SENTENCE REFER TO?

17 A. WELL, I THINK THE POINT I WAS TRYING TO

18 MAKE WAS THAT STEVE HAD EXPRESSED HIS

19 INTEREST--STEVE JOBS HAD EXPRESSED THE VIEW THAT

20 HE WISHED TO TRY TO MAKE THE CASE TO HIS CONTACTS

21 AT MICROSOFT FOR WHY ADOPTION OF QUICKTIME WOULD

22 BE A DESIRABLE THING; AND THAT HE DID NOT WANT

23 OTHER PEOPLE AT APPLE EITHER SORT OF ANNOUNCING

24 TO THE WRONG PEOPLE AT MICROSOFT WHAT WE ARE

25 TRYING TO ACCOMPLISH AND/OR MUDDYING THE WATERS

1 WITH SORT OF INACCURATE STATEMENTS OR SORT OF
2 JUST NOT PRESENTING A GREAT ARGUMENT FOR WHY THAT
3 MAKES SENSE. HE JUST WANTS TO HAVE A LITTLE MORE
4 CONTROL OVER THAT DISCUSSION.
5 Q. DID MR. JOBS CONVEY THIS VIEW IN A
6 COMMUNICATION IN WHICH YOU WERE INVOLVED?
7 A. I DON'T RECALL, BUT IT CERTAINLY LOOKS
8 THAT WAY FROM THE E-MAIL.
9 Q. PRIOR TO THAT COMMUNICATION WITH
10 MR. JOBS, THE COMMUNICATION IN WHICH THE MATTERS
11 EXPRESSED IN THIS SENTENCE WERE DISCUSSED, HAD
12 APPLE INTENDED TO DISCUSS AT THE THURSDAY MEETING
13 THE POSSIBILITY OF MICROSOFT ADOPTING QUICKTIME?
14 A. I DON'T RECALL. I DON'T RECALL.
15 Q. DO YOU SEE THE THIRD SENTENCE OF THE
16 PARAGRAPH THAT SAYS, "I THINK HE WANTS TO TAKE
17 THAT CONVERSATION TO A HIGHER LEVEL"?
18 A. YES.
19 Q. WHY DID YOU THINK THAT?
20 A. MY ASSUMPTION--MY RECOLLECTION IS THAT
21 HE HAD SOME SKEPTICISM ABOUT WHETHER OR NOT THE
22 TEAM THAT WAS DIRECTLY RESPONSIBLE FOR
23 ACTIVEMOVIE AND DIRECTX WOULD EVER BE WILLING TO
24 GIVE UP ON THOSE EFFORTS TO ADOPT QUICKTIME,
25 SIMPLY BECAUSE THEIR CHARTER WAS TO GO MAKE THOSE

1 THINGS SUCCESSFUL AND TO BEAT QUICKTIME.
2 SO I THINK HIS POINT OF VIEW WAS YOU
3 WOULD HAVE TO GO TO A HIGHER LEVEL IN THE
4 ORGANIZATION WHERE THE CHARTER IS, PERHAPS,
5 BROADER OR DIFFERENT TO BE ABLE TO BE EFFECTIVE
6 IN THAT CONVERSATION.
7 Q. DO YOU KNOW WHETHER MR. JOBS EVER ASKED
8 ANYONE AT MICROSOFT TO ADOPT QUICKTIME AND
9 ABANDON DIRECTX?
10 A. I BELIEVE HE DID, BUT I DON'T HAVE ANY
11 RECOLLECTION OF A SPECIFIC INCIDENT WHERE THAT
12 OCCURRED.
13 Q. BUT YOU BELIEVE HE DID?
14 A. YES.
15 (EXCERPT.)
16 Q. DO YOU REMEMBER WHETHER IN YOUR
17 COMMUNICATIONS WITH MR. NOVAK YOU PROPOSED THAT
18 APPLE--I'M SORRY--THAT MICROSOFT ADOPT THE
19 QUICKTIME FORMAT AND ABANDON THE ASF FORMAT?
20 A. I DON'T REMEMBER THE SPECIFICS, BUT I
21 DO KNOW THAT THIS IS A FAIRLY CONSISTENT THEME IN
22 OUR DISCUSSIONS ABOUT FILE FORMATS.
23 (EXCERPT.)
24 MR. EDELMAN: I'M GOING TO ASK THE
25 REPORTER TO MARK A TWO-PAGE DOCUMENT BEARING

1 PRODUCTION NUMBERS A 1672 THROUGH 1673. AND IT
2 DOES NOT BEAR A CONFIDENTIALITY DESIGNATION ON
3 ITS FACE, BUT IT HAS BEEN DESIGNATED HIGHLY
4 CONFIDENTIAL BY APPLE. TRIAL EXHIBIT 891.
5 (EXCERPT.)
6 Q. LET ME DIRECT YOUR ATTENTION TO THE
7 THIRD SENTENCE OF THE FIRST PARAGRAPH AND
8 PARTICULARLY THE SECOND PART OF THAT SENTENCE,
9 WHICH SAYS--WELL, LET ME READ THE WHOLE SENTENCE.
10 IT SAYS, "HOWEVER, IT MAY PROVIDE US WITH SOME
11 BETTER IDEAS AS TO THEIR PRIORITIES AND,
12 THEREFORE, WAYS TO EFFECTIVELY APPROACH THEM
13 REGARDING QUICKTIME."
14 DO YOU SEE THAT?
15 A. YES.
16 Q. AND THE "THEM" IN THAT SENTENCE REFERS
17 TO MICROSOFT, DOES IT NOT?
18 A. YES.
19 Q. DO YOU KNOW WHETHER APPLE WAS TRYING TO
20 APPROACH MICROSOFT REGARDING QUICKTIME?
21 A. MY UNDERSTANDING IS THIS--MY
22 RECOLLECTION IS THIS EXCHANGE OCCURRED AROUND THE
23 TIME IN WHICH WE WERE HAVING DISCUSSIONS ABOUT
24 HOW TO ENGAGE MICROSOFT ON THIS WHOLE ISSUE OF
25 QUICKTIME SUPPORT AND, YOU KNOW, SORT OF RELATED

1 TO ALL THESE OTHER DISCUSSIONS WE HAVE BEEN
2 HAVING.
3 I THINK THIS IS APPROXIMATELY THE SAME
4 SORT OF TIME FRAME.
5 Q. LET ME JUST MAKE SURE THAT I UNDERSTAND
6 YOU.
7 WHEN YOU TALK ABOUT QUICKTIME SUPPORT,
8 WHAT DO YOU MEAN, SIR?
9 A. WELL, THESE DISCUSSIONS HAVE BEEN--MANY
10 OF THESE THINGS WE HAVE BEEN TALKING ABOUT TODAY
11 HAVE TURNED ON THE MATTER OF MICROSOFT--IS THERE
12 A WAY TO GET MICROSOFT TO SUPPORT QUICKTIME AND
13 THE WORK THAT THEY ARE DOING.
14 AND SO THIS WAS CERTAINLY ONE OF THE
15 QUESTIONS IN THE AIR THAT WE WERE ASKING
16 OURSELVES AT THE TIME.
17 Q. DID YOU INFORM ANYONE FROM THE
18 DEPARTMENT OF JUSTICE BEFORE JUNE 15, 1998,
19 MEETING THAT YOU WERE GOING TO HAVE A MEETING
20 WITH APPLE PERSONNEL ON JUNE 15TH?
21 THE WITNESS: WITH MICROSOFT?
22 MR. LINZER: WITH MICROSOFT PERSONNEL?
23 MR. EDELMAN: I'M SORRY, THANK YOU.
24 THE WITNESS: I DON'T RECALL IF I
25 INFORMED THEM MYSELF. I DO RECALL THAT THEY HAD

1 BEEN INFORMED ABOUT--I DO RECALL THAT THEY HAD
2 BEEN INFORMED ABOUT SUCH A MEETING.
3 (EXCERPT.)
4 Q. YOU TESTIFIED ABOUT SOME TECHNOLOGICAL
5 INCOMPATIBILITIES WITH RESPECT TO QUICKTIME AND
6 WINDOWS.
7 DO YOU RECALL THAT?
8 A. YES.
9 Q. DO YOU HAVE AN UNDERSTANDING AS TO
10 WHETHER--STRIKE THAT.
11 WERE YOU SUGGESTING THAT MICROSOFT
12 CREATED THESE INCOMPATIBILITIES INTENTIONALLY?
13 MR. LINZER: LET ME OBJECT AS COMPOUND
14 SINCE THERE ARE AREAS OF INCOMPATIBILITIES.
15 BUT YOU CAN ANSWER.
16 THE WITNESS: I DON'T KNOW WHY THEY--I
17 DON'T KNOW WHY THEY PRODUCED THE--I DON'T KNOW
18 WHY THE INCOMPATIBILITIES ARE THERE.
19 BY MR. EDELMAN:
20 Q. OKAY.
21 A. I DON'T KNOW THAT I HAVE EVER SUGGESTED
22 THAT THEY DID IT INTENTIONALLY.
23 Q. ARE YOU SUGGESTING NOW THAT THEY DID IT
24 INTENTIONALLY?
25 A. I DON'T KNOW WHAT I THINK.

1 Q. BY THE WAY, AT THE JUNE 15TH, 1998,
2 MEETING WITH MESSRS. ENGSTROM, PHILLIPS AND
3 PIERRY, DID YOU TELL THEM THAT YOU HAD PROVIDED A
4 DEPOSITION TO THE DEPARTMENT OF JUSTICE IN
5 CONNECTION WITH AN INVESTIGATION?
6 A. NO, I DID NOT.
7 Q. HAVE YOU EVER PROVIDED THAT INFORMATION
8 TO MICROSOFT?
9 A. I HAVE NOT.
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