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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GOVERNMENT EXHIBIT 1459

1 (DEPOSITION EXCERPTS OF PHILIP SCHILLER.)

2 Q. WHO ARE YOUR COMPETITORS FOR QUICKTIME?

3 A. THE COMPETITORS FOR QUICKTIME ARE,

4 CERTAINLY FIRST AND FOREMOST, MICROSOFT AND

5 MICROSOFT'S TECHNOLOGIES FOR MEDIA CREATION AS

6 WELL AS THE AUTHORING SIDE AS WELL AS PLAYBACK.

7 AND IN TERMS OF THE BROAD RANGE OF ALL THE THINGS

8 QUICKTIME DOES, THAT IS THE ONLY COMPETITOR OF A

9 SIMILAR SCOPE OF AUTHORING IN SUBSEGMENTS OF

10 THINGS QUICKTIME DOES.

11 THERE ARE OTHER COMPETITORS. FOR

12 EXAMPLE, ON PROBABLY THE LARGEST AREA WHICH IS

13 MEDIA PLAYBACK ON THE WEB, THERE IS ALSO

14 REALNETWORKS AND THEIR REALAUDIO AND REALVIDEO

15 PRODUCTS. AND THEN, OF COURSE, THERE ARE MANY,

16 MANY SMALLER COMPANIES OUT THERE WITH NOT THE

17 SAME BREADTH OF TECHNOLOGY OR MARKETING OR

18 CUSTOMER OR DEVELOPER SUPPORT, SO I WOULDN'T

19 CONSIDER THEM POTENTIAL COMPETITORS, BUT IN THE

20 GRAND SCOPE OF THINGS, NOT REALLY, NOT VERY MUCH

21 OF A COMPETITOR.

22 SO THE LIST OF COMPETITORS IS QUITE

23 SMALL. OTHERS HAVE TRIED MANY THINGS. MANY

24 THINGS HAVE COME AND GONE, BUT AT THIS POINT

25 TODAY THAT'S REALLY THE SCOPE OF THE MARKET.

1 (EXCERPT.)

2 Q. OKAY. HAVE YOU HAD DISCUSSIONS WITH

3 ANY WINDOWS PC OEM'S ABOUT LICENSING QUICKTIME 3?

4 A. YES.

5 Q. WITH WHICH ONE?

6 A. WELL, THE FIRST AND THE PRIMARY ONE

7 WHICH I HAD DISCUSSIONS WAS COMPAQ COMPUTER CORP.

8 Q. I THINK YOU TESTIFIED THEY HAD

9 PRE-INSTALLED QUICKTIME 2 IN THE PAST.

10 A. YES.

11 Q. OKAY. HOW DID YOUR DISCUSSIONS ABOUT

12 QUICKTIME 3 WITH THEM COME ABOUT?

13 A. THERE WERE ACTUALLY TWO THINGS IN

14 PARALLEL THAT LED TO OUR DISCUSSIONS IN THE

15 MEETING WE ACTUALLY HELD THERE IN TEXAS. I WAS

16 CONTACTED BY A PRODUCT MANAGER FOR COMPAQ

17 PRESARIO DIVISION, WHO WAS INVOLVED IN THE

18 BUNDLING OF QUICKTIME 2, AND NOW WANTS TO BEGIN

19 BUNDLING QUICKTIME 3. AND HE CALLED ME ACTUALLY

20 QUITE DESPERATE TO GET QUICKTIME 3 AS FAST AS

21 POSSIBLE ONTO THEIR PRODUCT.

22 Q. AND WHAT'S HIS NAME?

23 A. ERIC FEDERMAN.

24 (EXCERPT.)

25 Q. OKAY. AND DID YOU THEN SET UP A

1 MEETING IN RESPONSE TO THIS?

2 A. YES. WE SET UP A MEETING TO TRAVEL

3 WITH A NUMBER OF US TO COMPAQ IN TEXAS AND

4 PRESENT QUICKTIME 3 TO THEM.

5 (EXCERPT.)

6 BY MR. COVE:

7 Q. WHAT WAS THE REACTION OF THE COMPAQ

8 PEOPLE TO YOUR PROPOSAL?

9 A. THE UNUSUAL THING WAS THE VERY FIRST

10 QUESTION ASKED WHEN WE WERE DONE WITH THAT FIRST

11 PHASE, THE FIRST PRESENTATION. THE FIRST

12 QUESTION ASKED WAS WHAT WILL--"HOW DO YOU COMPETE

13 WITH MICROSOFT AFTER YOU'VE ALREADY MADE AN

14 ANNOUNCEMENT THAT YOU HAVE A PARTNERSHIP WITH

15 THEM?" AND THAT THE COMPAQ REPRESENTATIVES IN

16 THE ROOM SPECIFICALLY SAID, "WE NEED TO

17 UNDERSTAND HOW YOU DO THIS AND WHAT YOU SAY TO

18 MICROSOFT BEFORE WE COULD DO SOMETHING--DO

19 ANYTHING SUCH AS LICENSE THIS."

20 AND THAT STICKS IN MY MIND BECAUSE IT'S

21 NOT THE FIRST QUESTION I EXPECTED. I THOUGHT WE

22 WOULD GET A TECHNOLOGY QUESTION OR LICENSING OR

23 PRICING QUESTION, BUT IT WAS THAT.

24 MR. EDELMAN: MOVE TO STRIKE EVERYTHING

25 AFTER "THAT STICKS IN MY MIND" AS NOT RESPONSIVE.

1 BY MR. COVE:

2 Q. WHAT--DID THEY SAY ANYTHING ELSE IN

3 THIS INITIAL EXCHANGE ABOUT MICROSOFT?

4 A. THAT WAS THE FIRST QUESTION OF A SERIES

5 OF--THEN THE SECOND HALF OF THE MEETING WAS ALL

6 QUESTION AND ANSWER AND DISCUSSION. SO, AFTER

7 THAT, WE TALKED A GREAT DEAL ABOUT THE VALUE OF

8 BUNDLING IS, YOU KNOW, WHAT THE MARKETING TEAM

9 WANTED TO KNOW A LOT ABOUT HOW--WHAT'S THE VALUE

10 OF QUICKTIME THAT THEY WOULD PAY FOR WHEN THEY

11 CAN GET TECHNOLOGY FROM MICROSOFT FOR FREE.

12 Q. BEFORE YOU GO ON, DID THEY SAY ANYTHING

13 ABOUT OR INQUIRE HOW THEY WOULD RESPOND TO

14 MICROSOFT WHEN MICROSOFT ASKED THEM ABOUT THIS?

15 A. IN RESPONSE TO--COULD YOU ASK THAT

16 QUESTION AGAIN?

17 Q. EARLIER YOU SAID THE FIRST QUESTION OUT

18 OF THEIR MOUTHS WAS HOW CAN APPLE BE DOING THIS

19 WHEN IT HAS A PARTNERSHIP DEAL WITH MICROSOFT.

20 A. UH-HUH.

21 (THE FINISHING QUESTION AND ANSWER ARE MARKED AS

22 REQUESTED BY DEFENDANT'S COUNSEL.)

23 Q. DID THEY ASK ANYTHING ABOUT, "WHAT ARE

24 WE GOING TO RESPOND TO MICROSOFT IF THEY ASK US

25 ABOUT THIS?"

1 A. THEY ASKED ME HOW APPLE EXPLAINS THIS
2 TO MICROSOFT. THEY DID NOT ARTICULATE ANYTHING
3 ABOUT HOW COMPAQ WOULD EXPLAIN--TALK TO MICROSOFT
4 ABOUT THAT.
5 (EXCERPT.)
6 BY MR. COVE:
7 Q. HOW DID THE MEETING CONCLUDE?
8 A. WE FINISHED UP THE MEETING WITH THE
9 COMPAQ ENGINEERING TEAM STATING THAT THEY WERE
10 VERY HAPPY WITH WHAT THEY SAW. THERE WAS A LOT
11 OF TECHNOLOGY FOR THEM TO CONSIDER; THAT THEY HAD
12 INTERNAL PROJECTS TO PROPOSE TO UPPER MANAGEMENT
13 WHAT WAS TO BE DONE WITH MULTIMEDIA IN THEIR--THE
14 NEW PRESARIO COMPUTERS, AND THAT THEY WOULD
15 RESPOND TO US ON OUR PROPOSAL FOR LICENSING AND
16 BUNDLING QUICKTIME WITHIN ONE WEEK, AND THEN THE
17 MEETING PROCEEDED TO BREAK UP.
18 Q. AND DID YOU HAVE ANY FURTHER
19 CONVERSATIONS WITH ANY COMPAQ REPRESENTATIVES AS
20 THE MEETING BROKE UP?
21 A. YES.
22 Q. WHAT HAPPENED?
23 A. AT THE END OF THE MEETING AS WE WERE
24 ALL PACKING UP OUR EQUIPMENT TO GO, DAVID
25 OBLECZ'S BOSS STEVEN DECKER, WHO'S THE DIRECTOR

1 OF PROCUREMENT IN THE PRESARIO DIVISION, CAME
2 OVER TO ME AND EXPLAINED OR STATED THAT, "YOU
3 HAVE TO UNDERSTAND WHAT'S GONE ON HERE. THEY'RE
4 VERY AFRAID--" THEY BEING THE MARKETING TEAM
5 "--OF DOING ANYTHING TO--" AND I CAN'T REMEMBER
6 WHAT THE WORD IS--"UPSET" OR "PISSED OFF." I
7 REALLY CAN'T REMEMBER. IT WAS ONE OF THOSE
8 WORDS. "--MICROSOFT. AND ARE VERY WEARY OF
9 BUNDLING ANYTHING THAT WOULD UPSET MICROSOFT
10 BECAUSE THEY TOUCH US IN SO MANY PLACES.
11 (EXCERPT.)
12 BY MR. COVE:
13 Q. MR. SCHILLER, HAVE YOU EVER HAD ANY
14 CONVERSATIONS WITH ANY REPRESENTATIVES OF
15 MICROSOFT ABOUT QUICKTIME'S FUTURE ON THE WINDOWS
16 OPERATING SYSTEM?
17 A. YES.
18 Q. WHAT'S THE FIRST TIME YOU HAD A
19 CONVERSATION ALONG THAT LINE?
20 A. REALLY, THE ONLY ONE TO MY RECOLLECTION
21 AS A FIRST CONVERSATION WAS THIS SPRING WITH ERIC
22 ENGSTROM FROM MICROSOFT.
23 Q. HOW DID THAT CONVERSATION COME ABOUT?
24 A. WELL, IN END OF MARCH, START OF APRIL,
25 WE STARTED TO HEAR ABOUT A TECHNOLOGY

1 ANNOUNCEMENT THAT WAS GOING TO BE MADE BY
2 MICROSOFT AND SOME OTHER PARTNERS CALLED AAF,
3 SOMETHING I OUTLINED IN THE BEGINNING, AND WE HAD
4 SOME DISCUSSIONS WITH AVID ABOUT WHAT IS THIS
5 AAF, WHAT'S COMING UP, AND IMMEDIATELY AFTER THAT
6 DISCUSSION, THE NEXT DAY, STEVE JOBS GOT A PHONE
7 MESSAGE FROM ERIC ENGSTROM SAYING, "I HEARD
8 YOU'RE CONCERNED ABOUT THIS AAF ANNOUNCEMENT IN
9 THAT YOU DON'T THINK YOU WERE INVITED TO BE PART
10 OF THAT. YOU WERE INVITED TO BE PART OF AAF,
11 AND, YOU KNOW, PLEASE RETURN MY CALL." AND SO--
12 Q. AND WHAT'S YOUR BASIS FOR WHAT YOU
13 JUST--
14 A. THAT WAS THE MESSAGE THAT WAS SENT TO
15 ME. IT WAS A MESSAGE. IT WASN'T A CONVERSATION.
16 STEVE GOT A MESSAGE FROM ERIC THAT SAID THOSE
17 THINGS.
18 Q. AND HE FORWARDED IT TO YOU?
19 A. AND STEVE FORWARDED IT TO ME AND SAID,
20 "WHY DON'T YOU RETURN THIS AND FIND OUT WHAT
21 ERIC'S TALKING ABOUT."
22 Q. DO YOU REMEMBER WHEN THIS OCCURRED?
23 A. YES. APRIL 3RD WAS THE DATE AT WHICH I
24 GOT THE MESSAGE IN AND RETURNED THE CALL.
25 Q. DO YOU KNOW WHAT POSITION MR. ENGSTROM

1 HELD AT MICROSOFT?

2 A. I KNOW THAT HE WAS RESPONSIBLE FOR

3 NETSHOW TECHNOLOGY. I DO NOT KNOW HIS TITLE. IT

4 WAS AN EXECUTIVE OF THAT RESPONSIBILITY.

5 (EXCERPT.)

6 Q. WAS IT YOUR UNDERSTANDING THAT THE

7 AGREEMENT TO COLLABORATE ON AUTHORING TOOLS WAS

8 DEPENDING ON YOU EXITING THE WINDOWS PLAYBACK I

9 AREA?

10 A. YES.

11 I, IN FACT, BELIEVE I MAY HAVE EVEN

12 ASKED HIM THAT QUESTION OF, "SO WE WOULD HAVE TO

13 GIVE UP PLAYBACK ON WINDOWS TO WORK TOGETHER ON

14 AUTHORING," AND IT WAS VERY CLEAR THAT THAT WAS

15 WHAT WAS BEING OFFERED.

16 Q. AND WHAT WAS HIS RESPONSE WHEN YOU

17 ASKED THAT QUESTION?

18 A. YES. "YES, WE WOULD WORK TOGETHER ON

19 AUTHORING. YOU GUYS HAVE DONE A GREAT JOB THERE,

20 BUT YOU HAVE TO GIVE UP PLAYBACK ON WINDOWS."

21 HE ALSO MENTIONED THAT'S THE--ON THE

22 AUTHORING SIDE THAT WE--

23 COURT REPORTER: I'M SORRY. THAT WHAT?

24 THE WITNESS: ON THE AUTHORING SIDE WE

25 HAVE TECHNOLOGIES THAT MICROSOFT DOES NOT HAVE

1 AND BE EXTREMELY BENEFICIAL TO THEM. HE
2 SAID--AND HE SAID, "LET ME SHARE WITH YOU ANOTHER
3 THING WE'RE GOING TO ANNOUNCE NEXT WEEK. WE'RE
4 GOING TO ANNOUNCE SOMETHING CALLED DIRECT
5 SURFACES WHICH IS A WAY TO CREATE FILTERS ON
6 MEDIA." HE SAID, "WE DON'T HAVE ANY WAY TO
7 CREATE THAT STUFF. ONLY QUICKTIME CAN CREATE
8 THAT CONTENT, SO IT WOULD BE VERY BENEFICIAL FOR
9 US ON THE AUTHORING SIDE TO HAVE YOUR SUPPORT AND
10 WORK TOGETHER."
11 Q. WOULD THERE BE ANY ROLE LEFT FOR
12 QUICKTIME 3 ON WINDOWS UNDER THIS PROPOSAL, ON
13 THE PLAYBACK SIDE?
14 A. THE PROPOSAL TO STOP DELIVERING
15 PLAYBACK OF MEDIA ON WINDOWS FOR QUICKTIME WOULD
16 KILL QUICKTIME ON WINDOWS. UP UNTIL THAT POINT,
17 QUICKTIME ON WINDOWS WAS ONLY PLAYBACK. THE
18 AUTHORING WAS THE BRAND NEW PART, JUST BUILDING
19 UP AUTHORING ON WINDOWS. SO, IN EFFECT, THIS
20 SUGGESTION WOULD BE TO STOP ALL THAT WE HAVE DONE
21 TO BE SUCCESSFUL FOR WINDOWS TO THAT POINT IN
22 TIME.
23 (EXCERPT.)
24 Q. DID YOU HAVE A FACE-TO-FACE MEETING
25 WITH REPRESENTATIVES OF MICROSOFT IN WHICH THIS

1 SUBJECT WAS DISCUSSED?

2 A. YES.

3 Q. WHEN DID THAT OCCUR?

4 A. IN MID JUNE.

5 Q. AND WHO ATTENDED THAT MEETING?

6 A. LET'S SEE, FROM APPLE, MYSELF, TIM

7 SCHAAFF, AVI TEVANIAN, STEVE JOBS. I BELIEVE

8 THAT WAS IT ON APPLE'S SIDE.

9 ON MICROSOFT'S SIDE, THERE WERE THREE

10 PEOPLE, ERIC ENGSTROM, CHRIS PHILLIPS, AND A

11 THIRD ENGINEER THAT I CAN'T RECALL HIS--I DON'T

12 RECALL HIS NAME.

13 (EXCERPT.)

14 BY MR. COVE:

15 Q. HAVE ANY THIRD PARTIES DISCUSSED WITH

16 YOU ANY MICROSOFT ACTIONS WITH REGARD TO APPLE

17 AND QUICKTIME ON THE WINDOWS PLATFORM?

18 A. YES.

19 Q. WHEN--WHEN DID THAT OCCUR?

20 A. I PERSONALLY HAVE HAD CONVERSATIONS

21 WITH TWO EXAMPLES OF THAT. ONE WAS WHILE I WAS

22 AT MACROMEDIA WITH RESPECT TO TRUEVISION, A

23 COMPANY WE WORKED WITH. AND THE SECOND HERE AT

24 APPLE IN A DISCUSSION WITH AN EXECUTIVE FROM

25 AVID.

1 Q. OKAY. WHY DON'T YOU EXPLAIN WHAT
2 HAPPENED WHILE YOU WERE AT MACROMEDIA.
3 A. WHEN I WAS AT MACROMEDIA, I HAD--WAS
4 REPORTING TO ME THE PRODUCT MARKETING TEAM FOR A
5 PRODUCT CALLED FINAL CUT, A VIDEO EDITING
6 PRODUCT. AND BACK IN '96 WE HAD HAD A STRATEGY
7 OF USING APPLE'S QUICKTIME AS THE ENGINE AND API
8 FOR VIDEO EDITING ON THE MAC IN THE TECHNOLOGY
9 FROM MICROSOFT CALLED ACTIVE MOVIE ON WINDOWS.
10 Q. WAS FINAL CUT DESIGNED TO WORK BOTH ON
11 THE MAC AND THE WINDOWS PLATFORM?
12 A. YES.
13 Q. OKAY. AND DURING THE DEVELOPMENT OF
14 FINAL CUT, ACTIVE MOVIE WENT AWAY AS A TECHNOLOGY
15 FROM MICROSOFT. THEY DID NOT DELIVER IT, SO THE
16 FINAL CUT TEAM HAD TO SWITCH TO USING QUICKTIME
17 FOR BOTH MAC AND WINDOWS AS ITS EXCLUSIVE
18 AUTHORING API. AND ONE OF THE KEY ELEMENTS OF
19 BEING SUCCESSFUL WITH FINAL CUT IS USING SOME OF
20 THE NEW GENERATION OF VIDEO CARDS COMING ON FOR
21 CAPTURE VIDEO TO THUS EDIT, AND THE LEADER OF
22 THAT OF ADD-IN VIDEO CARDS FOR PROFESSIONALS ON
23 PC AND MAC IS A COMPANY CALLED TRUEVISION. SO WE
24 HAD A VERY TIGHT RELATIONSHIP WITH TRUEVISION TO
25 MAKE SURE THAT THEIR CARDS WORKED WITH OUR

1 APPLICATION FINAL CUT.

2 AND IN WORKING WITH THEM, AT THE POINT

3 AT WHICH FINAL CUT SWITCHED TO NEEDING TO USE

4 QUICKTIME ON WINDOWS, THE FINAL CUT TEAM WENT TO

5 TRUEVISION AND SAID, "WE NOW NEED TO TEST AND

6 ENSURE THAT QUICKTIME WORKS ON WINDOWS WITH YOUR

7 VIDEO CARD."

8 AND THE WAY THAT HAPPENS IS THE VIDEO

9 CARD MAKERS USUALLY DEVELOP A DRIVER THAT WORKS

10 WITH SOFTWARE. AND THAT WORK BEGAN. THEN

11 PARTWAY THROUGH THE WORK, THE TEAM FROM

12 TRUEVISION CALLED MY PRODUCT MARKETING TEAM FROM

13 APPLE AND SAID, "WE NEED TO STOP--

14 MR. LINZER: EXCUSE ME. YOU MEAN

15 MACROMEDIA?

16 THE WITNESS: EXCUSE ME. THE TEAM FROM

17 TRUEVISION CALLED MY TEAM AT MACROMEDIA AND SAID,

18 "WE CAN'T DELIVER YOU YOUR QUICKTIME DRIVER FOR

19 OUR CARD ON WINDOWS BECAUSE WE HAVE ENTERED INTO

20 AN AGREEMENT WITH MICROSOFT. AND PART OF THAT

21 AGREEMENT REQUIRES US TO NOT MAKE A QUICKTIME

22 DRIVER FOR OUR CARD FOR WINDOWS.

23 AND THAT, OF COURSE, WAS VERY

24 CONCERNING BECAUSE QUICKTIME IS NOW WHAT WE

25 REQUIRE IN ORDER TO MAKE FINAL CUT WORK ON

1 WINDOWS, AND WE HAD BEEN WORKING WITH TRUEVISION,
2 AND TRUEVISION HAS THE HOTTEST NEW CARD COMING
3 OUT TO DO THIS STUFF.
4 AND MICROSOFT ACTIVELY TOLD THEM NOT TO
5 DEVELOP THAT AS PART OF SOME AGREEMENT. I DO NOT
6 KNOW WHAT THAT AGREEMENT WAS, NOR ANY OF THE
7 OTHER DETAILS OTHER THAN WHAT THEY CALLED AND
8 TOLD US IS THAT THEY COULD NOT DO THAT WORK ANY
9 LONGER.
10 (EXCERPT.)
11 Q. DID THIS--DID YOU HAVE TO--DID
12 MACROMEDIA HAVE TO ALTER ITS DEVELOPMENT PLANS
13 BASED ON THIS?
14 A. YES. OUR ENGINEERING WAS IMPACTED. WE
15 HAD TO SPEND A GREAT DEAL OF TIME TRYING TO
16 FIGURE OUT WHETHER A DIFFERENT SOLUTION WAS
17 REQUIRED OR WHETHER WAS THE WAY TO WORK WITH
18 TRUEVISION AROUND THEIR CONTRACTUAL LIMITATIONS.
19 WE GOT APPLE INVOLVED AND TRUEVISION INVOLVED.
20 AGAIN, I WAS NOT IN THOSE MEETINGS, BUT
21 MY TEAM GOT THEM INVOLVED AND TRIED TO FIND A
22 SOLUTION TO MAKE THIS WORK. AND THE
23 SOLUTION--AND THIS, OF COURSE, INVOLVED ENGINEERS
24 AND THUS SLOWED DOWN OUR DEVELOPMENT OF THE
25 PROJECT.

1 AND THE SOLUTION THAT WAS DERIVED WAS
2 THAT TRUEVISION WOULD CREATE A DRIVER THAT WAS,
3 IN EFFECT, THE SAME THING THAT THEY WANTED TO DO
4 A QUICKTIME DRIVER FOR WINDOWS FOR THEIR CARD,
5 BUT THEY WOULD ENSURE THAT IT ONLY WORKED
6 EXCLUSIVELY WITH FINAL CUT AND WOULD NOT BE
7 MARKETED, BRANDED, OR TALKED ABOUT AS A TRUE
8 QUICKTIME DRIVER; THUS, THEY COULD MEET THEIR
9 REQUIREMENTS WITH MICROSOFT THAT THEY DID NOT
10 DELIVER A QUICKTIME DRIVER FOR WINDOWS, BUT THEY
11 COULD DELIVER THE TECHNOLOGY TO MAKE OUR PRODUCT
12 WORK.
13 (EXCERPT.)
14 Q. DID YOU RECEIVE OR HAVE YOU HEARD OF
15 OTHER--OF ANY OTHER THIRD PARTIES TOLD YOU ABOUT
16 MICROSOFT--ANY MICROSOFT ACTION THAT WOULD IMPEDE
17 THE USE OF QUICKTIME ON THE WINDOWS PLATFORM?
18 A. YES. I--
19 Q. WHAT HAPPENED THERE?
20 A. EARLIER THIS YEAR IN A MEETING WITH
21 MANAGEMENT FROM AVID, I WAS SPEAKING WITH AN
22 EXECUTIVE AT AVID, CLIFF JENKS. AS PART OF THE
23 DISCUSSION, WE MADE THE POINT THAT HE'S UNDER
24 TREMENDOUS PRESSURE FROM MICROSOFT TO NOT SUPPORT
25 QUICKTIME. AND AVID HAS A VERY IMPORTANT

1 APPLICATION THAT WE'VE COLLABORATED ON WITH THEM
2 CALLED AVID CINEMA, A CONSUMER VIDEO EDITING
3 PRODUCT, THAT IS QUITE HEAVILY RELIANT ON
4 QUICKTIME TO MAKE ITSELF WORK.
5 AND I ASKED CLIFF TO EXPLAIN, "WELL,
6 CAN YOU GIVE ME AN EXAMPLE OF WHAT THIS PRESSURE
7 IS." AND HE ALSO SAID THAT AS EXAMPLE OF OUR
8 STRONG RELATIONSHIP, HE'S FIGHTING AGAINST THAT
9 PRESSURE. AND THE EXAMPLE HE GAVE ME WAS--HE
10 SAID THAT MICROSOFT WAS ABOUT TO ANNOUNCE A NEW
11 CHANNEL FOR SELLING SOFTWARE, AND THAT CHANNEL
12 WOULD BE PART OF THE MEMPHIS PRODUCT WHICH
13 MEMPHIS, I'M TOLD, IS A CODE NAME FOR WINDOWS 98
14 WHICH HADN'T SHIPPED AT THAT POINT. AND THAT
15 THIS CHANNEL WOULD USE THEIR ACTIVE DESKTOP.
16 THEIR ACTIVE DESKTOP IS A TECHNOLOGY FOR USING
17 WEB CONTENT ON YOUR DESKTOP, BUILT INTO YOUR
18 DESKTOP IN WINDOWS. AND THAT MICROSOFT WOULD BE
19 ACTUALLY SELLING SOFTWARE RIGHT THERE ON THE
20 USER'S DESKTOP USING ACTIVE DESKTOP.
21 AND CLIFF TOLD ME THAT HE APPROACHED
22 MICROSOFT, THE MEMPHIS TEAM, ABOUT BEING PART OF
23 THAT NEW CHANNEL TO SELL THEIR SOFTWARE. AND
24 THAT THE MEMPHIS TEAM TOLD HIM THAT AS LONG AS HE
25 USED QUICKTIME IN HIS PRODUCT, HE CANNOT BE PART

1 OF THAT SALES CHANNEL. AND CLIFF EXPLAINED THAT
2 WHEN THEY DISCUSSED WITH MICROSOFT POSSIBLY ON
3 NEW WINDOWS PRODUCT NOT SAYING THEY USE
4 QUICKTIME, NOT STATING THAT THEY SUPPORT
5 QUICKTIME, MAYBE NOT EVEN OUTPUTTING QUICKTIME
6 FORMAT FILES, AND WAS TOLD BY MICROSOFT, "THAT'S
7 NOT GOOD ENOUGH. YOU NEED TO RIP QUICKTIME OUT
8 OF YOUR PRODUCT IF YOU WANT TO BE IN THIS
9 CHANNEL."
10 AND I ASKED CLIFF, "WHERE'S THIS COMING
11 FROM?" YOU KNOW, WHO AT MICROSOFT IS SO BENT ON
12 KILLING QUICKTIME THAT THEY WOULD IMPACT THE
13 MEMPHIS TEAM, AND HE SAID THAT IT WAS COMING FROM
14 THE NETSHOW TEAM. THE NETSHOW TEAM HAD ENOUGH
15 INFLUENCE TO AFFECT THE POLICIES OF THE MEMPHIS
16 TEAM.
17 (EXCERPT.)
18 Q. DO YOU HAVE AN UNDERSTANDING AS TO THE
19 TOTAL NUMBER OF QUICKTIME COPIES DISTRIBUTED?
20 A. I HAVE SEEN A STUDY THAT STATED OVER
21 100 MILLION COPIES WORLDWIDE, WHICH I BELIEVE TO
22 BE REASONABLE GIVEN THAT THE NUMBER OF HARDWARE
23 MANUFACTURERS THAT WERE DISTRIBUTING QUICKTIME 2
24 THAT I MENTIONED EARLIER, IBM, COMPAQ, DELL,
25 GATEWAY, NEC, IT IS EXTREMELY EXHAUSTIVE LIST.

1 IN FACT, I, PERSONALLY, WHEN I READ
2 THAT STUDY, WENT TO A COMPUTER STORE TO VERIFY IS
3 REALLY EVERYONE DISTRIBUTING IT, WENT UP TO EVERY
4 COMPUTER IN THE STORE FROM EVERY VENDOR, AND SURE
5 ENOUGH, QUICKTIME WAS ON ALL OF THEIR HARD
6 DRIVES. AND WE DIDN'T KNOW THEY WERE DOING THAT,
7 BUT IT WAS THERE. SO I BELIEVE THAT IS A
8 REASONABLE EXPECTATION THAT IT IS OVER A HUNDRED
9 MILLION.
10 (EXCERPT.)
11 Q. NOW, I BELIEVE YOU DISCUSSED--YOU
12 TESTIFIED TODAY ABOUT A COMMUNICATION THAT YOU
13 HAD--LET ME SAY IT THIS WAY, AND WE'LL GET INTO
14 IT--THAT APPLE HAD WITH AVID AT OR ABOUT THE TIME
15 YOU FIRST LEARNED THAT AAF WAS BEING PROMOTED?
16 A. YES.
17 (EXCERPT.)
18 A. WE CALLED TO FIND OUT WHAT WAS BEING
19 ANNOUNCED TO ASK, "WE HEAR THERE'S AN
20 ANNOUNCEMENT COMING UP. WE'D LIKE TO KNOW WHAT
21 THIS IS ABOUT, AND IF IT HAS ANY IMPACT ON APPLE
22 AS IN OUR POSITION IN THIS MARKETPLACE, IMPACT ON
23 OUR RELATIONSHIPS AND THE THINGS WE'RE WORKING
24 ON," SO WE CALLED TO FIND OUT WHAT WAS GOING ON.
25 Q. WAS IT JUST AN INFORMATIONAL CALL JUST

1 TO LEARN WHAT YOU COULD ABOUT WHAT WAS GOING
2 TO--WHAT WAS GOING ON AS YOU SAY?
3 A. THAT WAS THE PRIMARY REASON WAS TO FIND
4 OUT WHAT'S GOING ON. WE DO NOT KNOW. WE WERE
5 NOT PART OF IT.
6 Q. WHEN YOU SAY THAT WAS THE PRIMARY
7 REASON, I WAS SORT OF TEMPTED TO ASK YOU, WAS
8 THERE ANY OTHER REASON.
9 WAS THERE ANY OTHER REASON?
10 A. NO. WE WERE INFORMATION GATHERING. WE
11 WERE TRYING TO LEARN WHAT WAS GOING ON.
12 (EXCERPT.)
13 Q. DO YOU RECALL ANYTHING ELSE ABOUT THAT
14 TELEPHONE CALL?
15 A. I'M SORRY. CAN YOU BE MORE SPECIFIC?
16 Q. IS THERE ANYTHING ELSE YOU REMEMBER
17 ABOUT THAT CALL?
18 A. WE TALKED AT LENGTH ASKING WHAT'S BEING
19 ANNOUNCED. CAN YOU TELL US ABOUT ANYTHING ABOUT
20 WHO'S INVOLVED? WHAT DOES THIS MEAN IF IT IS A
21 ANNOUNCEMENT THAT YOU'RE MAKING WITH MICROSOFT?
22 WILL YOU ALSO SAY YOU'RE VERY BIG SUPPORTERS OF
23 QUICKTIME AND OUR FILE FORMAT IN YOUR
24 APPLICATIONS? WHAT DOES THIS MEAN ABOUT WHERE
25 YOU'RE GOING WITH YOUR PRODUCTS? IS THIS A SHIFT

1 IN STRATEGY FOR YOU? WHAT ARE YOU DOING? CAN
2 YOU TELL US IF THERE'S GOING TO BE A BIG EVENT
3 THAT YOU THINK WE SHOULD KNOW ABOUT? HAS A LOT
4 OF WORK GONE ON IN THE MARKETING FRONT? HAVE YOU
5 DONE PRESS TOURS ON THIS, WHICH IS OFTEN COMMON?
6 IS THERE TECHNOLOGY THAT IMPACTS THE TECHNOLOGY
7 WORK WE'RE DOING TOGETHER?
8 THERE WERE VERY MANY THINGS WE
9 DISCUSSED ABOUT OUR RELATIONSHIP, OUR PRODUCTS,
10 OUR MARKETING TOGETHER. THERE'S A TREMENDOUS
11 AMOUNT WE WERE DOING TOGETHER. WE WERE DOING
12 ENGINEERING WORK. WE WERE DOING MARKETING WORK.
13 WE WERE DOING TRADE SHOWS, AND SO WE WERE TRYING
14 TO UNDERSTAND IF ANYTHING'S CHANGING HERE, AND
15 WHAT THEY THINK THE IMPACT IS ON THE WORK THEY'RE
16 DOING WITH US ON QUICKTIME. IT WAS A LENGTHY,
17 INVOLVED CONVERSATION.
18 Q. DO YOU RECALL YOUR STATE OF MIND WITH
19 RESPECT TO AVID'S ROLE IN AAF AT THE TIME YOU
20 WERE INVOLVED IN THE CALL?
21 A. STATE OF MIND. URGENT, BECAUSE THIS
22 WAS NEW INFORMATION. IT WAS ABOUT TO BECOME AN
23 ANNOUNCEMENT AT A TRADE SHOW THE FOLLOWING WEEK,
24 AND WE DO NOT KNOW OR UNDERSTAND THE
25 RAMIFICATIONS YET OF THAT. SO WE NEEDED TO FIND

1 OUT WHAT WAS GOING ON TO THE EXTENT THAT WE
2 COULD.
3 (EXCERPT.)
4 Q. OKAY. NOW, TO YOUR RECOLLECTION, DID
5 ANYBODY ON THE TELEPHONE CALL WE'VE BEEN TALKING
6 ABOUT, ANYONE FROM APPLE SAY TO ANYONE FROM AVID
7 THAT IF AVID DID NOT BACK OFF FROM SUPPORTING
8 AAF, THAT MICROSOFT--EXCUSE ME--THAT APPLE WOULD
9 STOP SUPPORTING AVID?
10 A. I THINK AND I'M--AND I HAVE NOT SPENT
11 ANY TIME BEFORE THINKING BACK AND TRYING TO
12 GATHER MY RECOLLECTION, BUT WHAT I BELIEVE WAS
13 STATED WAS THAT WE DON'T--IF--IF AVID WAS GOING
14 TO MAKE A STRATEGIC MOVE TO A DIFFERENT FILE
15 FORMAT THAT NEGATES THAT NOW COMPETES--NEGATES
16 THE WORK WE'RE DOING, HOW CAN WE DO MARKETING
17 TOGETHER ON OUR FORMAT? IT JUST MAKES NO SENSE
18 AT ALL. IT MAKES NO SENSE, SO THAT IF THIS WAS A
19 VERY COMPETITIVE MOVE AGAINST QUICKTIME, IT WAS
20 GOING TO POSITION QUITE COMPETITIVELY BY AVID,
21 THEN HOW COULD WE POSSIBLY DO MARKING TOGETHER
22 FOR QUICKTIME? IT WOULD LOOK COMPLETELY
23 HYPOCRITICAL.
24 SO THEY HAD TO UNDERSTAND THAT A
25 DECISION LIKE THIS COULD HAVE SEVERE IMPLICATIONS

1 ON WHETHER WE COULD WORK TOGETHER ON QUICKTIME.
2 AND WE ASKED THEM SPECIFICALLY--I RECALL ASKING
3 THEM SAYING THAT IF YOU THINK THIS IS NOT
4 IMPORTANT OR COMPETITIVE WITH QUICKTIME, THEN IT
5 WOULDN'T IMPACT OUR WORK TOGETHER, BUT IF IT IS,
6 THEN IT WOULD HAVE TO IMPACT OUR WORK TOGETHER.
7 YOU CAN'T COME UP WITH SOMETHING TO COMPETE--TO
8 ACTIVELY COMPETE WITH QUICKTIME AND THEN BE ONE
9 OF THE MARKETING PARTNERS FOR QUICKTIME. HOW
10 COULD WE DO THAT?
11 AND SO I DO RECALL SAYING, "WE'LL HAVE
12 TO SEE HOW NEXT WEEK GOES, AND YOU CAN SHOW US
13 WHETHER IT'S SOMETHING THAT COMPETES WITH
14 QUICKTIME AND THUS WE CAN'T WORK ON CO-MARKETING
15 TOGETHER, OR IT DOESN'T COMPETE IN WHICH CASE,
16 GREAT, WE CAN JUST KEEP DOING WHAT WE'RE DOING
17 AND YOU CAN DO THAT."
18 I DO RECALL SAYING WE HAVE TO WAIT AND
19 SEE WHAT--HOW IT GOES.
20 (EXCERPT.)
21 Q. OKAY. NOW, DID MR. ENGSTROM ACTUALLY
22 SAY TO YOU IN THE TELEPHONE CALL THAT APPLE MUST
23 GIVE UP MULTIMEDIA PLAYBACK ON WINDOWS?
24 A. YES, I RECALL THAT.
25 Q. HE USED THOSE PRECISE WORDS?

1 A. YES.
2 Q. AND YOU HAVE A CLEAR RECOLLECTION OF
3 HIM SAYING THAT?
4 A. AS CLEAR AS I RECALL ANYTHING, I RECALL
5 THOSE ARE THE WORDS HE USED.
6 Q. OKAY. OKAY.
7 A. THOSE ARE THE WORDS I RECALL HIM
8 SAYING.
9 (EXCERPT.)
10 Q. AND JUST SO I'M CLEAR, AS YOU SIT HERE
11 TODAY, YOU RECALL MR. ENGSTROM LINKING ACCEPTANCE
12 OF APPLE INTO THE GROUP OF AAF PROMOTERS TO
13 APPLE'S COMMITMENT TO ABANDON QUICKTIME FOR
14 WINDOWS ON THE PLAYBACK SPACE?
15 A. THAT WAS ABSOLUTELY MY UNDERSTANDING
16 FROM HIS MESSAGE WHICH WAS WHY WHEN I CALLED TIM
17 SCHAAFF AFTERWARDS, THAT'S EXACTLY WHAT I ASKED,
18 "IS THIS A PROPOSAL YOU GOT BEFORE TO BE PART OF
19 AAF YOU HAVE TO GIVE UP PLAYBACK?" THE ANSWER
20 WAS, "YES, THAT'S WHAT WE HEARD BEFORE," SO IT
21 WAS MY IMMEDIATE UNDERSTANDING THAT THAT'S (SIC)
22 WAS THE LINKAGE MADE.
23 (EXCERPT.)
24 Q. OKAY. I'M GOING TO DIRECT YOUR
25 ATTENTION TO PART OF YOUR DEPOSITION FROM LAST

1 TIME. FOR THE RECORD, IT'S PAGE 36 OF THE
2 DEPOSITION. AND THE QUESTION BEGINS ON PAGE 11,
3 AND THE ANSWER IS GOING TO END ON LINE 16.
4 AND THE QUESTION WAS: DID THEY ASK
5 ANYTHING ABOUT--
6 MR. RILEY: I'M SORRY, COULD YOU GIVE
7 ME THE PAGE AGAIN?
8 MR. O'BRIEN: SURE. IT'S 36, BEGINNING
9 ON LINE 11.
10 BY MR. O'BRIEN:
11 Q. AND THE QUESTION BEGINS: DID THEY--AND
12 MY UNDERSTANDING FROM THE CONTEXT IS THAT "THEY"
13 IS COMPAQ EMPLOYEES, BUT IF YOU THINK I'M WRONG,
14 FEEL FREE TO TELL ME--DID THEY ASK ANYTHING ABOUT
15 WHAT ARE WE GOING TO RESPOND TO MICROSOFT IF THEY
16 ASK US ABOUT THIS?
17 AND YOUR ANSWER WAS: THEY ASKED ME HOW
18 APPLE EXPLAINS THIS TO MICROSOFT. THEY DID NOT
19 ARTICULATE ANYTHING ABOUT HOW COMPAQ WOULD
20 EXPLAIN--TALK TO MICROSOFT ABOUT THAT.
21 NOW, IS THAT TESTIMONY ACCURATE?
22 A. IT IS. IT IS ACCURATE, YES.
23 Q. ALL OF IT?
24 A. I'M SORRY. I DON'T KNOW WHAT THAT
25 MEANS. WHAT DO YOU MEAN, "ALL OF IT"?

1 Q. OKAY.

2 A. YOUR ENTIRE ANSWER IS ACCURATE. IT'S

3 EASIER FOR ME IF I BREAK IT DOWN--

4 Q. RIGHT.

5 A. --BECAUSE THERE ARE TWO COMMENTS IN

6 THERE.

7 Q. SURE.

8 A. THEY ASKED ME HOW APPLE EXPLAINS THIS

9 TO MICROSOFT, SO YES, HOW DO YOU EXPLAIN THIS TO

10 MICROSOFT--

11 Q. SURE.

12 A. --THAT WAS ASKED.

13 Q. OKAY.

14 A. THEY DIDN'T ARTICULATE, THEY DIDN'T

15 TALK ANYTHING ON HOW COMPAQ THEMSELVES WERE TO

16 ANSWER THIS TO MICROSOFT; THAT WAS ALSO TRUE.

17 Q. OKAY.

18 A. THERE WAS OBVIOUSLY MORE THINGS SAID TO

19 EXPLAIN, BUT THOSE TWO THINGS WERE TRUE

20 STATEMENTS.

21 (EXCERPT.)

22 Q. OKAY. AND I THINK YOU TESTIFIED THAT

23 YOU WERE SHOWN A CERTAIN DOCUMENT WHEN YOU WERE

24 AT COMPAQ; IS THAT CORRECT?

25 A. YES.

1 Q. BUT NOT TO KEEP; JUST SHOWN?
2 A. YES.
3 Q. AND TO THE BEST OF YOUR RECOLLECTION,
4 WHAT DID THAT E-MAIL OR DOCUMENT SAY?
5 MR. RILEY: I THINK WE ARE COVERING
6 GROUND THAT YOU COVERED VERY THOROUGHLY BEFORE.
7 MR. O'BRIEN: ACTUALLY, WE ARE NOT.
8 MS. ROTH: I HAVE TO AGREE WITH HIM.
9 THIS HAS BEEN COVERED BEFORE.
10 MR. O'BRIEN: OKAY.
11 Q. GO AHEAD.
12 A. I WAS SHOWN AN E-MAIL COMMUNICATION
13 THAT I BELIEVE, AS I RECALL, WAS WRITTEN BY
14 MR. ROD SCHROCK, WHO WAS THE GENERAL MANAGER OF
15 THE COMPAQ PRESARIO DIVISION TO, WHAT I WAS TOLD,
16 SOME OF HIS STAFF MEMBERS IN DIRECT REPORTS.
17 AND THE THINGS THAT I REMEMBER ABOUT
18 THE E-MAIL, WHICH WAS NOT A VERY LONG E-MAIL, WAS
19 THAT COMPAQ WOULD NOT LICENSE QUICKTIME FROM
20 APPLE, AND HE WAS NOT INTERESTED IN DOING A DEAL
21 WITH APPLE IS ROUGHLY WHAT I FEEL IT'S SAYING.
22 Q. AND YOU DON'T RECALL THOSE AS ROUGHLY
23 BEING THE WORDS THAT WERE SAID?
24 A. YES. I'M NOT ACCURATE TO THE
25 INDIVIDUAL WORD. IT'S MY RECOLLECTION OF WHAT IT

1 SAID.

2 Q. OKAY. AND ONE OF THE IDEAS BEING THAT

3 COMPAQ WOULD NOT LICENSE QUICKTIME FROM APPLE?

4 A. YES.

5 Q. DID THE WORK "MICROSOFT" APPEAR IN THAT

6 DOCUMENT?

7 A. NOT THAT I RECALL.

8 Q. DID THE NAME OF ANY MICROSOFT EMPLOYEE

9 OR REPRESENTATIVE APPEAR ON THE DOCUMENT?

10 A. NOT THAT I RECALL.

11 Q. OKAY. DID THE DOCUMENT INDICATE THAT

12 ANYONE AT COMPAQ HAD BEEN CONTACTED BY ANYONE AT

13 MICROSOFT ABOUT COMPAQ'S RELATIONSHIP WITH APPLE?

14 A. NOT THAT I RECALL.

15 Q. OKAY. DID ANYONE FROM COMPAQ STATE TO

16 YOU THAT ANYONE FROM COMPAQ HAD BEEN CONTACTED

17 ABOUT COMPAQ'S RELATIONSHIP WITH APPLE?

18 A. NO, I DON'T RECALL THAT BEING SAID.

19 (EXCERPT.)

20 Q. I BELIEVE YOU ALSO TESTIFIED EARLIER AS

21 TO ALLEGED PRESSURE THAT MICROSOFT HAD PUT ON

22 THIRD PARTIES NOT TO SUPPORT QUICKTIME.

23 IS THAT AN ACCURATE CHARACTERIZATION?

24 A. YES.

25 Q. OKAY. AND ONE OF THOSE INVOLVED A

1 PRODUCT CALLED FINAL CUT IN A COMPANY CALLED
2 TRUEVISION; IS THAT RIGHT?
3 A. I'M SORRY. COULD YOU BE MORE SPECIFIC?
4 Q. SURE.
5 ONE OF THE INSTANCES I BELIEVE INVOLVED
6 A COMPANY CALLED TRUEVISION; IS THAT RIGHT?
7 A. YES.
8 Q. DO YOU RECALL THE TESTIMONY YOU GAVE?
9 A. (NODS HEAD.)
10 YES.
11 Q. OKAY. IN CONNECTION WITH THE EVENTS
12 THAT YOU DESCRIBE IN YOUR TESTIMONY, DID YOU HAVE
13 ANY DISCUSSIONS WITH TRUEVISION?
14 A. ONLY ONCE.
15 Q. OKAY.
16 A. MUCH LATER AFTER THE FACT.
17 THIS YEAR, A COMPLETELY SEPARATE
18 MEETING WITH TRUEVISION, NOTHING TO DO WITH THESE
19 FACTS REGARDING SOME WORK THEY ARE DOING.
20 I ASKED THE QUESTION, "DO YOU STILL NOT
21 DO QUICKTIME DRIVERS FOR WINDOWS?"
22 AND THEY SAID, YOU KNOW, "NOW WE DO
23 QUICKTIME DRIVERS FOR ALL WINDOWS PRODUCTS NOW."
24 THAT WAS THE ONLY CONVERSATION.
25 Q. OKAY. AND WHEN WAS THAT?

1 A. IT WAS THIS YEAR. SOMEWHERE BETWEEN
2 MAY AND AUGUST. I'M NOT SURE WHICH MONTH.
3 Q. OKAY. AND ON OR ABOUT WHAT TIME WERE
4 THE EVENTS THAT YOU DESCRIBED IN YOUR TESTIMONY?
5 A. WELL, THAT WAS--
6 Q. AND YOU CAN BE ROUGH IF YOU NEED TO.
7 A. YES, I WILL BE, TOO.
8 LET'S SEE. SOMEWHERE BETWEEN, LET'S
9 SAY, MAY OF 1996 AND MARCH OF 1997, DURING THAT
10 LESS-THAN-A-YEAR PERIOD IS WHEN THAT TEAM
11 REPORTED TO ME AND WHEN THAT CONVERSATION COULD
12 HAVE HAPPENED.
13 Q. OKAY. AND DURING THAT TIME, YOU DID
14 NOT ATTEND ANY MEETINGS AT WHICH THERE WERE
15 REPRESENTATIVES OF TRUEVISION AND MICROSOFT;
16 CORRECT?
17 A. CORRECT.
18 Q. AND YOU DIDN'T HEAR ANY OF THE
19 CONVERSATIONS BACK AND FORTH ABOUT THE
20 ARRANGEMENT BETWEEN THEM?
21 A. I DON'T KNOW WHAT THAT MEANS, HEAR
22 CONVERSATIONS BACK AND FORTH. I HEARD THINGS.
23 SO COULD YOU BE MORE SPECIFIC?
24 Q. ASSUMING CONVERSATIONS TOOK PLACE
25 BETWEEN MICROSOFT AND TRUEVISION, YOU WERE NOT A

1 PARTY TO ANY OF THOSE CONVERSATIONS?
2 A. I WAS NOT THERE WHEN THOSE
3 CONVERSATIONS HAPPENED, NO.
4 Q. OKAY. AND HAVE YOU EVER SEEN IN ANY
5 FORM ANY AGREEMENT BETWEEN TRUEVISION AND
6 MICROSOFT RELATING TO THE MATTERS THAT YOU
7 DESCRIBED IN YOUR TESTIMONY?
8 A. NO, I HAVEN'T.
9 (EXCERPT.)
10 Q. OKAY. I BELIEVE YOU ALSO GAVE SOME
11 TESTIMONY ABOUT A CONVERSATION THAT YOU HAD WITH
12 SOMEONE NAMED CLIFF JENKS FROM A COMPANY NAMED
13 AVID.
14 DO YOU RECALL THAT TESTIMONY?
15 A. YES.
16 Q. OKAY. AND YOU DIDN'T--AND MR. JENKS
17 DESCRIBED SOME CONVERSATIONS THAT HE HAD HAD WITH
18 MICROSOFT EMPLOYEES; CORRECT?
19 A. CORRECT.
20 Q. AND YOU WERE NOT INVOLVED IN ANY OF
21 THOSE COMMUNICATIONS; CORRECT?
22 MR. RILEY: WHICH COMMUNICATIONS?
23 MR. O'BRIEN: THE COMMUNICATIONS
24 BETWEEN MR. JENKS AND MICROSOFT.
25 THE WITNESS: ONLY WITH MR. JENKS?

1 BY MR. O'BRIEN:
2 Q. RIGHT.
3 AFTER THE COMMUNICATIONS BETWEEN
4 MR. JENKS AND MICROSOFT TOOK PLACE; CORRECT?
5 A. COULD YOU ASK IT AGAIN?
6 Q. SURE.
7 A. AFTER--
8 Q. I'M TRYING TO ESTABLISH SOMETHING QUITE
9 SIMPLE.
10 A. YES.
11 Q. YOU HAD A CONVERSATION WITH MR. JENKS
12 WHEREIN HE DESCRIBED CERTAIN CONVERSATIONS OR
13 COMMUNICATIONS HE HAD WITH MICROSOFT EMPLOYEES;
14 CORRECT?
15 A. YES.
16 Q. AND YOU WERE NOT INVOLVED OR PRESENT AT
17 ANY OF THE COMMUNICATIONS THAT HE DESCRIBED TO
18 YOU THAT HE HAD WITH MICROSOFT EMPLOYEES;
19 CORRECT?
20 A. CORRECT.
21 Q. AND YOU NEVER SAW ANY WRITTEN
22 COMMUNICATIONS ON THE SUBJECT THAT HE HAD
23 DESCRIBED BETWEEN AVID AND MICROSOFT?
24 A. CORRECT.
25 Q. SO EVERYTHING YOU KNOW ABOUT ANY

1 CONVERSATIONS THAT HE HAD WITH MICROSOFT ARE JUST
2 FROM WHAT HE TOLD YOU?
3 A. YES.
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