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 1465
PENGAD-Bayonne, N.J.

1 (DEPOSITION EXCERPTS OF DAVID W. COLE.)

2 Q. YOU JUST USED THE TERM "SYSTEM

3 SERVICES." CAN YOU EXPLAIN WHAT YOU MEAN BY

4 THAT. HOW WOULD YOU DEFINE THAT FIRM AS YOU'RE

5 USING IT?

6 A. SYSTEM SERVICES, IT'S A TERM I'VE USED

7 OFTEN SIMPLY TO REFER TO MODULES OF CODE THAT

8 PROVIDE FUNCTION FOR OTHER MODULES OF CODE.

9 Q. AND ARE SYSTEM SERVICES FOUND ONLY IN

10 AN OPERATING SYSTEM, OR WOULD YOU FIND THEM IN

11 VARIOUS OTHER SOFTWARE PRODUCTS ALSO?

12 A. LET'S SEE. IT'S A--IT'S A VERY LOOSELY

13 DEFINED TERM, SO I SUPPOSE YOU COULD FIND THEM

14 IN, YOU KNOW, ANY PARTICULAR SOFTWARE PACKAGE.

15 Q. IS IT THE CASE THAT VARIOUS SOFTWARE

16 APPLICATION PRODUCTS WILL SOMETIMES REDISTRIBUTE

17 OR SHIP WITH VARIOUS OPERATING SYSTEM SERVICES

18 THAT GET INSTALLED WHEN THOSE APPLICATIONS GET

19 INSTALLED?

20 A. YEAH. WE MAKE A NUMBER OF OUR WINDOWS

21 IMPROVEMENTS AVAILABLE TO ISV'S TO REDISTRIBUTE

22 SO THAT WE CAN UPGRADE THE OPERATING SYSTEM TO

23 THE LEVEL THEY NEED TO RUN THEIR APPLICATION. SO

24 THAT'S VERY COMMON PRACTICE.

25 Q. CAN YOU GIVE ME AN EXAMPLE OF SOME OF

1 THE MOST COMMON KINDS OF WINDOWS SYSTEM SERVICES
2 THAT YOU WOULD MAKE AVAILABLE TO ISV'S IN THE WAY
3 YOU JUST DESCRIBED.
4 A. ONE OF THE MOST POPULAR ONES TODAY IS
5 OUR DIRECTX SET OF DEVICE DRIVERS AND SERVICES
6 THAT ALLOW GAMES TO RUN FASTER ON TOP OF WINDOWS.
7 OUR INTERNET EXPLORER TECHNOLOGIES ARE
8 ANOTHER VERY POPULAR SET OF SYSTEM SERVICES THAT
9 WE--THAT MANY ISV'S REDISTRIBUTE.
10 Q. AND WHEN YOU REFER TO YOUR INTERNET
11 EXPLORER TECHNOLOGIES, WHAT DO YOU MEAN? WHAT
12 ARE YOU REFERRING TO?
13 A. I DON'T UNDERSTAND THE QUESTION. ARE
14 YOU ASKING ON A FILE-BY-FILE BASIS OR--
15 Q. HOWEVER YOU WOULD EXPLAIN IT TO TRY TO
16 CONVEY TO ME WHAT IT IS YOU MEAN. IF
17 FILE-BY-FILE OR EXAMPLES OF FILES IS EASIEST,
18 THAT WOULD WORK. IF FUNCTIONALITY IS EASIEST,
19 THAT WOULD BE FINE.
20 A. YEAH--BOY, THAT'S TOUGH TO EXPLAIN AT A
21 NONTECHNICAL LEVEL, BUT WHAT WE ESSENTIALLY DO IS
22 PACKAGE UP ALL THE FILES THAT AN ISV WOULD NEED
23 TO UPGRADE THE OPERATING SYSTEM TO THE LEVEL THAT
24 THEY NEED TO, YOU KNOW, RETRIEVE THE DATA OFF THE
25 NETWORK OR DISPLAY HTML TABLES. SO, YOU KNOW, I

1 DON'T KNOW HOW ELSE TO TALK ABOUT THAT OTHER THAN
2 IF YOU WANT TO GO WITH A FILE-BY-FILE LEVEL,
3 WHICH I DON'T HAVE ALL THE FILES MEMORIZED,
4 EITHER.
5 (EXCERPT.)
6 Q. WHAT'S THE PURPOSE--FROM THE WINDOWS 95
7 BUILDER STANDPOINT THAT YOU HAVE, WHAT'S THE
8 PURPOSE OF HAVING THE ADD/REMOVE PROGRAMS UTILITY
9 IN WINDOWS?
10 A. IT GIVES USERS A--ONE CONSISTENT
11 INTERFACE TO TRY TO MANAGE WHICH APPLICATIONS AND
12 COMPONENTS ARE INSTALLED IN THE SYSTEM SO THAT
13 THEY CAN--IF THERE'S SOMETHING THERE THAT THEY NO
14 LONGER USE DIRECTLY, THEY CAN CHOOSE TO REMOVE
15 THAT. SO, IT WAS DESIGNED AS AN END-USER FEATURE
16 FOR MANAGING THE APPLICATIONS AND SOFTWARE
17 COMPONENTS ON THEIR SYSTEM.
18 Q. AND WHEN YOU SAY THE END USER CAN
19 CHOOSE TO REMOVE THAT, WHATEVER IS ON THEIR
20 SYSTEM, WHAT DO YOU MEAN? WHAT DO YOU MEAN BY
21 REMOVE IT?
22 A. JUST WHAT I DESCRIBED EARLIER. THEY
23 CAN PICK ONE OF THE PROGRAMS LISTED THERE,
24 WHETHER IT'S AN APPLICATION OR A SYSTEM UPDATE OR
25 WHATEVER, PICK THE REMOVE COMMAND.

1 Q. AND FROM THE STANDPOINT OF THE USER YOU
2 JUST DESCRIBED, WHAT DOES THAT MEAN? WHAT IS IT
3 THAT THEY HAVE THEN DONE BY REMOVING THE PROGRAM?
4 A. WELL, I TRIED TO DESCRIBE THAT EARLIER,
5 TOO. THERE IS NO PRECISE DEFINITION OF WHAT THAT
6 MEANS. IT'S UP TO THE DESIGNER OF THE SOFTWARE
7 AS TO WHAT SHOULD HAPPEN WHEN THAT OCCURS.
8 Q. AND--I'M SORRY. GO AHEAD.
9 A. SO, YOU KNOW, THE BEHAVIOR DEPENDS ON
10 THE DESIGNER OF THAT SOFTWARE.
11 Q. I UNDERSTAND THAT FROM THE STANDPOINT
12 OF WHICH FILES GET REMOVED AND WHICH FILES STAY,
13 BUT FROM THE STANDPOINT YOU WERE JUST DESCRIBING
14 OF THE USER WHO WANTS TO MANAGE THE THINGS THAT
15 ARE ON HIS COMPUTER WITH WINDOWS 95, WHAT DOES IT
16 MEAN TO USE THE UTILITY TO REMOVE ONE OF THE
17 THOSE PROGRAMS?
18 MR. HOLLEY: OBJECT TO THE QUESTION AS
19 ASKED AND ANSWERED.
20 BY MR. MALONE:
21 Q. YOU MAY ANSWER.
22 A. I DON'T KNOW THE COMPLETE MEANING THAT
23 A USER MIGHT HAVE IN THEIR HEAD WHEN THEY DO
24 THAT.
25 Q. WHAT MEANING DID YOU HAVE IN MIND,

1 THOUGH, A MOMENT AGO WHEN YOU DESCRIBED THAT THE
2 PURPOSE OF THIS WAS FOR A USER TO CHOOSE TO
3 REMOVE PROGRAMS OR SOMETHING? WHAT DID YOU MEAN?
4 A. WHAT I MEANT BY THAT WAS THAT, AT
5 MINIMUM, THE USER MIGHT EXPECT THE VISIBLE
6 ASPECTS OF THE PROGRAM OR UPDATE OR WHATEVER IT
7 HAPPENS TO BE TO NOT BE THERE ANYMORE, SO IN
8 APPEARANCE IT MIGHT BE GONE FROM THE USER'S
9 PERSPECTIVE.
10 Q. AND AGAIN, FROM THE USER'S PERSPECTIVE,
11 WHY WOULD THE USER WANT TO DO THAT?
12 LET ME REPHRASE THAT.
13 WHY IS THAT A USEFUL THING FOR WINDOWS
14 TO LET THE USER DO?
15 A. MAYBE IT'S A FEATURE THEY DON'T USE
16 ANYMORE, OR IT'S AN APPLICATION THEY NO LONGER
17 HAVE A NEED FOR, OR THEY, YOU KNOW, HAVE ANOTHER
18 APPLICATION THAT THEY THOUGHT WAS BETTER THAT
19 SERVED THE SAME PURPOSE.
20 YOU KNOW, ONE OF OUR KEY DESIGN POINTS
21 ABOUT WINDOWS IS SIMPLICITY. WE WANT USERS TO BE
22 ABLE TO CUSTOMIZE THE SYSTEM IN WAYS THAT MAKE IT
23 AS SIMPLE AND CUSTOMIZED TO THEIR NEEDS AS
24 POSSIBLE. SO WE THINK THAT'S A KEY DESIGN POINT.
25 (EXCERPT.)

1 Q. BEFORE WE DO, LET ME JUST ASK
2 GENERALLY, I BELIEVE BASED ON WHAT YOU SAID
3 EARLIER, WHEN A USER INSTALLS INTERNET
4 EXPLORER 3.02, DOES THAT REGISTER IT IN THE
5 ADD/REMOVE PROGRAMS UTILITY?
6 A. YES.
7 Q. AND WHY IS THAT? WHY DOES INTERNET
8 EXPLORER SHOW UP IN THE ADD/REMOVE PROGRAMS
9 UTILITY?
10 A. YOU KNOW, USERS HAVE GIVEN US FEEDBACK
11 THAT THEY WOULD LIKE CHOICES ABOUT WHAT THEY SEE
12 ON THEIR DESKTOP AND THEY DON'T SEE ON THEIR
13 DESKTOP, AND IN THAT PARTICULAR CASE WE HAD
14 FEEDBACK FROM CORPORATE CUSTOMERS THAT WANTED TO
15 PREVENT ACCESS TO THE INTERNET, SO WHEN
16 THEY--THEY BUY A NEW MACHINE FROM A PC
17 MANUFACTURER, THEY WANT THE ABILITY TO REMOVE
18 EASY ACCESS TO THE INTERNET SO THEIR EMPLOYEES,
19 YOU KNOW, AREN'T SPENDING THEIR TIME OUT ON THE
20 WEB DOING WHATEVER.
21 Q. AND HOW DOES INTERNET EXPLORER BEING IN
22 THE ADD/REMOVE PROGRAMS UTILITY HELP THAT GOAL?
23 A. I DON'T UNDERSTAND THE QUESTION.
24 Q. HOW DOES THE ABILITY TO REMOVE INTERNET
25 EXPLORER USING THE ADD/REMOVE UTILITY ACCOMPLISH

1 WHAT IT IS THAT CUSTOMERS WERE TELLING YOU THEY
2 WANTED TO DO?
3 A. WELL, IT REMOVES THE--I'M TRYING TO USE
4 THE RIGHT WORDS HERE. IT REMOVES THE USER--THE
5 OBVIOUS USER-ACCESSIBLE MEANS TO RUN--TO RUN
6 INTERNET EXPLORER.
7 Q. JUST IN PRACTICAL TERMS, WHAT DOES THAT
8 MEAN TO A USER WHO IS THEN SITTING IN FRONT OF
9 THAT COMPUTER WHERE THESE OBVIOUS MEANS OF
10 RUNNING INTERNET EXPLORER HAVE BEEN REMOVED?
11 A. TYPICALLY, THAT REFERS TO THE ICON,
12 WHETHER IT'S ON THE DESKTOP OR WHETHER IT'S ON
13 THE START MENU UNDER THE PROGRAMS OR, YOU KNOW,
14 ACCESS TO THE--TO AN EXECUTABLE ITSELF THAT THE
15 ICON IS POINTING TO, PERHAPS.
16 Q. AND IN TERMS OF THE FUNCTIONALITY
17 PRESENTED TO THAT USER, WHAT DOES IT MEAN TO HAVE
18 RUN THE UNINSTALL UTILITY ON THE INTERNET
19 EXPLORER?
20 MR. HOLLEY: OBJECT TO THE QUESTION AS
21 VAGUE AND AMBIGUOUS.
22 BY MR. MALONE:
23 Q. CAN YOU ANSWER?
24 A. NO, I DON'T THINK I CAN. YOU NEED TO
25 HELP ME OUT A LITTLE BIT.

1 Q. OKAY.

2 WHAT IS AN END USER WHO IS SITTING IN

3 FRONT OF A PC WHERE INTERNET EXPLORER HAS BEEN

4 REMOVED USING THE ADD/REMOVE PROGRAMS UTILITY

5 ARE--WHAT IS THAT END USER NOT ABLE TO DO THAT

6 THEY WOULD BE ABLE TO DO IF YOU HADN'T DONE THE

7 UNINSTALL?

8 A. OKAY, I UNDERSTAND NOW.

9 IN THE CASE OF AN OSR2 SYSTEM UPDATED

10 TO IE 3.02 IN THAT PARTICULAR CASE, IT WILL

11 REMOVE THE ICON FROM THE DESKTOP AND THE--UPON

12 RESTART OF THE MACHINE, THE ICON ON THE START

13 MENU WILL BE GONE, SO THAT--AND THERE'S THIS

14 LITTLE WHAT WE CALL "STUB EXECUTABLE" CALLED

15 IEXPLORE.EXE THAT GETS DELETED, SO THE NORMAL

16 WAYS THAT A USER WOULD DELIBERATELY START UP

17 INTERNET EXPLORER ARE GONE.

18 Q. AND HOW--JUST TO GO BACK TO THE EXAMPLE

19 YOU GAVE A MINUTE AGO FOR CORPORATE CUSTOMERS WHO

20 DON'T WANT THEIR EMPLOYEES SPENDING ALL THEIR

21 TIME SURFING THE WEB, HOW WOULD THOSE CHANGES

22 SATISFY WHAT IT IS THE CUSTOMER WANTED? THE

23 CORPORATE CUSTOMER.

24 A. USER--THE USER OF THAT MACHINE WOULDN'T

25 BE ABLE TO JUST CLICK ON AN ICON AND BE ON THE

1 INTERNET.

2 Q. OKAY.

3 A. LET ME CLARIFY THAT JUST A SECOND.

4 Q. SURE.

5 A. THEY WON'T BE ABLE TO CLICK ON THE ICON

6 AND USE INTERNET EXPLORER, THE FULL INTERNET

7 EXPLORER, TO GET ON THE INTERNET. THERE MAY BE

8 ANOTHER PROGRAM ON THE SYSTEM THAT USED INTERNET

9 EXPLORER SYSTEM SERVICES TO GET ON THE INTERNET.

10 I WANTED TO CLARIFY THAT BECAUSE ACCESS TO THE

11 INTERNET IS STILL THERE.

12 Q. BUT IT'S ONLY THERE THROUGH ANOTHER

13 PROGRAM THAT USES SOME PART OF THE INTERNET

14 EXPLORER PROVIDED SYSTEM SERVICES TO ACCESS THE

15 INTERNET?

16 A. RIGHT.

17 Q. AND WE'LL COME BACK AND TALK ABOUT THAT

18 IN SOME MORE DETAIL ALSO.

19 A. OKAY.

20 Q. LET ME JUST MAKE SURE I'M CLEAR SO THAT

21 THE RECORD OF WHAT YOU'RE SAYING IS CLEAR.

22 THE FLIP SIDE OF WHAT YOU JUST SAID,

23 ONCE YOU'VE USED THE ADD/REMOVE PROGRAMS UTILITY

24 TO UNINSTALL INTERNET EXPLORER 3.02, IS THERE ANY

25 WAY FOR THE USER TO GO DIRECTLY TO INTERNET

1 EXPLORER TO GET ONTO THE INTERNET AS OPPOSED TO
2 USING SOME OTHER PROGRAM TO GET ONTO THE
3 INTERNET?
4 A. YOU NEED SOME OTHER PROGRAM TO START
5 UP--TO EITHER USE THE SYSTEM SERVICES OF INTERNET
6 EXPLORER TO GET YOU ON THE INTERNET OR TO START
7 FULL INTERNET EXPLORER PRODUCT. TO START THE
8 INTERNET EXPLORER BROWSER.
9 Q. AND WHEN YOU REFER TO SOME OTHER
10 PROGRAM BEING NEEDED TO START THE INTERNET
11 EXPLORER BROWSER, WHAT DO YOU MEAN?
12 A. WELL, THE WAY OUR SOFTWARE IS
13 CONSTRUCTED, IT'S CONSTRUCTED AS A SET OF SYSTEM
14 SERVICES THAT, YOU KNOW--MODULES THAT CAN BE USED
15 BY OTHER SOFTWARE COMPONENTS TO PROVIDE
16 FUNCTIONALITY.
17 Q. RIGHT.
18 A. SO, AN APPLICATION CAN DO THIS THING WE
19 CALL HOST THE INTERNET EXPLORER FUNCTIONALITY
20 INSIDE OF ITSELF. SO, IF YOU LOOK AT A PRODUCT
21 LIKE QUICKEN, FOR EXAMPLE, IT HOSTS INTERNET
22 EXPLORER INSIDE OF ITSELF SO THAT WHEN YOU'RE ON
23 THE INTERNET FROM QUICKEN, YOU'RE NOT IN A
24 SEPARATE WINDOW, FOR EXAMPLE. YOU'RE RIGHT THERE
25 IN THE QUICKEN WINDOW.

1 AN APPLICATION COULD ALSO CALL INTO ONE
2 OF OUR SYSTEM SERVICES AND HAVE THE FULL BROWSER
3 BROUGHT UP SO THAT YOU'RE USING THE INTERNET
4 EXPLORER USER INTERFACE IN ITS NORMAL FULL
5 BROWSER MODE.
6 Q. AND WHEN YOU REFER TO THE INTERNET
7 EXPLORER'S NORMAL FULL BROWSER MODE, WHAT DO YOU
8 MEAN BY THAT?
9 A. THAT WOULD BE THE EQUIVALENT OF
10 CLICKING ON THE ICON THAT USED TO BE THERE IN
11 THIS SCENARIO.
12 Q. AND WHAT'S THE SIGNIFICANCE, AS YOU
13 DESCRIBE IT, OF THE FULL BROWSER MODE? WHAT DOES
14 THAT MEAN?
15 A. THE FULL BROWSER MODE, WHAT I MEANT BY
16 THAT IS THAT THE INTERNET EXPLORER TITLE BAR, THE
17 INTERNET EXPLORER MENUS, THE INTERNET EXPLORER
18 TOOLBARS ARE ALL THERE AND USABLE JUST AS THEY
19 ALWAYS HAVE BEEN.
20 Q. AND WHY DO YOU DESCRIBE THAT AS THE
21 BROWSER MODE?
22 A. I DESCRIBE THAT AS THE FULL BROWSER
23 SIMPLY BECAUSE THAT'S THE EQUIVALENT TO WHAT THE
24 USER WOULD HAVE IF THEY DOUBLE-CLICKED ON THE
25 INTERNET EXPLORER ICON ON THE DESKTOP.

1 (EXCERPT.)

2 Q. SO, WOULD IT BE FAIR TO SAY WHEN A USER

3 DOUBLE-CLICKS ON THE INTERNET EXPLORER ICON, WHAT

4 LAUNCHES AND WHAT THEY GET IS THE FULL BROWSER?

5 A. YEAH. IN JUST MY TERMINOLOGY HERE

6 TODAY, I DON'T THINK YOU'LL SEE IT REFERENCED

7 THAT WAY IN OUR, YOU KNOW, USER ED MATERIALS OR

8 ANYTHING LIKE THAT.

9 (EXCERPT.)

10 Q. HAS THERE EVER BEEN A TIME SINCE JULY

11 OF 1995 WHEN THE RETAIL VERSION OF WINDOWS 95 DID

12 INCLUDE ANY VERSION OF INTERNET EXPLORER?

13 A. YES, AND I'M--YES.

14 Q. AND WHEN WAS THAT WHEN IT FIRST

15 HAPPENED?

16 A. I--LET ME TRY TO EXPLAIN WHAT HAPPENED.

17 I DON'T KNOW THE EXACT DATE OR WHEN IT HAPPENED,

18 BUT WHEN WE--WE PRODUCE A LOT OF WIN 95 RETAIL

19 PRODUCTS. I MEAN, THE BOXES AND THE CD'S. I

20 MEAN, THERE ARE MILLIONS OF THESE THINGS MADE.

21 SO, AS WE DID UPGRADES TO THE OPERATING

22 SYSTEM IN TERMS OF THE INTERNET EXPLORER

23 TECHNOLOGY, WE TOOK EXISTING BOXES AND WOULD PUT

24 CD'S IN THERE THAT WOULD UPGRADE THAT RETAIL

25 VERSION OF WINDOWS TO A NEWER VERSION OF WINDOWS

1 THAT HAD IE IN IT, AS PART OF IT.

2 Q. HAS THE RETAIL VERSION OF WINDOWS 95

3 EVER COME WITH INTERNET EXPLORER IN ANY FORM

4 OTHER THAN ON A DISK SEPARATE FROM THE DISK THAT

5 THE RETAIL WINDOWS 95 PROGRAM IS ON?

6 A. I DON'T BELIEVE SO.

7 Q. SO, AS FAR AS YOU KNOW, THOSE HAVE

8 ALWAYS BEEN SEPARATE DISKS IN THE RETAIL BOXES?

9 A. YEAH, THE--THERE'S THE ORIGINAL

10 WINDOWS 95 RETAIL UPGRADE DISK, AND THEN THERE'S

11 ANOTHER DISK THAT UPGRADES THAT INSTALL TO A

12 CURRENT INSTALL WITH IE 3 AND/OR IE 2. I DON'T

13 REMEMBER THE VERSIONS THAT WE STARTED DOING WITH

14 THAT.

15 Q. AND IF YOU LOOKED AT THAT SECOND DISK,

16 WOULD IT SAY INTERNET EXPLORER VERSION WHATEVER,

17 2.0, 3.0?

18 A. I'M NOT SURE WHAT IT SAID ON THE SECOND

19 DISK.

20 Q. HAS THERE BEEN MORE THAN ONE DIFFERENT

21 VERSION OF THE RETAIL WINDOWS 95 DISK SINCE JULY

22 OF 1995?

23 A. THE ORIGINAL, THAT--NO, I BELIEVE EVERY

24 BOX--WINDOWS 95 RETAIL BOX INCLUDES THAT ORIGINAL

25 CD THAT WE RELEASED IN JULY OF 1995.

1 (EXCERPT.)

2 Q. I THINK IN SOME OF OUR EARLIER

3 DISCUSSION, WHEN WE WERE TALKING ABOUT INTERNET

4 EXPLORER, I BELIEVE YOU SAID THAT IT WAS PART OF

5 WINDOWS, AND WE HAD SOME DISCUSSION ABOUT WHAT

6 THAT MEANT, AND I DON'T KNOW HOW FAR WE EVER GOT,

7 BUT IN THE SAME SENSE THAT YOU EARLIER USED "PART

8 OF," WOULD YOU SAY THAT ANY OF THESE DLL'S ARE

9 PART OF QUICKEN WHEN THEY SHIP WITH QUICKEN?

10 A. BOY, I DON'T KNOW HOW TO ANSWER IT IN

11 THAT CONTEXT. QUICKEN INCLUDES THESE FILES WITH

12 ITS PRODUCT SO THAT IT CAN UPGRADE WINDOWS TO A

13 VERSION THAT IT NEEDS TO RUN SO THAT IT HAS THE

14 SYSTEM SERVICES THERE THAT IT NEEDS TO RUN.

15 Q. LET ME TRY IT A SLIGHTLY DIFFERENT WAY.

16 WOULD YOU SAY THAT WHEN QUICKEN DOES

17 THAT, THAT THESE FILES ARE PART OF QUICKEN?

18 MR. HOLLEY: OBJECT TO THE QUESTION AS

19 VAGUE AND AMBIGUOUS.

20 BY MR. MALONE:

21 Q. AGAIN, I'M JUST TRYING TO USE "PART OF"

22 IN THE SAME SENSE THAT YOU USED IT EARLIER TODAY.

23 A. IT'S A COMPLETELY DIFFERENT CONTEXT

24 THAN I USED EARLIER. I TALKED ABOUT, YOU KNOW,

25 IE BEING PART OF WINDOWS AS WE SHIPPED IT TO OEM

1 MANUFACTURERS.

2 Q. UMM-HMM.

3 A. PART OF.

4 SO, APPLYING THAT TO QUICKEN, THE FILES

5 ARE PART OF QUICKEN IN THAT THEY COME WITH THE

6 QUICKEN PRODUCT, OKAY?

7 THEY'RE ALSO PART OF THE OS IN THAT

8 THOSE FILES UPGRADE THE OPERATING SYSTEM TO HAVE

9 THE SYSTEM SERVICES NEEDED BY QUICKEN.

10 Q. OKAY.

11 A. THAT USE OF "PART OF" IS COMPLETELY

12 DIFFERENT.

13 (EXCERPT.)

14 Q. JUST TO TRY TO BE SURE WE'RE ON THE

15 SAME PAGE ON TERMINOLOGY AS WE GO ALONG, I THINK

16 YOU SAID A SECOND AGO THAT BY REDISTRIBUTING

17 THESE DLL'S, QUICKEN UPGRADES THE OPERATING

18 SYSTEM. DID I GET THAT RIGHT?

19 A. QUICKEN UPGRADES A PORTION OF THE

20 OPERATING SYSTEM TO HAVE THE SYSTEM SERVICES THAT

21 IT NEEDS, YES.

22 Q. AND WHEN YOU USE "UPGRADES" IN THAT

23 CONTEXT, WHAT DO YOU MEAN?

24 A. EITHER ADDS FILES TO OR REPLACES

25 EXISTING FILES WITH--SO THAT THE NEEDED SYSTEM

1 SERVICES ARE THERE.

2 Q. AND BY SO UPGRADING THE WINDOWS

3 OPERATING SYSTEM, WOULD YOU SAY THAT QUICKEN IS

4 PART OF THE OPERATING SYSTEM?

5 A. THAT QUICKEN IS PART OF THE OPERATING

6 SYSTEM? NO.

7 Q. WHY WOULDN'T YOU SAY THAT?

8 A. WHY WOULDN'T I SAY THAT? I DON'T

9 UNDERSTAND THE QUESTION.

10 Q. YOU'VE JUST TALKED ABOUT HOW QUICKEN

11 UPGRADES THE OPERATING SYSTEM. IS THAT--THE FACT

12 THAT IT--

13 A. NO, I DIDN'T SAY THAT QUICKEN UPGRADES.

14 THE QUICKEN PRODUCT INCLUDES FILES THAT IT WILL

15 UPGRADE THE OPERATING SYSTEM TO THE LEVEL IT

16 NEEDS TO RUN. THAT DOES NOT MAKE QUICKEN PART OF

17 THE OPERATING SYSTEM.

18 (EXCERPT.)

19 Q. MR. COLE, LET ME ASK YOU, IS THERE ANY

20 DIFFERENCE IN THE FUNCTIONALITY THAT'S AVAILABLE

21 TO AN END USER AFTER HE OR SHE, ON ONE HAND,

22 OBTAINS OSR2.0 THROUGH AN OEM AND, ON THE OTHER

23 HAND, PURCHASES THE RETAIL VERSION OF WINDOWS 95,

24 PUTS IT ON A PC AND THEN INSTALLS IE 3.0 FROM THE

25 DISK THAT'S THERE IN THE BOX ALONG WITH THE

1 RETAIL VERSION OF WINDOWS 95? ANY DIFFERENCE IN
2 THE FUNCTIONALITY THAT THOSE TWO END USERS WOULD
3 GET?
4 A. I--I'M NOT FAMILIAR WITH ALL THE END
5 USER FUNCTIONALITY OF OSR2, SO I--I CAN'T SAY
6 WITH ANY AUTHORITY WHAT THE DIFFERENCES WOULD BE.
7 Q. WHAT ABOUT THE INTERNET-RELATED
8 FUNCTIONALITY? WOULD THERE BE ANY DIFFERENCES
9 FOR THE END-USER INTERNET-RELATED FUNCTIONALITY?
10 A. THE INTERNET-RELATED FUNCTIONALITY,
11 IE 3 INCLUDES--LET'S SEE. INTERNET-RELATED
12 FUNCTIONALITY SHOULD BE ON A PAR IN THOSE TWO
13 SITUATIONS--WHICH, TO BE CLEAR, WAS AN OSR2
14 SYSTEM SOMEBODY HAD BOUGHT FROM A STORE, A WHOLE
15 COMPUTER WITH OSR2 ON THERE, AND THEN TAKING
16 WIN 95 AND UPGRADING THAT TO IE 3, SO THAT TWO
17 PRODUCTS WOULD HAVE INTERNET-EQUIVALENT FUNCTION.
18 Q. SO, WOULD IT BE FAIR TO SAY THAT THE
19 VERSION OF IE 3 THAT YOU WOULD GET THROUGH THE
20 OEM PURCHASE WOULD BE THE SAME AS WHAT YOU WOULD
21 GET BY USING WHAT CAME IN THE RETAIL WINDOWS 95
22 BOX?
23 A. IF THE VERSION NUMBERS MATCHED, YES.
24 Q. SURE. IF IT WAS 3.0 AND 3.0, FOR
25 EXAMPLE.

1 A. YES.
2 (EXCERPT.)
3 Q. HAVE YOU SEEN JUST GENERALLY, EITHER IN
4 THE TRADE PRESS OR IN THINGS AROUND MICROSOFT,
5 REFERENCES TO MICROSOFT'S INTERNET BROWSER MARKET
6 SHARE COMPARED TO NETSCAPE'S BROWSER MARKET
7 SHARE?
8 I'M NOT ASKING FOR A SPECIFIC NUMBER.
9 I JUST WANT TO KNOW IF YOU'VE SEEN THAT
10 GENERALLY.
11 A. YEAH, I'VE SEEN TALK ABOUT THAT IN THE
12 MAGAZINES, YES.
13 Q. TO THE EXTENT YOU KNOW, IS BROWSER
14 SHARE SOMETHING THAT'S IMPORTANT TO MICROSOFT?
15 A. YES.
16 Q. AND WHAT'S YOUR UNDERSTANDING WHEN THE
17 TERM "BROWSER MARKET SHARE" IS USED OF WHAT A
18 BROWSER IS, WHAT MICROSOFT'S BROWSER IS?
19 A. THAT'S THE--I MEAN, THAT MEASUREMENT IS
20 A MEASURE OF PEOPLE USING THE INTERNET EXPLORER
21 TECHNOLOGIES IN WINDOWS TO BROWSE THE WEB AS
22 OPPOSED TO SOMEBODY ELSE. THAT'S USUALLY WHAT
23 BROWSER SHARE REFERS TO.
24
25