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 1471
PENGAD-Bayonne, N. J.

1 (DEPOSITION EXCERPTS OF YUSUF MEHDI.)

2 Q. HAVE YOUR GOALS CHANGED SINCE 1996 FOR

3 THE INTERNET EXPLORER, YOUR MARKETING GOALS?

4 A. YES.

5 Q. HOW HAVE THEY CHANGED?

6 A. AGAIN, WE INCREASINGLY WANTED TO MAKE

7 THE PRODUCT BETTER, AND I THINK WITH TIME WE GOT

8 MORE IDEAS ABOUT HOW TO MAKE THAT BETTER, HOW TO,

9 YOU KNOW, HOW TO HELP CUSTOMERS. SO THERE WAS,

10 YOU KNOW, I GUESS, SORT OF MORE FOCUSED GOALS

11 ABOUT HOW WE MIGHT IMPROVE THAT.

12 WE ALSO--ALSO, I THINK, BETTER

13 UNDERSTOOD HOW PEOPLE USED THE PRODUCT. AND SO

14 WE WANTED TO HELP--WANTED TO HELP GET BROADER

15 USAGE OF INTERNET EXPLORER. SO WE LEARNED A

16 LITTLE BIT ABOUT THAT.

17 Q. DID YOU HAVE ANY OTHER GOALS BESIDES

18 MAKING THE PRODUCT BETTER AND BROADER USAGE?

19 A. NO. THOSE ARE THE TWO MAIN GOALS.

20 Q. HAVE YOU EVER CONSIDERED WHAT REVENUE

21 GOALS YOU SHOULD HAVE, IF ANY, FOR INTERNET

22 EXPLORER?

23 A. WE DIDN'T--WE WOULDN'T THINK ABOUT IT

24 IN THE ABSTRACT. INTERNET EXPLORER IS A FEATURE

25 OF WINDOWS. WE THINK ABOUT THE ENTIRE END OF

1 WINDOWS. WE THINK ABOUT HOW WE DERIVE REVENUE
2 FOR THAT. AND SO, INTERNET EXPLORER IS SORT OF
3 ONE FEATURE OF MANY FEATURES OF THE OPERATING
4 SYSTEM.
5 Q. OKAY. LEAVING ASIDE WINDOWS AS PART OF
6 A WINDOWS 95, DID YOU THINK ABOUT WHETHER YOU
7 COULD GET SOME REVENUE FROM THE PRODUCT IN THE
8 RETAIL CHANNEL?
9 A. WE--ESSENTIALLY, WE WERE TRYING TO
10 DETERMINE HOW WE WOULD MAKE--PROVIDE EASY ACCESS
11 TO ACQUIRING THE EXPLORER, AND ONE OF THOSE
12 OPTIONS WAS TO PROVIDE IT THROUGH THE RETAIL
13 CHANNEL. AND THE DYNAMICS IN THE RETAIL CHANNEL
14 ARE THAT RESELLERS NEED TO SELL A PRODUCT FOR
15 MONEY, AND SO WE NEED TO--WE LOOKED AT HOW WE
16 MIGHT ADD SOME VALUE TO THE FEATURE OF INTERNET
17 EXPLORER BY ADDING OTHER THINGS THERE AND
18 CHARGING MONEY FOR THAT.
19 Q. WHAT ELSE DID YOU ADD TO IT?
20 MR. AESCHBACHER: WHAT TIME FRAME?
21 MR. COVE: STARTING FROM THE BEGINNING.
22 THE WITNESS: IN THE FIRST--THE FIRST,
23 YOU KNOW, VERSION OF THE RETAIL PRODUCT CALLED
24 THE "INTERNET EXPLORER STARTER KIT," WE ADDED
25 SOME, I THINK, ESSENTIALLY SOME VERY BASIC

1 ACTIVEX CONTROLS AND PROBABLY A COUPLE OF OTHER
2 THINGS I CAN'T REMEMBER.
3 BY MR. COVE:
4 Q. ARE YOU REFERRING TO THE FIRST INTERNET
5 EXPLORER--WHAT'S CALLED "FIRST INTERNET EXPLORER
6 STARTER KIT"?
7 A. THAT'S CORRECT.
8 Q. AND THAT WAS VERSION--
9 A. WELL, THE FIRST VERSION THAT WE PUT OUT
10 OF THAT.
11 Q. OKAY. AND WHICH VERSION OF IE WAS
12 THAT?
13 A. I BELIEVE THAT WAS VERSION 2.0.
14 Q. WAS THERE ANY VALUE ADDED IN THERE
15 BESIDES THE ACTIVEX CONTROLS?
16 A. THERE MAY HAVE BEEN, BUT I DON'T
17 REMEMBER.
18 Q. WHAT DID YOU CHARGE FOR THAT?
19 A. I BELIEVE WE CHARGED $19.95, BUT I'D
20 WANT TO DOUBLECHECK.
21 Q. AND MOVING ON INTO THE RETAIL CHANNEL,
22 DID YOU COME OUT WITH ANOTHER VERSION AFTER THAT?
23 A. YES, WE DID.
24 Q. WHAT WAS THAT CALLED?
25 A. WE CAME OUT WITH--I BELIEVE THE NEXT

1 VERSION WE MIGHT HAVE COME OUT WITH AN INTERIM
2 VERSION AGAIN CALLED "INTERNET EXPLORER STARTER
3 KIT," OR I'M NOT SURE WHETHER WE CAME OUT WITH A
4 SECOND VERSION OR NOT. AGAIN, I WOULD HAVE TO
5 CHECK, AND THEN AFTER THAT WE CAME OUT WITH
6 "INTERNET EXPLORER PLUS."
7 Q. WAS THAT STILL 2.0?
8 A. NO.
9 Q. 3.0?
10 A. 3.0.
11 Q. DID THAT HAVE ANY VALUE ADDED
12 BESIDES--WHAT VALUE ADDED DID THAT HAVE BEYOND
13 INTERNET EXPLORER?
14 A. WE--I THINK WE GOT SOME TRIAL VERSIONS
15 OF SOFTWARE UTILITIES FROM THIRD-PARTY COMPANIES.
16 Q. ANYTHING ELSE?
17 A. I KNOW WE HAD SOME OTHER THINGS I DON'T
18 REMEMBER--I DON'T REMEMBER WHAT OTHER THINGS WE
19 HAD.
20 Q. OKAY. YOU JUST MENTIONED IE--I GUESS
21 IE 3.0 PLUS.
22 WAS THERE AN IE 3.0 STARTER KIT?
23 A. NO.
24 AS I SAID, I'M UNCLEAR IF WE HAD AN
25 INTERNET EXPLORER STARTER KIT THAT INCLUDED 3.0

1 THAT WAS DIFFERENT THAN THE ONE WE JUST TALKED
2 ABOUT. BUT AFTER THAT CAME INTERNET
3 EXPLORER--SORRY. YEAH--CAME INTERNET EXPLORER
4 PLUS THAT INCLUDED 4.0.
5 Q. AND WHAT DO YOU CHARGE FOR THAT?
6 A. WE CHARGE $49.95, AND THERE IS A REBATE
7 COUPON FOR, I THINK, $20.
8 Q. NOW, JUST SO I'M CLEAR ON THESE PRICES,
9 THESE ARE SUGGESTED RETAIL PRICES?
10 A. THAT'S CORRECT.
11 Q. SO, DO YOU CHARGE THE RETAILERS
12 SOMETHING LESS THAN THAT?
13 A. THAT'S CORRECT.
14 Q. WHAT IS THE RANGE OF WHAT YOU CHARGE
15 THEM FOR THAT?
16 A. AGAIN, I DON'T KNOW. IT'S SOME
17 DISCOUNT FROM THAT. IT'S HARD TO SAY.
18 PROBABLY--I CAN'T GIVE YOU AN EXACT NUMBER.
19 Q. LEAVING ASIDE THE--YOU'VE ALREADY
20 MENTIONED THAT PUTTING INTERNET EXPLORER IN
21 WINDOWS 95 ADDS VALUE TO THAT PRODUCT, AND YOU'VE
22 EXPLAINED THE RETAIL CHANNEL.
23 ARE THERE OTHER WAYS THAT MICROSOFT
24 GETS--WELL, LET ME BACK UP AND SAY: WHAT OTHER
25 WAYS DO YOU USE TO DISTRIBUTE IE?

1 A. WE PROVIDE INTERNET EXPLORER FOR
2 DOWNLOAD FROM THE WEB SITE. WE MAKE IT--WE
3 LICENSE IT FOR DISTRIBUTION TO INTERNET SERVICE
4 PROVIDERS, AND THIRD-PARTY SOFTWARE VENDORS CAN
5 ALSO LICENSE TO USE IT AS PART OF THEIR
6 APPLICATION.
7 Q. DO YOU RECEIVE REVENUES FROM ANY OF
8 THOSE SOURCES FOR THOSE LICENSES?
9 A. NO.
10 (EXCERPT.)
11 Q. WELL, YOU SAID EARLIER THAT IT WAS FOR
12 CORPORATIONS TO CUSTOMIZE THEIR INTERNET EXPLORER
13 FOR THEIR OWN NEEDS.
14 IF YOU COULD EXPLAIN WHAT THAT ENTAILS
15 OR WHAT ELSE IS INCLUDED IN THAT KIT THAT WOULD
16 ALLOW THEM TO ACCOMPLISH THAT.
17 A. OKAY. THE INTERNET EXPLORER
18 ADMINISTRATION KIT IS A SET OF SOFTWARE THAT
19 ALLOWS CORPORATIONS TO CUSTOMIZE THE SETTINGS FOR
20 INTERNET EXPLORER, LIKE CONFIGURATIONS OPTIONS,
21 IF YOU WILL; INSTALLATION OPTIONS; YOU KNOW,
22 SECURITY SETTINGS. AND SO, ESSENTIALLY, THAT'S
23 WHAT THAT SOFTWARE DOES. IT LETS YOU SET THOSE
24 SETTINGS FOR THE INTERNET EXPLORER SOFTWARE.
25 Q. DOES IT ENABLE THE CORPORATIONS TO

1 ENABLE ALL OR PART OF INTERNET EXPLORER IN ORDER
2 TO LIMIT WHAT THEIR EMPLOYEES CAN DO ON THE
3 INTERNET?
4 A. YES, IT DOES.
5 Q. WHY DID YOU PUT THAT CAPABILITY IN
6 THERE?
7 A. ESSENTIALLY BECAUSE CORPORATE I-T
8 MANAGERS ASKED US FOR CUSTOMIZATION OPTIONS.
9 Q. AND DOES THAT REDUCE THE FUNCTIONALITY
10 OF THE INTERNET EXPLORER THAT'S INSTALLED THERE?
11 A. IT CAN, YES.
12 (EXCERPT.)
13 Q. DO YOU AGREE THAT LICENSING TO INTERNET
14 ACCESS PROVIDERS IS THE BEST AND FASTEST WAY TO
15 BUILD IE SHARE?
16 A. SHARE--IF YOU DEFINE SHARE AS USAGE OF
17 THE BROWSER, I CAN'T SAY THAT I KNOW IF THAT'S A
18 TRUE STATEMENT OR NOT.
19 Q. DO YOU BELIEVE--
20 A. AND JUST--I SAY THAT, JUST AS I STATED
21 BEFORE, TRYING TO BE HELPFUL THERE.
22 ESSENTIALLY, USAGE, I THINK--AND THIS
23 IS SOMETHING THAT WE HAVE LEARNED, YOU KNOW, OVER
24 TIME BECAUSE WE DIDN'T UNDERSTAND THE MARKET
25 WELL. WE'VE LEARNED OVER TIME THAT USAGE OF

1 PEOPLE USING THE SOFTWARE IS THE MORE RELEVANT
2 METRIC ABOUT THINGS THAT WE WANT TO MEASURE. AND
3 SO, BACK IN THIS TIME FRAME, I'M NOT QUITE SURE
4 IF AT THE TIME WE KNEW WHAT, QUOTE-UNQUOTE, SHARE
5 MEANT. WE MIGHT HAVE BEEN CONFUSED MORE WITH
6 SOMETHING ELSE LIKE DISTRIBUTION.
7 Q. WELL, DOES DISTRIBUTION HAVE ANY
8 RELATIONSHIP TO USAGE?
9 A. I MEAN, I WOULD ASSUME IT DOES, BUT I
10 DON'T KNOW. BECAUSE WE HAVE--I MEAN, WE'VE BEEN
11 DISTRIBUTING INTERNET EXPLORER WITH, YOU KNOW,
12 NEW PC'S SINCE WINDOWS 95. AND FOR ABOUT A YEAR
13 AND A HALF, NO ONE USED OUR PRODUCT BECAUSE IT
14 WASN'T A BETTER PRODUCT THAN NETSCAPE PRODUCT.
15 AND SO THERE YOU HAD A LOT OF DISTRIBUTED COPIES,
16 AND YET NO ONE USED THE PRODUCT. SO, IT'S HARD
17 TO SAY BECAUSE WE DISTRIBUTED A LOT OF COPIES,
18 AND YET YOU MIGHT ACTUALLY ARGUE THAT WE GOT MORE
19 USAGE FROM DOWNLOADS.
20 SO, DO YOU SEE SORT OF THE
21 DISCONNECTION BETWEEN DISTRIBUTION AND USAGE?
22 Q. ARE YOU REFERRING TO WHEN THE IE
23 VERSIONS 1.0, 2.0--
24 A. YES, I'M REFERRING TO THE--RIGHT. I'M
25 REFERRING TO THE VERSION OF INTERNET EXPLORER

1 THAT COMES WITH WINDOWS THAT SHIPS ON PC
2 MANUFACTURER SYSTEMS.
3 Q. DO YOU BELIEVE THAT IT--WELL, IN YOUR
4 OPINION, IS GETTING DEALS WITH INTERNET ACCESS
5 PROVIDERS A MORE EFFECTIVE WAY OF GENERATING IE
6 USAGE THAN, FOR EXAMPLE, DOWNLOADING?
7 A. AGAIN, LIKE I SAID BEFORE, I CAN'T--I
8 DON'T HAVE ANY DATA THAT CORRELATES DISTRIBUTION
9 WITH USAGE, SO I CAN'T COMMENT ON WHAT
10 DISTRIBUTION VEHICLE IS MORE LIKELY TO GIVE YOU A
11 GREATER NUMBER OF PEOPLE WHO WOULD USE YOUR
12 PRODUCT.
13 (EXCERPT.)
14 Q. LET ME TO HAVE UP IN THIS DOCUMENT TO
15 UNDER 2.2.1. I'LL READ IT FOR THE RECORD.
16 "WHY SHOULD YOU CARE?" THE SECOND
17 BULLET POINT--WELL, LET ME READ THE WHOLE THING.
18 IT SAYS 2.2.1, "GO FOR MAXIMUM BROWSER
19 SHARE. WHY SHOULD YOU CARE?" I'LL JUST READ THE
20 WHOLE THING FOR THE RECORD.
21 "THIS IS NO REVENUE PRODUCT, BUT YOU
22 SHOULD WORRY ABOUT YOUR BROWSER SHARE, AS MUCH AS
23 BILLG BECAUSE: WE WILL LOSE," BULLET POINT 1.1,
24 "WE WILL LOSE THE INTERNET PLATFORM BATTLE IF WE
25 DO NOT HAVE A SIGNIFICANT USER INSTALLED BASE.

1 THE INDUSTRY WOULD SIMPLY IGNORE OUR STANDARDS.
2 FEW WOULD WRITE WINDOWS APPS WITHOUT THE WINDOWS
3 USER BASE."
4 SECOND BULLET POINT, "AT YOUR LEVEL, IF
5 YOU LET YOUR CUSTOMERS DEPLOY NETSCAPE NAVIGATOR,
6 YOU LOSE THE LEADERSHIP ON THE DESKTOP. THIS IS
7 SIMILAR TO LETTING YOUR CUSTOMER ADOPT LOTUS
8 NOTES."
9 IS THAT AN ACCURATE--DO YOU AGREE WITH
10 WHAT MR. CHASE HAS WRITTEN THERE?
11 A. I'M NOT SURE I WOULD AGREE WITH
12 NECESSARILY THE WORDING HE HAS, BUT I THINK I
13 AGREE WITH THE GENERAL SPIRIT OF THE MOTION THAT
14 HAVING USERS USE OUR SOFTWARE IS AN IMPORTANT--IS
15 AN IMPORTANT GOAL FOR US TO DEFEND THE WINDOWS
16 MARKET SHARE AND PROVIDE A PLATFORM FOR THOSE
17 DEVELOPERS TO WRITE TO.
18 AND TO THE EXTENT AT (SIC) THAT
19 NETSCAPE WOULD HAVE A MORE POPULAR PLATFORM THAT
20 PEOPLE WROTE TO AND USED INSTEAD, THAT WOULD BE A
21 THREAT TO THE BUSINESS FOR THE WINDOWS BUSINESS
22 FOR MICROSOFT.
23 Q. DID YOU EVER DO ANY STUDIES AS TO THE
24 DEGREE TO WHICH ISP'S WERE WRITING TO THE
25 NETSCAPE PLATFORM, AS YOU DESCRIBED?

1 A. WE DIDN'T DO ANY FORMAL STUDIES, PER
2 SE. WE SPECIFICALLY--I WOULD LOOK AT NETSCAPE
3 WEB SITES AND SEE THE LIST OF SOFTWARE PLUG-INS
4 THAT NETSCAPE WAS OFFERING AND TELLING US HAVING
5 BEEN WRITTEN TO THEIR PLATFORM. SO I WOULD GO
6 AND LOOK AT THAT.
7 Q. WHY IS ADOPTING NETSCAPE SIMILAR TO
8 ADOPTING LOTUS NOTES?
9 A. AGAIN, SORT OF FROM THE THING WE TALKED
10 ABOUT BEFORE, THE NETSCAPE SOFTWARE PROVIDES A
11 COUPLE OF THINGS, PROVIDES A USER INTERFACE IN
12 WHICH USERS CAN ACCESS THE WEB AND, YOU KNOW,
13 OTHER DATA WITH INFORMATION.
14 SO, IT BECOMES THE ENVIRONMENT IN WHICH
15 THEY SPEND THE BULK OF THEIR TIME, AND AT THE
16 SAME TIME IT OFFERS A SET OF API'S FOR PEOPLE TO
17 WRITE ADDITIONAL SOFTWARE ONTO THAT PLATFORM. SO
18 THEY'RE SIMILAR FROM THAT PERSPECTIVE.
19 Q. LET ME GO BACK TO THE POINT WE WERE
20 DISCUSSING EARLIER ABOUT WHETHER OR NOT INTERNET
21 ACCESS PROVIDERS--DEALS WITH INTERNET ACCESS
22 PROVIDERS ARE THE FASTEST AND BEST WAY TO BUILD
23 SHARES.
24 AFTER THE SENTENCE I HAD READ EARLIER,
25 MR. CHASE GOES, "THIS GIVES US THOUSANDS OF NEW

1 USERS AT ONCE."

2 DID YOU BELIEVE THAT BECAUSE IF A USER

3 SIGNS UP WITH AN INTERNET ACCESS PROVIDER, HE OR

4 SHE IS MORE LIKELY TO USE THE INTERNET THAN

5 SOMEONE WHO JUST MIGHT HAPPEN TO GET IT BUNDLED

6 WITH THE PC? DO YOU UNDERSTAND MY QUESTION?

7 A. I UNDERSTAND YOUR QUESTION. I THINK I

8 UNDERSTAND YOUR QUESTION. AND--BUT I THINK I

9 SORT OF--I'VE GIVEN YOU THE SAME ANSWER AGAIN.

10 ESSENTIALLY, AT THIS POINT IN TIME, I

11 DON'T THINK WE HAD A CLEAR UNDERSTANDING OF ANY

12 CORRELATION BETWEEN DISTRIBUTION AND USAGE. AND

13 SO I THINK--I THINK THAT ESSENTIALLY HERE BRAD IS

14 ESSENTIALLY SAYING WE WILL GET DISTRIBUTION. I

15 DON'T THINK HE KNEW OR ANY OF US REALLY KNEW THAT

16 THAT WOULD CORRELATE TO USAGE, PER SE. AND AT

17 SOME POINT IN THIS TIME FRAME, WE BEGAN TO

18 REALIZE THAT THE PROPER WAY TO MEASURE USAGE WAS

19 BY ASKING PEOPLE THAT WHAT THEY USE, AND THAT

20 DISTRIBUTION WAS NOT, IN FACT, A VALUABLE TOOL IN

21 AND OF ITSELF TO DRIVE USAGE AND, THEREFORE,

22 BROWSER SHARE. IT WAS OTHER THINGS LIKE QUALITY

23 OF PRODUCT.

24 Q. WELL, DID YOU HAVE MORE CONFIDENCE THAT

25 INTERNET EXPLORER WOULD BE USED IF IT WERE

1 BUNDLED WITH THE ACCESS PROVIDER SOFTWARE BECAUSE
2 OF SOMEONE WHO SIGNS UP WITH AN ACCESS PROVIDER
3 HAS SOME INTENTION TO USE THE INTERNET?
4 A. I THINK IT'S FAIR TO SAY THAT YOU'RE
5 MORE LIKELY TO GET SOMEONE TO TRY IT. BUT
6 WHETHER THEY ACTUALLY USE IT IS DEPENDENT UPON
7 WHETHER THE PRODUCT'S ANY GOOD.
8 (EXCERPT.)
9 Q. LET'S TALK ABOUT DOWNLOAD AS A METHOD
10 OF DISTRIBUTION.
11 A. OKAY.
12 Q. DO YOU MAINTAIN STATISTICS ON HOW MANY
13 INTERNET EXPLORERS ARE DOWNLOADED?
14 A. YEAH. WE TRY TO DO THAT.
15 Q. DO YOUR STATISTICS DISTINGUISH BETWEEN
16 ATTEMPTED DOWNLOADS AND COMPLETED DOWNLOADS?
17 A. YES. WE TRY AND DO THAT.
18 Q. WITH INTERNET EXPLORER 4, HAS THERE
19 BEEN A CONCERN ABOUT THE SIZE OF THE PRODUCT IN
20 TERMS OF HOW LONG IT'S GOING TO TAKE TO DOWNLOAD?
21 A. YES, THERE HAS.
22 Q. WHAT IS THAT CONCERN?
23 A. THAT ESSENTIALLY IT TAKES A LONG TIME
24 TO DOWNLOAD AND THAT PEOPLE WOULD--PEOPLE WOULD
25 LIKE TO BE ABLE TO DOWNLOAD IT FASTER.

1 Q. HAVE YOU TAKEN ANY STEPS TO MAKE--WELL,
2 LET ME ASK YOU, DO YOU HAVE AN ESTIMATE AS TO HOW
3 LONG IT TAKES TO DOWNLOAD ON VARIOUS MODEM SIZES?
4 A. I KNOW WE HAVE THE NUMBERS. I DON'T
5 HAVE THEM OFF THE TOP OF MY HEAD, BUT CERTAINLY
6 I'M SURE, AT LEAST, AN HOUR, IF NOT LONGER,
7 DEPENDING ON WHAT VERSION AND ON WHAT MODEM
8 YOU'RE TRYING TO DOWNLOAD.
9 Q. OKAY. HAVE YOU TAKEN ANY STEPS TO
10 REDUCE THE DOWNLOAD SIZE?
11 A. TO REDUCE THE DOWNLOAD SIZE?
12 Q. OR TO REDUCE THE DOWNLOAD TIME, I
13 GUESS.
14 A. WE HAVE--WELL, ESSENTIALLY BY--THERE
15 ARE A NUMBER OF THINGS. IT'S A QUESTION OF WHEN.
16 WHAT TIME FRAME ARE YOU ASKING FOR?
17 Q. WE'RE TALKING ABOUT THE IE 4 FOR RIGHT
18 NOW.
19 A. OKAY. SO, WE HAVEN'T REALLY BEEN ABLE
20 TO DO MUCH TO IE 4 TO CHANGE IT. THERE'S
21 OBVIOUSLY THE--WHAT WE DID PRIOR TO PROVIDING IT
22 ON THE WEB SITE, WE OFFER VARIOUS SIZES FOR
23 DOWNLOADS SO YOU CAN DOWNLOAD, YOU KNOW, A BASIC
24 STANDARD AND A FULL INSTALLATION, IF YOU WILL.
25 SO WE'VE TRIED TO DO THAT.

1 AND WE OFFER A--WE OFFER IT ON CD, SO
2 IF SOMEONE WANTS TO GET IT VIA, YOU KNOW, A CD,
3 THEY CAN ORDER ONE FROM THE WEB SITE.
4 Q. HAD YOU HAD CD'S AVAILABLE IN THE PAST
5 VIA THE WEB SITE?
6 A. I THINK WE HAD IT DURING THE BETA
7 PROCESS FOR INTERNET EXPLORER 4.0. I'M NOT SURE
8 IF WE HAD ONE FOR INTERNET EXPLORER 3.0.
9 Q. SO, MAKING IT AVAILABLE VIA CD WAS A
10 REACTION TO THE TIME IT TOOK, THE INCREASING SIZE
11 OF THE BROWSER, AND THE INCREASING TIME IT TOOK
12 TO DOWNLOAD DUE TO SIZE?
13 A. YEAH. PART OF IT WAS DUE TO SIZE, PART
14 OF IT WAS DUE--YOU COULD JUST PROVIDE JUST A
15 FASTER INSTALL AND HAVE THE CODE READY IF THEY
16 WANTED IT.
17 (EXCERPT.)
18 Q. LET ME SHOW YOU A DOCUMENT THAT'S BEEN
19 PREVIOUSLY MARKED AS GOVERNMENT'S EXHIBIT 26, MS7
20 004273. TAKE A SECOND TO REVIEW IT.
21 A. OKAY.
22 Q. WHO IS MR. MEHTA?
23 A. HE RUNS THE RESEARCH FOR THE--OR HE RAN
24 THE RESEARCH FOR THE DIVISION AT THE TIME IN
25 WHICH I WORKED THERE.

1 Q. AND DID HE REPORT TO MR. CHASE?

2 A. HE WORKED FOR ME.

3 Q. DOES HE STILL WORK FOR YOU?

4 A. UNCLEAR. IT'S PART OF THE NEW

5 REORGANIZATION.

6 Q. BUT HE'S STILL IN THE SAME BASIC GROUP?

7 A. YEAH.

8 Q. OKAY. DID YOU RECEIVE THIS E-MAIL FROM

9 HIM ON OR AROUND MARCH 27, 1997?

10 A. IT LOOKS LIKE I DID, YEAH.

11 Q. OKAY. LET ME READ THE TOP OF IT FOR

12 THE RECORD.

13 "BOBFOU"--F-O-U, WHO IS THAT?

14 A. BOB FOULON.

15 Q. OKAY.

16 --"IS GATHERING DATA FOR A

17 JONRO"--J-O-N-R-O, WHO'S THAT?

18 A. JONATHAN ROBERTS.

19 Q. "MEETING WITH BILLG TOMORROW."

20 I GUESS I SHOULD ASK YOU, WHO'S THAT?

21 A. BILL GATES.

22 Q. "APPARENTLY THEY ARE GOING TO DISCUSS

23 WHETHER IE AND MEMPHIS SHOULD BE BUNDLED

24 TOGETHER."

25 DID YOU ATTEND THAT MEETING?

1 A. NO.

2 Q. DO YOU KNOW WHO ATTENDED THAT BESIDES

3 JOHN ROBERTS?

4 A. NO.

5 Q. DID MR. CHASE ATTEND? DO YOU KNOW?

6 A. I DON'T KNOW.

7 Q. WAS MR. GATES ULTIMATELY CALLED UPON TO

8 DECIDE WHETHER IE AND MEMPHIS SHOULD BE BUNDLED

9 TOGETHER?

10 MR. AESCHBACHER: ASSUMES FACTS.

11 THE WITNESS: I DON'T KNOW.

12 BY MR. COVE:

13 Q. DID THIS RELATE TO THE EARLIER

14 DISCUSSION THAT WE TALKED ABOUT BEFORE ABOUT THE

15 MEMPHIS BETA AND THE IE BETA AND DISCUSSIONS

16 ABOUT WHEN EACH SHOULD BE RELEASED?

17 MR. AESCHBACHER: CALLS FOR

18 SPECULATION.

19 GO AHEAD.

20 THE WITNESS: I CAN'T BE SURE. IT'S

21 PROBABLY RELATED, BUT I CAN'T BE SURE.

22 BY MR. COVE:

23 Q. DID YOU EVER HEAR ANYTHING ABOUT THE

24 RESULTS OF THIS MEETING FROM ANY SOURCE?

25 A. I DON'T RECALL IF I DID.

1 Q. EVEN IF YOU DIDN'T HEAR ABOUT THE
2 MEETING, I MEAN THE RESULTS IN PARTICULAR, DO YOU
3 KNOW WHETHER A DECISION HAS BEEN MADE AS TO
4 WHETHER IE AND MEMPHIS SHOULD BE BUNDLED
5 TOGETHER?
6 A. THE PART HERE--I GUESS THAT I'M UNCLEAR
7 ON WHAT KUMAR MEANS, AND SO IT'S HARD FOR ME TO
8 SORT OF SAY WHAT HE IS SPENDING THERE AND FROM
9 ONE FACT YOU'RE ASKING, SO--
10 Q. DID YOU EVER HAVE ANY DISCUSSIONS WITH
11 MR. MEHTA ABOUT THIS MESSAGE?
12 A. NO.
13 Q. LET ME MOVE ON TO THE SECOND PART OF
14 THE MESSAGE WHERE--FROM MR. MEHTA TO MR. FOULON.
15 DID HE ATTACH THIS MESSAGE IN HIS
16 ORIGINAL MESSAGE TO YOU?
17 A. I THINK IF I GOT A MESSAGE, I PROBABLY
18 GOT THIS MESSAGE. THEY INCLUDED THIS COPY AS
19 PART OF THAT MESSAGE.
20 Q. YOU'RE INDICATING THIS WHOLE PAGE HERE?
21 A. YES.
22 Q. OKAY. AND WAS PART OF MR. MEHTA'S JOB
23 TO DO RESEARCH ON WHAT CONSUMERS OR USERS WERE
24 DOING AND REPORT THAT TO YOU AND MR. CHASE?
25 A. YES.

1 Q. NOW, EARLIER YOU TALKED ABOUT THE
2 DISTINCTION BETWEEN USE AND DISTRIBUTION. LET ME
3 READ THE FIRST BULLET POINT FOR THE RECORD.
4 "IE USERS ARE MORE LIKELY THAN OTHER
5 BROWSER USERS TO GET IT WITH THEIR COMPUTERS.
6 OVERALL, 20 PERCENT OF PEOPLE WHO USE IE AT HOME
7 OBTAINED IT WITH THEIR COMPUTER, AND 24 PERCENT
8 OF THOSE USING IE AT WORK GOT IT WITH THEIR
9 COMPUTER. EFFECTIVELY, WE WOULD BE TAKING AWAY
10 THE DISTRIBUTION CHANNEL OF ALMOST A QUARTER OF
11 ALL IE USERS."
12 LET ME ASK YOU ABOUT THE SECOND
13 SENTENCE.
14 IS THAT INFORMATION GENERALLY
15 CONSISTENT WITH YOUR UNDERSTANDING?
16 MR. AESCHBACHER: AS OF THE FACTS BACK
17 IN MARCH OF '97, YOU MEAN?
18 MR. COVE: YES. THAT'S MY FIRST
19 QUESTION.
20 THE WITNESS: SO, OVERALL 20 PERCENT OF
21 THE PEOPLE WHO USE IE--
22 BY MR. COVE:
23 Q. UH-HUH.
24 A. YEAH. I THINK THAT SOUNDS ABOUT RIGHT.
25 Q. HAS THAT CHANGED SINCE THAT TIME, BASED

1 ON THE INFORMATION YOU RECEIVED IN YOUR JOB?

2 A. NO, I DON'T THINK IT HAS.

3 Q. WHAT DID MR. MEHTA MEAN BY

4 "EFFECTIVELY, WE WOULD BE TAKING AWAY THE

5 DISTRIBUTION CHANNEL OF ALMOST A QUARTER OF ALL

6 IE USERS"?

7 MR. AESCHBACHER: CALLS FOR

8 SPECULATION.

9 THE WITNESS: I HAVE NO IDEA.

10 BY MR. COVE:

11 Q. WAS IT A CONCERN TO YOU THAT IF IE WAS

12 RELEASED WITHOUT--I MEAN, IF MEMPHIS WAS RELEASED

13 WITHOUT IE, THAT YOU WOULD BE TAKING AWAY A

14 SIGNIFICANT DISTRIBUTION CHANNEL FOR IE?

15 A. I'M A LITTLE BIT CONFUSED ABOUT WHAT

16 HE'S GOT THERE. WE'VE ALWAYS HAD IE AS PART OF

17 WINDOWS SINCE WE SHIPPED THE ORIGINAL VERSION TO

18 PC MANUFACTURERS, AND WE'VE DONE THAT THROUGHOUT.

19 SO THAT WAS--I MEAN, I DON'T THINK THAT'S EVER

20 COME UP AS A CONSIDERATION. SO, I THINK HE MUST

21 BE TALKING ABOUT SOMETHING ELSE IN THIS MAIL.

22 Q. DO YOU KNOW WHAT IT IS HE'S TALKING

23 ABOUT?

24 A. I CAN'T SAY FOR SURE. HE MAY BE

25 TALKING ABOUT A PARTICULAR VERSION NUMBER OR, YOU

1 KNOW, PARTICULAR VERSION OR SET OF FEATURES. BUT
2 IE ITSELF AS A GENERIC ENTITY, HAS ALWAYS
3 BEEN--WE'VE ALWAYS KEPT IT AS PART OF THE
4 OPERATING SYSTEM.
5 Q. WAS THERE EVER ANY CONSIDERATION BY
6 ANYBODY WITHIN MICROSOFT ABOUT TAKING IT OFF OR
7 RELEASING MEMPHIS WITHOUT IT?
8 A. NO, NOT THAT I KNOW OF.
9 Q. MOVING TO THE SECOND BULLET POINT, I'LL
10 READ IT FOR THE RECORD.
11 "OVERALL, 34 PERCENT OF ALL SURFERS
12 (NOT JUST IE USERS) HAVE EVER DOWNLOADED A
13 BROWSER. THAT MEANS 66 PERCENT OF EVERYBODY ON
14 THE WEB HAS NEVER DOWNLOADED A BROWSER."
15 DO YOU VIEW THE RELUCTANCE TO DOWNLOAD
16 AS A SIGNIFICANT DETRIMENT TO DOWNLOADING AS A
17 DISTRIBUTION METHOD?
18 A. METHOD? WELL, I MEAN, AT THE TIME,
19 WHICH WAS A LITTLE BIT OVER A YEAR AGO, 34
20 PERCENT HAD DOWNLOADED A BROWSER. I ACTUALLY
21 THINK THAT'S A PRETTY AMAZING NUMBER, FRANKLY,
22 AND I THINK THAT NUMBER IS PROBABLY GOING UP
23 SO--SO I--THAT'S HOW I THINK OF IT.
24 I MEAN, IF YOU THINK ABOUT THE MARKET
25 GROWING TO SOME VERY LARGE PERCENTAGE OF THE

1 POPULATION AND YOU SAY THAT OVER A THIRD OF THAT
2 BASE WILL ACTUALLY GET SOMETHING FROM THE WEB, I
3 KIND OF BELIEVE THAT THAT'S GOING TO BE THE BEST
4 DISTRIBUTION CHANNEL THERE IS, BETTER THAN
5 ANYTHING YOU WOULD EVER HOPE TO GET FROM RETAIL
6 OR PC MANUFACTURERS OR ANY OTHER DISTRIBUTION
7 SYSTEM.
8 Q. DOES THAT TRANSLATE INTO GREATER USE
9 FOR THE PRODUCT THAT IS DOWNLOADED?
10 A. AS I TOLD YOU BEFORE, THERE'S NO
11 CORRELATION DATA THAT I HAVE THAT TALKS ABOUT
12 USAGE AND DISTRIBUTION.
13 Q. DO YOU BELIEVE THAT THE FIGURE OF USERS
14 THAT GOT THEIR BROWSERS DOWNLOADING IS ANYWHERE
15 CLOSE TO 34 PERCENT?
16 A. COULD YOU ASK THAT AGAIN?
17 Q. DO YOU BELIEVE THAT THE FIGURE OF IE
18 USERS WHO GOT THEIR BROWSER FROM A DOWNLOAD IS
19 ANYWHERE CLOSE TO 30 PERCENT?
20 MR. AESCHBACHER: CURRENTLY?
21 MR. COVE: CURRENTLY.
22 THE WITNESS: I THINK THAT'S ABOUT
23 RIGHT.
24 (EXCERPT.)
25 Q. LET ME READ THE NEXT BULLET POINT.

1 "CHANGE THE E ICON IN THE BROWSER
2 AND/OR ON THE DESKTOP TO THE WINDOWS FLAG."
3 WAS THAT YOUR SUMMARY OF WHAT SOMEBODY
4 ELSE HAD PROPOSED?
5 A. YES.
6 Q. AND WHAT DID THAT MEAN?
7 A. ESSENTIALLY, ON THE DESKTOP--ON THE
8 DESKTOP THERE IS AN ICON THAT WILL LAUNCH YOU
9 INTO THE PROGRAM. AND THEN WHEN YOU HAVE THE
10 BROWSER UP AND RUNNING, IN THE UPPER RIGHT-HAND
11 CORNER, THERE'S AN ICON THAT INDICATES IF YOU'RE,
12 YOU KNOW, TRYING TO DOWNLOAD SOME CONTENT AND
13 BROWSER'S WORKING OR IT'S NOT. AND SO THIS WAS
14 REFERRING TO THOSE TWO LOCATIONS.
15 Q. WHAT DID YOU--LET ME READ THE NEXT
16 SENTENCE AGAIN. "AGAIN, WE ARE INVESTING A LOT
17 OF MARKETING EFFORT TO DRIVE E BRAND AWARENESS
18 AND LESS SHARE IN THE UPCOMING FY TO THE TUNE OF
19 30 MILLION PLUS, OR "30M PLUS," "THAT WE WOULD BE
20 DOING OURSELVES A BIG DISSERVICE TO START PULLING
21 THE PLUG ON THE MOST VALUABLE REAL ESTATE WE
22 HAVE."
23 WHAT DID YOU MEAN BY "THE MOST VALUABLE
24 REAL ESTATE WE HAVE"?
25 A. ESSENTIALLY, THAT IF YOU WANT TO

1 PROMOTE THE E--THE E LOGO, IF YOU WILL, THAT'S IN
2 THE BROWSER WINDOW, THAT IS A PLACE THAT PEOPLE
3 CAN SEE THE E QUITE A BIT. SO IT'S VALUABLE,
4 VALUABLE REAL ESTATE.
5 Q. BY THE MOST VALUABLE REAL ESTATE THAT
6 YOU HAVE, DID YOU MEAN THE WINDOWS DESKTOP?
7 A. ACTUALLY, I WAS TALKING MORE ABOUT THE
8 BROWSER APPLICATION, THE UPPER RIGHT CORNER ON
9 THE E.
10 Q. THE UPPER RIGHT CORNER OF THE WINDOWS
11 DESKTOP?
12 A. NO, OF THE BROWSER WINDOWS. YOU KNOW,
13 WHEN YOU BOOT UP A BROWSER, NETSCAPE OR IE, THERE
14 IS THE WINDOW OF THAT PROGRAM, AND UP IN THE
15 UPPER RIGHT-HAND CORNER THERE'S AN ICON.
16 Q. OKAY. I UNDERSTAND. WHY IS E BRANDING
17 IMPORTANT?
18 A. WE WERE JUST TRYING TO BUILD AWARENESS
19 FOR THE FUNCTIONALITY OF THE SOFTWARE.
20 Q. AND WHY DIDN'T--
21 A. PART OF THAT IS AWARENESS.
22 Q. I'M SORRY, AND WHY DIDN'T YOU WANT TO
23 PUT THE WINDOWS FLAG THERE?
24 A. I WANTED TO HAVE THE E ICON THERE JUST
25 TO LET USERS KNOW AND TO BUILD AWARENESS OF THE

1 INTERNET EXPLORER SOFTWARE.

2 Q. LET ME READ THE LAST PARAGRAPH OF THE

3 MESSAGE FOR THE RECORD.

4 "NET, WE ARE FAR FROM DONE ON THE

5 BROWSER FRONT. WE ARE JUST 30 PERCENT, BUT

6 NETSCAPE HAS SHIPPED A GOOD PRODUCT FAR AHEAD OF

7 US AND IS STILL VERY SAVVY AND VERY INTERESTED IN

8 KEEPING THEIR STOCK PRICE UP. WE NEED TO EXECUTE

9 ON IE 4, SURPASS 50 PERCENT SHARE, AND BE SET UP

10 TO CONTINUE TO SHARE GAIN VIA GREAT DISTRIBUTION

11 AND PRODUCT BEFORE WE PULL THE PLUG."

12 WHAT DID YOU MEAN BY "CONTINUE THE

13 SHARE AGAIN VIA GREAT DISTRIBUTION"?

14 A. HONESTLY, I DON'T QUITE REMEMBER WHY I

15 ACTUALLY SAID THAT THE WAY I SAID IT.

16 Q. WHAT DO YOU MEAN BY "BEFORE WE PULL THE

17 PLUG"?

18 A. I MEANT BEFORE WE ESSENTIALLY STOP

19 CALLING OUT THAT PARTICULAR FEATURE CALLED

20 "INTERNET EXPLORER."

21 Q. WHAT DO YOU MEAN BY "CALLING OUT"?

22 A. MARKETING.

23 Q. DO YOU HAVE SOME PLANS AT SOME POINT TO

24 PULL THE PLUG, AS YOU'VE DESCRIBED IT?

25 A. WELL, ESSENTIALLY THERE'S ALWAYS THE

1 SITUATION OF DO YOU HAVE ALL THOSE FEATURES
2 WITHIN WINDOWS. HOW MANY FEATURES CAN YOU REALLY
3 TALK ABOUT AT ONE TIME? ESSENTIALLY, CUSTOMERS,
4 THEY CAN ONLY GET A FEW KEY THINGS, AND SO I WAS
5 ESSENTIALLY SAYING BEFORE WE DE-EMPHASIZE IT IN
6 PRODUCT OR IN MARKETING, WE NEED TO CONTINUE TO
7 BUILD GOOD SOFTWARE AND PROMOTE IT.
8 Q. OKAY. HAS THERE BEEN ANY MORE
9 CONSIDERATION, SINCE THIS MEMO WAS WRITTEN, OF
10 DE-EMPHASIZING IE IN FAVOR OF SOMETHING ELSE?
11 A. I THINK WE'VE--I THINK WE'VE TALKED A
12 LITTLE BIT ABOUT HOW MUCH WE CONTINUE TO, YOU
13 KNOW, PROMOTE THE FEATURE INTERNET EXPLORER AND
14 HOW MUCH WE, YOU KNOW, NOT DO THAT AND PROMOTE
15 OTHER FEATURES.
16 Q. WHAT'S BEEN THE NATURE OF THOSE--I
17 MEAN, HAS THERE BEEN ANY CONCLUSION TO THOSE
18 DISCUSSIONS?
19 A. NO.
20 (EXCERPT.)
21 Q. LET'S TALK ABOUT THE MARKETING
22 RESOURCES.
23 DO YOU HAVE ANY RESPONSIBILITY FOR
24 BUDGETING AND FOR THE MARKETING BUDGET?
25 A. I DON'T SET THE BUDGET, BUT--

1 Q. DO YOU KNOW WHAT IT IS? I MEAN, DO YOU
2 HAVE ACCESS TO IT?
3 A. YEAH.
4 Q. WHAT IS THE--LET ME ASK FOR FISCAL OF
5 '97, WHAT WAS THE MARKETING BUDGET FOR IE?
6 A. FOR FISCAL 97?
7 Q. FISCAL 97.
8 A. SO, OVER A YEAR AGO.
9 Q. YES.
10 DO YOU RECALL?
11 A. NOT OFF THE TOP OF MY HEAD, NO.
12 Q. DO YOU--WAS IT GREATER THAN $30
13 MILLION?
14 A. I DON'T KNOW.
15 Q. DO YOU KNOW WHAT IT WAS FOR FISCAL 98?
16 A. FOR FISCAL 98, I BELIEVE IT'S ROUGHLY
17 ABOUT $30 MILLION.
18 Q. DO YOU RECALL WHETHER IT HAS INCREASED
19 OR DECREASED SINCE '97?
20 A. I THINK IT'S BEEN ABOUT THE SAME.
21 (EXCERPT.)
22 Q. I BELIEVE YOU TESTIFIED EARLIER THAT
23 MICROSOFT IS CURRENTLY WORKING ON A VERSION OF
24 INTERNET EXPLORER FOR THE HP, OR HEWLETT-PACKARD,
25 BRAND OF UNIX; IS THAT CORRECT?

1 A. YES.

2 Q. AND I BELIEVE YOU TESTIFIED THAT THAT

3 PRODUCT, WHEN IT IS RELEASED, WILL BE CALLED

4 "INTERNET EXPLORER 4.0"; IS THAT CORRECT?

5 A. I BELIEVE SO, YES.

6 Q. WHY WILL THAT BE REFERRED TO AS

7 INTERNET EXPLORER--WELL, FIRST OF ALL, THAT

8 INTERNET EXPLORER WILL BE THE FIRST INTERNET

9 EXPLORER MADE AVAILABLE FOR THE HP UNIX; IS THAT

10 CORRECT?

11 A. YES.

12 Q. WHY WILL THAT BE KNOWN AS "INTERNET

13 EXPLORER 4.0"?

14 A. ESSENTIALLY, THAT'S THE SAME FOR

15 THAT--THE PRODUCT THAT WE HAVE ON THERE, IT

16 MATCHES THE FEATURES SET THAT WE ARE ROUGHLY

17 STRIVING TO HAVE FOR THAT PRODUCT.

18 Q. BY THAT PRODUCT, YOU MEAN INTERNET

19 EXPLORER 4.0 GENERALLY?

20 A. RIGHT.

21

22

23

24

25