23 Q Mr. Gates, you've been sued by Sun

24 Microsystems over Java, have you not?

25 A There's a lawsuit with Sun.

1 Q Well, there's a lawsuit with Sun, and
2 it's a lawsuit with Sun relating to the use of Java;
3 right?
4 A It relates to a very specific contract
5 that we have with Sun.
6 Q And does that very specific contract
7 with Sun relate to Java?
8 A It's a license to various Sun
9 technologies related to Java.
10 Q Now, you're familiar with that lawsuit,
11 are you not, sir?
12 A Not very.
13 Q Not very?
14 Do you know what the contentions in
15 that lawsuit are?
16 A No.

16 Q Did you ever try to find that out?

17 A What?

18 Q What the claims were more than your

19 present knowledge.

20 A I read something that was on our web

21 site about four days ago.

22 Q About the Sun lawsuit?

23 A Yeah. Bob Mu lia had some statements.

24 Q Other than that, did you ever try to

25 find out what Microsoft is being charged with, what

1 they're alleged to have done wrong?

2 A I've had discussions with Maritz

3 saying: Do I need to learn about this lawsuit? Do I

4 need to spend a lot of time on it?

5 Q What did he say?

6 A He said, no, he's focused on that and I

7 can focus on other things

8 Q Is one of the things that you're

9 focused on trying, in Mr. Slivka's words, to wrest

10 control or get control, if wrest is a word that you

11 don't like, of Java away from Sun?

12 A No.

16 Q BY MR. BOIES: Isn't it a fact,
17 Mr. Gates, that in addition to whatever other reasons
18 you say you had for what you did with Java and
19 Windows APIs, part of what you were trying to do was
20 to prevent Java from having a wide enough
21 distribution so that it could support programs that
22 could be used on platforms other than Windows?
23 A We had no way of preventing Java from
24 being used on other platforms. It is used on other
25 platforms.

1 Q That wasn't my question, sir. My
2 question is whether or not part of what you and
3 Microsoft was trying to do was to limit the
4 distribution of Java sufficiently so that you could
5 thereby limit or reduce the extent to which
6 applications were written that could be used on
7 platforms other than Windows.
8 A No. In fact, we sell the most popular
9 Java tools in the market.
10 Q It is your testimony, then, sitting
11 here, that Microsoft was not at all motivated by a
12 desire to limit the extent to which Java could be
13 used to develop applications programming that could
14 be used on platforms other than Microsoft's Windows?
15 Is that your testimony?
16 A Yes.

22 Q Did Microsoft believe that Netscape's
23 browser was a means of distributing Java APIs?
24 A Well, Netscape had some APIs in its
25 browser. I'm not sure if you would refer to them as

1 Java APIs or not.
2 Q It's not a question whether I would
3 refer to them that way or not, Mr. Gates. What I'm
4 asking you is what you and Microsoft believe.
5 And my question is: Did you and others
6 at Microsoft believe that Netscape's browser was a
7 method for distributing Java APIs?
8 A There were APIs in the Netscape
9 browser. I don't think they were strictly Java APIs
10 or even in a direct sense specifically.
11 Q Have you completed your answer, sir?
12 A Uh-huh.
13 MR. BOIES: Can I have the question
14 read back again?
15 (The following question was read:
16 "Q It's not a question
17 whether I would refer to them that
18 way or not, Mr. Gates. What I'm
19 asking you is what you and Microsoft
20 believe.
21 "And my question is: Did
22 you and others at Microsoft believe
23 that Netscape's browser was a method
24 for distributing Java APIs?")
25 Q BY MR. BOIES: Can you tell me that,

1 sir?

2 A There were APIs in Netscape browser

3 some of which under some definition of Java APIs

4 you'd call Java APIs.

5 Q And was there concern within Microsoft

6 that the distribution of these things that you say

7 could be called Java APIs would adversely affect

8 Microsoft?

9 A Our concern is always to get people to

10 develop Windows applications. And to the degree that

11 there's other APIs people to develop to, there's some

12 competition for the attention of developers and

13 focusing on those APIs. But that doesn't relate to

14 distribution.

15 MR. BOIES: Can I have my question read

16 back again, please?

17 (The following question was read:

18 "Q And was there concern

19 within Microsoft that the

20 distribution of these things that you

21 say could be called Java APIs would

22 adversely affect Microsoft?")

23 Q BY MR. BOIES: Could I have an answer

24 to that question, please, sir?

25 A No, not the distribution.

1 Q Let me ask you to look at a document
2 that has been previously marked as Government Exhibit
3 514 ~~349~~. The first message in this exhibit is an e-mail
4 from Paul Maritz to you and a number of other people
5 dated July 14, 1997; correct, sir?
6 A That's what it appears to be, yes.
7 Q Did you receive this e-mail, sir?
8 A I don't remember it. But I don't have
9 any reason to doubt that I did.
10 Q Mr. Maritz writes to you in the third
11 sentence, quote,
12 "If we look further at
13 Java/JFC being our major threat, then
14 Netscape is the major distribution
15 vehicle."
16 Do you see that, sir?
17 A Uh-huh.
18 Q Do you recall Mr. Maritz telling you in
19 words or in substance that Netscape was the major
20 distribution vehicle for the Java/JFC threat to
21 Microsoft?
22 A No.
23 Q Did you believe in July of 1997 that
24 Java/JFC was a major threat to Microsoft as
25 Mr. Maritz writes here?

1 A It was a significant issue for his
2 group in terms of how ISVs would choose to focus
3 their development in the future.
4 Q Did you believe in July of 1997 that
5 Java/JFC was a major threat to Microsoft?
6 A In the form that it existed as of that
7 day, maybe not. But if we looked at how it might be
8 evolved in the future, we did think of it as
9 something that competed with us for the attention of
10 ISVs in terms of whether or not they would take
11 advantage of the advanced features of Windows.

11 Q Now, in a prior answer you said you
12 didn't understand how the browser was a distribution
13 vehicle. Does this refresh your recollection that at
14 least within Microsoft in July of 1997 Netscape was
15 viewed as the major distribution vehicle for Java?
16 A Not for Java. And in my view, the
17 browser wasn't a key distribution channel. Maritz
18 may or may not have agreed with that. But you can
19 always ship the runtime with the applications.
20 Q Mr. Maritz here says, "Netscape is the
21 major distribution vehicle."
22 Now, it's clear to you, is it not, sir,
23 that he means the major distribution vehicle for Java
24 and Java Foundation Classes?
25 A He doesn't mean for Java.

1 Q Well, sir, he says --

2 A I told you many times about the use of

3 the word "Java." And I'm not sure you heard me.

4 When people use the word "Java," they don't mean just

5 Java.

6 Q So when Mr. Maritz here used the word

7 "Java," in this e-mail that you say you don't recall

8 receiving, you're telling me that he meant something

9 other than just Java?

10 A He -- I bet he meant some runtime APIs,

11 not Java.

12 Q Okay.

13 Let's assume that you're right, let's

14 assume that when he talks about Java he means Java

15 runtime APIs. Would you then agree that what he is

16 saying here is that Netscape is the major

17 distribution vehicle for Java runtime APIs and Java

18 Foundation Classes?

19 A That appears to be what he's saying in

20 this e-mail.

2 Q Let me ask you to look at a document
3 that has been marked as Government Exhibit ~~374~~ 256. This
4 is an e-mail to you from Tod Nielsen dated August 25,
5 1997, with copies to Brad Chase.
6 (The document referred to was marked as
7 Government Exhibit 374 for identification and is
8 attached hereto.)
9 Q BY MR. BOIES: Did you receive this
10 e-mail, sir?
11 A I don't remember receiving it. But I
12 don't have any reason to doubt that I did.
13 Q Let me ask you to look at the seventh
14 paragraph down. That's the third paragraph from the
15 bottom, the last sentence. That says, quote,
16 "So, we are just proactively
17 trying to put obstacles in Sun's path
18 and get anyone that wants to write in
19 Java to use J/Direct and target
20 Windows directly," close quote.
21 Do you see that, sir?
22 A Uh-huh.
23 Q Do you recall being told in or about
24 August of 1997 that Microsoft was trying to put
25 obstacles in Sun's path and get anyone that wants to

1 write in Java to use J/Direct and target Windows
2 directly?
3 A No.
4 Q Do you know why Microsoft was trying to
5 put, quote, "obstacles in Sun's path," close quote?
6 A I don't know what that means.
7 Q Do you know why Microsoft was trying to
8 get anyone that wants to write in Java to use
9 J/Direct?
10 A Yes.
11 Q Why was that?
12 A Because J/Direct allows you to make
13 calls that show off unique innovations in Windows and
14 make -- therefore, make Windows more attractive.

21 Q What is J/Direct?

22 A J/Direct is a way of allowing Java

23 language code to call native OS functionality. It's

24 a fairly clever thing that we have done. And others

25 now use that term to refer to it when they let their

OS functionality show through as well.

19 Q Why was J/Direct developed by
20 Microsoft?
21 A To make is easy for people who choose
22 the Java language to call the unique runtime features
23 in various operating systems including Windows.
24 Q Why do you want people to write in
25 J/Direct as opposed to Java?

1 A They are writing in Java. You only use
2 J/Direct if you write in Java.
3 Q Well, what Mr. Nielsen says is that
4 Microsoft is trying to get anyone that wants to write
5 in Java to use J/Direct.
6 Do you see that?
7 A That's right. And that means writing
8 in Java.
9 Q And why do you want to get anyone who
10 wants to write in Java to use J/Direct?
11 A Because that gives them a way of
12 calling unique Windows APIs that allow us to show off
13 the innovative features in Windows.

24 My question is why you were trying to
25 get program developers, independent programming

1 people, to use J/Direct. Why were you trying to get
2 them to do that?
3 MR. HEINER: Certainly asked and
4 answered.
5 THE WITNESS: Because it allows them to
6 get at the unique API functionality that's in the
7 Windows product and show off the innovations that we
8 do there.
9 Q BY MR. BOIES: But you didn't have to?
10 A Tell me some other way.
11 Q Well, I'm asking you. If you tell me
12 that that's what you say is the only way that you
13 could think of for them to do it, that's your
14 testimony. I don't get to testify here. If I did,
15 there would have been a lot of things I would have
16 said along the way. But since I don't get to
17 testify, all I get to do is ask you questions.
18 And my question to you is whether there
19 was a way, that you were aware of at the time, to let
20 people see all of what you refer to as the
21 functionality of Windows without getting people to
22 write to what you refer to here to use J/Direct if
23 they wanted to write in Java.
24 A J/Direct is exactly the work we did to
25 make it possible and reasonable for people writing in

1 Java to call the unique Windows APIs.

Have you finished your answer?

3 A Yes.

4 Q Okay.

5 Now, were you aware of other ways of

6 accomplishing the same result that you considered and

7 rejected at the time?

8 A What time is that?

9 Q The time that you developed J/Direct.

10 A We don't know what that time is.

11 Q Well, you may not know the exact year.

12 But do you know that when -- were you aware when

13 J/Direct was being developed within Microsoft? Were

14 you aware of it at the time?

15 A I'm not sure.

16 Q Did you know it was being developed?

17 A I'm not sure.

18 Q Did you have any discussions about the

19 development of J/Direct?

20 A I was not involved in the design of

21 J/Direct.

22 Q I'm not asking you whether you were

23 involved in the design of J/Direct. I'm asking you

24 whether you were aware at the time that J/Direct was

25 being developed that it was being developed?

1 A I'm not sure.
2 Q Did you ever have any discussions with
3 anyone about the development of J/Direct at or about
4 the time it was being developed?
5 A I don't think so.
6 Q At the time that J/Direct was being
7 developed, did you know that people were trying to
8 develop J/Direct?
9 A It's just a thunk.
10 Q My question is: Did you know that they
11 were trying to develop this thunk?
12 A I doubt it.
13 Q Did you participate at all in any
14 discussions as to what alternatives there were to the
15 development of J/Direct?
16 A Before it was developed?
17 Q Let's start with before it was
18 developed.
19 A No, I don't think so.
20 Q What about during the time it was being
21 developed?
22 A I don't think so.
23 Q How about after it was developed?
24 A I don't think so.

12 Q BY MR. BOIES: Let me show you a
13 document that has been previously marked as
14 Government Exhibit ~~278~~ 253.
15 (The document referred to was marked as
16 Government Exhibit ~~278~~ 253 for identification and is
17 attached hereto.)
18 Q BY MR. BOIES: In the middle of the
19 first page there is a message dated May 14, 1997,
20 from Ben Slivka to you and others.
21 Did you receive this e-mail on or about
22 May 14, 1997?
23 A I'm not sure. But I have no reason to
24 doubt that I did.
25 Q When Mr. Slivka writes as he does in

1 the second paragraph, "This summer we're going to
2 totally divorce Sun," do you know what he's referring
3 to?
4 A I'm not sure.
5 Q Did you ever ask him what he was
6 referring to?
7 A No.
8 Q In the next to last -- or in the last
9 sentence, actually, in the last sentence of the
10 second paragraph, Mr. Slivka writes that "JDK 1.2 has
11 JFC." And is the JFC there the Java Foundation
12 Classes that you referred to earlier?
13 A It's one of the many JFCs.
14 Q What is one of the many JFCs?
15 A The one in JDK 1.2.
16 Q Is the JFC in JDK 1.2 part of what was
17 described as a major threat to Microsoft?
18 A I have no idea which JFC that sentence
19 written by somebody other than me referred to.
20 Q Well, the sentence written by somebody
21 other than you was written to you; right, sir?
22 A It was sent to me.
23 Q Yes. And it was sent to you by one of
24 your chief -- one of your top executives; correct,
25 sir?

1 A In an e-mail.
2 Q Yes.
3 And that's a frequent way that your top
4 executives communicate with you; correct, sir?
5 A Yes.
6 Q Now, Mr. Slivka here says that
7 Microsoft is going to be saying uncomplimentary
8 things about JDK 1.2 at every opportunity.
9 Do you see that?
10 A Where's that?
11 Q That is, "JDK 1.2 has JFC, which we're
12 going to be pissing on at every opportunity."
13 A I don't know if he's referring to
14 pissing on JFC or pissing on JDK 1.2 nor do I know
15 what he specifically means by "pissing on."
16 Q Well, do you know that generally he
17 means by pissing on he's going to be saying and
18 Microsoft is going to be saying uncomplimentary
19 things.
20 A He might mean that we're going to be
21 clear that we're not involved with it, that we think
22 there's a better approach.
23 Q Well, as you understand it, when
24 Mr. Slivka says he's going to be pissing on JDK 1.2,
25 as you seem to interpret it, at every opportunity, do

1 you interpret that as meaning that Microsoft is going
2 to be saying uncomplimentary things about JDK 1.2?
3 A I told you I don't know whether pissing
4 applies to JFC or JDK.
5 Q Well, he's going to be pissing on or
6 Microsoft is going to be pissing on either JDK 1.2 or
7 JFC or both according to Mr. Slivka.
8 Is that at least fair?
9 A That's appears to be what the sentence
10 says.
11 Q Yeah. And as the chief executive
12 officer of Microsoft, when you get these kind of
13 e-mails, would it be fair for me to assume that
14 "pissing on" is not some code word that means saying
15 nice things about you, that has the usual meaning
16 that it would in the vernacular?
17 A I don't know what you mean in this kind
18 of e-mail.
19 Q The kind of e-mail that is sent to you
20 by executives in the course of your business,
21 Mr. Gates.
22 A So all e-mails I get? Ben Slivka's not
23 an executive.
24 Q All the e-mails you get from people
25 telling you that they're going to piss on competitive

1 products, that's what I'm talking about.

2 A I don't remember mail like that. It

3 looks like I got one. But believe me, it's not a

4 term that's commonly used.

5 Q But you have no reason to think that he

6 means it in any way other than the normal meaning of

7 that term, do you, sir?

8 A I think it's a term of multiple

9 meanings. In this case I think it means what you've

10 suggested it means.