UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

- - - - - - - - - - - - - - - - - -X
UNITED STATES OF AMERICA,   :

       PLAINTIFF,   :

   V.   : C.A. NO. 98-1232

MICROSOFT CORPORATION,   :

       DEFENDANT.   :
- - - - - - - - - - - - - - - - - -X
STATE OF NEW YORK, ET AL.,   :

       PLAINTIFFS,   :

   V.   : C.A. NO. 98-1223

MICROSOFT CORPORATION,   :

       DEFENDANT.   :
- - - - - - - - - - - - - - - - - -X
MICROSOFT CORPORATION,   :

       COUNTERCLAIM-PLAINTIFF, :

   V.   :

DENNIS C. VACCO, ET AL.,   :

       COUNTERCLAIM-DEFENDANTS. : JANUARY 13, 1999
- - - - - - - - - - - - - - - - - -X WASHINGTON, D.C.

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TRANSCRIBED DEPOSITION EXCERPTS

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(DEPOSITION EXCERPTS OF DAVID W. COLE.)

Q. YOU JUST USED THE TERM "SYSTEM SERVICES." CAN YOU EXPLAIN WHAT YOU MEAN BY THAT. HOW WOULD YOU DEFINE THAT FIRM AS YOU'RE USING IT?

A. SYSTEM SERVICES, IT'S A TERM I'VE USED OFTEN SIMPLY TO REFER TO MODULES OF CODE THAT PROVIDE FUNCTION FOR OTHER MODULES OF CODE.

Q. AND ARE SYSTEM SERVICES FOUND ONLY IN AN OPERATING SYSTEM, OR WOULD YOU FIND THEM IN VARIOUS OTHER SOFTWARE PRODUCTS ALSO?

A. LET'S SEE. IT'S A--IT'S A VERY LOOSELY DEFINED TERM, SO I SUPPOSE YOU COULD FIND THEM IN, YOU KNOW, ANY PARTICULAR SOFTWARE PACKAGE.

Q. IS IT THE CASE THAT VARIOUS SOFTWARE APPLICATION PRODUCTS WILL SOMETIMES REDISTRIBUTE OR SHIP WITH VARIOUS OPERATING SYSTEM SERVICES THAT GET INSTALLED WHEN THOSE APPLICATIONS GET INSTALLED?

A. YEAH. WE MAKE A NUMBER OF OUR WINDOWS IMPROVEMENTS AVAILABLE TO ISV'S TO REDISTRIBUTE SO THAT WE CAN UPGRADE THE OPERATING SYSTEM TO THE LEVEL THEY NEED TO RUN THEIR APPLICATION. SO THAT'S VERY COMMON PRACTICE.

Q. CAN YOU GIVE ME AN EXAMPLE OF SOME OF

THE MOST COMMON KINDS OF WINDOWS SYSTEM SERVICES

THAT YOU WOULD MAKE AVAILABLE TO ISV'S IN THE WAY

YOU JUST DESCRIBED.

A.   ONE OF THE MOST POPULAR ONES TODAY IS

OUR DIRECTX SET OF DEVICE DRIVERS AND SERVICES

THAT ALLOW GAMES TO RUN FASTER ON TOP OF WINDOWS.

OUR INTERNET EXPLORER TECHNOLOGIES ARE

ANOTHER VERY POPULAR SET OF SYSTEM SERVICES THAT

WE--THAT MANY ISV'S REDISTRIBUTE.

Q.   AND WHEN YOU REFER TO YOUR INTERNET

EXPLORER TECHNOLOGIES, WHAT DO YOU MEAN?   WHAT

ARE YOU REFERRING TO?

A.   I DON'T UNDERSTAND THE QUESTION.   ARE

YOU ASKING ON A FILE-BY-FILE BASIS OR--

Q.   HOWEVER YOU WOULD EXPLAIN IT TO TRY TO

CONVEY TO ME WHAT IT IS YOU MEAN.   IF

FILE-BY-FILE OR EXAMPLES OF FILES IS EASIEST,

THAT WOULD WORK.   IF FUNCTIONALITY IS EASIEST,

THAT WOULD BE FINE.

A.   YEAH--BOY, THAT'S TOUGH TO EXPLAIN AT A

NONTECHNICAL LEVEL, BUT WHAT WE ESSENTIALLY DO IS

PACKAGE UP ALL THE FILES THAT AN ISV WOULD NEED

TO UPGRADE THE OPERATING SYSTEM TO THE LEVEL THAT

THEY NEED TO, YOU KNOW, RETRIEVE THE DATA OFF THE

NETWORK OR DISPLAY HTML TABLES.   SO, YOU KNOW, I

DON'T KNOW HOW ELSE TO TALK ABOUT THAT OTHER THAN

IF YOU WANT TO GO WITH A FILE-BY-FILE LEVEL,

WHICH I DON'T HAVE ALL THE FILES MEMORIZED,

EITHER.

(EXCERPT.)

Q.   WHAT'S THE PURPOSE--FROM THE WINDOWS 95

BUILDER STANDPOINT THAT YOU HAVE, WHAT'S THE

PURPOSE OF HAVING THE ADD/REMOVE PROGRAMS UTILITY

IN WINDOWS?

A.   IT GIVES USERS A--ONE CONSISTENT

INTERFACE TO TRY TO MANAGE WHICH APPLICATIONS AND

COMPONENTS ARE INSTALLED IN THE SYSTEM SO THAT

THEY CAN--IF THERE'S SOMETHING THERE THAT THEY NO

LONGER USE DIRECTLY, THEY CAN CHOOSE TO REMOVE

THAT.   SO, IT WAS DESIGNED AS AN END-USER FEATURE

FOR MANAGING THE APPLICATIONS AND SOFTWARE

COMPONENTS ON THEIR SYSTEM.

Q.   AND WHEN YOU SAY THE END USER CAN

CHOOSE TO REMOVE THAT, WHATEVER IS ON THEIR

SYSTEM, WHAT DO YOU MEAN?   WHAT DO YOU MEAN BY

REMOVE IT?

A.   JUST WHAT I DESCRIBED EARLIER.   THEY

CAN PICK ONE OF THE PROGRAMS LISTED THERE,

WHETHER IT'S AN APPLICATION OR A SYSTEM UPDATE OR

WHATEVER, PICK THE REMOVE COMMAND.

Q.   AND FROM THE STANDPOINT OF THE USER YOU

JUST DESCRIBED, WHAT DOES THAT MEAN?   WHAT IS IT

THAT THEY HAVE THEN DONE BY REMOVING THE PROGRAM?

A.   WELL, I TRIED TO DESCRIBE THAT EARLIER,

TOO.   THERE IS NO PRECISE DEFINITION OF WHAT THAT

MEANS.   IT'S UP TO THE DESIGNER OF THE SOFTWARE

AS TO WHAT SHOULD HAPPEN WHEN THAT OCCURS.

Q.   AND--I'M SORRY.   GO AHEAD.

A.   SO, YOU KNOW, THE BEHAVIOR DEPENDS ON

THE DESIGNER OF THAT SOFTWARE.

Q.   I UNDERSTAND THAT FROM THE STANDPOINT

OF WHICH FILES GET REMOVED AND WHICH FILES STAY,

BUT FROM THE STANDPOINT YOU WERE JUST DESCRIBING

OF THE USER WHO WANTS TO MANAGE THE THINGS THAT

ARE ON HIS COMPUTER WITH WINDOWS 95, WHAT DOES IT

MEAN TO USE THE UTILITY TO REMOVE ONE OF THE

THOSE PROGRAMS?

MR. HOLLEY: OBJECT TO THE QUESTION AS

ASKED AND ANSWERED.

BY MR. MALONE:

Q.   YOU MAY ANSWER.

A.   I DON'T KNOW THE COMPLETE MEANING THAT

A USER MIGHT HAVE IN THEIR HEAD WHEN THEY DO

THAT.

Q.   WHAT MEANING DID YOU HAVE IN MIND,

THOUGH, A MOMENT AGO WHEN YOU DESCRIBED THAT THE

PURPOSE OF THIS WAS FOR A USER TO CHOOSE TO

REMOVE PROGRAMS OR SOMETHING? WHAT DID YOU MEAN?

A.   WHAT I MEANT BY THAT WAS THAT, AT

MINIMUM, THE USER MIGHT EXPECT THE VISIBLE

ASPECTS OF THE PROGRAM OR UPDATE OR WHATEVER IT

HAPPENS TO BE TO NOT BE THERE ANYMORE, SO IN

APPEARANCE IT MIGHT BE GONE FROM THE USER'S

PERSPECTIVE.

Q.   AND AGAIN, FROM THE USER'S PERSPECTIVE,

WHY WOULD THE USER WANT TO DO THAT?

LET ME REPHRASE THAT.

WHY IS THAT A USEFUL THING FOR WINDOWS

TO LET THE USER DO?

A.   MAYBE IT'S A FEATURE THEY DON'T USE

ANYMORE, OR IT'S AN APPLICATION THEY NO LONGER

HAVE A NEED FOR, OR THEY, YOU KNOW, HAVE ANOTHER

APPLICATION THAT THEY THOUGHT WAS BETTER THAT

SERVED THE SAME PURPOSE.

YOU KNOW, ONE OF OUR KEY DESIGN POINTS

ABOUT WINDOWS IS SIMPLICITY. WE WANT USERS TO BE

ABLE TO CUSTOMIZE THE SYSTEM IN WAYS THAT MAKE IT

AS SIMPLE AND CUSTOMIZED TO THEIR NEEDS AS

POSSIBLE. SO WE THINK THAT'S A KEY DESIGN POINT.

(EXCERPT.)

Q.   BEFORE WE DO, LET ME JUST ASK
GENERALLY, I BELIEVE BASED ON WHAT YOU SAID
EARLIER, WHEN A USER INSTALLS INTERNET
EXPLORER 3.02, DOES THAT REGISTER IT IN THE
ADD/REMOVE PROGRAMS UTILITY?

A.   YES.

Q.   AND WHY IS THAT? WHY DOES INTERNET
EXPLORER SHOW UP IN THE ADD/REMOVE PROGRAMS
UTILITY?

A.   YOU KNOW, USERS HAVE GIVEN US FEEDBACK
THAT THEY WOULD LIKE CHOICES ABOUT WHAT THEY SEE
ON THEIR DESKTOP AND THEY DON'T SEE ON THEIR
DESKTOP, AND IN THAT PARTICULAR CASE WE HAD
FEEDBACK FROM CORPORATE CUSTOMERS THAT WANTED TO
PREVENT ACCESS TO THE INTERNET, SO WHEN
THEY--THEY BUY A NEW MACHINE FROM A PC
MANUFACTURER, THEY WANT THE ABILITY TO REMOVE
EASY ACCESS TO THE INTERNET SO THEIR EMPLOYEES,
YOU KNOW, AREN'T SPENDING THEIR TIME OUT ON THE
WEB DOING WHATEVER.

Q.   AND HOW DOES INTERNET EXPLORER BEING IN
THE ADD/REMOVE PROGRAMS UTILITY HELP THAT GOAL?

A.   I DON'T UNDERSTAND THE QUESTION.

Q.   HOW DOES THE ABILITY TO REMOVE INTERNET
EXPLORER USING THE ADD/REMOVE UTILITY ACCOMPLISH

WHAT IT IS THAT CUSTOMERS WERE TELLING YOU THEY

WANTED TO DO?

    A.   WELL, IT REMOVES THE--I'M TRYING TO USE

THE RIGHT WORDS HERE. IT REMOVES THE USER--THE

OBVIOUS USER-ACCESSIBLE MEANS TO RUN--TO RUN

INTERNET EXPLORER.

    Q.   JUST IN PRACTICAL TERMS, WHAT DOES THAT

MEAN TO A USER WHO IS THEN SITTING IN FRONT OF

THAT COMPUTER WHERE THESE OBVIOUS MEANS OF

RUNNING INTERNET EXPLORER HAVE BEEN REMOVED?

    A.   TYPICALLY, THAT REFERS TO THE ICON,

WHETHER IT'S ON THE DESKTOP OR WHETHER IT'S ON

THE START MENU UNDER THE PROGRAMS OR, YOU KNOW,

ACCESS TO THE--TO AN EXECUTABLE ITSELF THAT THE

ICON IS POINTING TO, PERHAPS.

    Q.   AND IN TERMS OF THE FUNCTIONALITY

PRESENTED TO THAT USER, WHAT DOES IT MEAN TO HAVE

RUN THE UNINSTALL UTILITY ON THE INTERNET

EXPLORER?

    MR. HOLLEY: OBJECT TO THE QUESTION AS

VAGUE AND AMBIGUOUS.

    BY MR. MALONE:

    Q.   CAN YOU ANSWER?

    A.   NO, I DON'T THINK I CAN. YOU NEED TO

HELP ME OUT A LITTLE BIT.

Q.   OKAY.

WHAT IS AN END USER WHO IS SITTING IN FRONT OF A PC WHERE INTERNET EXPLORER HAS BEEN REMOVED USING THE ADD/REMOVE PROGRAMS UTILITY ARE--WHAT IS THAT END USER NOT ABLE TO DO THAT THEY WOULD BE ABLE TO DO IF YOU HADN'T DONE THE UNINSTALL?

A.   OKAY, I UNDERSTAND NOW.

IN THE CASE OF AN OSR2 SYSTEM UPDATED TO IE 3.02 IN THAT PARTICULAR CASE, IT WILL REMOVE THE ICON FROM THE DESKTOP AND THE--UPON RESTART OF THE MACHINE, THE ICON ON THE START MENU WILL BE GONE, SO THAT--AND THERE'S THIS LITTLE WHAT WE CALL "STUB EXECUTABLE" CALLED IEXPLORE.EXE THAT GETS DELETED, SO THE NORMAL WAYS THAT A USER WOULD DELIBERATELY START UP INTERNET EXPLORER ARE GONE.

Q.   AND HOW--JUST TO GO BACK TO THE EXAMPLE YOU GAVE A MINUTE AGO FOR CORPORATE CUSTOMERS WHO DON'T WANT THEIR EMPLOYEES SPENDING ALL THEIR TIME SURFING THE WEB, HOW WOULD THOSE CHANGES SATISFY WHAT IT IS THE CUSTOMER WANTED?   THE CORPORATE CUSTOMER.

A.   USER--THE USER OF THAT MACHINE WOULDN'T BE ABLE TO JUST CLICK ON AN ICON AND BE ON THE

INTERNET.

Q.   OKAY.

A.   LET ME CLARIFY THAT JUST A SECOND.

Q.   SURE.

A.   THEY WON'T BE ABLE TO CLICK ON THE ICON
AND USE INTERNET EXPLORER, THE FULL INTERNET
EXPLORER, TO GET ON THE INTERNET. THERE MAY BE
ANOTHER PROGRAM ON THE SYSTEM THAT USED INTERNET
EXPLORER SYSTEM SERVICES TO GET ON THE INTERNET.
I WANTED TO CLARIFY THAT BECAUSE ACCESS TO THE
INTERNET IS STILL THERE.

Q.   BUT IT'S ONLY THERE THROUGH ANOTHER
PROGRAM THAT USES SOME PART OF THE INTERNET
EXPLORER PROVIDED SYSTEM SERVICES TO ACCESS THE
INTERNET?

A.   RIGHT.

Q.   AND WE'LL COME BACK AND TALK ABOUT THAT
IN SOME MORE DETAIL ALSO.

A.   OKAY.

Q.   LET ME JUST MAKE SURE I'M CLEAR SO THAT
THE RECORD OF WHAT YOU'RE SAYING IS CLEAR.

THE FLIP SIDE OF WHAT YOU JUST SAID,
ONCE YOU'VE USED THE ADD/REMOVE PROGRAMS UTILITY
TO UNINSTALL INTERNET EXPLORER 3.02, IS THERE ANY
WAY FOR THE USER TO GO DIRECTLY TO INTERNET

EXPLORER TO GET ONTO THE INTERNET AS OPPOSED TO

USING SOME OTHER PROGRAM TO GET ONTO THE

INTERNET?

A.   YOU NEED SOME OTHER PROGRAM TO START

UP--TO EITHER USE THE SYSTEM SERVICES OF INTERNET

EXPLORER TO GET YOU ON THE INTERNET OR TO START

FULL INTERNET EXPLORER PRODUCT.   TO START THE

INTERNET EXPLORER BROWSER.

Q.   AND WHEN YOU REFER TO SOME OTHER

PROGRAM BEING NEEDED TO START THE INTERNET

EXPLORER BROWSER, WHAT DO YOU MEAN?

A.   WELL, THE WAY OUR SOFTWARE IS

CONSTRUCTED, IT'S CONSTRUCTED AS A SET OF SYSTEM

SERVICES THAT, YOU KNOW--MODULES THAT CAN BE USED

BY OTHER SOFTWARE COMPONENTS TO PROVIDE

FUNCTIONALITY.

Q.   RIGHT.

A.   SO, AN APPLICATION CAN DO THIS THING WE

CALL HOST THE INTERNET EXPLORER FUNCTIONALITY

INSIDE OF ITSELF.   SO, IF YOU LOOK AT A PRODUCT

LIKE QUICKEN, FOR EXAMPLE, IT HOSTS INTERNET

EXPLORER INSIDE OF ITSELF SO THAT WHEN YOU'RE ON

THE INTERNET FROM QUICKEN, YOU'RE NOT IN A

SEPARATE WINDOW, FOR EXAMPLE.   YOU'RE RIGHT THERE

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.

(EXCERPT.)

Q.   SO, WOULD IT BE FAIR TO SAY WHEN A USER DOUBLE-CLICKS ON THE INTERNET EXPLORER ICON, WHAT LAUNCHES AND WHAT THEY GET IS THE FULL BROWSER?

A.   YEAH.   IN JUST MY TERMINOLOGY HERE TODAY, I DON'T THINK YOU'LL SEE IT REFERENCED THAT WAY IN OUR, YOU KNOW, USER ED MATERIALS OR ANYTHING LIKE THAT.

(EXCERPT.)

Q.   HAS THERE EVER BEEN A TIME SINCE JULY OF 1995 WHEN THE RETAIL VERSION OF WINDOWS 95 DID INCLUDE ANY VERSION OF INTERNET EXPLORER?

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

Q.   AND WHEN WAS THAT WHEN IT FIRST HAPPENED?

A.   I--LET ME TRY TO EXPLAIN WHAT HAPPENED. I DON'T KNOW THE EXACT DATE OR WHEN IT HAPPENED, BUT WHEN WE--WE PRODUCE A LOT OF WIN 95 RETAIL PRODUCTS.   I MEAN, THE BOXES AND THE CD'S.   I MEAN, THERE ARE MILLIONS OF THESE THINGS MADE.

SO, AS WE DID UPGRADES TO THE OPERATING SYSTEM IN TERMS OF THE INTERNET EXPLORER TECHNOLOGY, WE TOOK EXISTING BOXES AND WOULD PUT CD'S IN THERE THAT WOULD UPGRADE THAT RETAIL VERSION OF WINDOWS TO A NEWER VERSION OF WINDOWS

THAT HAD IE IN IT, AS PART OF IT.

Q.   HAS THE RETAIL VERSION OF WINDOWS 95 EVER COME WITH INTERNET EXPLORER IN ANY FORM OTHER THAN ON A DISK SEPARATE FROM THE DISK THAT THE RETAIL WINDOWS 95 PROGRAM IS ON?

A.   I DON'T BELIEVE SO.

Q.   SO, AS FAR AS YOU KNOW, THOSE HAVE ALWAYS BEEN SEPARATE DISKS IN THE RETAIL BOXES?

A.   YEAH, THE--THERE'S THE ORIGINAL WINDOWS 95 RETAIL UPGRADE DISK, AND THEN THERE'S ANOTHER DISK THAT UPGRADES THAT INSTALL TO A CURRENT INSTALL WITH IE 3 AND/OR IE 2. I DON'T REMEMBER THE VERSIONS THAT WE STARTED DOING WITH THAT.

Q.   AND IF YOU LOOKED AT THAT SECOND DISK, WOULD IT SAY INTERNET EXPLORER VERSION WHATEVER, 2.0, 3.0?

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

Q.   HAS THERE BEEN MORE THAN ONE DIFFERENT VERSION OF THE RETAIL WINDOWS 95 DISK SINCE JULY OF 1995?

A.   THE ORIGINAL, THAT--NO, I BELIEVE EVERY BOX--WINDOWS 95 RETAIL BOX INCLUDES THAT ORIGINAL CD THAT WE RELEASED IN JULY OF 1995.

(EXCERPT.)

Q. I THINK IN SOME OF OUR EARLIER

DISCUSSION, WHEN WE WERE TALKING ABOUT INTERNET

EXPLORER, I BELIEVE YOU SAID THAT IT WAS PART OF

WINDOWS, AND WE HAD SOME DISCUSSION ABOUT WHAT

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

BUT IN THE SAME SENSE THAT YOU EARLIER USED "PART

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

PART OF QUICKEN WHEN THEY SHIP WITH QUICKEN?

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

THAT CONTEXT. QUICKEN INCLUDES THESE FILES WITH

ITS PRODUCT SO THAT IT CAN UPGRADE WINDOWS TO A

VERSION THAT IT NEEDS TO RUN SO THAT IT HAS THE

SYSTEM SERVICES THERE THAT IT NEEDS TO RUN.

Q. LET ME TRY IT A SLIGHTLY DIFFERENT WAY.

WOULD YOU SAY THAT WHEN QUICKEN DOES

THAT, THAT THESE FILES ARE PART OF QUICKEN?

MR. HOLLEY: OBJECT TO THE QUESTION AS

VAGUE AND AMBIGUOUS.

BY MR. MALONE:

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

IN THE SAME SENSE THAT YOU USED IT EARLIER TODAY.

A. IT'S A COMPLETELY DIFFERENT CONTEXT

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

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

SERVICES ARE THERE.

Q.   AND BY SO UPGRADING THE WINDOWS

OPERATING SYSTEM, WOULD YOU SAY THAT QUICKEN IS

PART OF THE OPERATING SYSTEM?

A.   THAT QUICKEN IS PART OF THE OPERATING

SYSTEM? NO.

Q.   WHY WOULDN'T YOU SAY THAT?

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

UNDERSTAND THE QUESTION.

Q.   YOU'VE JUST TALKED ABOUT HOW QUICKEN

UPGRADES THE OPERATING SYSTEM. IS THAT--THE FACT

THAT IT--

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

THE QUICKEN PRODUCT INCLUDES FILES THAT IT WILL

UPGRADE THE OPERATING SYSTEM TO THE LEVEL IT

NEEDS TO RUN. THAT DOES NOT MAKE QUICKEN PART OF

THE OPERATING SYSTEM.

(EXCERPT.)

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

DIFFERENCE IN THE FUNCTIONALITY THAT'S AVAILABLE

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

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

HAND, PURCHASES THE RETAIL VERSION OF WINDOWS 95,

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

DISK THAT'S THERE IN THE BOX ALONG WITH THE

RETAIL VERSION OF WINDOWS 95? ANY DIFFERENCE IN

THE FUNCTIONALITY THAT THOSE TWO END USERS WOULD

GET?

    A.   I--I'M NOT FAMILIAR WITH ALL THE END

USER FUNCTIONALITY OF OSR2, SO I--I CAN'T SAY

WITH ANY AUTHORITY WHAT THE DIFFERENCES WOULD BE.

    Q.   WHAT ABOUT THE INTERNET-RELATED

FUNCTIONALITY? WOULD THERE BE ANY DIFFERENCES

FOR THE END-USER INTERNET-RELATED FUNCTIONALITY?

    A.   THE INTERNET-RELATED FUNCTIONALITY,

IE 3 INCLUDES--LET'S SEE. INTERNET-RELATED

FUNCTIONALITY SHOULD BE ON A PAR IN THOSE TWO

SITUATIONS--WHICH, TO BE CLEAR, WAS AN OSR2

SYSTEM SOMEBODY HAD BOUGHT FROM A STORE, A WHOLE

COMPUTER WITH OSR2 ON THERE, AND THEN TAKING

WIN 95 AND UPGRADING THAT TO IE 3, SO THAT TWO

PRODUCTS WOULD HAVE INTERNET-EQUIVALENT FUNCTION.

    Q.   SO, WOULD IT BE FAIR TO SAY THAT THE

VERSION OF IE 3 THAT YOU WOULD GET THROUGH THE

OEM PURCHASE WOULD BE THE SAME AS WHAT YOU WOULD

GET BY USING WHAT CAME IN THE RETAIL WINDOWS 95

BOX?

    A.   IF THE VERSION NUMBERS MATCHED, YES.

    Q.   SURE. IF IT WAS 3.0 AND 3.0, FOR

EXAMPLE.

A. YES.

(EXCERPT.)

Q. HAVE YOU SEEN JUST GENERALLY, EITHER IN THE TRADE PRESS OR IN THINGS AROUND MICROSOFT, REFERENCES TO MICROSOFT'S INTERNET BROWSER MARKET SHARE COMPARED TO NETSCAPE'S BROWSER MARKET SHARE?

I'M NOT ASKING FOR A SPECIFIC NUMBER. I JUST WANT TO KNOW IF YOU'VE SEEN THAT GENERALLY.

A. YEAH, I'VE SEEN TALK ABOUT THAT IN THE MAGAZINES, YES.

Q. TO THE EXTENT YOU KNOW, IS BROWSER SHARE SOMETHING THAT'S IMPORTANT TO MICROSOFT?

A. YES.

Q. AND WHAT'S YOUR UNDERSTANDING WHEN THE TERM "BROWSER MARKET SHARE" IS USED OF WHAT A BROWSER IS, WHAT MICROSOFT'S BROWSER IS?

A. THAT'S THE--I MEAN, THAT MEASUREMENT IS A MEASURE OF PEOPLE USING THE INTERNET EXPLORER TECHNOLOGIES IN WINDOWS TO BROWSE THE WEB AS OPPOSED TO SOMEBODY ELSE. THAT'S USUALLY WHAT BROWSER SHARE REFERS TO.