

EXHIBIT 5

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TEXT REMOVED - NOT RELEVANT TO MOTION

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13 Q Why did you make the decision to use SLOC rather
14 than function point analysis for purposes of the COCOMO
15 II model that you developed for Evolution?

16 A The simple answer was that we could count the
17 lines of code on the product.

18 Q Couldn't you also count the function points?

19 A No, you can't.

20 Q Why not?

21 A You have to -- the reason that you can't count
22 function points is that you have to have the spec to do a
23 specification analysis to determine the number of
24 function points.

25 Q So without a specification, you can't do a

1 function point.

2 A I couldn't do a function point count. I don't
3 know if others could. Without a spec, I couldn't do it.

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15 Q Why would it be inappropriate to take the source
16 lines of code and, as I believe you said, backfire to
17 create function points?

18 A Would you restate your question.

19 MR. HARRISON: Would you read that back, please.

20 THE WITNESS: I don't know if you said

21 "appropriate" or "inappropriate."

22 BY MR. HARRISON:

23 Q "Inappropriate" is what I said.

24 A Okay.

25 Q I was asking: Why would it be inappropriate to

1 do that?

2 THE REPORTER: Inappropriate?

3 MR. HARRISON: Inappropriate.

4 THE WITNESS: I'm sorry. That --

5 MR. HARRISON: Atlanta accent.

6 THE WITNESS: I believe it would be
7 inappropriate because one is a spec base measure of size,
8 and the other is a physical measure of size.

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17 Q Are you aware of any instances in which COCOMO
18 II has been used with a function point analysis?

19 A Yes. Fidelity Investment.

20 Q But Fidelity Investment isn't in the database.

21 A Fidelity Investment is in the database.

22 Q It is.

23 A But we backfired to produce lines of code.

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I, DONALD J. REIFER, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made such corrections as noted herein, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this ____ day of _____,
_____, at _____, _____
(City) (State)

DONALD J. REIFER

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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: _____



KARIN E. GLAAB
CSR No. 2638