

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 TYLER DIVISION

3 MIRROR WORLDS, LLC * Civil Docket No.
4 *
4 VS. * 6:08-CV-88
5 * Tyler, Texas
5 *
6 APPLE, INC., ET AL * September 28, 2010
6 * 9:00 A.M.

7
8 REDACTED TRANSCRIPT OF JURY TRIAL
9 MORNING SESSION
10 BEFORE THE HONORABLE LEONARD DAVIS
11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

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P R O C E E D I N G S

(Jury out.)

THE COURT: Please be seated.

All right. I have before me Apple's motion for finding of waiver of attorney/client privilege, Docket No. 394.

First thing, I notice this was filed at 4:20 a.m. this morning. I apparently have failed to remind y'all of my 8:00 p.m. rule, and that is that anything that's going to be filed regarding the next day's court, needs to be filed by 8:00 p.m. that evening, because it works a real hardship on us when this stuff comes floating in at 4:00 and 5:00 a.m. in the morning, and then we have to deal with it the next day.

So if you would, please follow that in the future.

Would Plaintiff like to be heard in response to the motion that's been filed?

MR. STEIN: Yes. I know it came in late. So I've been struggling to read this brief this morning, but we did confer yesterday, so, you know, we do have some idea of --

THE COURT: I tell you what, we'll take it up later in the day then. We were through with Dr.

1 Gelernter yesterday anyway, so we'll take it up later
2 after you've had a chance to see it.

3 MR. STEIN: Okay. Thank you.

4 THE COURT: All right. Anything further
5 before we bring in the jury?

6 MR. SOOBERT: Yes, Your Honor. We have a
7 couple of objections to demonstratives, if I may.

8 THE COURT: All right.

9 MR. SOOBERT: Good morning, Your Honor.
10 Allen Soobert on behalf of Apple. If it please the
11 Court, just a couple of objections to demonstratives.

12 Diane, could you bring up Slide S8 of 58.

13 THE COURT: Could you raise that
14 microphone a little bit? I'm having a little trouble
15 hearing you.

16 MR. SOOBERT: Yesterday, the issue came
17 up, and also in the motions in limine, this specter of
18 Intellectual Ventures alleged in the offer to purchase
19 the patents-in-suit. There was a motion in limine on
20 the subject.

21 Your Honor denied the motion in limine,
22 but allowed us to challenge the evidence when it would
23 come in to the extent there is any evidence. And then
24 there was a -- Mr. Carroll raised this point yesterday,
25 and Your Honor sustained an objection.

1 We just wanted to point out --

2 This slide right here -- Diane, can you
3 blow up where it says Intellectual Ventures partially
4 owned by Apple and offer to purchase?

5 There are a couple of issues here, Your
6 Honor. We just want to point out this is very
7 misleading. There's no evidence at all that
8 Intellectual Ventures is partially owned by Apple, and
9 there's certainly -- the evidence Mr. Carroll
10 represented that there is, in fact, deposition testimony
11 on an alleged offer to purchase -- purchase the
12 patents-in-suit here, that's not the case.

13 And we just wanted to show you one
14 deposition excerpt, Raich 316 at 18 through 19. This is
15 a 30(b)(6) designee on behalf of Recognition Interface.

16 He says: I didn't characterize anything
17 as an offer. There's nothing in the form of an offer --
18 an official offer per se. They made an informal offer.

19 I'm sorry. Go to 318, Lines 2 through 7,
20 the second part that I was reading about the informal
21 offer.

22 Lines 2 through 7: We're willing to
23 discuss what an offer might look like, but I'm not aware
24 of -- of one.

25 Okay. And then could we go --

1 THE COURT: All right. Counsel, let's
2 wrap this up. The jury's in there waiting. So let's
3 get to the point. What do you want excluded?

4 MR. SOOBERT: We would like to exclude
5 that slide or at least the statements on that slide.
6 They can modify it. There's --

7 THE COURT: Put the slide back up,
8 please.

9 MR. SOOBERT: There is other testimony,
10 just so we're clear, from Frank Weil who --

11 THE COURT: All right. What do you want
12 excluded? The part that says partially owned by Apple?

13 MR. SOOBERT: Both. Intellectual
14 Ventures' offer to purchase the Gelernter patents.
15 That's just not true, and it's inconsistent with the
16 evidence.

17 THE COURT: Response?

18 MR. CARROLL: Your Honor, Dr. Ugone,
19 their expert, admitted that Apple partially owns
20 Intellectual Ventures. That's in his deposition.
21 And all of the stuff that they just talked about goes to
22 the weight. There was a formal offer for 7 million
23 before the suit. After the suit, there were discussions
24 for the 30, the 50.

25 THE COURT: Let's take it, partially

1 owned by Apple, off the slide and rely on the testimony,
2 whatever it is. And y'all can argue it to the jury as
3 to whether that occurred or not.

4 MR. CARROLL: We'll be glad to do that,
5 Your Honor. Thank you.

6 MR. SOOBERT: Thank you, Your Honor.
7 One more issue. I'll be very brief.

8 THE COURT: All right.

9 MR. SOOBERT: There's also an issue about
10 Dr. Levy. Their technical expert is going to testify, I
11 presume, later today with a number of slides that
12 reference -- a number of demonstrative slides that
13 reference source code.

14 He has no source code analysis,
15 citations, or reference in his expert report. And
16 his -- his slides say, in a number of areas -- in fact,
17 there's -- there's some two dozen slides that say the
18 source code confirms my opinion, et cetera.

19 We were very surprised by that. In fact,
20 it didn't show up in his expert report. When we deposed
21 him, he -- he flat out said that no and admitted, I
22 didn't cite any source code in my report. I didn't
23 think it would be beneficial or useful or helpful to the
24 jury, so I intentionally didn't do that.

25 THE COURT: Okay. Response?

1 MR. STEIN: Dr. Levy stated in his
2 exhibit -- in his report that he relied upon source code
3 in the materials relied upon. There are a number of
4 instances in his report where his report goes to matters
5 that he derived from his -- you know, derived from his
6 review of the source code.

7 Apple knows that Dr. Levy spent a
8 considerable amount of time reviewing the source code,
9 and the opinions in his report that are cited in those
10 slides rely on the source code.

11 THE COURT: Okay. If he did not -- you
12 cannot put in front of the jury specific source code
13 that he said he found, if it was not in his report or in
14 his deposition.

15 MR. STEIN: He does not have specific
16 cites to source code. It's just a statement that he
17 relied upon source code.

18 THE COURT: I'm sorry?

19 MR. STEIN: It's not -- they are not
20 cites to specific source code. They are general
21 statements.

22 THE COURT: Okay. Well then, you can
23 testify -- you can have him testify consistent with
24 what's in his report. If he testified he reviewed the
25 source code, if that's in his report, he can testify to

1 that.

2 But you can't take that a step further
3 and dig deeper, if he didn't put it in his report or he
4 didn't testify to it to his deposition, to say these
5 lines of source code support this position.

6 MR. STEIN: Right, but that's not what
7 those slides say, and that's not what we've done.

8 MR. SOOBERT: Your Honor, the slides do
9 express the mention that -- the word source code.

10 There's a number of them. I can give
11 this list to them and they can excise it. That's the
12 relief we're looking for.

13 THE COURT: All right. Give them the
14 list and y'all discuss it.

15 Bring the jury in.

16 MR. SOOBERT: There's no citation, Your
17 Honor, to source code in the report.

18 THE COURT: All right.

19 COURT SECURITY OFFICER: All rise for the
20 jury.

21 (Jury in.)

22 THE COURT: Please be seated.

23 Good morning, Ladies and Gentlemen of the
24 Jury. Hope you had a restful evening and ready to hit
25 it again today.

1 Before we begin, does Plaintiff have some
2 exhibits that it wishes to offer?

3 MR. CARROLL: We do, Your Honor. If the
4 Court please, these are the exhibits that we used
5 yesterday and expect to use today, for which there are
6 no objections.

7 THE COURT: Okay. And do you have that
8 on a list?

9 MR. CARROLL: I do, Your Honor.

10 THE COURT: All right. What is the title
11 of the list?

12 MR. CARROLL: The title of the list is
13 Plaintiff's List of Exhibits admitted on September 28th,
14 2010.

15 THE COURT: All right. Have you provided
16 that to counsel for the Defendant?

17 MR. CARROLL: We have.

18 MR. SOOBERT: Yes, Your Honor, we have
19 that.

20 THE COURT: All right. Are there any
21 objections to the exhibits that counsel is offering that
22 are contained on Plaintiff's list of exhibits?

23 MR. SOOBERT: Just one, Your Honor.

24 1183, which is a --

25 THE COURT: All right. They're all

1 admitted, except for 1183, and you can offer that later.

2 Please hand the list to Ms. Ferguson.

3 She'll mark it as Plaintiff's Exhibit List No. 1, and

4 it's admitted, except for 1183.

5 Does Defendant have some exhibits they

6 wish to offer?

7 MR. SOOBERT: Yes, Your Honor.

8 We have a similar list. It's entitled

9 Defendants' List of Exhibits Admitted on Monday,

10 September 27, 2010.

11 THE COURT: All right.

12 MR. SOOBERT: We've given counsel a copy

13 and the number of the exhibits.

14 THE COURT: Do you offer those exhibits?

15 MR. SOOBERT: Yes, I do, Your Honor.

16 THE COURT: All right. Is there any

17 objection?

18 MR. CARROLL: None, Your Honor.

19 THE COURT: All right. They're admitted.

20 All right. Who will be your first witness?

21 MR. CARROLL: Michael Satow, Your Honor.

22 Mr. Satow has not been sworn.

23 THE COURT: All right. Please --

24 Mr. Satow, please come forward right around here. Just

25 stand right here and raise your right hand.

1 Ms. Ferguson will swear you in.

2 (Witness sworn.)

3 THE COURT: All right. You may have a
4 seat.

5 Have you explained the rule to Mr. Satow?

6 MR. CARROLL: I have, Your Honor,
7 yesterday morning.

8 THE COURT: All right. Very good.

9 MR. CARROLL: If the Court please, Your
10 Honor.

11 MICHAEL SATOW, PLAINTIFF'S WITNESS, SWORN

12 DIRECT EXAMINATION

13 BY MR. CARROLL:

14 Q Mr. Satow, good morning.

15 Would you tell the jury your name, where you
16 live, and what you do, please?

17 A My name is Michael Satow, and I live in
18 Chappaqua, New York, and I'm an entrepreneur. Run
19 different businesses.

20 Q You're an entrepreneur?

21 A Yes. I've started and run different
22 businesses for the last 13 years. And before that, I
23 was an attorney and still am an attorney.

24 Q In another life?

25 THE COURT: Where do you live?

1 THE WITNESS: I live in Chappaqua, New
2 York.

3 THE COURT: Right. My daughter just got
4 married there two weeks ago at the Kittle House.

5 THE WITNESS: At the Kittle House, yeah.

6 THE COURT: Excuse me, Mr. Carroll. Go
7 ahead.

8 THE WITNESS: It's a small world.

9 MR. CARROLL: We all congratulate you.

10 THE COURT: Thank you, thank you. I
11 appreciate that.

12 Q (By Mr. Carroll) Mr. Satow, you're S-A-T-O-W,
13 correct?

14 A That is correct.

15 Q Are you a family man?

16 A Yes, I am. I have three boys, 12, 11, and 6.

17 Q Now, you told the jury a second ago in another
18 life, you were a lawyer?

19 A That is true. For about five and a half
20 years, I practiced law.

21 Q Do you keep your license current?

22 A I'm currently on inactive status, but I am
23 current. I'm in compliance with the rules of New York.

24 Q The Judge always wants to ask that, because
25 he's always looking for criminal defense appointments.

1 [Laughter.]

2 Q (By Mr. Carroll) Let me ask you a couple of
3 questions before we get down to it.

4 What do you do -- what do you like to do when
5 you're not doing your business?

6 A Well, I -- I've been involved in several
7 different charities. I'm on the board of two different
8 charitable organizations. I spend a lot of time there.
9 One of them is called the Jed Foundation, which is a
10 public charity to prevent suicide in college-aged
11 students. Actually, my family founded it around the
12 death of my brother, who was named Jed. But it's a
13 public charity; it's not just us. So we do a lot of
14 work in schools.

15 I'm also on the board of a -- of a battered
16 women's shelter that's in my area called my Sister's
17 Place.

18 Q Mr. Satow, you told the jury a second ago that
19 you practiced law five or so years.

20 Tell the jury, if you would, about your work
21 with the Securities and Exchange Commission.

22 A Sure. After -- I was in private practice for
23 a short period of time, and then I went to the Federal
24 Government to the United States Securities and Exchange
25 Commission as an enforcement lawyer in New York.

1 And while I was there, what I did was to
2 investigate and prosecute civilly financial fraud,
3 things like upon Ponzi schemes and other illegal
4 activity by people that involve financial issues.

5 Q And a Ponzi scheme is similar to what we all
6 read about with this character Bernie Madoff?

7 A Things like that, yes.

8 Q Y'all didn't catch him in time, doesn't look
9 like?

10 A No. I think that, unfortunately, the SEC
11 didn't do a very good job there.

12 Q Now, what was your involvement -- the jury has
13 heard a lot about this little company called Mirror
14 Worlds.

15 What was your involvement with this company,
16 Mirror Worlds?

17 A Well, I left the SEC, and I started a company
18 and successfully ran that for some period of years.

19 Q Let me interrupt you. What was that company
20 all about?

21 A That -- that was a company -- while I was at
22 the SEC, I realized that a lot of big institutional
23 investors were able to buy and sell stocks at night
24 after the markets closed, and normal people like me
25 couldn't buy and sell stocks then.

1 But there was information that was out there,
2 so I felt that it would be beneficial to individuals to
3 be able to buy and sell stocks outside the market hours.

4 And so I started a company that was really
5 like an electronic stock exchange that allowed
6 individual investors to buy and sell stocks after the
7 markets close.

8 And I am proud of the fact that now that is
9 something that people can do in general.

10 MR. CARROLL: James, can you give us
11 1184?

12 Q (By Mr. Carroll) Okay. I can't really see
13 this.

14 Let me ask you this, Mr. Satow: Was there an
15 article in the U.S. News and World Reports on this
16 company you're telling me about?

17 A Yes. Every year U.S. News and World Reports
18 chooses a certain number of people that they award as
19 American innovators. And back in 1998, I was one of
20 those recipients, and they wrote an article about me in
21 short -- a very short article and put it in the magazine
22 as one of those winners for what I was doing with that
23 company.

24 Q The idea of leveling the playing field between
25 the big guys and the little guys?

1 A That's right.

2 Q Okay. And was that company a success?

3 A It was a success. We sold the company in 2000
4 successfully.

5 Q Now, tell the jury, because I interrupted you,
6 about your involvement with the company they've heard of
7 as Mirror Worlds.

8 A Well, after I sold that company, I was looking
9 for something else to do, looking for my next exciting
10 thing that I would be involved with.

11 And a cousin of mine, his -- his wife was an
12 assistant for this man, Frank Weil, and mentioned that
13 there was a company that he had invested and that they
14 were looking for a CEO of. So I went and I talked to
15 Frank and then eventually others at Mirror Worlds about
16 coming in as CEO of that company. And I interviewed for
17 the job, and they hired me.

18 Q What did you learn about this company called
19 Mirror Worlds before you hired on?

20 A Well, I was -- I was in a position at that
21 time where I could look around and think about different
22 things that I wanted to do. So I wanted to make sure
23 that whatever I did decide to do was something that I
24 felt I could succeed in.

25 And I was pretty excited by the technology and

1 the ideas. I felt that the current state of computers
2 wasn't really good enough to meet the needs of people in
3 terms of the information they had, and it really seemed
4 like a great idea.

5 I was also very excited about the fact that
6 they had an issued patent on -- on their technology,
7 because for me, as CEO, that would give me something --
8 it was a real asset that the company had that I could
9 use in building the business.

10 Q Now, give us a year. When was all this
11 happening?

12 A That was in 2000 and sort of probably March or
13 so of 2000.

14 Q Before 9/11?

15 A Yes, it was.

16 Q When you were checking out the little company,
17 Mirror Worlds, did you learn about --

18 MR. CARROLL: And I promised I'd get your
19 name right, Doc. I'm going to call you Dr. G. today, if
20 that's okay. My wife said I got it wrong all day
21 yesterday.

22 Q (By Mr. Carroll) Did you hear anything about
23 Dr. G. here?

24 A I certainly did. I mean, I was able to speak
25 to Dr. Gelernter a number of times before I came to the

1 company. And honestly, one of the reasons that I was
2 attracted to the company was that he had and has a
3 stellar reputation in the technology world as a
4 futurist, somebody who could really look ahead at
5 technology and think about what is going to be needed in
6 the future, not just today.

7 And it was exciting for me to be able to work
8 with him.

9 Q Were you a computer guy?

10 A No. I mean, I was a lawyer. That electronic
11 stock exchange company, though, was very technical, so I
12 did have to work with computer people and build a pretty
13 sophisticated -- sophisticated computer system in
14 watching that company.

15 So I had a layman's understanding, I suppose,
16 is the best way to describe it.

17 Q And yesterday, the jury heard from Dr. G.
18 about a problem which he called where's my stuff. And
19 the -- and the essence of the problem was that the setup
20 that all computer companies used, these files and
21 folders, just wasn't getting the job done.

22 A That's exactly right. I mean, I personally
23 had that problem at that time. I just had so much
24 information, and I didn't really know where it was, and
25 it really seemed like a great problem to solve.

1 Q And did you understand that Dr. G.'s patents
2 tried to address the problem of where is my stuff?

3 A That's exactly right. The patents, in my
4 understanding, which -- once again, you know, I'm not a
5 patent lawyer -- but my understanding was that it
6 covered the technology and the interface and basically
7 what -- what the software was and what the idea was
8 around what Dr. G. was thinking.

9 Q So you hired on as the boss of the company?

10 A That's correct.

11 Q How many people worked for you?

12 A Probably at that time about 30 people.

13 Q What were your goals as the boss of the
14 company for the company?

15 A Well, there are really three -- three
16 different goals from a business model point of view.

17 One was to try to sell software -- they had
18 some existing software -- to other companies,
19 enterprises.

20 The other was to build a piece of software on
21 the desktop.

22 And a third business model, which was really
23 the home run, was to license the technology out to other
24 bigger companies for them to build on. So those were
25 the three different models.

1 Separately, we also had goals in terms of
2 proving to the world that the technology really worked,
3 that we could do this, that it was useful, that it
4 really solved this problem that Dr. G. was looking to
5 solve, and making the software good enough that people
6 could see that.

7 And we felt that that would create a lot of
8 value in those patents by showing the world, proving to
9 people that it was of value.

10 Q Did you really believe, as the boss of Mirror
11 Worlds, that Mirror Worlds, with its 30 people, could
12 compete with the Apples and the Microsofts of the world?

13 A Well, ultimately, not -- not a head-to-head
14 basis. You know, there was no way that we could -- that
15 we were going to be able to sell head-to-head with these
16 huge companies. But it was our goal to show them that
17 what we had was valuable and try to get them to work
18 with us to -- to make us successful.

19 Q How long were you the CEO at Mirror Worlds?

20 A For just about two years.

21 MR. CARROLL: James, would you put up
22 669, please?

23 Q (By Mr. Carroll) Let me show you and the jury
24 the copy of an article from The New York Times that's
25 entitled: New Economy: Selling a Version -- I'm

1 sorry -- a Vision of the Future beyond Folders.

2 Tell the jury about that article, and if it
3 was a big deal, why it was a big deal to your company.

4 A Well, part -- part of what we -- what I felt
5 as CEO was that Dr. Gelernter had a lot of credibility,
6 and we really felt that it was important -- it was his
7 idea -- that we put him out in front of the world as our
8 evangelist about the idea.

9 So PC Expo was really a big kind of a show
10 where companies and technology people all came together
11 to talk about and look at the newest, most interesting
12 technology products that were coming out.

13 So we were real excited that Dr. Gelernter was
14 asked to speak there, and that -- that was what this
15 article was about.

16 Q Let's look at the first paragraph of the
17 article.

18 MR. CARROLL: James, blow up, after PC
19 Expo, the article in that very first paragraph.

20 No, the very first paragraph at the very
21 top. There we go.

22 Q (By Mr. Carroll) The -- The New York Times
23 article calls the PC Expo New York's glitziest
24 high-technology trade show.

25 Is that true?

1 A Yes.

2 Q So it was a big deal?

3 A Yeah, it was a very big deal. I mean,
4 everybody was there.

5 Q And then it talks about: Out of the wings of
6 the vast auditorium walked the computer scientist, David
7 Gelernter.

8 Sorry.

9 Okay. Let's go down to the next paragraph
10 beginning with -- and this is not going to be very
11 flattering, Doc -- his stocky frame, mop of curly hair,
12 and look of distracted intensity made him seem a little
13 like a lost graduate student, someone who might have
14 wandered on the stage while looking for the pretzel
15 stand.

16 But then what does it say about him?

17 MR. CARROLL: James, lift this out with
18 the but, that same -- there we go.

19 Q (By Mr. Carroll) By the standards -- standards
20 of the computing world, he is a rock star.

21 Is that true?

22 A Absolutely. I mean, he -- he really had --
23 like really important people at big companies and
24 journalists and others really knew who he was and really
25 wanted to listen to what he had to say.

1 And honestly, when I first came to the
2 company, I was aware of that; but as I was there, it
3 became increasingly obvious that people really thought a
4 lot of Dr. G.

5 MR. CARROLL: And then let's go to the
6 third paragraph where it says: Last Thursday on the
7 stage, James.

8 Can you find that one?

9 Actually, it's the fourth paragraph.

10 There we go.

11 Q (By Mr. Carroll) It says: Last Thursday on
12 the stage, he was trying to show that he could also be
13 an entrepreneur.

14 And then it goes on to describe how natty he
15 looked, which would make his wife happy. And it said he
16 also wore a brown leather glove covering the remnants of
17 his right hand, most visible of the critical injuries he
18 sustained in 1993 after opening a package sent by
19 Theodore Kaczynski, the terrorist known as the
20 Unabomber.

21 MR. CARROLL: Now, let's go down to the
22 next paragraph after that, James.

23 Q (By Mr. Carroll) You knew that that had
24 happened, I guess?

25 A Yes, I was aware of that. And it's terrible.

1 Q That wasn't any accident, was it?

2 A No. It was -- it was attempted murder.

3 Q And it says: Mr. Kaczynski thought of himself
4 as a revolutionary, but David Gelernter is the real
5 thing.

6 And then the rest of the article talks about
7 what the jury heard yesterday. Let me ask you about one
8 last part of the article.

9 MR. CARROLL: James, turn over to the
10 Page 2, please, and go down to the fourth paragraph.

11 Q (By Mr. Carroll) Now, this paragraph talks
12 about that Professor G. says he is not selling his wares
13 so much as a new vision of the future.

14 And then he talks about Scopeware. The jury
15 heard about Scopeware yesterday.

16 Can you tell them what you remember about
17 Scopeware?

18 A Sure. Scopeware was the name that we gave one
19 version of, I suppose, an embodiment of our patent,
20 which was the product that we were trying to build
21 around the patent.

22 And it was -- it was a piece of software that
23 ran on Windows operating system, Microsoft machines, and
24 it was really designed to show people that this works,
25 that it really is useful.

1 Q And then the article goes on to say and this
2 is a quote from Dr. G.: It would be crazy to predict
3 that Scopeware will emerge as the winner in the changing
4 world of information management, but I will predict
5 this: Scopeware's properties are the properties that a
6 winning system will need, and the direction Scopeware
7 points is in the right direction.

8 Do you agree with him?

9 A I absolutely do. And I think that history
10 has, you know, borne that out.

11 Q And the article refers to him as one -- and
12 this is in caps on the third paragraph.

13 MR. CARROLL: Page 1, James, and then
14 we'll go on to something else.

15 Yeah, third paragraph.

16 Q (By Mr. Carroll) One of the truly certified
17 Smart Guys.

18 Do you see that?

19 A (Nods head.)

20 Q Did the company get a big lift out of this
21 article?

22 A You know, absolutely. We had many, many hits
23 to our website. We had a lot of people that -- our
24 website was our kind of gateway to the outside world.
25 It was the way that we really communicated with people

1 when they wanted to know more about our company.

2 We really did have a lot of people that
3 were -- that were doing that. We had, you know --

4 Q Did the website refer to the company's
5 patents, which Dr. G. had a hand in inventing?

6 A Absolutely. You know, it was an important
7 part from the very first time I got there of our
8 business strategy, to -- to leverage those patents and
9 make sure that everybody that -- that was looking at our
10 company knew that we had patents, because if we didn't,
11 they could just basically take our ideas and use them,
12 and there would be no way we would make any money.

13 And so that was -- that was really the -- the
14 crux of our business model.

15 Q Now, were you quoted in this article?

16 A I may have been. I can't --

17 Q Something to the extent that this is the --

18 A I believe I was.

19 Q -- time to go on the offensive?

20 A That's right.

21 Q What did you mean by that?

22 A Well, you know, my sense was that this was a
23 time when the bubble had burst, and -- and if you
24 remember, that technology bubble had burst basically,
25 and a lot of people were dispirited in the technology

1 area.

2 And there wasn't a lot of innovation and new
3 things going on in the technology world, but the amount
4 of information we all had was still increasing
5 dramatically. So I really felt that it was a great time
6 for us to go on the offensive and innovate and really
7 try to change things because of that environment.

8 Q Now, this article was written in July of 2001.
9 Did the article produce any business leads for your
10 company among the big computer operators?

11 A Yes.

12 Q Excuse me.

13 MR. CARROLL: You can take that down now.

14 A We -- we were contacted by Apple, which was
15 incredibly exciting, and we -- our understanding was
16 they were interested in speaking to us and that we were
17 going to set up a meeting or call to discuss our
18 technology with them.

19 Q (By Mr. Carroll) Now, was this after this
20 article?

21 A Yes, I believe so.

22 Q So we know the article was in July of '01.
23 How did the contact come in from Apple to your company?

24 A Randy Prager was contacted by a representative
25 of Apple. And Randy was our -- he was a technology

1 person, and he was kind of my right-hand man in terms of
2 understanding -- trying to understand, because I wasn't
3 a technology person. So he helped me understand the
4 technology. He worked with me a lot.

5 And he was contacted, and I asked him to try
6 to set up a meeting with them.

7 MR. CARROLL: Now, James, would you put
8 up the July 2nd, 2001 Jobs e-mail, please?

9 Q (By Mr. Carroll) Now, the jury had seen this
10 yesterday, Mr. Satow. In this July 2nd, 2001 --

11 MR. CARROLL: Can you highlight that?

12 There we go.

13 Q (By Mr. Carroll) -- and the subject: The
14 future beyond folders, that's the -- that's the title of
15 the New York Times article that the jury just saw that
16 talked about Dr. G. being a rock star, correct?

17 A That is correct.

18 Q And then this is from Steve Jobs. You know
19 who he was and is, correct?

20 A He's the man behind Apple.

21 Q He's the big guy at Apple?

22 A He's the head of Apple.

23 Q Okay. And then it's to a fellow named
24 Bertrand Serlet.

25 Does that name mean anything to you?

1 A It does not.

2 Q And then to Don Lindsay. Does that name mean
3 anything to you?

4 A Yes. Yes, it does. He's the man that we
5 ended up eventually actually having a telephonic meeting
6 with.

7 Q And then the text of Steve Jobs' e-mail --
8 well, let me ask you the rest of these fellows.
9 How about Mr. Ordning, Mr. Forstall, any of
10 those names mean anything to you?

11 A No.

12 Q And the text of the e-mail from the boss of
13 Apple says: Please check out this software ASAP. It
14 must -- it may be something for our future, and we may
15 want to secure a license ASAP.

16 Do you see that?

17 A Yes, I do.

18 Q What does it mean to you when somebody talks
19 about buying a license?

20 A Well, it clearly would relate to the patents,
21 that they want to license our technology for use.
22 That's how you get the rights to use somebody's patents,
23 to license those rights.

24 Q And is that what you understood the purpose of
25 the meeting that Apple asked for, to be?

1 A Absolutely. My -- my understanding was that
2 the man who we were going to speak to was the head of
3 their -- was head of Apple's interface design.

4 And this was one of the reasons why we were so
5 excited, because he was the head of their interface
6 design group, and they were apparently looking at what
7 the future of -- of their systems would be, of their
8 operating system. And that's why they wanted to talk to
9 us, so that was very exciting.

10 Q Evidently, Apple takes the position in this
11 lawsuit that that meeting was all about your selling
12 Scopeware to Apple, and it had nothing to do with the
13 patents and that they didn't even know the patents
14 existed.

15 What's your response to that?

16 A That's untrue. It was -- it was -- the
17 meeting was absolutely about licensing our technology,
18 for them to use in it their operating system.

19 It wouldn't -- it wouldn't have made any sense
20 for them to buy our software. I mean, we were trying to
21 sell this software to companies, but the software
22 itself, which was -- which was really just a version of
23 what's in the patent, only worked on Microsoft Windows
24 machines, which was Apple's big competitor, so --

25 Q Hold that thought just a minute.

1 MR. CARROLL: Where is that box of the
2 software? Do we know where that is?

3 All right. Never mind. Well, wait a
4 minute.

5 Your Honor, may I walk back here and get
6 something?

7 THE COURT: Yes, you may.

8 Q (By Mr. Carroll) Mr. Satow, can you see this
9 box?

10 A Yes.

11 Q It's entitled MacBook Pro?

12 A Yes.

13 Q I will -- you may already know this, but I
14 will represent to you that there's an Apple computer
15 inside of this, okay?

16 A Okay.

17 Q And then this other little box is entitled New
18 Version 10.56 Mac OS X Leopard.

19 A Okay.

20 Q And I will represent to you -- we've talked
21 before and the jury has heard -- that this is software
22 that fits in this machine.

23 A Right.

24 Q And you-all had a software like, I guess, that
25 came in a box like this called Scopeware, correct?

1 A Yes, we did.

2 Q Would your Scopeware, in July of 2001, fit
3 into the existing Apple desktop computer?

4 A No, it wouldn't fit in it. It wouldn't have
5 worked.

6 Q Why not?

7 A Because it was a completely different system
8 product. It was built for -- for a totally different
9 kind of computer. It wasn't built for their kind of
10 computer.

11 Q Well, if that's so, why in the world would
12 Apple be interested in talking to you about your
13 patents, if your product that you made with those
14 patents wouldn't fit in their machine?

15 A Well, the reason that they were interested in
16 speaking to us, and this became even more clear when I
17 actually spoke to them, was that they were looking at
18 the future of their operating system or the way their
19 computers work.

20 And they were thinking that Dr. G.'s idea
21 about how to use information was an idea that they could
22 use in their operating system, and they could license
23 the idea of the patent basically to then put it into
24 their future product. And that was the reason that they
25 contacted us.

1 Q So let's talk a little bit about the -- the
2 meeting.

3 Do you remember when the call came in -- was
4 the call from this fellow, Don Lindsay, at Apple?

5 A You know, I believe so, but the call wasn't to
6 me. It was to Randy. So I knew that the meeting was
7 being set up and that Randy was working on that. But I
8 wasn't directly involved in setting up the meeting.

9 Q And tell the jury how the meeting got
10 arranged, when it was going to happen, where it was
11 going to happen, and what you did to prepare for it.

12 A Well, I mean -- okay. You know, intervening
13 between the time that we got contacted by Apple and then
14 the time we actually met with them was -- was 9/11
15 happened.

16 And I -- you know, quite honestly, I was very
17 happy when we were able to actually set up the meeting
18 with Apple, after that event, because, you know, pretty
19 much everything came to a standstill, and everybody
20 was -- you know, felt like the world might be ending. I
21 mean, it just didn't seem like business as usual would
22 keep happening.

23 So when Apple was -- after that -- after that
24 event, when they were willing to have this meeting, it
25 was very exciting to us.

1 Q How was the meeting set up to take place?

2 A Well, what -- what we did -- did at that time
3 often was to have these meetings on the phone and the
4 computer at the same time, using something called WebEx,
5 which basically just allows you to talk to somebody on
6 the phone but then also to show them things on their
7 computer.

8 So they could be looking at their computer and
9 they would see things that we wanted to show them, like
10 a presentation and a demo where they were. So that way,
11 we could have a real meeting and show them things, but
12 do it without having to the travel there. And that's
13 how the meeting was -- was being set up.

14 We also thought that that would be impressive
15 to them. You know, at that time, that was pretty
16 cutting-edge technology and that we were doing things in
17 that way. We felt that would be -- it would show
18 them --

19 Q Did you -- I'm sorry. Go ahead.

20 A It would show them that we were -- that we
21 were, you know, familiar with the latest technology.

22 Q In preparing for the meeting, did you review
23 the technology of the company with Dr. G. and others?

24 A We put a lot of work into preparing -- we had
25 a lot of different meetings when I was CEO of Mirror

1 Worlds. And honestly, I didn't necessarily prepare
2 personally for every single meeting or put things
3 together, but this was very important. And I spent a
4 lot of time talking to a lot of people, to Dr. G., but
5 also to our Chairman, Frank Weil, and other people like
6 Lou Nemeth at the company about how we should do, how we
7 should handle this meeting, because it was sort of our
8 shot at glory in a lot of ways.

9 And so I was very involved in it personally
10 and I prepared for the meeting. I put together a
11 presentation with the input of all these different
12 people and prepared myself extensively.

13 Q Tell -- tell the jury about the meeting,
14 starting with who the attendees were.

15 A Well, on our side, honestly, I didn't want to
16 have that many people from our side at the meeting,
17 because I wanted to really control the meeting tightly.

18 So it was just Randy and myself. I thought it
19 was important to have Randy there, because I wasn't a
20 technology person. So I wanted to make sure that we
21 could answer their technical questions and things like
22 that, if they had them. But I really wanted to run the
23 meeting.

24 And on Apple's side, I definitely know that
25 Don Lindsay was there. Part of the reason I know is

1 that his was in my contacts. I still had it years later
2 in my contacts. I must have put that in there, his
3 name.

4 And I believe there was at least one other
5 person on the Apple side. I don't recall who that other
6 person was, but it was definitely at least one other
7 person on their side.

8 Q And if I understood what you told the jury,
9 the meeting was a video conference.

10 A Well, it wasn't a video conference. I
11 couldn't see them and they couldn't see me, but they
12 could hear me, and then they could see what I wanted
13 them to see.

14 So, for example, I could show them a slide.
15 Like these slides that we see in here, I could show them
16 slides. I could show them the software, but they would
17 see it on their computer. But they didn't see us, and
18 we didn't see them.

19 Q Had you prepared some kind of a presentation
20 for the Apple folks at the meeting?

21 A Yes. We had a presentation that basically
22 introduced them to the patents, which was very
23 important. At that time, we had one issued patent, and
24 we had pending patents that actually Randy was doing a
25 lot of work on right around that time.

1 He was -- we were working on a lot of those
2 pending patents. And so we had -- the first slide right
3 after the introduction slide was all about those
4 patents. And we told them about that in the beginning.

5 Then after that in the presentation, we went
6 into some of the customers and other companies that were
7 using our software and our technology to show that what
8 we had was usable and useful to people.

9 And then we went right into the demo and
10 showed them the actual software and, you know, how it
11 worked.

12 Q So the software --

13 MR. RANDALL: I'm going to object and
14 just ask that we either use the presentation or -- if we
15 don't have a copy -- he's just testifying about what
16 this presentation says, and it's -- you know, I think
17 the best evidence of that would be the presentation, if
18 they have it.

19 MR. CARROLL: Your Honor, they know very
20 well that this presentation was lost.

21 THE COURT: Okay. The objection is
22 overruled.

23 MR. CARROLL: Thank you, Your Honor.

24 Q (By Mr. Carroll) You talked about a
25 demonstration. Tell the jury what you demonstrated.

1 A Sure. So this WebEx technology allowed us to
2 control their computer. So we could basically show them
3 things that would show output their screen back at the
4 Apple offices.

5 So what we were able to do was to actually go
6 into our Scopeware software and show them our interface
7 and the stream and how information -- how we could
8 basically tell a story around all this -- this
9 information.

10 So we -- we felt that this -- this narrative
11 interface was something that was very valuable where,
12 you know, if we were looking at -- looking for a meeting
13 with Joe Smith, you could pull up that information and
14 see it altogether where I could see, okay, I had a
15 meeting with him that day, and then right after I sent
16 him an e-mail. Then, you know, right after that, you
17 know, something else happened.

18 And you could just instantaneously see all
19 that information together in -- in one interface, and we
20 thought that was just, you know, fantastic, so we showed
21 them that.

22 Q How long did the meeting take?

23 A It was over an hour.

24 Q How did it wrap up?

25 A Well, they were very enthusiastic.

1 Mr. Lindsay was very positive. He told me that, as I
2 mentioned earlier, that they were looking at the
3 review -- they were doing some kind of review or
4 something about the future of their operating system and
5 how it should work, and what it should do, and -- and
6 that they were looking at this.

7 And he told me that -- in fact, I was very
8 excited about this -- that Steve Jobs himself had
9 expressed interest, which, you know, would have made it
10 even more exciting.

11 So I got out of that meeting and I was very
12 pumped up. I really felt like we had some momentum.
13 He did -- he did mention that they were -- that their
14 major market or one of the important markets they had
15 was the educational market, what he called the
16 K-through-12 market, and he was interested in
17 understanding how what we did would help in that market,
18 whether the people in that market needed what we did,
19 whether that would help them.

20 And so that was one of the things that -- when
21 we left the meeting, I took as sort of homework and that
22 I wanted to make sure that we continued that momentum
23 and show them that what we had was useful in all markets
24 to all kinds of people.

25 Q Did you send any kind of follow-up

1 thanks-for-the-meeting kind of note to Mr. Lindsay?

2 A I did. I thought it was important to continue
3 that momentum with Apple, and so I -- actually, I asked
4 Dr. G. to write something that would give them a little
5 bit more color on his vision of how Scopeware worked,
6 because it was such a -- it's such a big idea.

7 There's so many different ways that you could
8 be using that idea, Scopeware being one of them, that I
9 thought it was real important that Dr. G. put that out
10 to them his vision of what licensing our technology
11 would really mean to them.

12 MR. CARROLL: Let's find 336, please,
13 James.

14 And can we make that bigger where it
15 starts out: Hi, Don?

16 There we go. Well, we had it for a
17 second. There we go.

18 Q (By Mr. Carroll) Is this the e-mail that you
19 sent to Mr. Lindsay after your meeting?

20 A Yes. Yes, it is.

21 Q And the -- the date note I have is Thursday,
22 September the 27th, 2001. That would have been what,
23 two or three days after the meeting?

24 A I believe it was like right after the meeting.

25 Q Okay. Take a look at the -- the note. You

1 start out: It was good talking with you and your
2 colleagues the other day. Thanks again for the
3 opportunity to talk about how Scopeware can add value to
4 Apple both in terms of your core user interface
5 development as well as potential consumer and K-12
6 applications.

7 Is that what you were describing to the jury a
8 second ago, that they seemed to be most interested in?

9 A That's exactly right. The -- the interface of
10 their operating system and how the core operating system
11 itself dealt with information that worked for people.
12 Then like I said, he was expressing that, at least at
13 that time, Apple was -- had a really big business in
14 this K-through-12 and I suppose consumer market. They
15 weren't as much of a business company at that point, and
16 so he wanted to understand how our technology would help
17 those markets.

18 Q And then the next paragraph --

19 MR. CARROLL: If you'd lift this one out,
20 James, starting with below.

21 Q (By Mr. Carroll) Below is a brief vignette
22 written by David, which captures just one of the many
23 consumer and educational applications of Scopeware in
24 the context of the Mac.

25 What did you mean by that?

1 A Well, as I said, I felt that it was really
2 important to give Apple an idea that -- that this
3 technology, if you incorporate it as you're planning the
4 future of your operating system and you are interested
5 in this consumer -- in K-through-12 marketplace, I
6 really wanted to make sure that I answered the concerns
7 or interests that I heard from Mr. Lindsay on the phone.

8 I wanted to make sure I was being responsive
9 to anything that I could glean from what was said in
10 following up with them to increase the chances of them
11 licensing our technology from us.

12 Q Now, there is, in fact, a reference in this
13 e-mail to Scopeware, is there not?

14 A Yes. I'm sure -- yes, it does mention
15 Scopeware.

16 Q Was there any confusion that you could tell on
17 Apple's part about the fact that Scopeware, as it then
18 existed, wouldn't work in their machines?

19 A Absolutely not. I mean, we were -- it would
20 have been a terrible -- it would have been awful
21 business for us to have not made that clear. They
22 thought that -- because what they would have said is,
23 oh, send us a copy and we'll try it at our office.

24 But I couldn't send them a copy, because it
25 wouldn't work on their machines, and then it would have

1 been awful. So I made it absolutely clear to them that
2 what we were talking about was their -- their operating
3 system.

4 But that's what the dial -- they were the ones
5 that contacted us. I mean, that's what they were asking
6 us. I wasn't -- I wasn't setting up what the dialogue
7 was. I wasn't trying to pitch them. They were calling
8 us and expressing interest. And they were the ones who
9 said that they were planning their future of their -- of
10 their interface. And that's why they were talking to
11 us.

12 So I was just doing my best to answer their
13 questions and give them the information that they
14 wanted.

15 Q You don't have any doubt in your mind that
16 Apple knew and came wanting to talk about those patents?

17 A There was absolutely no doubt in my mind that
18 Apple was looking to license the patents to use in their
19 interface development and their operating system.
20 There's not a doubt.

21 Q Okay. Good.

22 Let's look down at the attachment that you
23 sent that starts out: Life with the family Mac.

24 Now, a Mac is what they call their operating
25 system, right?

1 A Yes, or their computer. They've had different
2 names for their operating system. That's a kind of
3 computer.

4 Q Okay. And that's short for Macintosh?

5 A Yes.

6 Q And this is what Dr. G. wrote for you to send
7 to Mr. Lindsay as a follow-up to the meeting?

8 A That's right.

9 Q And he gives an example: 7:15 a.m., mom turns
10 on the Mac, the stream screen comes up. She types,
11 quote, mom, and sees her own personal version of the
12 family stream.

13 New stuff is in the front as always. At the
14 head of the stream is, quote -- or parentheses, let's
15 say, a reminder note: Send \$15 with Oscar to school
16 today for the Paris field trip. Then it goes on and it
17 goes on and it goes on.

18 And what was the purpose of this
19 life-with-the-family-Mac piece that Dr. G. put together?

20 A Well, what we were trying to do was to show
21 Apple -- once again, answer their concerns and their
22 interests and to show Apple our -- David's vision of
23 what their computers would be like, if they licensed our
24 technology.

25 Q Did you get any response from Mr. Lindsay?

1 A Unfortunately, we tried to -- what we wanted
2 to do was to -- he mentioned at the end of the call, he
3 said: Well, we might want to do demos to other people
4 at Apple. We may want to have follow-ups.

5 And I wanted to make sure we were being as
6 helpful as possible to have them follow up.

7 So I asked our head of business development, I
8 think, to follow up with them and see if they wanted to
9 have more demos, and we -- we tried to engage them in a
10 dialogue, and they weren't that responsive
11 unfortunately.

12 And then we got an e-mail. I think it was
13 Randy got an e-mail a little while later saying that
14 they weren't interested.

15 Q Yeah. And --

16 MR. CARROLL: Yeah. And I think, James,
17 that e-mail is Exhibit 336 at Page 29. See if you can
18 find that.

19 There it is. And see if you can lift out
20 the hi, Don part.

21 Q (By Mr. Carroll) Is this the e-mail --

22 MR. CARROLL: I'm sorry. It's hi, Randy.
23 I'm sorry.

24 Can you find Page 29 of that document?

25 Q (By Mr. Carroll) Okay. Let me read it to you

1 and see if this is what you remember.

2 Hi, Randy. After some discussion, we have
3 decided not to pursue this further.

4 Does that sound familiar?

5 A Yes, it does.

6 Q We -- that's Apple -- are going to continue to
7 revise -- refine our existing indexing and file
8 searching technologies, in parentheses it has the name
9 Sherlock.

10 Does that sound familiar?

11 A Yes.

12 Q And then it --

13 MR. RANDALL: Have you got the exhibit?

14 Okay. James, how about 89, so we can
15 read along.

16 Okay. Good.

17 Q (By Mr. Carroll) Now, can you see it --

18 A Yes.

19 Q -- Mr. Satow?

20 So this is from Mr. Lindsay over at Apple,
21 right?

22 A Right.

23 Q And my note says this is October the 24th of
24 2001.

25 A Yes.

1 Q About a month after the meeting?

2 A Okay. Sounds right.

3 Q Sounds about right?

4 A That sounds right.

5 Q Okay. And then picking up where I left off,
6 he says: We're going to continue to refine our existing
7 indexing and file searching technologies. And then in
8 parenthesis, he puts down Sherlock.

9 Have you heard the word or term Sherlock
10 before in connection with Apple's operating system?

11 A Yes, I had. It was sort of a rudimentary
12 search tool that they had.

13 Q Did Mr. Lindsay talk to you during the meeting
14 about Sherlock?

15 A He talked about how they were really looking
16 to expand on and improve on what they were doing
17 currently. But he didn't talk a lot about --
18 specifically about Sherlock that I recall.

19 Q Then he says: We want to investigate how we,
20 Apple, might utilize some of our existing patents and
21 designs in our efforts to further simplify the file
22 management experience.

23 Had he talked to you about any such efforts --
24 I'm sorry -- any such existing patents and designs
25 during the meeting?

1 James.

2 Then let's go --

3 Q (By Mr. Carroll) This is an e-mail entitled:

4 Gentlemen. Does that look familiar?

5 A Yes. I don't think it was an e-mail, a

6 Word -- it was a document.

7 MR. CARROLL: Let's find Page 2228 of
8 that document and lift up the place where it talks about
9 Apple computer, starting with: We have talked with
10 Apple's manager of user interface development about
11 Scopeware.

12 A Yeah.

13 Q (By Mr. Carroll) Tell the jury what you were
14 telling your bosses at Mirror Worlds about your meeting.

15 A Well, we -- you know, I was explaining to --
16 to the board that this could be very exciting, because
17 Apple, this big company, was interested in licensing our
18 technology to use in the next generation of their user
19 interface and their operating system, and that was very
20 exciting.

21 Q And you mention here that your contact said
22 that Steve Jobs asked him directly to take a look at us.

23 A Right.

24 Q Was that Mr. Lindsay?

25 A Yes.

1 Q And then you talk about what you were going to
2 do to follow up and keep your fingers crossed, I guess?

3 A That's exactly right. You know, I just was
4 trying to lay it out for them, you know, in terms of how
5 exciting this was and what happened, what we were going
6 to do follow-up.

7 Q So did you notify them after the Lindsay
8 rejection that Apple said: Thanks, but no thanks?

9 A Yes, I did. I mean, I -- I was very surprised
10 and shocked in a way that it ended -- that our
11 discussion ended that way, because it was really -- it
12 didn't seem in my discussion with them and the way they
13 contacted us that they would just walk away from that,
14 that they'd make a left turn.

15 I mean, they were talking about doing this
16 whole review to look at new things. And then in that
17 e-mail he says that, you know, they were -- they were
18 just going to just use their current technology. I was
19 just surprised. It didn't make a lot of sense to me.

20 Q During --

21 A And I was disappointed, obviously.

22 Q I'm sorry?

23 A I was disappointed, you know.

24 Q During this time, did Mirror Worlds make a run
25 at any other potential partners?

1 A While I was there at Mirror Worlds, we
2 didn't -- we talked to some big companies more as
3 selling partners, like Xerox and Pitney Bowes and others
4 that we dealt with and talked to and worked with, but we
5 didn't talk to Microsoft or anybody like that while I
6 was there. We talked to Apple, was the only company
7 that -- that we had those kind of discussions with.

8 Q How long after the Lindsay meeting and the
9 Apple rejection did you stay with Mirror Worlds?

10 A I was at Mirror Worlds until August of 2002, I
11 believe it was, right -- right around that time, so
12 not --

13 Q Did you leave because you wanted to or because
14 they asked you to?

15 A I left because I wanted to. It was for
16 personal reasons. But my -- I'll -- I suppose I'll
17 explain it a little more.

18 You know, as I mentioned, with the Jed
19 Foundation -- my brother had -- my brother was 13 years
20 younger than me -- had taken his own life,
21 unfortunately, a couple of years before that.

22 And it was at a time when my father was
23 just -- my father was quitting his job. He had worked
24 very hard to try to help out my brother, who was having
25 trouble, and it was like right when he quit that he took

1 his own life.

2 And so it was pretty devastating to my family,
3 obviously. And then my father, who had -- was then
4 retired for several years at that point, was talking
5 about starting a company. He wanted to kind of get
6 involved in something. He had been in the
7 pharmaceutical business, and he wanted to start a
8 company.

9 And that had been my background; and to me, I
10 just thought it was -- it was what I wanted to do. I
11 wanted to go work with my dad, and I wanted to start a
12 company with him.

13 And so I think, you know, it was an unusually
14 compelling personal situation that I was faced with, and
15 I told Frank that I wanted to go do that.

16 Q And you did.

17 A And I did.

18 Q Do you -- or did you have any personal
19 involvement in the windup of the company, Mirror Worlds?

20 A No.

21 Q Did there come a time, Mr. Satow, when you
22 discovered something that looked to you like Apple using
23 the very technology they told you that -- after the
24 meeting, that they weren't interested in?

25 A Well, yes. I had -- I had set what's called a

1 Google alert. I basically had gone on to Google -- this
2 was in 2007. I had gone on to Google, and you can --
3 you can set a search term for new -- for any kind of
4 news that comes out that has that particular word in it,
5 and then Google would e-mail you saying, oh, an article
6 just got published that has that word in it.

7 So what I did was I put -- I had put a search
8 term in there for Scopeware to just see what was going
9 on in general with Scopeware, and I got an alert about
10 an article in Information Week, which is a publication.

11 Q So if -- if I understand it right, you
12 programmed your computer through Google to be on the
13 lookout for any articles that might come up with the
14 tagline Scopeware?

15 A That's right, that mentioned Scopeware. I
16 know it's kind of an unusual word, so I wasn't -- you
17 know, if something came up with that word in it, it
18 would send to it me.

19 Q And you got a hit.

20 A That's right.

21 Q And the hit was to a magazine called what?

22 A Information Week, I believe.

23 Q And without going into what the -- what the
24 article said, did you pull it up and look at it?

25 A Yes, I did.

1 Q And based on that Information Week article,
2 did you write an e-mail to your old boss at Mirror
3 Worlds?

4 A Yes, I did. I -- you know, Frank and I had
5 kept in touch, and, you know, so I was in touch with him
6 occasionally at lunch, and, you know, we were -- we were
7 friendly.

8 And I saw this article, and it looked like it
9 was an important article, because it talked about
10 Scopeware and Apple, and I -- and I sent it over to him.

11 Q Did it talk about Dr. G?

12 A I believe it did, yes.

13 Q So you sent the article to Frank?

14 A Yes.

15 Q All right.

16 MR. CARROLL: Your Honor, we've got the
17 e-mail with the attached link and the article, and Apple
18 has an objection to it.

19 THE COURT: All right. What's your
20 objection?

21 MR. RANDALL: I object --

22 THE COURT: Do you offer that?

23 MR. CARROLL: Yes, we're offering it.

24 THE COURT: What number is that?

25 MR. CARROLL: It's Exhibit 1183.

1 THE COURT: All right.

2 MR. RANDALL: I don't mind the letter or
3 the e-mail coming in. The other article is hearsay.

4 THE COURT: Okay. Is this a published
5 article?

6 MR. CARROLL: Yes, it is.

7 THE COURT: All right. Objection's
8 overruled.

9 MR. CARROLL: All right. Let's show 1183
10 up there.

11 THE COURT: They're admitted.

12 Q (By Mr. Carroll) Mr. Satow, is this your
13 e-mail to Frank in June of 2007?

14 A Yes.

15 Q And the type -- the subject says: Google
16 Alert - Scopeware?

17 A That's right. That was the word that I had
18 put into Google to look for.

19 Q Then you say: Frank, I hope things are all
20 going well for you and your family. Please look at the
21 article in the link below. It is about a new Apple
22 software addition that supposedly uses a time-sequenced
23 interface that the author says is similar to Scopeware.

24 See that?

25 A Yes, I do.

1 Q Is that what you thought Frank and the
2 remnants of the company needed to hear about?

3 A Yes. You know, I thought that it was
4 important that they knew that -- what was happening
5 because we had a patent.

6 Q Okay.

7 MR. CARROLL: James, let's scroll down to
8 the -- yeah -- the second part where it says -- well,
9 let's go to the -- don't switch -- yeah, there we go.

10 Look where it says: Google News Alert
11 for Scopeware. And can you lift that out so we can see
12 it better, please?

13 There we go. Is that as -- is that as
14 big as you can make it?

15 There we go. Maybe.

16 Q (By Mr. Carroll) Okay. And I'm having a hard
17 time seeing it. Would you read it for the jury starting
18 with: Google News Alert for Scopeware, please.

19 Can you see it?

20 A Yeah, I can read it. Do you want me to read
21 like -- I mean, it's kind of gobbledygook.

22 Q Read -- read where it starts: Mac OS X.

23 A So, basically, Google Alert for Scopeware;
24 Mac OS X Leopard Lacks and Likes.

25 So it's basically a review of this new version

1 of Apple's operating system.

2 Q All right.

3 MR. CARROLL: And, James, highlight where
4 it starts: Back -- yeah, right there.

5 Q (By Mr. Carroll) Start reading right there, if
6 you would.

7 A Back in 2001, known computer scientist David
8 Gelernter started a company called Scopeware that
9 proposed a similar scheme to view files in a timeline.

10 Q And then it refers you to the link, correct?

11 A That's correct.

12 Q All right.

13 MR. CARROLL: Let's go to the link.

14 Now, let's see if we can lift that out,
15 please, where it starts out: Global.

16 A Sure.

17 Q (By Mr. Carroll) And read to the jury what the
18 article said.

19 A Apple's operating system includes some 300 new
20 features, including a few notable omissions, minor
21 disappointments, and hidden gems.

22 The upcoming Leopard version of Apple's Mac OS
23 X operating system includes some 300 features, according
24 to the company. Among them are a few notable omissions,
25 minor disappointments, and hidden gems.

1 Back in 2001, noted computer scientist David
2 Gelernter started a company called Scopeware that
3 proposed a similar scheme to view files in a timeline.
4 The market wasn't ready to rethink the desktop
5 back then.

6 Jobs and his team have refined Gelernter's
7 vision, and this time it looks far more promising.

8 Q You sent that article to who?

9 A To -- I sent to it Frank Weil.

10 Q Now, the article talks about Apple's Mac OS X
11 operating system, right?

12 A Yes.

13 Q And it -- and it's called Leopard; is that
14 right?

15 A Yes.

16 MR. CARROLL: Have we got an ELMO?

17 THE COURT: Yes. It's right there in
18 the --

19 MR. CARROLL: May I approach the --

20 THE COURT: It's in the side of the
21 podium.

22 MR. CARROLL: Oh, okay. Thank you.

23 Don't worry.

24 May I approach the witness, Your Honor?

25 THE COURT: Yes, you may.

1 Q (By Mr. Carroll) Is this the same Leopard
2 Apple Mac OS X operating system that the article says --

3 MR. CARROLL: Go back to the article.

4 Q (By Mr. Carroll) -- that the article says
5 that: Jobs and his team have refined from Gelernter's
6 vision?

7 A Yes, appears to be.

8 MR. CARROLL: Pass the witness.

9 THE COURT: Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. RANDALL:

12 Q Mr. Satow, how are you?

13 A Good.

14 Q Okay. I want to talk to you about the meeting
15 that you had with Apple. You had it with your
16 colleague, Mr. Randy Prager; is that right?

17 A Right.

18 Q And at the time, Mr. Prager was Chief
19 Technology Officer, correct?

20 A That's right.

21 Q All right. And so on your side, Mirror
22 Worlds' side, at least on the side of the computer, it
23 was you and Mr. Prager, and on the other side, it was
24 Mr. Lindsay and perhaps another person, right?

25 A Yes. At least one, yeah.

1 Q Okay. And this meeting occurred slightly
2 after 9/11; is that right?

3 A Yes, several weeks after.

4 Q Okay. And there were a whole host of
5 scheduling problems that led up to that meeting largely
6 caused by events that occurred before 9/11 but also
7 certainly because of 9/11, right?

8 A You know, like I said, Randy was really
9 setting that up, so I wasn't directly involved in the
10 setting up of the meeting, but it didn't happen --
11 obviously, it took a while to get the meeting at the
12 time we had the initial contact.

13 Q Right. But this was a big meeting at Mirror
14 Worlds, and you were aware of everything that was going
15 on, right?

16 A Absolutely.

17 Q Okay. So there were a series of e-mails.
18 About how many e-mails were exchanged between Apple and
19 Mirror Worlds just setting up this meeting?

20 A You know, probably five or six or something
21 like that.

22 Q Okay. And -- and you said this was a big
23 meeting at Mirror Worlds; is that right?

24 A Yes. It was -- it was --

25 Q And --

1 A It was the biggest meeting really that we had
2 while I was CEO.

3 Q Right. Okay.

4 And you prepared, along with Mr. G and others,
5 Mr. Prager, right?

6 A Yes.

7 Q All right. And did you make any other
8 presentation regarding the operation of Mirror Worlds
9 and the Macintosh, other than that vignette, that
10 paragraph vignette in the e-mail that you forwarded to
11 Apple that, apparently, Dr. Gelernter wrote?

12 A Well, at the meeting, we did both a demo, and
13 then we had a presentation that we showed them on WebEx.

14 So we basically went through a series of
15 slides that set up the discussion and what we were
16 doing, and then we went to the demo.

17 Q All right. Well, I'll talk about the slides
18 in a minute.

19 But with respect to a written proposal
20 regarding how Mirror Worlds' Scopeware would work with
21 the Macintosh, other than the vignette that you provided
22 that paragraph in the e-mail from Dr. Gelernter, did you
23 provide any other writing to them -- to Apple?

24 A No. We just had discussions.

25 Q All right. And Scopeware -- one of the things

1 about Scopeware, it's an electronic diary of a
2 computer's life, right?

3 A That's one way to look at it.

4 Q Right. It's a great way to organize documents
5 for a long time, right?

6 A Yes.

7 Q Has archiving, right?

8 A No. I mean, it's -- it's about current
9 information --

10 Q All right.

11 A -- and past information.

12 Q Do you still use it?

13 A No.

14 Q Well, do you know if Dr. Gelernter still uses
15 it?

16 A I'm -- I -- I would doubt that he does.

17 Q Do you know anybody that still uses this
18 Scopeware product?

19 A No.

20 Q Did you keep, as a company, all of the
21 documents, the whole diary of the company, on Scopeware?

22 A We did.

23 Q Yet we didn't get those documents in this
24 case, and I was wondering, was there any crash or
25 something that occurred so that this diary was lost?

1 A Well, I left the company in 2002, and
2 certainly, during the time that I was there and at the
3 time I left, we weren't the most organized necessarily,
4 but we did keep information, and I don't recall any
5 crash or anything prior to the time that I left.

6 Q Did all of your employees, while you were
7 there, religiously utilize the Scopeware product to
8 maintain all the documents in the company in a
9 time-ordered stream?

10 A We did use Scopeware all the time, absolutely.

11 Q Well, I know you used it all the time, but my
12 question is: Did you use it religiously? Did all of
13 your employees use it for all the documents in the
14 company?

15 A Well, I don't want to get into too much
16 detail, but, basically, the software that we used for
17 most of the time that I was there was a server-based
18 software. So we didn't have Scopeware on our desktops.

19 So, for example, if you went home or
20 something, you couldn't really use Scopeware unless you
21 were attached to the web. It was -- it was -- it was
22 over the web that we'd use it.

23 So the information that was in Scopeware was
24 what was on our file servers, but it wasn't necessarily
25 what was on our desktops. And it wasn't taking that

1 information and putting it into the server unless it was
2 put there by a person.

3 Q Right. So while you were -- while you were at
4 Mirror Worlds and you received, for instance, an e-mail
5 that had a Word document attached to it, that wouldn't
6 automatically go into --

7 A If it was an e-mail, it would.

8 Q Okay. And if you received a document, if you
9 wanted to pull a document off the internet or something
10 like that, it wouldn't go into --

11 A If I pulled the document off the internet, I
12 don't think it would go in unless I specifically put it
13 in.

14 Q Right. There wasn't an automatic mechanism
15 whereby all documents received or all documents
16 generated by your computer systems at Mirror Worlds
17 would automatically go into this stream, right?

18 A That's not true. There was an automatic
19 system. It did take everything in automatically that
20 touched the server.

21 So, for example, our e-mail came through our
22 server, and any documents attached to those e-mails came
23 through the server, and that would all automatically go
24 into Scopeware.

25 And, you know, anybody who saved -- if you

1 created a Microsoft Word document or something, and you
2 saved it on -- on the company's server, it would
3 automatically go into Scopeware.

4 Q Uh-huh. And the individuals all working at
5 Mirror Worlds that had their own computers didn't
6 necessarily run everything through the server, right?

7 A That's probably true.

8 Q And the employees, while you were there, there
9 was a circumstance certainly where you and Dr. Gelernter
10 recognized that your employees weren't even using the
11 product very often, right?

12 A No, that's not true. Our employees really did
13 use the product. We all -- we all used it, you know,
14 religiously, and we -- so that's -- yeah. I would say
15 we all used it all the time.

16 Q Do you remember a concern of Dr. Gelernter
17 that your employees weren't even using the product?

18 A I don't -- I don't remember that, no.

19 Q You don't?

20 A No.

21 Q Okay. You mentioned that you were -- you
22 showed this article from the New York Times, right,
23 during your direct?

24 A Yes.

25 Q And that's a public -- a national publication,

1 right?

2 A Yes.

3 Q And you mentioned also that the Scopeware
4 product got a big splash in the press, right?

5 A Yes.

6 Q All right. So it's not surprising that Apple
7 or other companies may have come across one of those
8 articles, right?

9 A No.

10 Q Didn't surprise you that Apple was aware of
11 your company, right?

12 A Well, I mean, it was surprising to me that --
13 I could certainly see somebody at Apple having read --
14 you know, Apple is a big company -- you know, somebody
15 having read that article; but to have really senior
16 people read it and take note of it was very surprising
17 and exciting.

18 Q Okay. Do you believe senior people at tech
19 companies don't read technical information?

20 A You know, whether they read the New York Times
21 out in California, I don't know.

22 Q Okay. They do. Let me tell you.

23 You said there was a meeting with Mr. Lindsay.
24 Was -- was he polite and professional in every way?

25 A Yes, sir.

1 Q Okay. Both leading up to the meeting and
2 after the meeting, right?

3 A Yes.

4 Q Okay. There aren't any e-mails, not one, that
5 mention the Mirror Worlds' patents that you exchanged
6 with Apple, right?

7 A I -- I can't -- I don't know. I can't recall,
8 as I sit here today, whether there were or not. I don't
9 know.

10 Q Well, you can't think of any, right?

11 A I mean, I don't recall any, no, specifically.

12 Q Well, all these lawyers sitting over here,
13 they never showed you any e-mail at all exchanged
14 between Apple and Mirror Worlds identifying or even
15 mentioning Mirror Worlds' patents, right?

16 A I don't believe so.

17 Q Okay. Do you have an interest and a stake in
18 this lawsuit?

19 A I have a -- basically, there's two things.
20 I invested money; my family invested money. When I was
21 CEO of Mirror Worlds, we invested some money in Mirror
22 Worlds, and I -- because of that, I have a very, very
23 tiny, you know, some hundredth of 1 percent interest
24 that might be there.

25 And then in addition, when Frank contacted me

1 and asked me, when he started Recognition Interface,
2 which was this other company or something that he was
3 putting together when he wound up Mirror Worlds and
4 asked me if I wanted to invest in that, and I invested
5 \$5,000 in that company.

6 So that is the extent of any interest I have.
7 But it was -- you know, it's very tiny.

8 Q So you had some interest from Mirror Worlds
9 that moved over to Recognition Interface?

10 A That's right.

11 Q And then you also purchased a 5,000-dollar
12 interest in Recognition Interface; is that right?

13 A That's correct.

14 Q Okay. When did you purchase this 5,000-dollar
15 interest in Recognition Interface?

16 A I can't recall exactly. It was probably in
17 2006 maybe or --

18 Q Right. So at the time you wrote that e-mail
19 to Frank Weil saying, hey, look at Apple, you had an
20 interest in Recognition Interface, right?

21 A I did. I did.

22 Q And Recognition Interface only had one asset
23 at that time, and that was these patents, right?

24 A I -- I'm not sure. I mean, I would think so.

25 Q You were a shareholder, right?

1 A I was a shareholder, but, you know, I didn't
2 really -- I wasn't involved very much or anything. I
3 just put some money in.

4 Q At that time, Recognition Interface didn't
5 have any employees, any product, any commercial
6 activity, any commercial service, only the patents,
7 right?

8 A I don't know.

9 Q Well, did you know of any other product or
10 service that they offered?

11 A I didn't know of any -- I didn't know whether
12 they had employees or -- I mean, I don't know that.

13 Q Why did you -- why did you invest the \$5,000?

14 A Honestly, I did it because I had been involved
15 in the company. It was a part of my life. And I -- I
16 felt that David and the people that had worked at the
17 company deserved to -- if -- if people were going to use
18 this idea, that we had this patent, and I felt that it
19 was important that we have the ability to protect it
20 and -- and -- and get something for people if people
21 were using the idea.

22 Q You said the company had been part of your
23 life. Recognition Interface hadn't been a part of your
24 life, right?

25 A No. Mirror Worlds had.

1 Q Right. Recognition Interface was created by a
2 hedge fund simply to purchase the patents, right?

3 A No, I don't believe so. Recognition Interface
4 was created, I think, by Frank Weil and the investor
5 group that originally invested in Mirror Worlds.

6 And it was created as a way to discharge the
7 debts and obligations of the company, because they must
8 have owed money, and they had these operations, and they
9 were trying to wind it up.

10 So they basically created this entity as a way
11 to discharge those debts and then potentially move
12 forward with -- with enforcing the patents.

13 Q When you made your investment in Recognition
14 Interface, you realized that the only asset it had was
15 the patents, right?

16 A That was my understanding.

17 MR. RANDALL: Can you pull up 743? The
18 first page down at the bottom.

19 Q (By Mr. Randall) This is a Mirror Worlds'
20 document, while you were working there, attempting to
21 raise \$12 million in financing, right?

22 A Yes.

23 Q It's a 2001 -- March 2001 Business Plan,
24 right?

25 A Right.

2 Q (By Mr. Randall) Now, that is a screenshot of
3 Scopeware 2.0. That's what it says down below, right?

4 A Okay. Yes.

5 Q The bottom right-hand corner of what's been
6 blown up --

7 MR. RANDALL: No. I'm sorry. No, no.
8 Sorry, Diane. It's up one.

9 There we go. You had the pointer on it
10 just a minute ago. Okay.

11 Q (By Mr. Randall) This is a screenshot of
12 Scopeware 2.0, right?

13 A Yes.

14 Q And it shows the visual display of the
15 documents, correct?

16 A Yes.

17 Q That's what was in your product at that time,
18 wasn't it?

19 A Yes.

20 Q Okay. Now, up in the upper right-hand corner,
21 far upper right-hand corner of this document, it says:
22 Full-text searching?

23 A Yes.

24 Q Do you see that?

25 And that means that there was an ability

1 within this application to search the entire document

2 for a word, right?

3 A Yes.

4 Q Okay. So, for instance, if you loaded a

5 document into the computer, this search engine had an

6 ability to search all the words in that document, right?

7 A Right.

8 Q All right. And that search engine was

9 incorporated in your product, Scopeware, from a

10 different company, right?

11 A Yes.

12 Q From Verity, right?

13 A Right.

14 Q Okay. So Verity sold search engines that

15 allowed for full-text searching of documents, and they

16 sold them to various companies, and your company

17 licensed that from Verity, right?

18 A Correct.

19 Q And incorporated it into the Scopeware

20 product, right?

21 A (Nods head.)

22 Q And so that allowed your product, for

23 instance, to say -- if I wanted to say: Give me all the

24 documents regarding mom, it could pull those documents

25 up; but only if those documents had the word mom in

1 them, right?

2 A Yes, that's -- that's correct. I believe that
3 specifically in relation to what you said about a
4 particular person searching for something, it also had
5 to do with the ownership scheme that was at the server
6 level about that person.

7 Because certain documents -- for example, you
8 know, there may be documents about mom that if somebody
9 else is looking for them, the e-mails or something, they
10 wouldn't see.

11 So in addition to looking at the words, it had
12 to make sure that people were seeing the things that
13 they were allowed to see.

14 Q All right. I'm just trying to --

15 A I don't want to get too complicated, but --

16 Q No. You're above my head now. And I know
17 you're a lawyer, but I'm just talking about full-text
18 searching.

19 A Okay.

20 Q Okay. So --

21 A So, yeah, you could search whatever was in the
22 document.

23 Q That's right.

24 And so you could find anything on your
25 computer -- any document on your computer that says mom,

1 you can just plug in mom, and boom, there it is, right?

2 A If it said mom and you were allowed to see it,
3 you could view it.

4 Q All right. Now, Verity wasn't the only
5 company at that time that was selling search engines
6 that provided full-text searching, right?

7 A I don't believe so.

8 Q Okay. Right. You guys investigated the
9 market and selected Verity to provide that search engine
10 for your product, right?

11 A (Nods head.)

12 Q Okay. At this time, March 2001, in your
13 business plan utilized for raising money, at Page 9,
14 that box there with all of those financial numbers in
15 it, you projected a certain financial performance of
16 your company, specifically, the gross profit there.

17 Your company, in attempting to secure
18 financing from other folks, projected \$17-1/2 million of
19 gross profit in 2002 and over \$43 million in gross
20 profit in 2003, right?

21 A That appears to be the case.

22 Q Right. And that was your very best estimate
23 of what your company would do, in terms of performance,
24 in March of 2001, right?

25 A That's right. We had a -- had a client -- you

1 know, we had a lot of people interested in what we were
2 doing and a lot of potential clients; and when we looked
3 at that list of companies that were interested in buying
4 our software, that's what the numbers added up to.

5 Q That's right.

6 And you were, in fact -- your company sold
7 product and sold Scopeware all the way through the fall
8 of 2004, right?

9 A I don't know, because I left in 2002. So
10 during the time I was there, we did. After I left, I
11 really don't know that.

12 MR. RANDALL: Let's go to Page 38.

13 Q (By Mr. Randall) The heading there:
14 Competition by Category, you list in this business
15 plan -- you have an itemization of their various
16 competitors organized by certain functionality, right?

17 A Yeah.

18 Q Okay. So, for instance, you list: Large
19 Enterprise Information Management Solutions. Companies,
20 right?

21 A Yes.

22 Q And you show indexing and search engines,
23 right?

24 A Right.

25 Q And down below that, you say: The current

1 players include Excalibur, now Convera; and Verity,
2 right?

3 A Uh-huh.

4 Q And that's the software you used as your
5 search engine, right?

6 A Yes.

7 Q And then over to the next page, Page 19, up at
8 the top of the page: Indexing and Search Engines, it
9 says: Rather than compete with indexers and search
10 engines, Scopeware can add value to them in the areas in
11 which they are weak; namely, presentation.

12 And then down at the bottom of that paragraph,
13 it says: In fact, we currently use Verity's indexer in
14 our Scopeware platform, right?

15 A Yes.

16 Q All right. So your company was not going to
17 write its own code and come up with its own search
18 engines and write its own search engines and compete
19 with indexers and search engines, right?

20 A Well, you know, this was one piece of many
21 different things that went into Scopeware, and it was,
22 at least at that time, our decision to use Verity, but
23 we did talk about, at some point, would it make sense to
24 build our own indexer. We did have those discussions.

25 But at this point, we didn't have the

1 resources to do that, so we used Verity. We had to pay
2 them some money. Every time we made a sale, we had to
3 pay them some money to use their indexing.

4 Q Right. And those search engines were
5 available, right?

6 A Yeah.

7 Q To allow you to search all of your
8 documents --

9 A It was --

10 Q I'm sorry. To allow you to search all of your
11 computer documents for mom, and then boom, there you go,
12 all the documents are there, right?

13 A Yes.

14 Q Okay.

15 A It was sort of a commoditized technology.

16 Q Okay. And you said commoditized technology.

17 A lot of companies had it, right?

18 A Yeah. It was just a thing that you would use,
19 and you'd plug in like -- you know, we -- we showed --
20 if you saw the interface, we would show a little picture
21 of the document.

22 So I believe, if my memory serves me
23 correctly, that we used an outside piece of code to kind
24 of take that picture and show it. So we also used an
25 outside -- some outside software to do the searching as

1 well.

2 So we -- we would use whatever we could to
3 achieve the ends that we wanted to in the most effective
4 way.

5 Q Right. So that search engine software, when a
6 document came in, the software would take an image of
7 the -- of all the words in it, put that in an index, and
8 then the software, when you searched for a word, it
9 would go out into the computer and grab those documents
10 and bring them back to the user, right?

11 So it indexed them and searched for them,
12 right?

13 A Well, you're asking me -- I'm not a -- I'm not
14 a computer person, but I'll tell you what my
15 understanding of it was.

16 There were two different ways that an
17 index ---that -- that we could have set up our system to
18 actually get the information. The indexer was basically
19 just like a file of words. So if the word Scopeware was
20 in 15 different documents, it would know Scopeware is in
21 these 15 documents.

22 So one way to do it was to have a separate --
23 to make a copy of each document and have a separate
24 repository where you would go and get that document, if
25 it mentioned Scopeware.

1 Another was to actually point to where it was
2 on the system.

3 We -- I don't even remember which we did, but
4 we had to build that piece, in terms of how the document
5 was actually retrieved.

6 The indexer was this file and this ability to
7 point to where the document was, but it wasn't the
8 ability to get it or to act on it, to be able to send it
9 to someone else or to be able to open it or -- for
10 example, we created a summary of a document as well so
11 that you could see it in that interface and get an idea
12 of what the document was about.

13 The indexer didn't do that; we did that.
14 There was a lot of things that we did, other than just
15 the search function. But, yeah, the search function was
16 something that Verity did.

17 Q I've got to tell you something, sir. I'm on a
18 time clock.

19 A I'm sorry.

20 Q I'm on a tight time clock, and I just wanted
21 to know, you're using the indexing and search engine
22 from Verity in your product, right?

23 A Yes.

24 Q All right.

25 MR. RANDALL: Can you pull up 691,

1 please?

2 Can you go to Page 2, please? Top of the
3 page.

4 Q (By Mr. Randall) This is an e-mail from Lou
5 Nemeth, from your company, dated April 11th, 2001, and
6 it's written to Mr. Prager and you, Mr. Satow,
7 Mr. Gelernter, among others. And the subject is: Why
8 Integration with Microsoft Office is Important.

9 Do you see that?

10 A Yes.

11 Q Okay. And Mr. Nemeth, what was his position
12 at your company?

13 A He was in charge of product development, like
14 setting up what was in the product.

15 Q Okay. Now, he says at the first -- second
16 paragraph really: It makes sense to start with
17 definitions.

18 Integration in this context means simply a
19 save-to-Scopeware function available from the menu
20 and/or toolbars to allow for but does not require
21 relevant metadata and adds the document to Scopeware,
22 bypassing the standard file-saving mechanisms.

23 Do you see that?

24 A Yes.

25 Q And I paraphrased that, but what he's saying

1 is, in order to integrate with Microsoft Office, you
2 should have a -- something on the toolbar or the menu
3 that allows you to save the documents to Scopeware, so
4 it bypasses or avoids going into the standard
5 file-saving mechanisms of Microsoft, right?

6 A Well, I don't want to go on, but, basically,
7 if you save the Microsoft Word document, it would go
8 into Scopeware. I think what Lou was trying to do here
9 was avoid the requirement of having to name it and
10 figure out where it -- where it went.

11 Q Right. So your product, Scopeware, even in
12 2001, was running on Microsoft operating system, right?

13 A That's exactly right.

14 Q And you still had to name files --

15 A Yes.

16 Q -- just like you did before, right?

17 A That's right.

18 Q So the vision of Dr. Gelernter to just avoid
19 filenames, avoid having to name files, that's something
20 that was not solved with your product, because you used
21 the old file system of Microsoft, right?

22 A We went partly to his vision. We weren't able
23 to achieve all of it, no.

24 Q Okay. Now, Nemeth goes on to say -- with
25 respect to his reasoning, he says, in the second --

1 third paragraph down: My reasoning boils down to two
2 issues: Product perception and Scopeware Vision, okay?

3 And he goes on to state that: Scopeware
4 excels at various functions -- it's the next
5 paragraph -- but it functions almost entirely in the
6 post-creation universe, handling files that are created
7 or received elsewhere.

8 We've spun this as a positive. We don't force
9 people to abandon the mechanisms they're comfortable
10 with; but on the other hand, we don't give people much
11 of an opportunity to abandon mechanisms they might well
12 be fed up with either.

13 Do you see that?

14 A Yes.

15 Q So what he's saying is that you've got this
16 software and the search engine from Verity, and all of
17 these documents have been created using other operating
18 systems; Apple's, Microsoft's, that use this old
19 standard file format, right?

20 A In our case, Microsoft's operating system.

21 Q Right. Okay.

22 And so he's saying that your Scopeware product
23 is not achieving its goal of trying to get all those
24 documents into the Scopeware platform, if you will,
25 right?

1 A He doesn't believe the full vision is being
2 realized.

3 Q All right. And then the next paragraph, it
4 goes on to say: One outcome is that Scopeware's
5 frequently an afterthought. We've seen this in numerous
6 installations of the server product.

7 Someone is looking for something and might
8 spend half an hour trolling directories or asking other
9 people, and only when those efforts fail, turn to
10 Scopeware.

11 Do you see that?

12 A Yeah.

13 Q All right. And that's Mr. Nemeth saying that
14 these -- at numerous installations, he's seeing this
15 problem, right?

16 A Yeah.

17 Q Okay. And then the next paragraph, it goes to
18 state: It also relegates Scopeware to a minor role in a
19 user's computer life. We become a nifty but small
20 utility, occasionally called on to handle some
21 comparably minor task.

22 And then he says: In the corporate universe,
23 we've worked hard to overcome the perception that we're
24 simply a search engine with a fancy UI, which is user
25 interface, right?

1 A Uh-huh.

2 Q So what he's saying is, you have this user
3 interface that allows you to treat documents a certain
4 way, and behind it is this search engine from Verity,
5 and that's the perception in the corporate world, right?

6 A That's what he's saying.

7 Q All right. Further on down, second to the
8 last paragraph here, he says: My second reason relates
9 to our vision and our messaging, and it relates to files
10 and folders.

11 Skipping a sentence, he says: On the
12 retrieval end, we do a fine job of hiding such things
13 from users, but they are still left with the overhead of
14 choosing/creating and maneuvering to a directory and
15 choosing a filename when new documents are created.

16 Do you see that?

17 A Yes.

18 Q All right. So when he says we, he's talking
19 about Mirror Worlds, right?

20 A Yes.

21 Q Okay. We're still left with the overhead of
22 choosing/creating and maneuvering to a directory and
23 choosing a filename when new documents are created.

24 That's using the old file system storage and
25 organization method of Microsoft, right?

1 A Correct.

2 Q So he's saying that even when you use
3 Scopeware, you've got this problem that you're still
4 using the old file system, correct?

5 A Correct.

6 Q All right. Now, Dr. Gelernter responds to
7 this --

8 MR. RANDALL: Let's go to the first page.

9 Q (By Mr. Randall) And he responds, on April
10 12th, 2001, in an e-mail to Mr. Nemeth and a whole host
11 of folks at your company, including you, and he mentions
12 in the first paragraph: There are two critical
13 functions the desktop has to provide.

14 And under A, he says: A live, flowing,
15 auto-update stream where you monitor all incoming
16 e-mail, public postings, group postings to which you
17 have access. People need to be tuned in to the stream,
18 not the desktop. We need to give them a reason to tune
19 in.

20 And then the second one, he says: Integration
21 with doc production. We keep saying that the point of
22 this thing is -- and this is Dr. Gelernter -- you no
23 longer need names or directories.

24 People understand this claim; in my
25 experience, like it and respond to it. We've seen a

1 little of that in our news coverage. But today the
2 claim is, of course, as Lou points out, false, right?

3 A Yes.

4 Q All right. So, clearly, you and your company
5 had not solved the problem through your product of -- of
6 avoiding -- no longer needing names or directories,
7 right?

8 A Correct.

9 Q Okay. Down -- second to the last paragraph,
10 he says: The pressing question -- this is
11 Dr. Gelernter.

12 The pressing question is: There are plenty of
13 people, I assume, at Mirror Worlds Technology who don't
14 use the stream for much e-mail. Seems to me that there
15 can't be a more important issue than finding out why
16 they don't and fixing things so they do.

17 Do you see that?

18 A Yes.

19 Q That's a recognition by Dr. G that your
20 employees aren't using your product, right?

21 A That is what he's saying, although I disagree
22 with him.

23 Q All right. Down below, the last paragraph
24 near his closing, he says: This system -- this system
25 has to start delivering on its promises.

1 Do you see that?

2 A Yes.

3 Q All right. So at least his view -- you
4 understood his view at that time was that it wasn't
5 delivering on its promises, right?

6 A That appears to be what he's saying.

7 MR. RANDALL: Now let's go to 336. It's
8 PX336. I think we saw this earlier.

9 Q (By Mr. Randall) All right. This is your
10 e-mail dated September 27, right?

11 A Right.

12 Q And you are writing to Don Lindsay at Apple,
13 and you say, you know: It's good talking to you.

14 And then you go on to say, you know: Thanks
15 again for the opportunity to talk about how Scopeware
16 can add value to Apple.

17 Do you see that?

18 A Yes.

19 Q And then you talk about the potential consumer
20 and K-12 education applications, right?

21 A Yes.

22 Q You don't mention anything about any operating
23 system there, do you?

24 A Well, the core user interface development,
25 that's what we were talking about, the operating system.

1 Q Well, most corporate -- most corporations, at
2 least at that time, thought that you were a fancy user
3 interface with a search engine; isn't that right?

4 A I don't agree with that statement.

5 Q Okay.

6 A I mean, I think it was either Lou or David
7 that had written in that e-mail, but I don't agree with
8 that.

9 Q Uh-huh. And this vignette written by David
10 indicates -- and you -- you wrote this -- that it's
11 applications of Scopeware in the context of Mac, right?

12 A Yes.

13 Q Okay. Nowhere in this e-mail do you mention
14 anything about patents, do you?

15 A Not in this e-mail, no.

16 Q All right. You don't say: It was great
17 talking to you about the patents, or would you like me
18 to send you a copy, right?

19 A No.

20 Q And you had never -- while you were at Mirror
21 Worlds, you never accused Apple of infringement, right?

22 A No.

23 MR. RANDALL: Now let's go to 661.

24 Q (By Mr. Randall) Now, and this e-mail is dated
25 October 4th, 2001, and --

1 MR. RANDALL: Going down below that. I'm

2 sorry.

3 Q (By Mr. Randall) The October 24 at the bottom
4 of this page, October 24, 2001, e-mail is from Don
5 Lindsay to Randy Prager.

6 That's an employee of your company, right?

7 A Right.

8 Q And Randy Prager was not just Chief Technology
9 Officer; he was also an inventor of one of these
10 patents, right?

11 A I believe so.

12 Q All right. And he was -- do you know he was
13 deposed in this case?

14 A Yes.

15 Q Okay. Did you talk to him about the
16 deposition?

17 A No.

18 Q Okay. Did you talk to him about why he --
19 okay. Did you ever talk to him, after the meeting about
20 what occurred at the meeting?

21 A Many times, yes.

22 Q Yeah. And you met with him many times, right?

23 A Absolutely.

24 Q Do you have any explanation why he can't
25 remember whether or not patents were ever mentioned at

1 that meeting?

2 A You know, that's not my understanding of his
3 testimony.

4 Q So you talked to him about his testimony?

5 A No, I did not talk to him since he had his
6 testimony, but when I was deposed, your colleague
7 implied to me that Randy didn't remember that, and I was
8 very surprised by that, so I asked my lawyer to review
9 his testimony.

10 So I did get the testimony of what Randy said
11 in his deposition, and what I saw was that over and over
12 again Randy said that we did discuss patents at the
13 meeting, that we always talked about patents, and after
14 he was -- maybe eight or nine times, after you asked the
15 same question, he said: Well, maybe I -- I don't
16 remember or something.

17 Q Right.

18 A But -- so I wouldn't agree, I wouldn't
19 characterize it as that he doesn't remember. I --

20 Q Did you read the testimony?

21 A I did, yes.

22 Q Okay. And did you note that what he was
23 saying was: I -- we would have talked about it. We
24 would have talked about the patents. We normally talk
25 about the patents.

1 And I said: Did -- do you remember
2 specifically patents being mentioned at that meeting?
3 It's very important.

4 And he said: No.

5 Did you read that part?

6 A After you had badgered him many, many times on
7 that topic, he said that, yes.

8 Q Okay.

9 A But before that, like eight times, he said
10 that he -- that we did discuss it.

11 Q Directing your attention to the bottom of this
12 e-mail, Mr. Lindsay writes to your colleague,
13 Mr. Prager, and says: After some discussion, we have
14 decided not to pursue this further.

15 We are going to continue to refine our
16 existing indexing and file-searching technologies and
17 investigate how we might utilize some of our existing
18 patents and designs in our efforts to further simplify
19 the file management experience.

20 Do you see that?

21 A Yes.

22 Q So did you -- when you met with and spoke to
23 Mr. Lindsay, did you describe Scopeware's existing
24 indexing and file-searching technologies?

25 A Well, we explained to him that we used Verity,

1 and that was part of it, but what we were really trying
2 to show him was that it was the ability to view the
3 narrative interface; not just the searching, but really
4 to understand all the information in one interface --

5 Q Well, I'm sure you talked about other things.

6 A Okay.

7 Q I'm sure you talked about other things.

8 A Okay.

9 Q I just want to know this.

10 A Okay.

11 Q When you talked to him, Don Lindsay of Apple,
12 did you explain your existing Scopeware indexing and
13 file-searching technologies that you acquired from and
14 licensed from Verity?

15 A Yes.

16 Q Okay. And did you -- strike that.

17 You mentioned that you had meetings with other
18 companies, correct?

19 A Yes.

20 Q Are you aware that Scopeware had meetings with
21 Microsoft, Google, Yahoo!, AOL, and none of those
22 companies struck any kind of deal with Scopeware, right?

23 A I did hear about that.

24 MR. RANDALL: Can you pull up 697,
25 please?

1 Q (By Mr. Randall) All right. Did you -- this
2 is a technology purchase agreement from -- between Yale
3 and Mirror Worlds, whereby Mirror Worlds acquired these
4 patents.

5 MR. RANDALL: And if we go to Page 2 --
6 I'm sorry. This is DX967.

7 Is there a Page 2? No?

8 Okay. All right. Let's go to
9 Section 2.2. I think it's on the next page. Oh, no,
10 no. Yeah. Okay.

11 Q (By Mr. Randall) Purchase Price. Now, this is
12 purchase price for \$598,000. Mirror Worlds acquired the
13 rights to these patents from Yale, and by the time you
14 came aboard, you realized that this transaction had
15 occurred, right?

16 A I've never seen this document, but I did have
17 a general awareness that at some point, Yale was
18 involved.

19 Q All right. You knew that your company had
20 purchased the patents from Yale for about \$600,000,
21 right?

22 A No, I was not aware of that. I didn't know
23 whether they were still -- somehow had an ownership
24 interest. I didn't know if they were purchased. I just
25 knew that they had some interest at some point.

1 Q Okay. All right.

2 MR. RANDALL: Let's go to 718, about the
3 fourth whereas clause -- go to the top.

4 Q (By Mr. Randall) This is a sale agreement
5 between Recognition Interface and Mirror Worlds dated
6 June 2004, and it shows -- it says: Whereas in
7 consideration of the assets of Mirror Worlds,
8 Recognition Interface desires the pay to Mirror Worlds
9 upon the terms, et cetera, et cetera, the sum of
10 \$210,000 purchase price.

11 Do you see that?

12 A Yes.

13 Q All right. And so you understand that the
14 company that you invested in, Recognition Interface,
15 acquired from your old company, Mirror Worlds, in about
16 June of 2004, all of the patents -- not just the
17 license, but the ownership of these patents for
18 \$210,000, right?

19 A Yes.

20 Q Okay.

21 MR. RANDALL: 745, please.

22 Q (By Mr. Randall) Now, this is a -- a letter --

23 MR. RANDALL: Go to the last --

24 Q (By Mr. Randall) The first page is --

25 MR. RANDALL: Go to the last page.

1 Q (By Mr. Randall) It's a letter from Frank
2 Weil, and in this letter, in the first paragraph, he
3 states --

4 MR. RANDALL: Let's go to the first
5 paragraph of the letter.

6 Q (By Mr. Randall) -- he states: In June 2004,
7 Mirror Worlds ceased operation -- I'm going to
8 paraphrase this -- ceased operations and dissolved. At
9 that time, a new entity, Recognition Interface, Abacus &
10 Associates, Inc., and affiliated entities bought the
11 remaining assets and intellectual property of Mirror
12 Worlds for approximately 218,000.

13 Do you see that?

14 A Yes.

15 Q And then he says: The purchase was completed
16 at a price that significantly exceeded the value of
17 these assets and IP in order to provide Mirror Worlds
18 with enough cash to satisfy the obligations of the
19 creditors.

20 Do you see that?

21 A Yes.

22 Q Now, since you had an interest in Mirror
23 Worlds Technology that then was transferred to
24 Recognition Interface, you got a copy of this letter,
25 didn't you?

1 A I don't recall getting a copy of this letter.

2 Q You're not familiar -- you are familiar with
3 this letter, right?

4 A I've seen it, my lawyer showed it to me, but I
5 have not -- I don't recall getting a copy of this.

6 Q You understand that Recognition Interface, the
7 company that you invested \$5,000 in, purchased the
8 patents -- not just a license, but the patents for
9 \$218,500 from your old company, Mirror Worlds
10 Technology, in June of 2004, right?

11 A Yeah.

12 Q Okay. And at least you understand that Frank
13 Weil's view, the Chairman of the Board of Mirror Worlds,
14 was that the \$218,000 was a price that significantly
15 exceeded the value of the assets and IP, right?

16 A Well, I think it's a pretty self-serving
17 statement on his part, but -- I don't agree with it, but
18 it is what it says.

19 Q Well, he owed, at the time he wound down -- at
20 the time he -- you know this was a corporate executive.
21 At the time he wound down Mirror Worlds Technology, he
22 owed a fiduciary duty to all those shareholders at
23 Mirror Worlds to try to get them the most money he could
24 get them for their assets, didn't he?

25 A I agree.

1 Q And you're not suggesting that Frank Weil
2 violated his fiduciary duty to all of his Mirror Worlds'
3 shareholders and didn't get them the most money, are
4 you?

5 A You know, I -- I am. I think that -- I think
6 that this was not -- this was a transaction between
7 related parties, and he wasn't -- it wasn't an
8 arm's-length transaction.

9 Q So you don't think that Frank Weil, acting as
10 the Chairman of the Board, responsible for dissolving
11 Mirror Worlds, complied with his fiduciary duty to get
12 the most money he possibly could for all the
13 shareholders of Mirror Worlds such that any Mirror
14 Worlds' shareholder that didn't participate in
15 Recognition Interface got -- you know, got the raw end
16 of that deal, right?

17 A Yeah. To me, as an ex-securities lawyer, I
18 would agree with you.

19 Q Okay. And then you invested with Frank Weil
20 after that?

21 A I -- well, honestly, I don't believe that I
22 knew -- he just asked me: Do you want to invest?
23 I said: Sure.

24 I wrote him a check. I didn't know that this
25 was the value. I don't believe I got this letter, but I

1 was, you know, upset about it later.

2 Q Didn't you, as a securities lawyer,
3 understanding and believing that he violated his
4 fiduciary duty, complain to Frank Weil and say: Frank,
5 you are --

6 A I did.

7 Q You did?

8 A Yes.

9 Q You told him that: You are not getting the
10 best deal for all of these Mirror Worlds' shareholders
11 out there?

12 A Recently, as I found out about it, I actually
13 called Rob Raich, which is his -- one of Frank's
14 employees --

15 Q I'm sorry. I'm talking about at the time.

16 A Oh. Well, I didn't find out about this until
17 very recently. So I called recently about it. But I
18 didn't know that this is what happened at that time.

19 MR. RANDALL: Can you pull up DX99,
20 please?

21 THE COURT: How much longer do you
22 anticipate on cross?

23 MR. RANDALL: Two minutes, Your Honor.

24 THE COURT: Okay.

25 MR. RANDALL: DX99.

1 All right. Can we go to the front page?

2 Q (By Mr. Randall) This is Recognition

3 Interface's 2005 tax return.

4 MR. RANDALL: Go to the next page. I'm

5 sorry, Page 3. Page 3, up in the upper left-hand

6 corner.

7 Q (By Mr. Randall) It says: The principal

8 business activity is patent investment.

9 MR. RANDALL: Over on the right-hand side

10 of that upper -- upper top portion -- move over to the

11 right.

12 Q (By Mr. Randall) It says that the company --

13 the date of business started was September 26th, 2005,

14 and below that, total assets \$218,395, correct?

15 A (No response.)

16 Q Now, did you invest in this company shortly

17 after September 26th, 2005?

18 A I would assume so. I don't know the exact

19 date.

20 Q All right. At the time you were a securities

21 lawyer, at the time that you invested in the company,

22 did you say: Frank, I'm investing \$5,000 of my money.

23 What's the assets of the company?

24 A Yes. Yes, I did ask him what he was doing.

25 Q And so you knew the assets of the company were

1 \$218,000 worth of patents, right?

2 A I knew that he intended to use -- to try to
3 enforce the IP and -- but I did not know what value, if
4 any, he paid or how the transaction was set up. I did
5 not ask him any of the details, and I didn't know those.

6 MR. RANDALL: No further questions, Your
7 Honor.

8 THE COURT: All right. Thank you.

9 All right, Ladies and Gentlemen of the
10 Jury, I think we're going to take our morning recess at
11 this time. We'll be in recess until 11:10.

12 MR. CARROLL: Your Honor, before -- I
13 don't have any further questions. May Mr. Satow be
14 finally excused, so he can catch his plane?

15 THE COURT: Any objection?

16 MR. RANDALL: No, Your Honor.

17 THE COURT: All right. You may be
18 excused.

19 MR. CARROLL: Thank you, Your Honor.

20 COURT SECURITY OFFICER: All rise.

21 (Jury out.)

22 (Recess.)

23 COURT SECURITY OFFICER: All rise.

24 (Jury in.)

25 THE COURT: Please be seated.

1 Let me inquire of the jury, I had asked
2 you yesterday to confer with regard to if we needed to
3 make up some time.

4 Did y'all reach a consensus on that?

5 JUROR: Yes, we did.

6 THE COURT: What was your consensus?

7 JUROR: We will be here at 9:00 o'clock,
8 and we'll work through lunch and eat in there.

9 THE COURT: I'm sorry. What did you say?

10 JUROR: We'll eat a lunch in there.

11 THE COURT: Okay. You'd rather --

12 JUROR: A little, short 30-minute lunch.

13 THE COURT: -- shorten the lunch then?

14 JUROR: And stay later, if we need to.

15 THE COURT: And stay later as opposed to
16 coming in earlier.

17 All right. Very good.

18 JUROR: Whatever it takes to get it over
19 with this week.

20 THE COURT: I think that's everybody's
21 desire. We're going to do our -- I think we'll be able
22 to do that. Our goal is to finish the evidence by
23 Thursday afternoon, come back Friday morning, and get
24 the final instructions to argument and let you
25 deliberate on Friday.

1 So we're going to need to make up a
2 couple of hours. I'll let you know later today what our
3 schedule -- exact schedule will be for tomorrow.

4 Today, I have another matter that I need
5 to take up at 12:30, so we're going to probably go till
6 about 12:15, and then we'll break for 30 minutes for
7 lunch. And we'll come back at 12:45 today, although we
8 won't be able to have lunch in there -- that won't give
9 you enough time.

10 No. Let's do this: Today, we'll go
11 ahead and break at 12:00, come back at 1:00. You can go
12 out to lunch.

13 Tomorrow -- and I want to compliment the
14 parties. Both sides have gone in together to provide
15 your snacks, and I think they're doing an exceptional
16 job on your snacks, and I think they will do a great job
17 on your lunches for tomorrow.

18 So if the parties would get together and
19 get some sandwich trays or something, whatever you feel
20 would be appropriate, T-bone steaks, baked potatoes.

21 No, we couldn't do that in 30 minutes,
22 but we'll get you some sandwiches or box lunches or
23 something.

24 All right. We're going to go, then, for
25 about 45 minutes.

1 Mr. Carroll, who will be your next

2 witness?

3 MR. CARROLL: Your Honor, we want to read
4 in the deposition of Don Lindsay.

5 THE COURT: All right.

6 MR. CARROLL: And we're going to have to
7 do this the old-fashioned way. We don't have a
8 videotape.

9 THE COURT: All right.

10 MR. CARROLL: So would you prefer me to
11 have somebody in the box reading the answers and me
12 reading the questions?

13 THE COURT: I think that would probably
14 be the best.

15 MR. CARROLL: Okay. I've got a designee.

16 THE COURT: Mr. Kelley.

17 MR. KELLEY: Your Honor.

18 THE COURT: Let me also inform the jury
19 with respect to depositions.

20 Prior to trial, the attorneys will take
21 depositions of witnesses, and then either side -- and
22 they are under oath; the court reporter is there and
23 takes it down.

24 Sometimes they're videotaped; sometimes
25 they're not. When they're videotaped, the parties will

1 MR. CARROLL: Okay. Let's turn to

2 Page 29.

3 QUESTION: Let's go back to your
4 employment at Apple. Would you tell again, me, your
5 dates of employment at Apple?

6 ANSWER: I joined Apple in the summer of
7 1994. I believe the month was July. I remained
8 employed at Apple through 2003. I know it was the
9 spring. I don't know the specific month that was the
10 last date of my employment.

11 MR. CARROLL: All right. Let's go to
12 Page 35, please.

13 MR. KELLEY: 35 or 33?

14 MR. CARROLL: I have 35.

15 QUESTION: Can you walk me through the
16 different titles you've had at Apple?

17 MR. CARROLL: This is Page 35, Line 5.

18 ANSWER: I believe my first title was
19 User Interface Designer. I believe I kept that title
20 for the first few years of employment.

21 The next title I recall having was
22 Manager of User Interface. I believe I kept that title
23 to the end of my employment at Apple.

24 MR. CARROLL: All right. Then on
25 Page 36, Line 12. Excuse me.

1 QUESTION: Did you have people report to
2 you while you were employed at Apple?

3 ANSWER: Yes.

4 QUESTION: How many people?

5 ANSWER: I believe that was 11.

6 MR. CARROLL: Then let's go to Page 37.

7 QUESTION: While you were at Apple, did
8 you report to anyone?

9 ANSWER: Yes.

10 QUESTION: Who were they? And please
11 tell me if that changed over the years, too.

12 ANSWER: Yes. When I was originally --
13 when I originally joined the company, I believe my
14 manager was an individual by the name of Pauline
15 Strijland. The last manager I recall having was an
16 individual by the name of Kevin Tiene.

17 In between there, there may have been
18 other individuals. I don't recall. There's -- I'll
19 clarify that. A name just came to mind. I reported to
20 an individual named Colleen Ratsler for a period of
21 time.

22 MR. CARROLL: And then on Page 38.

23 QUESTION: Have you heard the term Mac OS
24 User Experience Group?

25 ANSWER: Yes.

1 QUESTION: What is your understanding of
2 that term?

3 ANSWER: That was the term that my team
4 adopted as our name, the team that I managed.

5 MR. CARROLL: Now let's go to Page 45.

6 QUESTION: During your time at Apple, did
7 you ever report to Steve Jobs?

8 ANSWER: No.

9 QUESTION: Have you ever spoken to Steve
10 Jobs?

11 ANSWER: Yes.

12 QUESTION: During your employment at
13 Apple --

14 MR. CARROLL: And that's on Page 46.

15 ANSWER: Yes.

16 QUESTION: -- how often would you speak
17 to Mr. Jobs when -- while you were at Apple?

18 ANSWER: On a weekly basis.

19 QUESTION: What would your conversations
20 normally be about?

21 ANSWER: Conversations would focus on
22 current products under development. We would talk about
23 features, and we would talk about user interface.

24 MR. CARROLL: Then let's go over to
25 Page -- excuse me -- Page 47.

1 QUESTION: So we were talking about
2 scheduled weekly meetings with Mr. Jobs.

3 Do you remember what day of the week
4 those meetings would occur?

5 ANSWER: Yes.

6 QUESTION: What day was it?

7 ANSWER: It was on a Monday.

8 QUESTION: And was this all throughout
9 your employment at Apple?

10 ANSWER: Only during the development of
11 Mac OS 10.

12 QUESTION: So during the development of
13 Mac OS 10, you would meet with Jobs -- Mr. Jobs every
14 Monday?

15 ANSWER: Correct.

16 QUESTION: For how long?

17 ANSWER: The meeting was scheduled for
18 two hours.

19 QUESTION: Do you remember the time?

20 ANSWER: I believe they started at
21 3:00 p.m. and ran -- ran through until 5:00 p.m.

22 QUESTION: At those meetings with
23 Mr. Jobs, who else would attend?

24 ANSWER: Other attendees would be members
25 of the Mac OS Development Team, members of the Mac OS

1 Management Team, and on occasion, members of my team.

2 QUESTION: When was the last time you
3 talked to Mr. Jobs?

4 ANSWER: My recollection of having spoken
5 to Mr. Jobs was in the fall of 2002.

6 QUESTION: Since leaving Apple, you have
7 not spoken to or corresponded to --

8 MR. CARROLL: Excuse me.

9 QUESTION: -- with Mr. Jobs in any way;
10 is that correct?

11 ANSWER: I have not.

12 MR. CARROLL: All right. Let's go over
13 to Page 49.

14 QUESTION: Will you say you left Apple on
15 good terms?

16 ANSWER: Yes.

17 MR. CARROLL: And then let's go to
18 Page 58.

19 QUESTION: What did you and Mr. Brown
20 talk about?

21 ANSWER: Specifically, we talked about
22 knowledge I may have had regarding Mirror Worlds'
23 patents.

24 QUESTION: Can you be more specific?

25 ANSWER: Mr. Brown asked me specifically

1 if I had knowledge of any patents that Mirror Worlds may
2 have held.

3 QUESTION: What was your response?

4 ANSWER: I was not -- not aware of the
5 patents. There was one figure in one patent that I do
6 recall having seen before.

7 QUESTION: Other than the subject of
8 Mirror Worlds' patents, did you discuss anything else
9 with Mr. Brown this morning?

10 ANSWER: Mr. Brown was interested in what
11 Mirror Worlds' products I may have seen.

12 QUESTION: What was your response?

13 ANSWER: I don't recall having seen a
14 specific product demonstration, but I did, in fact, see
15 a demonstration via a web presentation.

16 MR. CARROLL: Then picking up with
17 Line 6.

18 QUESTION: Have you heard of a company
19 called Mirror Worlds or Mirror Worlds Technologies?

20 ANSWER: Yes.

21 QUESTION: In what context?

22 ANSWER: The context was in response to a
23 mail I had received from Mr. Jobs to look into what
24 product or technologies the company possessed.

25 QUESTION: Was that the first time you

1 had heard of that company?

2 ANSWER: Yes.

3 QUESTION: Have you heard of something
4 called Scopeware?

5 ANSWER: Yes.

6 QUESTION: In what context?

7 ANSWER: Again, it was in response to a
8 request from Mr. Jobs to look into Mirror Worlds and
9 products that Mirror Worlds may have had.

10 QUESTION: Have you heard of something
11 called Lifestreams?

12 ANSWER: Yes.

13 QUESTION: In what context?

14 ANSWER: Again, in the context of
15 learning about Mirror Worlds and their products.

16 QUESTION: And the first time you heard
17 about Scopeware Lifestream was?

18 ANSWER: In response to an e-mail from
19 Mr. Jobs.

20 QUESTION: So prior to that e-mail you
21 received from Mr. Jobs, you had not heard of Mirror
22 Worlds, Scopeware, or Lifestreams, correct?

23 ANSWER: I had not.

24 QUESTION: Had you heard of someone named
25 David Gelernter?

1 ANSWER: I have.

2 QUESTION: What -- in what context?

3 ANSWER: In the same context which I

4 learned Mr. -- of Mirror Worlds and their products.

5 QUESTION: So in response to this e-mail

6 from Mr. Jobs, that was the first time --

7 MR. CARROLL: I am sorry.

8 QUESTION: -- you heard of Dr. -- of

9 David Gelernter?

10 ANSWER: Correct.

11 QUESTION: Who is David Gelernter to your

12 understanding?

13 ANSWER: I believe David Gelernter is the

14 founder of Mirror Worlds Technologies.

15 MR. CARROLL: And then on Page 51.

16 QUESTION: Have you ever spoken to

17 Mr. Gelernter?

18 ANSWER: I don't believe so, no.

19 QUESTION: Did you look at a website as a

20 reference to www.scopeware.com?

21 ANSWER: Yes.

22 QUESTION: In what context?

23 ANSWER: In response to the e-mail

24 received from Mr. Jobs, I, at that point, looked at the

25 website.

1 QUESTION: Was that the first time you
2 had looked at the website?

3 ANSWER: Yes.

4 QUESTION: Approximately how many times
5 would you say you looked at that website?

6 ANSWER: I would estimate that I had
7 looked at the website perhaps three or four times.

8 QUESTION: When did these three or four
9 times --

10 MR. CARROLL: Thank you.

11 QUESTION: When did these three or four
12 times occur?

13 ANSWER: It would have been between the
14 time -- it would have been between the period of time
15 when I first became aware of Mirror Worlds Technologies
16 up until the date on which I received a demonstration of
17 the product.

18 QUESTION: Do you remember when you
19 received the demonstration of the product?

20 ANSWER: I believe that was in the month
21 of September 2001.

22 QUESTION: Are you aware of any
23 communication or meetings between Mirror Worlds
24 Technologies and Apple?

25 ANSWER: Communications? I'm aware of

1 only the communications I had between myself and Apple
2 and Mirror Worlds Technologies. I am not aware of any
3 in-person meetings, but I am aware of one telephone
4 meeting.

5 QUESTION: Who was involved in the
6 telephone meeting?

7 ANSWER: From which company?

8 QUESTION: From both sides, as far as you
9 know.

10 ANSWER: The individual I recall having
11 talked with on the phone from Mirror Worlds was Randy
12 Prager. I don't recall specifically who was in
13 attendance from Apple.

14 QUESTION: But at least you were in it on
15 the phone?

16 ANSWER: Yes.

17 QUESTION: You have no recollection as to
18 anyone else that may have been on the phone at the time?

19 ANSWER: There were others. I don't
20 recall specifically who was involved.

21 QUESTION: Approximately how many others
22 were on the phone?

23 ANSWER: From Mirror Worlds, I don't
24 know, and from Apple, I honestly don't know what -- how
25 many of us were involved.

1 QUESTION: More than five?

2 ANSWER: No.

3 QUESTION: Less than five?

4 ANSWER: Yes.

5 QUESTION: This phone call, was it in
6 your office?

7 ANSWER: Yes.

8 QUESTION: During the phone call from
9 Mirror Worlds, was it only Mr. Prager that spoke?

10 ANSWER: I believe so, yes.

11 QUESTION: You don't know if others were
12 on the line at Mirror Worlds' site?

13 ANSWER: I don't recall.

14 QUESTION: Approximately how long was the
15 phone call?

16 ANSWER: I believe the phone call was
17 less than an hour.

18 QUESTION: Who made the call, you or
19 Mr. Prager?

20 ANSWER: The call was arranged between
21 myself and Mr. Prager by e-mail, between the two of us.

22 QUESTION: How was the initial contact
23 between Mirror Worlds and Apple made?

24 ANSWER: I received an e-mail from Steve
25 Jobs requesting someone to look into Mirror Worlds and

1 any technologies Mirror Worlds had that might be of
2 interest to Apple.

3 I initiated contact. I don't recall
4 specifically how I obtained Randy Prager's e-mail
5 address, but I did make contact with him.

6 QUESTION: So you reached out to
7 Mr. Prager?

8 ANSWER: I did.

9 QUESTION: What did you say in that first
10 e-mail to Mr. Prager?

11 ANSWER: I think it was an introductory
12 mail, just that I was interested in what technologies
13 Mirror Worlds had and whether it was possible to receive
14 a demonstration of their product.

15 MR. CARROLL: All right. Going to 65.
16 For the record, this is a document bearing Production
17 No. Lindsay -- excuse me again -- 1 through 3.

18 QUESTION: Mr. Lindsay, have you seen
19 this before?

20 ANSWER: Yes.

21 QUESTION: When was the first time?

22 ANSWER: This was the e-mail I received.
23 It is dated July 2nd, 2001. That would have been the
24 first date that I saw this e-mail.

25 QUESTION: And was this the e-mail you

1 were referring to before about the e-mail you received
2 from Mr. Jobs?

3 ANSWER: Yes.

4 QUESTION: I just wanted to confirm that
5 this is an e-mail that you received from Mr. Jobs in
6 July of 2001.

7 ANSWER: Yes.

8 QUESTION: Now, if you look at the bottom
9 of Lindsay 1, the first page, you see an article by John
10 Schwartz. Do you see that?

11 ANSWER: Yes.

12 QUESTION: Did you read this article?

13 ANSWER: Yes.

14 QUESTION: When was the first time?

15 ANSWER: When I received the e-mail.

16 QUESTION: What was the initial reaction,
17 if you recall?

18 ANSWER: Yes. My initial reaction at
19 first was surprise. This was the first time I recall
20 having received a specific mail to look at a company or
21 its technology.

22 QUESTION: Other than surprised, do you
23 remember anything else about your reaction?

24 ANSWER: Having read -- having read the
25 article, I was interested in what the solution was that

1 was being described, specifically the interface.

2 QUESTION: If you look at that, Mr. Jobs
3 states: Please check out the software ASAP.

4 Do you see that?

5 ANSWER: Yes.

6 QUESTION: Then it goes on to say: It
7 may be something for our future, and we may want to
8 secure a license ASAP.

9 Do you see that?

10 ANSWER: Yes.

11 QUESTION: Did you check out the software
12 ASAP?

13 ANSWER: I promptly checked out the
14 article and then subsequently went to Scopeware -- to
15 the Scopeware website.

16 QUESTION: How did you know the Scopeware
17 website?

18 ANSWER: Scopeware is referred to.
19 Mirror Worlds Technologies is referenced in the article,
20 and Scopeware -- and Scopeware is listed in the Mirror
21 Worlds' website at that time.

22 QUESTION: So in response to this e-mail,
23 you went on Mirror Worlds' website?

24 ANSWER: Yes.

25 QUESTION: Do you remember the address,

1 the web address of Mirror Worlds' website?

2 ANSWER: I don't recall the specific
3 address, no.

4 QUESTION: How did you become aware of
5 the Scopeware website?

6 ANSWER: I don't recall Scopeware having
7 a website.

8 QUESTION: So your remembrance is that
9 you went on the Mirror Worlds' website?

10 ANSWER: Correct.

11 QUESTION: And you don't know if that
12 website was the same as the Scopeware website?

13 ANSWER: I don't recall that.

14 QUESTION: To your recollection, has
15 Mr. Jobs ever asked you to check out any software ASAP,
16 other than this e-mail?

17 ANSWER: Not prior to this, and I don't
18 recall an incident after this.

19 QUESTION: Do you have any understanding
20 as to what he meant by, quote, it may be something for
21 our future, unquote?

22 ANSWER: I don't.

23 QUESTION: You have no understanding at
24 all, Mr. Lindsay?

25 ANSWER: It is potentially in reference

1 to future products that Apple may or may not choose to
2 develop.

3 QUESTION: Do you know if Apple ever
4 secured a license to this technology?

5 ANSWER: I have no knowledge whether
6 Apple secured a license.

7 QUESTION: You don't know one way or the
8 other?

9 ANSWER: No.

10 QUESTION: After receiving the e-mail,
11 did you talk to anyone at Apple about this e-mail?

12 ANSWER: Yes.

13 QUESTION: Who at Apple?

14 ANSWER: I spoke to other individuals who
15 are on this e-mail, addressed on the e-mail, to inform
16 them that I was going to follow up.

17 QUESTION: Who are those individuals?

18 ANSWER: Specifically, each individual
19 addressed on the to line of the e-mail.

20 QUESTION: You spoke to each one of these
21 individuals informing them that you would follow up on
22 this e-mail?

23 ANSWER: Not each individual. I don't
24 recall speaking to all of them. I would have spoken to
25 any individuals who were on -- who were in my management

1 chain.

2 QUESTION: And who are they?

3 ANSWER: On this e-mail, that would
4 include Scott Forstall, Bertrand Serlet, and Avi
5 Tevanian.

6 QUESTION: These people were on your
7 team?

8 ANSWER: No. They were my managers.

9 QUESTION: They were above you at Apple?

10 ANSWER: Correct.

11 QUESTION: And you informed them that you
12 would follow up on this e-mail?

13 ANSWER: Correct.

14 QUESTION: To your recollection, other
15 than you, did anyone else follow up on this e-mail?

16 ANSWER: I don't believe so, no.

17 QUESTION: So would you please walk me
18 through the steps that you took to follow up on this
19 e-mail specifically?

20 ANSWER: Okay. First, I read the article
21 that was included as part of this e-mail. In the
22 article, there was a reference to Mirror Worlds
23 Technologies and the Scopeware product. I visited the
24 Mirror Worlds Technologies' website.

25 The next step that I recall is reaching

1 out to Randy Prager at Mirror Worlds. I don't -- I
2 don't recall specifically how I obtained his e-mail
3 address. That was the next step toward making contact
4 with Mirror Worlds.

5 QUESTION: At some point, did you make a
6 recommendation to Apple about Mirror Worlds' technology?

7 ANSWER: I made a recommendation to my
8 manager as to Mirror Worlds' technology.

9 QUESTION: Do you know the date of that
10 recommendation?

11 ANSWER: I don't know the specific date.

12 QUESTION: Approximately?

13 MR. KELLEY: Sorry. Oh.

14 MR. CARROLL: That's a question.

15 ANSWER: It would have been in the fall
16 of 2001.

17 QUESTION: Who was your manager at the
18 time?

19 ANSWER: Kevin Tiene.

20 QUESTION: And what was your
21 recommendation to Mr. Tiene?

22 ANSWER: My recommendation was to not
23 pursue licensing of Mirror Worlds Technologies and
24 not -- and products.

25 QUESTION: Why did you make that

1 recommendation?

2 ANSWER: My conclusion was, based on the
3 demo and the conversations I had with Randy Prager, that
4 there wasn't sufficient, unique capabilities in the
5 technology that would warrant licensing.

6 QUESTION: I believe you said that you
7 had a phone conversation with Mr. Prager, correct?

8 ANSWER: The demo -- the demonstration
9 that Randy gave was the only phone conversation I can
10 recall having.

11 QUESTION: So this demo was given during
12 a phone -- was given during that phone conversation,
13 correct?

14 ANSWER: Yes.

15 QUESTION: How was the demo made?

16 ANSWER: I don't know how they made the
17 demo. The presentation of the demo was through a web
18 browser.

19 QUESTION: Was it using WebEx.

20 ANSWER: I don't recall what technology
21 they used.

22 QUESTION: How was the demo demonstrated
23 to you?

24 ANSWER: I was instructed to navigate to
25 a specific website in which the demo was presented, and

1 in conjunction with that, the phonecall.

2 QUESTION: I see. Did Mirror Worlds
3 Technologies send you any written material regarding the
4 technology at this point?

5 ANSWER: I don't recall having received
6 any written material.

7 QUESTION: You said you never met with
8 anyone at Mirror Worlds Technologies, correct?

9 ANSWER: Not in person, no.

10 QUESTION: This was the only conversation
11 you had with Mr. Prager?

12 ANSWER: I believe so, yes.

13 QUESTION: And you said -- also, you said
14 you corresponded with him through e-mail to set this
15 phone conversation up?

16 ANSWER: Correct.

17 QUESTION: Other than to set up this
18 phone conversation, did the e-mails talk about anything
19 else?

20 ANSWER: I do recall receiving one or two
21 e-mails which attempted to expand on the technology in
22 terms of potential applications of it.

23 QUESTION: The phone conversation took
24 approximately one hour?

25 ANSWER: Yes. I'm sorry.

1 QUESTION: During the phone conversation,
2 did Mr. Prager tell you that Mirror Worlds' technology
3 was patented?

4 ANSWER: I don't recall a specific
5 reference to a patent.

6 QUESTION: You don't recall one way or
7 the other?

8 ANSWER: No.

9 QUESTION: Do you recall seeing a
10 reference to the technology being patented on the
11 Scopeware website?

12 ANSWER: I don't recall.

13 QUESTION: But you're not sure whether it
14 contained such a reference or not?

15 ANSWER: I'm not sure.

16 QUESTION: Let's mark this as an exhibit,
17 and for the record, this bears Production
18 No. APMW0002187 through APMW001388.

19 Mr. Lindsay, do you ever recall seeing
20 this before?

21 ANSWER: No, I don't.

22 QUESTION: Do you recognize this as being
23 a part of the Scopeware website at the time you looked
24 at the Scopeware website?

25 ANSWER: There are -- there are elements

1 of this which I think are consistent with what I recall
2 having seen on the -- on the Scopeware website, yes.

3 QUESTION: Do you know whether Mirror
4 Worlds has patents?

5 ANSWER: I believe, as part of the
6 subpoena, that there was a specific mention of patents.
7 That was my -- that served to remind me that patents
8 may -- may have existed.

9 MR. CARROLL: Is this Exhibit 84, James?

10 VIDEO TECH: Yes, sir.

11 MR. CARROLL: Your Honor, for the Court
12 and jury's understanding, this is the website page that
13 the questioner just asked Mr. Lindsay back -- about.

14 Okay. Now I've lost my place.

15 MR. KELLEY: Page 77, Line 3 is where you
16 were.

17 MR. CARROLL: Okay.

18 QUESTION: That was --

19 MR. CARROLL: Wait a minute.

20 QUESTION: Do you know whether -- do you
21 know today whether Mirror Worlds has patents?

22 MR. KELLEY: Now wait a minute.

23 MR. CARROLL: Have I already asked you
24 that one?

25 On Page 76, Question, Line 22:

1 QUESTION: Do you know whether -- today
2 whether Mirror Worlds has patents?

3 ANSWER: I believe as part of the
4 subpoena that there was a specific mention of patents.
5 That was my -- that served to remind me that patents
6 may -- may have existed.

7 QUESTION: You said, sir, to remind you
8 that patents may have existed?

9 ANSWER: Yes.

10 QUESTION: What do you mean by that?

11 ANSWER: Prior to having read the
12 subpoena, I had no memory of whether patents existed or
13 not.

14 MR. CARROLL: And then:

15 QUESTION: Hmm.

16 ANSWER: Having read the subpoena, I then
17 had to believe that patents did exist.

18 QUESTION: At the time you spoke with Mr.
19 Prager, did you believe that Mirror Worlds had patents?

20 ANSWER: I don't recall having been aware
21 of whether Scopeware did or did not have patents.

22 QUESTION: If you look at the first page
23 of this exhibit, the third paragraph, and that's
24 Exhibit 84, do you see the line reading: A patented
25 document object model?

1 MR. KELLEY: That's just the word:
2 ANSWER: Hmm.
3 QUESTION: Do you have any understanding
4 of that sentence?
5 ANSWER: Yes.
6 QUESTION: What is your understanding?
7 ANSWER: That sentence would refer to
8 a -- that the technology describes has either filed or
9 been granted patents.
10 QUESTION: But you don't recall seeing
11 this when you looked at the Scopeware website, right?
12 ANSWER: No, I don't.
13 MR. CARROLL: And then Page 80:
14 QUESTION: When is the last time you
15 spoke to anyone at Apple about Mirror Worlds?
16 ANSWER: I don't recall a specific date.
17 I believe the last communication I had was around the
18 time that I sent my e-mail to Randy Prager, the last
19 e-mail that I sent.
20 QUESTION: What I was asking was
21 communications that you had about the company with
22 others at Apple.
23 Do you think the last time was about the
24 time you sent that e-mail to Randy Prager?
25 ANSWER: Yes.

1 QUESTION: And up to that point, you had
2 not discussed the company until recently in connection
3 with this subpoena?

4 ANSWER: Correct.

5 QUESTION: Do you know if anyone else at
6 Apple ever looked at the Scopeware website?

7 ANSWER: I don't know.

8 QUESTION: Do you know if Apple
9 retained --

10 MR. CARROLL: Hold on.

11 QUESTION: Do you know if Apple maintains
12 a log or a record of what websites are accessed?

13 ANSWER: I have no idea whether they do
14 or do not.

15 QUESTION: Do you know a Scott Forstall
16 or Bas Ording ever looked at the Scopeware websites?

17 ANSWER: I don't know if they did.

18 QUESTION: Let's mark this as the next
19 exhibit.

20 MR. CARROLL: And then an exhibit called
21 No. 4 is marked.

22 QUESTION: For the record, this is a
23 document bearing Production No. APMW0533772 through
24 APMW0533777.

25 Can you -- Mr. Lindsay, do you recall

1 seeing this before?

2 ANSWER: I do not have any memory of
3 having seen this before.

4 QUESTION: If you look at the top, this
5 is an e-mail that you sent to Scott Forstall and Bas
6 Ording on June 2nd, 2001; is that correct?

7 ANSWER: Yes, it appears to be.

8 MR. CARROLL: Then for the Court and
9 jury's convenience, Your Honor, this is the e-mail we're
10 talking about.

11 Page 82:

12 QUESTION: So if you look at the top of
13 the e-mail, it says: You can see a screenshot of the
14 product. And it gives a specific website.

15 ANSWER: Yes.

16 QUESTION: Do you remember whether you
17 went to that specific website?

18 ANSWER: I don't recall having gone to
19 that -- to the specific website.

20 QUESTION: Do you think you went to that
21 website?

22 ANSWER: I don't know.

23 QUESTION: Did you have discussions with
24 Mr. Forstall or Mr. Ording regarding Scopeware at any
25 point?

1 ANSWER: I don't -- sorry.

2 QUESTION: At any point?

3 ANSWER: I don't recall any specific
4 conversations.

5 QUESTION: I believe earlier you
6 testified that you were the only person at Apple who
7 followed up into looking at this company; is that
8 correct?

9 ANSWER: Yes. Followed up in terms of
10 reaching out to Mirror Worlds.

11 QUESTION: So why would you have sent
12 this e-mail to Mr. Forstall and Mr. Ording regarding the
13 company?

14 ANSWER: I may have been soliciting an
15 opinion of what they felt the product offered.

16 QUESTION: But you don't recall any
17 specific conversations you had with either individual
18 involving the company, correct?

19 ANSWER: I don't, no.

20 QUESTION: And you also don't recall any
21 specific conversations you had regarding the company
22 with anyone else about that product?

23 ANSWER: No.

24 QUESTION: I'd like to mark this as the
25 next exhibit.

1 Have you ever seen this, Mr. Lindsay?

2 And for the record, this is Lindsay 4

3 through 5.

4 ANSWER: I have not seen this specific
5 document before, no.

6 QUESTION: This is a document that you
7 gave your counsel in searching for documents relating to
8 this lawsuit; is that correct?

9 ANSWER: I don't believe -- I don't
10 believe this was a document -- the formatting is
11 unfamiliar to me, and I can't verify whether this is a
12 document I provided or whether this is from another
13 source.

14 QUESTION: If you look at the first page,
15 you'll see that it is an e-mail from Randy Prager to
16 you, Don Lindsay, with lawrence@mirrorworlds.com copied.

17 Do you see that?

18 ANSWER: Yes.

19 QUESTION: Do you recall having received
20 this e-mail from Mr. Prager?

21 ANSWER: Yes.

22 QUESTION: If you look at this first
23 page, it says: Don, thank you for your interest in
24 Scopeware.

25 ANSWER: Yes.

1 QUESTION: Do you see that?

2 ANSWER: Yes.

3 QUESTION: Was this the first time that
4 Mr. Prager had contacted you?

5 ANSWER: I believe so, yes.

6 QUESTION: It goes on to say: We believe
7 that Scopeware represents a major step forward in how
8 people interact with computers. I am attaching a copy
9 of David Gelernter's (MWT's founder and chief scientist)
10 keynote speech at PC-Expo.

11 Do you see that?

12 ANSWER: Yes.

13 QUESTION: Do you recall ever reading
14 that -- a copy of that speech?

15 ANSWER: I do not recall reading a copy.

16 QUESTION: It goes on to state that,
17 quote, this sentiment was recently echoed in the Gilder
18 Technology Report.

19 Do you see that?

20 ANSWER: Yes.

21 QUESTION: Do you know what the Gilder
22 Technology Report is?

23 ANSWER: I do not.

24 QUESTION: Do you recall ever having read
25 the Gilder Technology Report?

1 ANSWER: I have no memory of reading that
2 technology report, no.

3 QUESTION: At the time you received this
4 e-mail, Mr. Lindsay, what was your reaction? What was
5 your reaction to the e-mail?

6 ANSWER: I was pleased that Randy Prager
7 had replied to my e-mail.

8 QUESTION: All the time -- or excuse me.
9 At the time you received this e-mail, what did you
10 believe Scopeware was?

11 ANSWER: I believed Scopeware was both a
12 technology and a product.

13 QUESTION: What type of product did you
14 think it was?

15 ANSWER: I believed it was a product to
16 facilitate the finding of documents.

17 QUESTION: At that time, did Apple have a
18 product that could facilitate the finding of documents,
19 and what was that product?

20 ANSWER: The product title was Sherlock.

21 QUESTION: Did you have any involvement
22 in the development of Spotlight?

23 ANSWER: No, I did not.

24 QUESTION: Did you have any development
25 in the -- excuse me.

1 Did you have any involvement in the
2 development of Sherlock?

3 ANSWER: I had no direct involvement. A
4 member of my user interface team was involved in the
5 development of the user interface of Sherlock.

6 MR. CARROLL: Okay. And then going to
7 Page 89.

8 QUESTION: Earlier you said that you had
9 reached out to Mr. Prager, correct?

10 ANSWER: Yes.

11 MR. CARROLL: And then going to Page 91.

12 QUESTION: After receiving the e-mail
13 from Mr. Jobs in 2001, did you ever discuss with
14 Mr. Jobs e-mail -- or excuse me -- Mirror Worlds?

15 ANSWER: I don't recall having a specific
16 conversation. Sorry. No, I don't recall a specific
17 conversation.

18 QUESTION: Either in person or e-mail or
19 on the phone, correct?

20 ANSWER: Yes. I don't recall.

21 QUESTION: Do you recall ever discussing
22 David Gelernter or Scopeware with Mr. Jobs after that
23 e-mail?

24 ANSWER: I don't recall a conversation or
25 exchange of mail.

1 QUESTION: Earlier we talked about a
2 recommendation you made about the company.

3 ANSWER: Yes.

4 QUESTION: Do you remember that?

5 ANSWER: Yes.

6 QUESTION: Who did you make that
7 recommendation to?

8 ANSWER: I would have made that
9 recommendation to my boss, Kevin Tiene.

10 QUESTION: Anyone else?

11 ANSWER: Beyond that, I'm not certain if
12 I made a recommendation to anyone else.

13 QUESTION: So far as you know, after the
14 first -- this first recommend -- excuse me.

15 So far as you know, after this
16 recommendation, there were no more dealings between
17 Mirror Worlds and Apple, correct?

18 ANSWER: I'm not aware of any, no.

19 QUESTION: Have you heard of something
20 called Coverflow before?

21 ANSWER: Yes.

22 QUESTION: Did you have any involvement
23 in the development of Coverflow?

24 ANSWER: No, I did not.

25 QUESTION: Did you have any involvement

1 in the development of Time Machine?

2 ANSWER: No, I didn't.

3 MR. CARROLL: And then going to Page 94.

4 QUESTION: Mr. Lindsay --

5 MR. CARROLL: And this is in response to
6 Lindsay Exhibit No. 6 having been marked.

7 QUESTION: Mr. Lindsay, do you recall
8 seeing this before?

9 ANSWER: Yes.

10 MR. CARROLL: And I believe it's on the
11 screen, Your Honor.

12 QUESTION: And when was the first time
13 you saw it?

14 ANSWER: When I was -- when I was
15 retrieving documents to submit as part of the subpoena,
16 I recall having seen this document.

17 MR. CARROLL: And for the record, Exhibit
18 6 is Lindsay 10, and then there's a lawyer: Thank you.

19 QUESTION: Do you remember seeing this
20 e-mail -- excuse me.

21 Do you remember sending this e-mail to
22 Randy Prager?

23 ANSWER: I don't recall specifically
24 having sent it, no.

25 QUESTION: But you know -- but you have

1 no reason to believe you didn't send it, correct?

2 ANSWER: Correct.

3 QUESTION: Do you see where you state: I
4 can see a clear application of the streams concept in an
5 enterprise market, but I am struggling with how it might
6 benefit a consumer or K-12 education user?

7 ANSWER: Yes.

8 QUESTION: What did you mean by that?

9 ANSWER: I had an understanding of the
10 streams concept as it applied to an enterprise market
11 with certain expectations around volume of
12 documentation.

13 And here, I'm communicating that I have
14 less of an understanding how that would apply to a
15 market which produces a substantially less sizeable
16 volume of information.

17 QUESTION: The last paragraph of the
18 e-mail, I'll assume that you would like to give a demo,
19 and then we can discuss how your product technology
20 might scale down to a consumer or small work group.

21 Do you see that?

22 ANSWER: Yes.

23 QUESTION: And then Lindsay Exhibit No. 7
24 is marked.

25 For the record, this is a document

1 bearing Production Nos. LIN-Lindsay 15 through 19.

2 Mr. Lindsay, is this the recommendation
3 we've been talking about that you gave regarding Mirror
4 Worlds' Technology?

5 ANSWER: I see no recommendation in this
6 document.

7 QUESTION: If you look at the second
8 paragraph, it states, quote: In looking at the
9 information on their website, it is difficult to see how
10 such a technology benefits the majority of our users who
11 don't deal with complex file hierarchies or a large
12 amount of disparate information.

13 Do you see that?

14 ANSWER: Yes.

15 QUESTION: Does that refresh your
16 recollection at all regarding whether this is the
17 recommendation?

18 ANSWER: Again, I don't believe there is
19 a recommendation here. I'm simply stating an opinion.

20 QUESTION: Well, earlier when you talked
21 about a recommendation that you gave to Mr. Tiene, what
22 were you referring to?

23 ANSWER: That would have been a preface
24 to a mail in which I later sent to Randy Prager deciding
25 to -- declining to pursue any further discussions.

1 QUESTION: Okay.

2 ANSWER: That --

3 QUESTION: So that was the recommendation
4 you were referring to?

5 ANSWER: Yes.

6 QUESTION: That e-mail that you later
7 sent -- that e-mail that you later sent to Mr. Prager?

8 ANSWER: Yes.

9 QUESTION: Picking up where I left off,
10 do you see where it states, quote: This is especially
11 true in light of our recent discussions of each
12 application managing its own documents obviating the
13 need for a file manager, unquote.

14 Do you see that?

15 ANSWER: I do.

16 QUESTION: What did you mean by that
17 statement?

18 ANSWER: I'm not sure what I specifically
19 meant.

20 QUESTION: At the time you wrote this
21 e-mail, did Apple have applications that could manage
22 its own documents?

23 ANSWER: Yes.

24 QUESTION: What were those applications?

25 ANSWER: I believe there was one that

1 was -- sorry, two. There was the iTunes application,
2 which managed video files, and the Finder application,
3 which managed a variety of document types.

4 QUESTION: Have you heard the term,
5 quote, file manager, unquote before, Mr. Lindsay?

6 ANSWER: I've heard it, yes, as a general
7 term, about an application that manages files on disks.

8 QUESTION: And a file manager, would that
9 manage files for many different applications?

10 ANSWER: It manages files in general. It
11 usually has no association with any other application.

12 QUESTION: While you were -- while you
13 were employed at Apple, Mr. Lindsay, did Apple have any
14 products that acted as a file manager?

15 ANSWER: Yes.

16 QUESTION: What was the name of that
17 product or products?

18 ANSWER: The application name was Finder,
19 and it was part of every release of Mac OS.

20 QUESTION: When was Finder first
21 released?

22 ANSWER: I believe it was in the first
23 version of Mac OS.

24 QUESTION: First version of Mac OS?

25 ANSWER: First version of Mac OS.

1 QUESTION: Oh, the first version. And
2 when was the first version of Mac OS released?
3 ANSWER: I don't -- I don't know what
4 year it was.
5 QUESTION: Do you know -- approximately,
6 do you know the year?
7 ANSWER: Mid-'80s.
8 QUESTION: Mac OS includes the Finder,
9 which performs --
10 MR. CARROLL: Wait a minute. That's you.
11 QUESTION: Does Mac OS 10 have a file
12 manager?
13 ANSWER: Mac OS 10 includes the Finder,
14 which performs file management tasks.
15 QUESTION: So, Mr. Lindsay --
16 MR. CARROLL: This is on Page 102.
17 QUESTION: So, Mr. Lindsay, earlier I
18 believe you said that after receiving the July 2001
19 e-mail from Mr. Jobs that you looked into the company,
20 Mirror Worlds, correct?
21 ANSWER: Yes.
22 QUESTION: And that no one else who
23 received that e-mail looked into the company, Mirror
24 Worlds; is that correct?
25 ANSWER: Not that I'm aware of, correct.

1 QUESTION: Not that you're aware of?

2 ANSWER: Yes.

3 QUESTION: How was it that you looked
4 into the company, Mirror Worlds, and not the others who
5 received the e-mails from Mr. Jobs?

6 ANSWER: I don't know what others may
7 have not -- or may or may not have looked at them.

8 QUESTION: I guess what I'm trying to
9 understand is, how it was, if (sic) -- that, you know,
10 you, rather than others, were -- you, rather than the
11 others, were designated, if I could use that term, to
12 look into the company?

13 ANSWER: There -- there may have been
14 something unique in the user interface of the product
15 which directly applied to my knowledge and the team's
16 responsibility.

17 QUESTION: And the document you have in
18 front of you with Production No. Lindsay 15, do you see
19 the last sentence of that e-mail?

20 I have also -- I also have a transcript
21 of a recent talk of Gelernter that explains the concept
22 behind the Lifestreams?

23 ANSWER: Yes.

24 QUESTION: What transcript are you
25 referring to?

1 ANSWER: I don't know specifically what
2 file or what talk it may have referred to.

3 QUESTION: Do you know if any of the
4 e-mail recipients read the transcript?

5 ANSWER: I have no way of knowing.

6 QUESTION: You didn't discuss the
7 transcript with -- let's break it down.

8 You never discussed the transcript with
9 Bertrand Serlet?

10 ANSWER: I don't recall having spoken
11 about it with anyone.

12 QUESTION: What about with Scott Forstall
13 or Kevin Tiene, Vas Ording, or Ken Bereskin?

14 ANSWER: I don't recall having spoken to
15 any of them about the transcript.

16 QUESTION: Getting back to the e-mail
17 from Mr. Jobs asking someone to look into the
18 technology, did you ever discuss with anyone at Apple
19 who would look into the company, Mirror Worlds?

20 ANSWER: I don't recall the discussions
21 specific to who should -- who should take this
22 assignment.

23 QUESTION: But you just decided by
24 yourself to take this assignment, correct?

25 ANSWER: Correct. I don't recall --

1 excuse me.

2 I don't recall if it was my decision or
3 if I was assigned responsibility.

4 MR. CARROLL: And then we're marking the
5 next Exhibit No. 8.

6 QUESTION: For the record, can I just --
7 this is a document bearing Production No. Lindsay 29.

8 Have you seen this before?

9 ANSWER: Yes.

10 QUESTION: This is an e-mail you sent to
11 Randy Prager on or about October 21st -- excuse me --
12 24th, 2001; is that correct?

13 ANSWER: Yes.

14 QUESTION: Earlier we spoke about the --
15 a recommendation.

16 Do you recall that?

17 ANSWER: Yes.

18 QUESTION: Was this the recommendation
19 you were talking about?

20 ANSWER: This e-mail summarizes or
21 communicates -- sorry -- the recommendation to Randy.

22 QUESTION: Was this your personal
23 recommendation or Apple's recommendation?

24 ANSWER: I don't recall.

25 QUESTION: Do you have any recollection

1 as to whether this recommendation came solely from you
2 or whether other people were involved in that
3 recommendation?

4 ANSWER: Others would have been involved
5 in making the final recommendation.

6 QUESTION: Who else was involved in
7 making the final recommendation?

8 ANSWER: I communicated a recommendation
9 to my manager, Kevin Tiene.

10 QUESTION: Anybody else?

11 ANSWER: Not that I can recall.

12 QUESTION: Do you remember the specifics
13 of the conversation you had with Mr. Tiene?

14 ANSWER: No. I'm sorry.

15 QUESTION: Do you remember anything about
16 that conversation?

17 ANSWER: No. I don't even recall the
18 conversation -- I don't even recall the conversation
19 happening.

20 QUESTION: Then how was it that you
21 communicated with Mr. Tiene about this topic?

22 ANSWER: As a matter of course of my
23 business, I would have communicated an opinion such as
24 this.

25 QUESTION: So you -- sitting here now,

1 you have no recollection of ever having communicated
2 your recommendation with regard to the company to
3 Mr. Tiene; you just think you would have had in the
4 normal course of your business; is that correct?

5 ANSWER: Yes.

6 QUESTION: Other than Mr. Tiene -- you
7 said other than Mr. Tiene, you couldn't think of anybody
8 else you could have been involved -- who could have been
9 involved in that decision.

10 ANSWER: I'm not aware of anyone else who
11 was involved.

12 QUESTION: Now, if you look at the
13 e-mail, it states, quote: After some discussion, we
14 decided not to pursue this further. We're going to
15 continue to refine our existing indexing and
16 file-searching technologies (Sherlock) and investigate
17 how we might utilize some of our existing patents and
18 designs in our efforts to further simplify the file
19 management experience.

20 Do you see that?

21 ANSWER: Yes.

22 QUESTION: What do you mean by further
23 simplify the file management experience?

24 ANSWER: The purpose of user interface
25 design and the responsibility of my organization was to

1 continue to, quote, simplify, unquote, is really the
2 most descriptive word.

3 The complexity of a task such as file
4 searching, and I struggle to find other words to further
5 clarify that -- simplify is, I think, the best word I
6 can determine.

7 QUESTION: When you talked about
8 simplifying the file management experience, did you have
9 in mind a central file manager, as opposed to each
10 application managing its own documents?

11 ANSWER: No. There was -- no, I did not
12 have in mind a specific application.

13 QUESTION: After you sent this e-mail on
14 or about October 24th, 2001, do you know which direction
15 Apple went towards -- regard -- towards -- went forwards
16 regarding this -- the file searching?

17 ANSWER: No, I don't.

18 MR. CARROLL: And then we'll go to
19 Page 111.

20 QUESTION: So when you started getting
21 back to the e-mail you sent to Mr. Prager in October of
22 2001, when you stated you were, quote, going to continue
23 to refine our existing indexing and file-searching
24 technology (Sherlock), did you have in mind anything
25 other than Sherlock?

1 ANSWER: No.

2 QUESTION: And after you sent this
3 e-mail, did Apple, in fact, continue to refine its
4 existing indexing and file-searching technologies?

5 ANSWER: I don't recall.

6 QUESTION: You don't know, or you don't
7 recall?

8 ANSWER: I don't recall.

9 QUESTION: Getting back to this e-mail,
10 it reads: And investigate how we might utilize some of
11 our existing patents and designs.

12 Do you know what patents that's referring
13 to?

14 ANSWER: I don't know specifically what
15 patents that's referring to.

16 QUESTION: Did you know at one point?

17 ANSWER: I don't recall whether I did or
18 did not know.

19 MR. CARROLL: And then we'll go to
20 Page 113.

21 QUESTION: Earlier today we talked about
22 your reason for deciding not to go with Mirror Worlds.

23 ANSWER: Hmm.

24 QUESTION: Can you elaborate on that
25 reason some more?

1 ANSWER: My responsibility was to
2 evaluate the user interface, its novelty and possible
3 application and suitability to Apple products and Apple
4 customers.

5 My decision was -- my recommendation --
6 I'm sorry -- was that I didn't think that the technology
7 or product met those criteria.

8 QUESTION: And that criteria is novelty
9 and possible application and suitability?

10 ANSWER: Yes.

11 MR. CARROLL: And then moving over the
12 Page 115.

13 QUESTION: Would you please give an
14 answer with respect to that criteria.

15 ANSWER: So one of those was suitability.
16 I had previously talked about Apple's markets being
17 primarily consumer and education, and I didn't feel that
18 what the Mirror Worlds Technology offered or product
19 offered was suitable for those marketplaces.

20 MR. CARROLL: And then we'll go over to
21 Page 118.

22 QUESTION: What do you remember about
23 Scopeware?

24 ANSWER: I remember Scopeware is a
25 solution for navigating large volumes of information.

1 QUESTION: At the time you had
2 discussions with Mirror Worlds --

3 ANSWER: Correct.

4 QUESTION: -- did Apple have anything
5 that could navigate large volumes of information?

6 ANSWER: Yes.

7 QUESTION: And what product was that?

8 ANSWER: The application Finder as the
9 management system could navigate large volumes of
10 information.

11 QUESTION: You didn't recall one way or
12 the other at the time whether you thought Scopeware was
13 new or not?

14 ANSWER: Scopeware was clearly new. I
15 had no knowledge of it, so it was a -- believed it to be
16 a new solution.

17 QUESTION: When you say Scopeware was,
18 quote, new, unquote, what are you referring to: Just
19 the name Scopeware or the capabilities and features of
20 Scopeware?

21 ANSWER: The capability of it was new to
22 me.

23 QUESTION: So as far as you knew, it was
24 new.

25 ANSWER: Yes.

1 please.

2 ANSWER: I was involved with every
3 release of Mac OS operating system between versions 8.0
4 through 10.3.

5 MR. CARROLL: All right. Now we'll go to
6 Page 127.

7 QUESTION: Mr. Lindsay, earlier we talked
8 about the suitability of Scopeware to Apple's customers.

9 Do you remember that?

10 ANSWER: Yes.

11 QUESTION: At the time you made your
12 recommendation, it was your belief that it was not
13 suitable for Apple's customers, correct?

14 ANSWER: Correct.

15 QUESTION: Could you elaborate on why you
16 thought it was not suitable for Apple's customers?

17 ANSWER: No, I don't believe I can.

18 QUESTION: Well, why did you think it was
19 not suitable for Apple's customers?

20 ANSWER: I previously mentioned that I
21 felt it was better targeted at very large volumes of
22 information, and that given Apple's market, that it was
23 not suitable.

24 QUESTION: I apologize if I've -- if
25 we've gone over this earlier, but Apple's market is

1 individual users and the K through 12 education sector;
2 is that correct?

3 ANSWER: Yes.

4 QUESTION: And you think that individual
5 users would not have a need to search through large
6 volumes of information; is that correct?

7 ANSWER: There may be individuals who
8 have that need, but in thinking in the broader context
9 of the market, I don't believe so, no.

10 QUESTION: So you felt this was more of a
11 need that large companies would have?

12 ANSWER: Correct.

13 QUESTION: And when did you first --

14 MR. CARROLL: Let me start over.

15 QUESTION: Well, when you first heard of
16 that Scopeware product, did you think it was a good
17 idea?

18 ANSWER: The task that I took on was to
19 try to evaluate what I thought Scopeware was.

20 QUESTION: So did you think it was a good
21 idea?

22 ANSWER: I thought it was an interesting
23 solution for a very specific need.

24 QUESTION: And that need was searching
25 through large volumes of information, correct?

1 ANSWER: Correct.

2 QUESTION: And you had not seen such a
3 solution prior to hearing about Scopeware?

4 ANSWER: I don't recall whether I had
5 seen a solution similar to Scopeware previously, no.

6 QUESTION: You have not seen one?

7 ANSWER: I don't recall having seen one.

8 QUESTION: So you don't recall having
9 seen one?

10 ANSWER: Correct.

11 QUESTION: I believe earlier you said
12 that you've never spoken to Dr. -- excuse me -- to David
13 Gelernter; is that correct?

14 ANSWER: I do not believe I have spoken
15 to David, no.

16 MR. CARROLL: And then let's go to
17 Page 134.

18 QUESTION: Do you know the features of
19 Sherlock?

20 ANSWER: A feature. Sherlock was a
21 search application. You would enter a search term, and
22 it would -- and it would return a list of matching
23 files.

24 MR. CARROLL: And that, mercifully, ends
25 the offer, Your Honor.

1 THE COURT: Thank you, Mr. Carroll.

2 Mr. Carroll, that took about 50 minutes.

3 How is that time to be divided?

4 MR. CARROLL: May we get with our friends
5 and get that figured out?

6 THE COURT: Right now it's all being
7 charged to you, so let me know how much y'all would
8 agree to.

9 MR. CARROLL: I will. Thank you, Your
10 Honor.

11 THE COURT: Okay. All right. Very well.

12 Ladies and Gentlemen, we're going to take
13 our noon recess at this time. Be in recess until 1:00
14 o'clock. So please remember my instructions. We'll see
15 you back here then.

16 COURT SECURITY OFFICER: All rise.

17 (Jury out.)

18 (Lunch recess.)

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CERTIFICATION

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I HEREBY CERTIFY that the foregoing is a true and correct transcript from the stenographic notes of the proceedings in the above-entitled matter to the best of our abilities.

/s/ _____ Date
SHEA SLOAN, CSR
Official Court Reporter
State of Texas No.: 3081
Expiration Date: 12/31/10

/s/ _____ Date
JUDITH WERLINGER, CSR
Deputy Official Court Reporter
State of Texas No.: 731
Expiration Date 12/31/10