

EXHIBIT I

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

Eolas Technologies Incorporated,)

Plaintiff,)

vs.) No. 6:09-CV-

Adobe Systems, Inc., Amazon.com, Inc.,) 00445-LED

Apple, Inc., Blockbuster, Inc., CDW)

Corp., Citigroup, Inc., eBay, Inc.,)

Frito-Lay, Inc., Google, Inc.,)

J.C. Penney Company & Co., JPMorgran)

Chase & Co., New Frontier Media, Inc.,)

Office Depot, Inc., Perot Systems Corp.,)

Playboy Enterprises International, Inc.,)

Rent-A-Center, Inc., Staples, Inc., Sun)

Microsystems, Inc., Texas Instruments,)

Inc., Yahoo! Inc., and YouTube, LLC,)

Defendants.)

HIGHLY CONFIDENTIAL

VIDEOTAPED DEPOSITION OF CHRISTOPHER McRAE

SUNNYVALE, CALIFORNIA

MONDAY, SEPTEMBER 19, 2011

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Videotaped Deposition of CHRISTOPHER McRAE,
taken 162 North Wolfe Road, Sunnyvale,
California, commencing at 10:05 a.m.,
Monday, September 19, 2011, before
Rebecca L. Romano, CSR No. 12546

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1 you not to answer, you still have to answer the 10:07:59
 2 question. But they're usually used for court later on 10:08:00
 3 to decide what should be in the record and what should 10:08:04
 4 not be in the record if only the transcript is used at 10:08:06
 5 trial. 10:08:09
 6 **Q. You understand you are under oath?** 10:08:10
 7 A. Yes, I do. 10:08:12
 8 **Q. Is there any reason you can't give your best 10:08:13**
 9 **testimony today?** 10:08:16
 10 A. No. 10:08:18
 11 **Q. Are you on any medication or any other -- 10:08:19**
 12 A. No. I'm recovering from a cough, so I 10:08:20
 13 apologize. 10:08:22
 14 **Q. We can work with that.** 10:08:23
 15 **What did you do prepare for your deposition 10:08:24**
 16 **today?** 10:08:26
 17 A. I met with my attorney. 10:08:27
 18 **Q. When?** 10:08:28
 19 A. Last week. 10:08:30
 20 **Q. How long did you meet with your attorney?** 10:08:31
 21 MR. KAO: So just instruct you, don't reveal 10:08:34
 22 any attorney-client communications or the substance. 10:08:37
 23 You can tell him roughly. 10:08:41
 24 THE DEPONENT: I think it was an hour or two. 10:08:45
 25 **Q. (By Mr. Wolff) Okay. And before you met 10:08:47**
 Page 14

1 with your attorney last week, had you met with him 10:08:48
 2 other times to go over documents and things? 10:08:50
 3 **This is just a yes-no question.** 10:08:52
 4 A. Yes. 10:08:54
 5 **Q. How much time did you spend reviewing 10:08:56**
 6 **materials?** 10:08:56
 7 MR. KAO: I'm going to object to that to the 10:08:57
 8 extent it calls for attorney-client privileged 10:08:58
 9 information in the times we met. 10:09:01
 10 **Q. (By Mr. Wolff) Can you answer how much time 10:09:03**
 11 **you --** 10:09:05
 12 A. I don't honestly know. I -- I -- you know, I 10:09:05
 13 received your subpoena last May, I think it was. 10:09:10
 14 **Q. Right.** 10:09:13
 15 A. And shortly after that I engaged his 10:09:14
 16 services. 10:09:17
 17 **Q. Okay.** 10:09:17
 18 A. And we have met a number of times. 10:09:18
 19 **Q. Would you say more than eight hours or less 10:09:20**
 20 **than eight hours?** 10:09:22
 21 A. I would say more than eight hours. 10:09:23
 22 **Q. Okay. And more than one occasion?** 10:09:25
 23 A. Yes. 10:09:28
 24 MR. WOLFF: I will have the reporter mark as 10:09:34
 25 Exhibit 1 a copy of the subpoena you were sent. 10:09:36
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(Whereupon, Exhibit 1 was marked for 10:09:38
 identification.) 10:09:38
Q. (By Mr. Wolff) Do you recognize what's been 10:09:48
marked as Exhibit 1? 10:09:49
 A. Do I recognize what? 10:09:52
Q. What's been marked as Exhibit 1? 10:09:53
 A. Yes. 10:09:55
Q. And how is it that you recognize it? 10:09:56
 A. I received it. 10:09:58
Q. Okay. And did you collect documents using 10:10:00
this subpoena as a guide? 10:10:02
 A. Yes. 10:10:05
 Collect documents? I mean -- 10:10:07
Q. Yes. 10:10:09
 A. -- I uncovered them from my garage. 10:10:09
Q. Okay. All right. And is your address 10:10:12
correct on Exhibit 1? 10:10:15
 A. One moment. Yes. 10:10:21
Q. And what is your date of birth? 10:10:28
 A. 8-14-63. 10:10:30
Q. You did collect quite a bit of materials, 10:10:40
electronic information. You said you found that in 10:10:43
your garage? 10:10:45
 A. Yes. 10:10:46
Q. Where was it that you found it in your 10:10:47
 Page 16

garage? Did you have a box of old material or multiple 10:10:49
 boxes? 10:10:52
 A. Yes. I have many boxes of material. 10:10:53
Q. Okay. And you turned all that over to the -- 10:10:55
what, I can't remember, FedEx Kinko's? 10:11:00
 A. That's right. 10:11:03
Q. And then you were -- were you provided a copy 10:11:05
of those materials by FedEx Kinko's -- 10:11:07
 A. Yes. 10:11:12
Q. -- after you... 10:11:12
And did you look through the materials that 10:11:12
you got from FedEx Kinko's, and did they appear to be 10:11:14
all the materials that you turned over to them? 10:11:17
 A. Yes. I actually didn't look very closely at 10:11:19
 the copies that I received from them. I had already 10:11:21
 looked at the originals. 10:11:23
Q. Okay. And the materials that you collected, 10:11:24
were those materials that had been in your possession 10:11:25
since the date on the documents and materials? 10:11:27
 A. Yes. 10:11:32
Q. And how far back did those materials go? 10:11:33
 A. The ones I turned over to you, they go back 10:11:36
 to -- well, actually, there was a few from my time at 10:11:39
 UCLA, which predated my time at U.C. San Francisco. I 10:11:44
 believe those go back to 1990 or even '91. 10:11:49
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1 **Q. And did you have e-mail from UCLA?** 10:11:52
2 A. Yes. It's there in my account. I had it in 10:11:54
3 my -- I had a backup of my UCLA account in my UCSF 10:11:57
4 account, which was the record which I turned over to 10:12:04
5 you. 10:12:07
6 **Q. Okay. And besides the electronic materials, 10:12:08**
7 **you found some paper materials, too; is that correct?** 10:12:10
8 A. That's right. 10:12:13
9 **Q. And what generally were those paper 10:12:13**
10 **materials?** 10:12:16
11 A. What generally were they? 10:12:17
12 **Q. Yes. 10:12:18**
13 A. Employment records. My review from May 1993. 10:12:19
14 You know, hire papers. There were some printouts of 10:12:26
15 technical documentation. And I don't recall exactly 10:12:31
16 the other -- the other things I have. 10:12:38
17 **Q. And those were materials that -- did you have 10:12:40**
18 **them since the dates indicated on the covers of those 10:12:42**
19 **documents?** 10:12:45
20 A. Yes. 10:12:45
21 **Q. And did you have them organized in any kind 10:12:46**
22 **of folders or were they just loosely in the box?** 10:12:49
23 A. Well, they -- I had -- they were somewhat 10:12:53
24 organized when I first printed them out or received 10:12:56
25 them. Over the years I suppose they got jumbled a bit. 10:13:01
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MR. WOLFF: Okay. 10:14:15
THE DEPONENT: Yes, I did. I listened to it. 10:14:16
Q. (By Mr. Wolff) Okay. One side it sounds 10:14:18
like it was you talking. Maybe -- was it some 10:14:20
preparatory notes or was it a -- 10:14:23
A. I believe it was -- 10:14:25
Q. -- recorded conference? 10:14:25
A. I believe it was me record- -- me practicing 10:14:26
for my presentation at that first SIGWEB -- SIGWEB 10:14:28
meeting. 10:14:30
Q. And -- 10:14:33
MR. KAO: So let's -- we'll just take a quick 10:14:34
break. 10:14:36
MR. WOLFF: Okay. 10:14:36
MR. KAO: Make sure we're not... 10:14:38
THE VIDEOGRAPHER: We are off the record at 10:14:39
10:14 a.m. 10:14:40
(Recess taken.) 10:14:42
THE VIDEOGRAPHER: We are back on the record 10:17:06
at 10:16 a.m. 10:17:08
You may proceed. 10:17:09
Q. (By Mr. Wolff) All right. Before we took a 10:17:10
break we were talking about the cassette tape. I 10:17:12
indicated there were two MP3 files. One is the front 10:17:13
side. 10:17:16
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I'm not certain that the Kinko's people did not 10:13:07
rearranged them in any way. 10:13:10
Q. All right. Did you also have some notebooks 10:13:12
that you located? 10:13:14
A. That's right. 10:13:15
Q. Okay. And what was -- what generally were 10:13:16
the notebooks? Why did you keep those? 10:13:18
A. Well, I kept them like I've kept everything 10:13:23
since high school, I think or earlier. They contain 10:13:25
very personal things as well as shopping lists, to do 10:13:31
lists, as well as notes about things I was thinking 10:13:37
about, such as my work at U.C. San Francisco. 10:13:41
Q. And recently you have sent some audiotapes to 10:13:48
your counsel; is that correct? 10:13:50
A. That's right. 10:13:54
Q. Okay. And there were two audiotapes in 10:13:54
there, I think. I remember we ended up with two MP3 10:13:57
files from them. 10:13:59
MR. BUDWIN: Two sides of the tape. 10:14:03
MR. WOLFF: All right. 10:14:05
Q. (By Mr. Wolff) Did you look at the audiotape 10:14:05
or do you know what it was? 10:14:06
MR. KAO: We're going to -- I'm going to ask 10:14:08
him to take a brief break after -- you can answer this 10:14:10
question, but if we can just take a quick break after. 10:14:12
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And I think you indicated that it was you 10:17:17
rehearsing for -- was it the SIGWEB Conference? 10:17:17
MR. KAO: I'm going to object that the 10:17:21
audiotapes speak for themselves. They can be 10:17:22
transcribed, if necessary. 10:17:25
Q. (By Mr. Wolff) Was it you rehearsing for the 10:17:30
SIGWEB Conference? 10:17:32
A. I believe so. 10:17:34
Q. Okay. And I think Sting was on the other 10:17:34
side. We don't -- we don't need to get into any of 10:17:37
that. 10:17:40
And the SIGWEB Conference would have been the 10:17:42
October 1993 conference? 10:17:45
A. Yes. 10:17:46
Q. Do you know when you made the recording? 10:17:47
A. It would have been just before that meeting. 10:17:50
Q. Okay. Did you prepare some notes before you 10:17:54
recorded the meeting? 10:17:58
A. Yes. 10:18:00
Q. And did you see that those were some notes 10:18:01
that you produced in this case? 10:18:04
A. I believe so. 10:18:06
Q. Okay. Now, you also -- I should say -- you 10:18:07
did not, EOLAS did -- produce some communications that 10:18:12
your counsel had with Eolas. 10:18:16
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1	A. Yes.	10:18:19	A. I reiterated the points that we made with	10:20:33
2	Q. Did you -- I think we received three -- three	10:18:19	their counsel in our meetings.	10:20:38
3	e-mails from Eolas. There was two from, I think,	10:18:24	Q. And what were those points?	10:20:42
4	August 4th and maybe one from August 9th.	10:18:27	A. I was asserting my co-inventorship and	10:20:45
5	Were there any additional communications with	10:18:30	requesting correction of inventorship.	10:20:52
6	Eolas or Eolas' counsel?	10:18:32	Q. And what was his response?	10:20:55
7	MR. KAO: Answer only if you know.	10:18:40	A. Mike Doyle?	10:20:59
8	THE DEPONENT: Yes.	10:18:42	Q. Yes.	10:21:00
9	Q. (By Mr. Wolff) When were the additional	10:18:42	A. On the phone?	10:21:01
10	communications?	10:18:44	Q. Yes.	10:21:01
11	A. I sent an e-mail to Mike Doyle. I believe it	10:18:47	A. He said that I was not a member of the	10:21:03
12	was two weeks ago. I also had a phone conversation --	10:18:57	invention team and exhorted me to be honest at the	10:21:08
13	two phone conversations with Mike Doyle.	10:18:59	deposition.	10:21:15
14	Q. When did you have phone conversations with	10:19:03	Q. And how long was the conversation you had	10:21:18
15	Mike Doyle?	10:19:05	with Mr. Doyle?	10:21:21
16	A. I had a brief one in June.	10:19:06	A. Just a few minutes.	10:21:22
17	Q. Okay.	10:19:09	Q. And then you had a conversation with him back	10:21:24
18	A. And another about two weeks ago.	10:19:09	in June as well.	10:21:26
19	Q. Was it before or after you sent your e-mail?	10:19:14	A. Yes.	10:21:27
20	A. Which e-mail?	10:19:18	Q. What was the nature of that conversation?	10:21:27
21	MR. KAO: Objection. Vague and ambiguous.	10:19:19	A. Essentially, the same. I informed him I had	10:21:30
22	Q. (By Mr. Wolff) You sent an e-mail about two	10:19:21	received the subpoena, and, you know, I said that, you	10:21:35
23	weeks ago to Mike Doyle, I think you said.	10:19:23	know, I have stayed out of this all this time, but now	10:21:44
24	A. Yes.	10:19:26	I don't have a choice.	10:21:47
25	Q. And you had a conversation -- telephone	10:19:26	And at that time, he exhorted me to be honest	10:21:48

1	conversation with Mike Doyle about two weeks ago,	10:19:28	at the deposition.	10:21:53
2	right?	10:19:30	Q. How long was the first conversation?	10:21:55
3	A. Yes.	10:19:31	A. Five minutes. Less than ten.	10:21:58
4	Q. Did you have your telephone conversation with	10:19:31	Q. Did he offer his counsel to represent you?	10:22:01
5	Mr. Doyle before or after you sent your e-mail to him?	10:19:34	A. No.	10:22:04
6	A. Before.	10:19:39	Q. Did you talk with Mr. Doyle in the June	10:22:10
7	Q. So you had a telephone conversation with him.	10:19:41	conversation about any documents and things that you	10:22:13
8	And then was it shortly thereafter you sent the e-mail?	10:19:44	had located?	10:22:15
9	A. Yes.	10:19:49	A. No.	10:22:16
10	Q. How soon after?	10:19:49	Q. How about in the second conversation?	10:22:16
11	A. Two days, I believe.	10:19:52	A. Yes.	10:22:18
12	Q. I think the -- the e-mail was it something on	10:19:53	Q. In the second conversation, was it the same	10:22:21
13	LinkedIn?	10:19:57	materials that your counsel had communicated to his	10:22:23
14	A. Yes.	10:19:58	counsel?	10:22:25
15	Q. And I think it was dated September 2nd.	10:19:59	A. Yes.	10:22:26
16	A. Okay.	10:20:03	Q. Did he have any response to any of the	10:22:26
17	Q. I could be wrong, but it would have been two	10:20:03	documents that you discussed?	10:22:28
18	days before that, either the 31st of August or	10:20:05	A. No.	10:22:29
19	thereabout?	10:20:11	Q. Before June of 2011, when was the last time	10:22:37
20	A. Yes.	10:20:12	you had a conversation with Mr. Doyle?	10:22:40
21	Q. Okay. Why was it you sent the e-mail to him?	10:20:13	A. July of 1994.	10:22:42
22	A. After our conversation I had more to say, you	10:20:21	Q. Was that in relationship to a conference that	10:22:47
23	know.	10:20:26	you were trying to organize?	10:22:49
24	Q. What was the nature of your conversation with	10:20:29	A. That's right.	10:22:51
25	Mr. Doyle?	10:20:31	Q. Had you had any conversations with any of the	10:22:53

<p>1 other named inventors on the Eolas patents since 1994? 10:22:55</p> <p>2 A. No. 10:23:00</p> <p>3 Q. Not with Mr. Martin? 10:23:02</p> <p>4 A. No. 10:23:03</p> <p>5 Q. Not with Mr. Ang? 10:23:04</p> <p>6 A. No. 10:23:08</p> <p>7 Q. Were you subpoenaed in the first case with 10:23:09</p> <p>8 Microsoft? 10:23:11</p> <p>9 A. No. 10:23:12</p> <p>10 Q. Were you aware of the first litigation with 10:23:13</p> <p>11 Microsoft? 10:23:15</p> <p>12 A. Yes. 10:23:16</p> <p>13 Q. How was it that you became aware of it? 10:23:16</p> <p>14 A. I received a call from someone saying they 10:23:19</p> <p>15 were a Microsoft lawyer, I believe. 10:23:22</p> <p>16 Q. You were not subpoenaed though. 10:23:25</p> <p>17 A. No. 10:23:27</p> <p>18 Q. Did you follow the Eolas litigation with 10:23:36</p> <p>19 Microsoft? 10:23:41</p> <p>20 A. No. 10:23:42</p> <p>21 Q. Were you aware that Eolas had a patent? 10:23:43</p> <p>22 MR. KAO: Objection. Vague and ambiguous. 10:23:48</p> <p>23 You may answer the question, if you 10:23:51</p> <p>24 understand it. 10:23:52</p> <p>25 THE DEPONENT: I became aware when I received 10:23:56</p>	<p>litigation with Microsoft, right? 10:25:20</p> <p>A. Yes. 10:25:22</p> <p>Q. And were they technical articles, like CNET 10:25:22</p> <p>articles? 10:25:25</p> <p>A. Yes. 10:25:26</p> <p>Q. Okay. And were there interviews of Mr. Doyle 10:25:26</p> <p>in these articles? 10:25:31</p> <p>A. Yes. 10:25:32</p> <p>Q. And did you think at that time I might be an 10:25:32</p> <p>inventor on this patent? 10:25:35</p> <p>A. Yes. 10:25:36</p> <p>Q. Did you seek counsel of anything? 10:25:37</p> <p>A. No. 10:25:39</p> <p>MR. KAO: Let's take another break with my 10:25:44</p> <p>client. 10:25:47</p> <p>MR. WOLFF: Okay. 10:25:48</p> <p>THE VIDEOGRAPHER: We are off the record at 10:25:49</p> <p>10:25 a.m. 10:25:51</p> <p>(Recess taken.) 10:25:52</p> <p>THE VIDEOGRAPHER: We are back on the record 10:30:27</p> <p>at 10:30 a.m. 10:30:28</p> <p>You may proceed. 10:30:30</p> <p>MR. KAO: I'm going to reserve a little bit 10:30:34</p> <p>of time. I might ask a couple of questions at the end 10:30:35</p> <p>of this deposition. 10:30:37</p>
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<p>1 the phone call I mentioned from the Microsoft lawyer. 10:23:57</p> <p>2 Q. (By Mr. Wolff) Did you go and look at the 10:24:01</p> <p>3 patent? 10:24:03</p> <p>4 A. I don't think so, no. 10:24:05</p> <p>5 Q. Why not? 10:24:08</p> <p>6 A. Well, that would have been 1998, I think, or 10:24:09</p> <p>7 1999. I don't think it was easily accessible at that 10:24:15</p> <p>8 time. 10:24:20</p> <p>9 Q. Did you follow the result of the litigation 10:24:22</p> <p>10 with Microsoft? 10:24:24</p> <p>11 MR. KAO: Objection. Vague and ambiguous. 10:24:25</p> <p>12 THE DEPONENT: I still answer? 10:24:30</p> <p>13 MR. KAO: You can still answer, if you 10:24:33</p> <p>14 understand. 10:24:35</p> <p>15 THE DEPONENT: No, I didn't follow it. I 10:24:40</p> <p>16 first really began following it in I believe it was 10:24:42</p> <p>17 2002 or 2003. 10:24:47</p> <p>18 Q. (By Mr. Wolff) Okay. And what did you do to 10:24:48</p> <p>19 follow it? 10:24:51</p> <p>20 A. Again, I had received a call -- calls. And 10:24:53</p> <p>21 I -- I think I Googled or searched the Internet and 10:24:59</p> <p>22 found articles about the case. 10:25:05</p> <p>23 Q. What sort of articles? 10:25:08</p> <p>24 A. I don't understand the question. 10:25:15</p> <p>25 Q. You found some articles discussing the 10:25:17</p>	<p>MR. WOLFF: Okay. 10:30:40</p> <p>MR. KAO: Try to plan for that. 10:30:40</p> <p>MR. WOLFF: So if we -- yeah. Certainly, 10:30:42</p> <p>it's going to be a long day -- 10:30:42</p> <p>MR. KAO: Sure. 10:30:45</p> <p>MR. WOLFF: -- if we're taking breaks every 10:30:45</p> <p>few minutes. 10:30:46</p> <p>MR. KAO: Sure. 10:30:47</p> <p>MR. WOLFF: So it would be nice if we could 10:30:47</p> <p>take a break about every hour or so, but I appreciate 10:30:48</p> <p>that sometimes you will have some conferences and -- 10:30:50</p> <p>MR. KAO: Sure. 10:30:52</p> <p>MR. WOLFF: -- you need to caucus with your 10:30:53</p> <p>client. 10:30:56</p> <p>Q. (By Mr. Wolff) Before the break I was asking 10:30:56</p> <p>you whether you had followed the litigation with 10:30:58</p> <p>Microsoft, and you indicated that you had. 10:31:01</p> <p>I had asked if you thought at that time that 10:31:03</p> <p>you might be an inventor on the patent or patents, 10:31:06</p> <p>whatever it was you knew about at the time. 10:31:10</p> <p>Do you have any -- and I think you indicated 10:31:14</p> <p>yes, you thought you were; is that correct? 10:31:16</p> <p>A. Yes. 10:31:18</p> <p>Q. Do you need to change that testimony? 10:31:18</p> <p>A. No. 10:31:21</p>
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1 **Q. Do you have any agreement with Eolas or with** 10:31:26
2 **the McKool Smith law firm right now?** 10:31:27
3 A. No. 10:31:31
4 **Q. Are there still discussions between you and** 10:31:33
5 **Eolas or Eolas' lawyers about your inventorship claim?** 10:31:35
6 A. I don't understand. 10:31:42
7 **Q. Are you still having discussions since you** 10:31:43
8 **last spoke or last talked with anybody from Eolas was** 10:31:46
9 **when?** 10:31:50
10 A. Nothing. We have no scheduled meetings 10:31:51
11 planned. 10:31:55
12 **Q. So the last thing that was sent would have** 10:31:57
13 **been your e-mail to Mr. Doyle around September 2nd.** 10:31:59
14 A. Yes. 10:32:03
15 **Q. Do you know whether your counsel has had any** 10:32:04
16 **conversations with Eolas since that time?** 10:32:06
17 A. No. 10:32:10
18 **Q. You don't know that he has one way or the** 10:32:11
19 **other, or you know that he hasn't?** 10:32:14
20 A. He has not informed me of any conversations 10:32:16
21 that he has had with them. 10:32:19
22 MR. WOLFF: I will have the reporter hand you 10:32:24
23 what's been marked as Exhibit 2. 10:32:25
24 (Whereupon, Exhibit 2 was marked for 10:32:26
25 identification.) 10:32:26

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1 **Q. (By Mr. Wolff) Do you recognize what has** 10:32:42
2 **been marked as Exhibit 2?** 10:32:43
3 A. No. 10:32:50
4 **Q. This a document bearing Bates Nos. CM001044** 10:32:54
5 **through CM001046.** 10:32:58
6 MR. KAO: Take your time to review the 10:33:04
7 document as needed. 10:33:05
8 THE DEPONENT: I will need a few minutes. 10:33:06
9 **Q. (By Mr. Wolff) Actually, I'm not so** 10:33:19
10 **interested in the first page, mostly the second page** 10:33:20
11 **with your -- with your resume on it.** 10:33:22
12 **But take your time, review whatever it is you** 10:33:25
13 **think you need to familiarize yourself with the** 10:33:31
14 **material.** 10:33:34
15 **Do you recognize Exhibit 2?** 10:35:28
16 A. Yes. 10:35:30
17 **Q. Does it appear to be -- mostly, I'm referring** 10:35:31
18 **to the second page that begins -- is this a resume on** 10:35:33
19 **the second page?** 10:35:35
20 A. Do I recognize it? 10:35:38
21 **Q. Yes.** 10:35:39
22 A. Yes. 10:35:40
23 **Q. And does this appear to be your resume that** 10:35:40
24 **starts on the second page of Exhibit 2?** 10:35:42
25 A. Yes. 10:35:44

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Q. And you have a BA in computer science? 10:35:45
A. Yes, I do. 10:35:48
Q. And you received that in 1987? 10:35:50
A. Yes, I did. 10:35:53
Q. And you took some additional certification or 10:35:54
training classes relating to computer science 10:35:57
techniques? 10:36:00
A. Yes. 10:36:01
Q. And those would be listed under your 10:36:02
education? 10:36:04
A. Sorry. 10:36:12
MR. KAO: Objection. Document speaks for 10:36:14
itself. 10:36:17
THE DEPONENT: Yes. 10:36:19
Q. (By Mr. Wolff) Your work history, are the 10:36:19
dates generally accurate with your work history in 10:36:23
Exhibit 2? 10:36:27
A. I believe so. 10:36:34
Q. And you worked at UCLA from 1989 to 1992? 10:36:36
A. Yes. 10:36:44
Q. As well as another period between 1997 -- 10:36:50
1987 and 1988? 10:36:53
A. No. 10:37:05
Q. I'm sorry. U.C. Santa Cruz. 10:37:08
A. That's right. 10:37:11

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Q. 1987 to 1988. 10:37:12
When you worked for UCLA, what was the nature 10:37:16
of the work you were doing? 10:37:18
A. I could just read the description. 10:37:21
Q. Is the description accurate? 10:37:22
A. Yes, of course. 10:37:24
Q. Were you setting up Web servers on the UCLA 10:37:27
Website? 10:37:33
A. I don't believe there was a Web server in 10:37:35
existence at that time. Well, I'm sorry, the CERN 10:37:38
server may have been in existence. I -- so no. 10:37:41
Q. Did you attend any conferences between 1989 10:37:45
and 1992? 10:37:49
A. I must have. I don't recall specific 10:37:56
conferences. 10:37:59
Q. Did you attend any SIGGRAPH conferences? 10:38:01
A. No. 10:38:05
Q. How about any USENIX conferences? 10:38:06
A. No. 10:38:11
Q. How about Computer Graphics and Applications? 10:38:11
A. Say again, please. 10:38:15
Q. Computer Graphics and Applications, IEEE CGA? 10:38:16
A. It's possible. 10:38:23
Q. Why do you say it's possible? 10:38:24
A. Because I would have done that in the course 10:38:25

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1 of my work, but I don't recall specific events. 10:38:27
 2 **Q. Okay. When you were at UCLA, what sort of 10:38:31**
 3 **workstations were you using? 10:38:34**
 4 A. Personally, what I was using or -- 10:38:41
 5 **Q. At UCLA. 10:38:44**
 6 A. I was administering a network with many 10:38:46
 7 workstations. Some of them were my personal machines, 10:38:47
 8 others, you know, I was responsible for 10:38:49
 9 administering -- 10:38:51
 10 **Q. Okay. 10:38:53**
 11 A. -- for others. 10:38:53
 12 **Q. And why you clarified the question now. 10:38:53**
 13 **What -- what machines were you personally 10:38:55**
 14 **using? 10:38:56**
 15 A. I believe I had a Sun workstation. 10:38:58
 16 **Q. Any others? 10:39:04**
 17 A. Or I know I had a Sun workstation. 10:39:04
 18 **Q. Uh-huh. 10:39:06**
 19 A. The lab where my office was located had 10:39:08
 20 Apollo workstation, a NeXt, and some PCs, I believe. 10:39:12
 21 **Q. What kind of NeXt did it have? 10:39:24**
 22 A. A Cube. 10:39:31
 23 **Q. Is that the one with the gray scale or the 10:39:31**
 24 **color? 10:39:34**
 25 A. It was color. 10:39:34

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1 **Q. So you had a NeXt dimension card? 10:39:35**
 2 A. I don't know. 10:39:39
 3 **Q. What kind of things did you use the 10:39:44**
 4 **workstations for? 10:39:46**
 5 A. To assist me in administering to communicate 10:39:53
 6 my job and to play, to educate myself. 10:39:58
 7 **Q. How did you educate yourself on the 10:40:04**
 8 **workstations? 10:40:06**
 9 A. I explored the freely available software on 10:40:07
 10 the Internet. Installed things that were interesting 10:40:12
 11 or seemed useful. I played with things that were 10:40:17
 12 interesting. 10:40:26
 13 **Q. All right. Did you install software on the 10:40:27**
 14 **NeXt computer? 10:40:30**
 15 A. Yes. 10:40:30
 16 **Q. What sort of software did you install on 10:40:31**
 17 **there? 10:40:34**
 18 A. I believe I installed Mathematica. I 10:40:38
 19 installed the WorldWideWeb browser. 10:40:43
 20 **Q. Tim Berners-Lee's browser? 10:40:52**
 21 A. Yes. Uh-huh. 10:40:57
 22 I believe there were other packages. I'm not 10:40:58
 23 entirely sure. 10:41:00
 24 **Q. And where did you get the other packages? 10:41:01**
 25 A. Off the Internet. 10:41:03

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Q. You went into FTP sites and downloaded them 10:41:04
and installed them? 10:41:06
 A. Yes. 10:41:08
Q. Do you recall a package called MediaView? 10:41:09
 A. No, I don't. 10:41:11
Q. Okay. But you would have installed them 10:41:12
on -- whatever it is you found on the Internet, you 10:41:16
would have installed them on the various workstations 10:41:18
that would have been available to you personally. 10:41:21
 A. Yes. 10:41:23
Q. What can you tell me about when you first 10:41:28
learned of Adobe? 10:41:33
 MR. KAO: Objection. 10:41:37
 THE DEPONENT: Adobe Corporation? 10:41:38
Q. (By Mr. Wolff) Yes. 10:41:40
 MR. KAO: You can answer. 10:41:41
 THE DEPONENT: I don't know. You know, it 10:41:47
 seems like it's been with me all my life. I don't -- I 10:41:52
 don't honestly know the first time I heard of Adobe 10:41:55
 Corporation. 10:41:59
Q. (By Mr. Wolff) Would you have been at UCLA? 10:41:59
 A. I would think so, yes. 10:42:01
Q. So before you joined UCSF. 10:42:03
 A. Yes. 10:42:07
Q. And you joined UCSF on what date? 10:42:07

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A. I believe I received notice from David Martin 10:42:12
 in December of 1992. I interviewed, I think, in 10:42:14
 November of 1992. 10:42:18
Q. And then you came on around January -- 10:42:19
 A. My start -- 10:42:21
Q. -- or February? 10:42:22
 A. I'm sorry. 10:42:23
 My start date was February 1st -- 10:42:24
Q. Okay. 10:42:26
 A. -- 1993. 10:42:27
Q. Okay. So before you went to UCSF you were 10:42:28
aware of Adobe. 10:42:31
Do you know what products you were aware of? 10:42:34
 A. PostScript. I think that may have been it. 10:42:36
 PostScript. 10:42:43
Q. Had you ever used a product called PageMaker? 10:42:46
 A. I'm trying to remember the first time I heard 10:42:51
 of PageMaker. I think it was -- I had not heard of it 10:42:54
 at that point. 10:42:59
Q. Do you remember a company called Aldus? 10:42:59
 A. Yes. I remember the name. 10:43:03
Q. What were some of the -- the products that 10:43:06
Aldus made? 10:43:08
 A. Was it PageMaker or -- I don't know. I am 10:43:11
 reminded by your question that perhaps Adobe acquired 10:43:16

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1 PageMaker from Aldus or bought Aldus. I don't really 10:43:22
 2 know. 10:43:26
 3 **Q. Had you ever heard of SuperCard?** 10:43:27
 4 A. I recognize the name. 10:43:29
 5 **Q. Do you know what it was?** 10:43:31
 6 A. I never used it. I believe that, you know, 10:43:33
 7 HyperCard is what I think of when I hear SuperCard. 10:43:36
 8 It's a non-Apple HyperCard analog with additional 10:43:41
 9 features. 10:43:46
 10 **Q. Do you remember approximately what year --** 10:43:47
 11 **what years either HyperCard or SuperCard were** 10:43:48
 12 **available?** 10:43:51
 13 A. No. 10:43:53
 14 **Q. Do you know if they were available before you** 10:43:54
 15 **started at UCSF?** 10:43:57
 16 A. I believe HyperCard was first available on 10:44:02
 17 the first Macintoshes. And I believe that would have 10:44:06
 18 been before U.C. San Francisco. 10:44:09
 19 **Q. Have you heard of Macromedia before?** 10:44:13
 20 A. Yes. 10:44:15
 21 **Q. How had you heard of Macromedia?** 10:44:16
 22 A. I'm not sure. 10:44:18
 23 **Q. Do you know approximately when you first** 10:44:20
 24 **heard of Macromedia?** 10:44:22
 25 A. No, I don't recall. It could have been in 10:44:31
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they are called the "Inboxes" or "Inboxes." 10:45:52
Do you know? 10:45:56
 A. There's I think a folder called "Inbox." 10:46:02
Q. And the inbox that you had in the tarballs 10:46:05
that you produced, they were your e-mails from your 10:46:07
time at either UCSF or prior to that time that was in 10:46:12
archive from UCLA; is that right? 10:46:15
 A. Yes. 10:46:18
Q. Okay. Do you recognize what's been marked as 10:46:19
Exhibit 3? 10:46:21
 A. I haven't had a chance to examine it yet. 10:46:22
 No, I don't recognize it. 10:47:12
Q. Do you think it would be an e-mail that you 10:47:13
would have had a record of? 10:47:15
 A. Yes. It was sent to a mailing list that I 10:47:17
 was a member of at that time. 10:47:21
Q. And what was that mailing list? 10:47:23
 A. ISSG. 10:47:24
Q. And what does that stand for? 10:47:24
 A. Innovative Software and Systems Group. 10:47:25
Q. And where was that group? 10:47:29
 A. That was the group I belonged to at U.C. San 10:47:30
 Francisco Library and Center for Knowledge Management. 10:47:33
Q. And who is D.C. Martin? 10:47:37
 A. He was my manager at U.C. San Francisco. 10:47:40
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1993. 10:44:36
 2 **Q. How about MacroMind?** 10:44:37
 3 A. No. 10:44:39
 4 **Q. Did you ever hear of a Macromedia or** 10:44:41
 5 **MacroMind product called Director?** 10:44:44
 6 A. Yes. 10:44:47
 7 **Q. When did you first hear of Director?** 10:44:48
 8 A. I don't know. I think it would have been 10:44:54
 9 later than 1993, if you're asking -- if that's what 10:44:56
 10 you're asking. 10:44:59
 11 **Q. You don't recall any -- knowing anything** 10:44:59
 12 **about it prior to 1993?** 10:45:02
 13 A. No. It was not my -- it was a tool for 10:45:03
 14 graphic designers I think that -- and I was not a 10:45:10
 15 graphic designers. 10:45:14
 16 MR. WOLFF: I will have the reporter mark as 10:45:15
 17 the next exhibit, 3, a document that we extracted out 10:45:17
 18 of the materials that you sent to us. 10:45:21
 19 (Whereupon, Exhibit 3 was marked for 10:45:22
 20 identification.) 10:45:23
 21 **Q. (By Mr. Wolff) Now, you produced, I think,** 10:45:40
 22 **some tarballs or something of your mail that you had** 10:45:42
 23 **from UCSF?** 10:45:47
 24 A. Yes. 10:45:49
 25 **Q. And in those tarballs were some -- I think** 10:45:49
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Q. Is D.C. Martin his alias or his e-mail 10:47:41
address? 10:47:43
 A. Yes. 10:47:45
Q. And who is Doyle? 10:47:46
 A. Mike Doyle was the director of -- he was 10:47:49
 my -- he was David Martin's boss. 10:47:53
Q. Were they both members of the ISSG mailing 10:47:55
list. 10:47:58
 A. Yes. 10:47:58
 MR. WOLFF: I'll have the reporter mark as 10:48:12
 next exhibit, Exhibit 4, a document with Bates Label 10:48:14
 CM001394 through CM001396. 10:48:17
 (Whereupon, Exhibit 4 was marked for 10:48:21
 identification.) 10:48:23
Q. (By Mr. Wolff) Do you recognize what's been 10:48:43
marked as Exhibit 4? 10:48:45
 A. Not particularly. 10:48:56
Q. Do you recognize or recall that this was part 10:48:58
of the paper materials that you turned over to the copy 10:49:00
center? 10:49:02
 A. It -- it does seem -- it looks familiar. 10:49:03
Q. Do you see that at the top, where it says, 10:49:06
"Acrobat Exchange leaps over file-format hurdles"? 10:49:09
 A. Yes. 10:49:14
Q. Do you recall looking into the Adobe Acrobat 10:49:14
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<p>1 product and the file-format issues in 1993? 10:49:20</p> <p>2 A. I don't understand part of your question. 10:49:24</p> <p>3 Q. Were you looking at Adobe Acrobat in 1993? 10:49:27</p> <p>4 A. Yes. 10:49:32</p> <p>5 Q. Why were you looking at Adobe Acrobat? 10:49:32</p> <p>6 A. To fulfill my duty at U.C. San Francisco 10:49:36</p> <p>7 and -- which was to provide information systems for the 10:49:41</p> <p>8 university community. 10:49:46</p> <p>9 Q. And how did Acrobat fit into that? 10:49:48</p> <p>10 A. One of the unique characteristics of Acrobat, 10:49:55</p> <p>11 which we were -- I thought particularly was interesting 10:49:58</p> <p>12 was that it allowed for consistent display between a 10:50:01</p> <p>13 screen and print format. You see the same thing on the 10:50:11</p> <p>14 screen as in print. 10:50:16</p> <p>15 Q. Is Exhibit 4 something you would have 10:50:18</p> <p>16 received from a public source? 10:50:20</p> <p>17 A. It's clearly a -- yes. 10:50:26</p> <p>18 Q. And what was the source? 10:50:29</p> <p>19 A. I don't recall. 10:50:31</p> <p>20 Q. Was it MacWEEK? 10:50:33</p> <p>21 A. It could have been. I don't know. 10:50:40</p> <p>22 Q. If you turn to the top of the second page, do 10:50:41</p> <p>23 you see where it says, "MacWEEK" -- 10:50:48</p> <p>24 A. Yes. 10:50:50</p> <p>25 Q. -- "07.12.93"? 10:50:50</p> <p style="text-align: right;">Page 42</p>	<p>5, a document with the Bates Labels CM001391 through 10:52:31</p> <p>CM001393. 10:52:38</p> <p>(Whereupon, Exhibit 5 was marked for 10:52:39</p> <p>identification.) 10:52:40</p> <p>Q. (By Mr. Wolff) Do you recognize what's been 10:53:02</p> <p>marked as Exhibit 5? 10:53:03</p> <p>A. Yes. 10:53:05</p> <p>Q. Is this your handwriting on the top of 10:53:05</p> <p>Exhibit 5? 10:53:07</p> <p>A. No. 10:53:08</p> <p>Q. Whose handwriting is that? 10:53:09</p> <p>A. I don't recall. I don't recognize... 10:53:12</p> <p>Q. Do you know why you saved what's been marked 10:53:17</p> <p>as Exhibit 5? 10:53:19</p> <p>A. Because it described Acrobat and we were 10:53:25</p> <p>interested in using it. 10:53:28</p> <p>Q. Do you recall who John Dawes is? 10:53:33</p> <p>A. No. I believe he was the person at the trade 10:53:46</p> <p>show I talked to. 10:53:47</p> <p>Q. Would he be the person you sent the e-mail 10:53:48</p> <p>to? 10:53:51</p> <p>A. I don't recall the name. Yes, I would guess 10:53:51</p> <p>so. 10:53:53</p> <p>Q. Were you interested in getting your hands on 10:53:53</p> <p>a copy of Acrobat at that time? 10:53:55</p> <p style="text-align: right;">Page 44</p>
<p>1 A. Yes. 10:50:53</p> <p>2 Q. Do you recognize what that indicates? 10:50:54</p> <p>3 A. Yes. 10:50:57</p> <p>4 Q. What does it tell you? 10:50:57</p> <p>5 A. It was published in MacWEEK on that date. 10:50:59</p> <p>6 Q. And what was MacWEEK? 10:51:02</p> <p>7 A. Industry periodical. 10:51:03</p> <p>8 Q. And did you subscribe to it at that time? 10:51:06</p> <p>9 A. No. 10:51:09</p> <p>10 Q. How was it that you came across this article; 10:51:09</p> <p>11 do you know? 10:51:12</p> <p>12 A. No, I don't. I -- I don't know. 10:51:14</p> <p>13 Q. Do you know why you saved it? 10:51:15</p> <p>14 A. No. I may have picked it up at a trade show. 10:51:31</p> <p>15 Q. Were you attempting to become a beta tester 10:51:44</p> <p>16 for Acrobat in the 1993 time period? 10:51:50</p> <p>17 A. Yes. 10:51:53</p> <p>18 Q. What were the circumstances of your beta 10:51:53</p> <p>19 testing? 10:51:55</p> <p>20 A. I'm -- I -- after meeting with an Adobe 10:52:05</p> <p>21 representative at a trade show that I attended with 10:52:14</p> <p>22 David Martin, I followed up with an e-mail requesting 10:52:17</p> <p>23 to be a beta tester. Because we thought it might be a 10:52:21</p> <p>24 useful tool in our work at U.C. San Francisco. 10:52:26</p> <p>25 MR. WOLFF: We will mark as the next exhibit, 10:52:30</p> <p style="text-align: right;">Page 43</p>	<p>A. Yes. 10:53:57</p> <p>Q. Do you recall what Acrobat's relationship or 10:54:03</p> <p>the PDF file format's relationship was to the 10:54:05</p> <p>PostScript file format? 10:54:09</p> <p>A. What the relationship was? 10:54:15</p> <p>Q. Yes. 10:54:16</p> <p>A. PDF was a follow-on to PostScript with 10:54:25</p> <p>enhancements. 10:54:28</p> <p>Q. Anything else? 10:54:29</p> <p>A. No. I don't understand what you are looking 10:54:31</p> <p>for. 10:54:34</p> <p>Q. You don't recall anything else -- 10:54:34</p> <p>MR. KAO: Can you -- 10:54:36</p> <p>Q. (By Mr. Wolff) -- about the PDF file format? 10:54:37</p> <p>MR. KAO: Would you mind repeating the 10:54:40</p> <p>question, regarding relationship. 10:54:42</p> <p>(Record read as follows: 10:54:42</p> <p>"QUESTION: Do you recall what 10:54:03</p> <p>Acrobat's relationship or the PDF 10:54:04</p> <p>file format's relationship was to the 10:54:07</p> <p>PostScript file format?") 10:54:09</p> <p>MR. KAO: Thank you. 10:54:46</p> <p>Q. (By Mr. Wolff) Same answer? 10:55:10</p> <p>A. Yes. 10:55:17</p> <p>Q. Do you receive -- do you recall receiving any 10:55:18</p> <p style="text-align: right;">Page 45</p>

1	technical literature from Adobe about the Acrobat file 10:55:18	Q. And who was that? 10:59:00	
2	format? 10:55:24	A. J. Dawes. 10:59:01	
3	A. Other than this? 10:55:25	Q. John Dawes? 10:59:02	
4	Q. Yes. 10:55:26	A. John Dawes, yes. 10:59:03	
5	A. No. 10:55:30	Q. And you recall meeting him at a conference; 10:59:04	
6	Q. Do you recall receiving a book on the Acrobat 10:55:32	is that correct? 10:59:07	
7	file format? 10:55:34	A. Not specifically. I know that I met someone 10:59:08	
8	A. No. 10:55:40	and used that as a means to follow up. 10:59:12	
9	MR. WOLFF: I'm going to grab a copy of the 10:55:42	Q. And what was the purpose of sending what's 10:59:13	
10	book real quick. Let's stay on the record. 10:55:43	been marked as Exhibit 7? 10:59:15	
11	Q. (By Mr. Wolff) I will just show you a book. 10:56:01	A. I believe it is clear in the document itself. 10:59:19	
12	I won't enter it as an exhibit. 10:56:02	The purpose was to obtain or become a beta site for 10:59:22	
13	This is a book entitled "Portable Document 10:56:03	Acrobat so that we could leverage it in our work at 10:59:30	
14	Format Reference Manual by Adobe Systems, 10:56:04	U.C. San Francisco. 10:59:35	
15	Incorporated." 10:56:08	Q. Do you recall whether you ultimately became a 10:59:35	
16	Just take a look at that and see if -- you 10:56:09	beta site at UCSF? 10:59:38	
17	don't have to look at the tabs or anything like that, 10:56:11	A. I do recall. 10:59:40	
18	just see if you recognize the book or having ever 10:56:13	Q. And when was that? 10:59:41	
19	printed out a -- a PDF copy of that book. 10:56:16	A. No, we did not become one. 10:59:42	
20	A. I don't believe so. 10:56:21	Q. You did not? 10:59:44	
21	MR. WOLFF: This was bearing document Bates 10:56:23	A. Not while I was there. I don't believe I 10:59:44	
22	Label ADBE0195521. 10:56:25	ever received a response. 10:59:50	
23	Mark as the next exhibit a copy of some pages 10:56:36	MR. WOLFF: Marked as the next exhibit 10:59:53	
24	from the Portable Document Format reference manual. 10:56:39	another document we received from you, dated May 17th, 10:59:55	
25	(Whereupon, Exhibit 6 was marked for 10:56:43	1993. 10:59:59	
	Page 46		Page 48
1	identification.) 10:56:43	(Whereupon, Exhibit 8 was marked for 10:59:58	
2	Q. (By Mr. Wolff) Now, this is just some select 10:57:20	identification.) 10:59:59	
3	pages from the manual, Exhibit 6 is. 10:57:21	Q. (By Mr. Wolff) Do you recognize what has 11:00:20	
4	If you just flip through them real quick and 10:57:24	been marked as Exhibit 8? 11:00:22	
5	tell me whether or not you recall ever looking at any 10:57:27	A. Yes, I do. 11:00:23	
6	of these pages in the reference manual. 10:57:29	Q. What is it? 11:00:24	
7	A. To be honest, I don't need to look at this to 10:57:47	A. Excuse me? 11:00:25	
8	know that I didn't see it. 10:57:50	Q. What is it? 11:00:26	
9	Q. Okay. Easy enough. You can put it down. 10:57:52	A. It's the response to the prior document. 11:00:26	
10	MR. WOLFF: I will mark as Exhibit 7 another 10:58:06	Q. And you don't recall whether you actually 11:00:28	
11	document we received from you. 10:58:08	became a beta site at UCSF. 11:00:30	
12	(Whereupon, Exhibit 7 was marked for 10:58:08	A. Yes. 11:00:35	
13	identification.) 10:58:09	Q. Were you trying to encourage the UCSF to 11:00:40	
14	Q. (By Mr. Wolff) Do you recognize what's been 10:58:34	become a beta site for Acrobat? 11:00:44	
15	marked as Exhibit 7? 10:58:36	A. Yes. 11:00:47	
16	A. Yes. 10:58:37	Q. Who was it that you worked with to try to do 11:00:48	
17	Q. How is it that you recognize it? 10:58:39	that? 11:00:51	
18	A. I remember sending it. 10:58:41	A. I think this is the extent of my efforts, so 11:00:57	
19	Q. This is your e-mail address at the top where 10:58:45	it would have been John Dawes. 11:01:01	
20	it says, "From"? 10:58:48	Q. Anyone at UCSF also working on this? 11:01:02	
21	A. Yes. 10:58:49	A. David Martin. 11:01:05	
22	Q. And jdawes@adobe.com, does it refresh your 10:58:50	MR. WOLFF: Marked as the next exhibit, 9, an 11:01:06	
23	recollection as to who it was you sent the message to 10:58:55	e-mail dated June 2nd, 1993. 11:01:10	
24	before? 10:58:58	(Whereupon, Exhibit 9 was marked for 11:01:14	
25	A. Of course. 10:58:59	identification.) 11:01:14	
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1 **Q. (By Mr. Wolff) Do you recognize Exhibit 9?** 11:01:24
2 A. Yes. 11:01:26
3 **Q. How do you recognize it?** 11:01:27
4 A. It has my name on it. 11:01:29
5 **Q. Does it have your e-mail address, too?** 11:01:31
6 A. Yes. 11:01:34
7 **Q. Do you believe it's a document from June 2nd, 11:01:34**
8 **1993?** 11:01:37
9 A. Yes. 11:01:38
10 **Q. And were you sending it to David Martin?** 11:01:39
11 A. Yes. 11:01:41
12 **Q. And you were copying Mark. Who was Mark?** 11:01:41
13 A. Mark Sullivan. 11:01:44
14 **Q. And what did he do?** 11:01:46
15 A. He was a colleague in our group. 11:01:47
16 **Q. What did he work on?** 11:01:51
17 A. WAIS indexing. The WritePages beta test 11:01:52
18 program. Piece of software. 11:02:04
19 **Q. What was the purpose of your sending Exhibit 11:02:10**
20 **9 to David Martin?** 11:02:12
21 A. To follow up to see whether he had received 11:02:15
22 any communications that I had not been copied on. 11:02:19
23 **Q. It says, "What is the status of the Adobe 11:02:23**
24 **Acrobat beta agreement?"** 11:02:26
25 A. Yes. 11:02:28

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1 **Q. Were you aware of a beta agreement at that 11:02:28**
2 **time?** 11:02:31
3 A. No. 11:02:31
4 **Q. You don't recall having received a beta 11:02:32**
5 **agreement from Adobe?** 11:02:35
6 A. No. 11:02:37
7 **Q. But you were trying to get a copy of it?** 11:02:37
8 A. I wanted to know if David had received any 11:02:40
9 communications in response to these earlier e-mails. 11:02:43
10 MR. WOLFF: We will mark as the next exhibit 11:02:52
11 a document from June 18th, 1993. 11:02:54
12 (Whereupon, Exhibit 10 was marked for 11:02:56
13 identification.) 11:02:57
14 **Q. (By Mr. Wolff) So this is a couple weeks 11:03:16**
15 **after -- 16 days after the first message, and it's 11:03:17**
16 **another message from you to David Martin; is that 11:03:20**
17 **correct?** 11:03:23
18 A. Yes. 11:03:24
19 **Q. And you're copying Mr. Doyle?** 11:03:24
20 A. Yes. 11:03:30
21 **Q. And you say here, "What is the status of the 11:03:31**
22 **Adobe beta agreement for Acrobat/PDF? Have we signed 11:03:31**
23 **and returned it yet?"** 11:03:36
24 A. Yes. 11:03:37
25 **Q. So were you aware of a beta agreement for 11:03:38**

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Acrobat? 11:03:41
A. Apparently. 11:03:42
Q. It refreshes your recollection, right? 11:03:44
MR. BUDWIN: Objection. Form. 11:03:48
You can answer. 11:03:49
THE DEPONENT: Yes. 11:03:51
Q. (By Mr. Wolff) And why were you continuing 11:03:51
to ask Mr. Martin about the Acrobat beta agreement? 11:03:57
A. As I recall, he liked to keep some things to 11:04:04
himself. He kind of wanted to be the business guy, you 11:04:08
know. I was preoccupied with the technical details, 11:04:16
the things that I was working on. 11:04:19
So that was part -- that was his 11:04:21
responsibility. So I was following up with him about 11:04:24
it. 11:04:27
Q. Now, in Exhibit 9 you copied Mark Sullivan, 11:04:27
but in Exhibit 10 you copied David Martin -- I'm 11:04:31
sorry -- you copied Michael Doyle. 11:04:34
Why did you copy Mr. Doyle in Exhibit 10? 11:04:38
A. I don't know. I think there must have been a 11:04:47
conversation or I had some reason to copy him. 11:04:49
Q. A conversation with Mr. Doyle? 11:04:53
A. Yeah, it must have come up in a meeting or -- 11:04:55
I don't know specifically. 11:04:57
Q. Was Mr. Doyle Mr. Martin's supervisor? 11:05:01

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A. Yes. 11:05:04
Q. He was running the group that you were in, 11:05:04
right? 11:05:08
A. He became director on June 1st. 11:05:08
MR. WOLFF: I will mark as the next exhibit, 11:05:30
11, a document from June 21st, 1993, again, that we 11:05:31
received from you. 11:05:35
(Whereupon, Exhibit 11 was marked for 11:05:35
identification.) 11:05:36
Q. (By Mr. Wolff) Do you recognize what's been 11:05:47
marked as Exhibit 11? 11:05:49
A. Yes. 11:05:50
Q. And how is it that you recognize it? 11:05:50
A. I see my name and David's name. 11:05:52
Q. Why does it say "Christopher.McRae"? 11:05:56
A. I don't know. A -- I assume the network 11:06:00
administrator was playing with the mail system over 11:06:05
time. 11:06:09
Q. Okay. And so this is a message where 11:06:09
Mr. Martin is sending you a response. 11:06:13
Do you believe that is in response to what 11:06:15
was marked as Exhibit 10? 11:06:16
A. Yes. 11:06:19
Q. Because it's got the same text from Exhibit 11:06:20
10, right? 11:06:22

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1 A. Sure, the same subject. 11:06:24
 2 **Q. What was your reaction, if you recall, upon receiving Exhibit 11?** 11:06:32
 3 11:06:34
 4 A. I don't know. I imagine I shrugged. 11:06:43
 5 **Q. Shrugged because he was telling you -- asking you why you asked him instead of Mike Doyle?** 11:06:48
 6 11:06:50
 7 A. I don't recognize what you said in -- in this e-mail. 11:06:56
 8 11:06:58
 9 **Q. It says, "Thanks for your concern. No, Mike hasn't sign it yet" -- or "Mike hasn't signed it"; is that right?** 11:07:00
 10 11:07:03
 11 11:07:07
 12 A. Yes. 11:07:08
 13 **Q. Who is Mike?** 11:07:08
 14 A. Mike Doyle. 11:07:09
 15 **Q. And why does he say, "FYI, I will prompt Mike as necessary"?** 11:07:10
 16 11:07:15
 17 A. My understanding is the opposite of what you had said; that he's telling me that I should be talking to him and not to Mike. 11:07:15
 18 11:07:17
 19 11:07:21
 20 **Q. And why is that?** 11:07:23
 21 A. Because he was -- because he wanted to stick to form in -- 11:07:24
 22 11:07:38
 23 **Q. What do you mean, "stick to form"?** 11:07:39
 24 A. -- an organizational structure. 11:07:40
 25 **Q. So Michael Doyle would have been the person** 11:07:44
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1 **to handle approving the agreement?** 11:07:46
 2 A. No. What I mean is that David Martin was the person -- was my boss and expected me to go through him rather than directly to his boss. 11:07:48
 3 11:07:52
 4 11:07:57
 5 **Q. But he's telling you, "I will prompt Mike as necessary. If you want to prompt me, okay."** 11:07:58
 6 11:08:00
 7 A. Yes. 11:08:04
 8 **Q. Is he suggesting that you should prompt Michael directly?** 11:08:06
 9 11:08:08
 10 A. I think he's suggesting the opposite. 11:08:10
 11 **Q. Why do you think he's -- why do you think that says the opposite? "If you want to prompt me, okay."** 11:08:14
 12 11:08:17
 13 11:08:20
 14 A. Yes. He's saying, talk to me, don't talk to Mike. 11:08:24
 15 11:08:28
 16 MR. WOLFF: I will have the reporter mark as Exhibit 12 a document from June 21st, 1993, again, that we received from you. 11:08:47
 17 11:08:49
 18 11:08:54
 19 (Whereupon, Exhibit 12 was marked for identification.) 11:08:54
 20 11:08:55
 21 **Q. (By Mr. Wolff) Do you recognize what's been marked as Exhibit 12?** 11:09:08
 22 11:09:09
 23 A. Yes. 11:09:11
 24 **Q. How do you recognize it?** 11:09:11
 25 A. I see my name and I recall the response. I
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recall sending it. 11:09:17
Q. Why is it that you recall sending it? 11:09:18
 A. Because I -- as I recall, I was happy that I was able to respond to this public e-mail with some information that apparently some other people didn't have. It was an opportunity for me to contribute in a sense. 11:09:25
 11:09:28
 11:09:34
 11:09:37
 11:09:42
Q. What was WWW-Talk? 11:09:42
 A. It was a mailing list that we used to collaboratively develop the WorldWideWeb. 11:09:45
 11:09:50
Q. What do you mean, "a mailing list that we used"? 11:09:53
 11:09:56
 A. Well, this is a library.ucsf.edu address. So rather than subscribe to the global WWW-Talk list with our personal e-mail addresses, we subscribed to this alias, and then distributed e-mails internally. 11:09:56
 11:10:03
 11:10:14
 11:10:17
 So rather than signing up to the global list with our own, we would sign up to the local list and it was signed up to the global list. 11:10:23
 11:10:25
 11:10:28
Q. All right. And so www-talk@library.ucsf.edu was a list local to UCSF, at least that alias was. 11:10:30
 11:10:36
 A. Yes. 11:10:43
Q. Would this message have been routed out to the larger list? 11:10:44
 11:10:47
 A. No. I think I misspoke when I said that
 11:10:49
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earlier. Although Dave I assume in this case is Dave Raggett. So I -- honestly, I'm confused by the "To" line here. 11:10:54
 11:11:00
 11:11:06
Q. Could it be that messages that were sent to that alias were forwarded out to the rest of the group? 11:11:08
 11:11:10
 MR. BUDWIN: Form. 11:11:15
 THE DEPONENT: I would be surprised if it was done that way. I don't recall that it was done that way. 11:11:16
 11:11:18
 11:11:20
Q. (By Mr. Wolff) Do you recall getting any response back to your message? 11:11:25
 11:11:26
 A. I think that there was an e-mail thread. I mean, I think there were some additional messages in this thread. But I'm talking about on the WWW -- the global WWW-Talk list. 11:11:28
 11:11:31
 11:11:35
 11:11:39
Q. Who was responsible for just maintaining the local WWW-Talk list? 11:11:43
 11:11:47
 A. Well, our network administrator was -- his name was Ben Chang, but he would have been following whatever instructions David Martin was giving him in this regard. 11:11:54
 11:12:00
 11:12:06
Q. Do you think Mr. Martin was on that list? 11:12:08
 11:12:08
 A. Yes. 11:12:11
Q. Do you think Mr. Doyle was on that list? 11:12:12
 11:12:12
 A. Yes. 11:12:14
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1 **Q. Do you think Mr. Ang was on that list?** 11:12:14
2 A. Yes. 11:12:17
3 **Q. And why do you think Mr. Martin was on that** 11:12:17
4 **list?** 11:12:20
5 A. Why? Well, when I first started at U.C. San 11:12:25
6 Francisco I made him aware of the WorldWideWeb and of 11:12:32
7 this mailing list, and we both subscribed. And then 11:12:34
8 later, the local list was created. 11:12:37
9 **Q. Why do you think Mr. Doyle was on the list?** 11:12:41
10 A. Because when he joined, he was -- took steps 11:12:45
11 to plug in to the group and our communications. 11:12:51
12 **Q. And how about Mr. Ang?** 11:12:55
13 A. Same for him. 11:13:01
14 **Q. Okay. Was Mark Sullivan on the list?** 11:13:01
15 A. I believe so. 11:13:03
16 **Q. Why do you think so?** 11:13:04
17 A. The three of us worked in a small room 11:13:06
18 together with no partitions and we had lunch together 11:13:08
19 every day. 11:13:10
20 **Q. The three of you. Mr. --** 11:13:12
21 A. Cheong Ang, Mark Sullivan and myself. 11:13:13
22 MR. WOLFF: Okay. I will mark as the next 11:13:17
23 exhibit, 13, an e-mail from July 16th, 1993, again that 11:13:42
24 we received from your production. 11:13:48
25 (Whereupon, Exhibit 13 was marked for 11:13:48
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Q. The date on here is later. 11:15:26
A. It's later. I thought it was 21st -- 11:15:27
Q. If you look at Exhibit 12. 11:15:29
A. -- of June. 11:15:30
Oh, I'm sorry. This is July. I misread 11:15:31
this. Apparently so. 11:15:33
When I first joined U.C. San Francisco, I was 11:15:36
receiving messages on WWW-Talk from my -- through my 11:15:43
UCLA account. There was some instability in our U.C. 11:15:46
San Francisco network for a while. 11:15:50
Q. So -- strike that. 11:16:01
Would there be a difference then in the 11:16:14
messages that went -- that have the address, the 11:16:16
cern.ch address versus the WWW-Talk addresses that have 11:16:19
the ucsf.edu addresses? 11:16:26
A. Differences in how they are addressed? 11:16:32
Q. I mean, if you received a message that was 11:16:35
routed through your local alias, would it show that it 11:16:37
was received through that local host or would it show 11:16:40
that it was received through the CERN server? 11:16:43
A. I think it depends on the particular mailer 11:16:49
that received it and how it was configured, the 11:16:52
personal preferences of a person. But that was the 11:16:55
purpose of that alias, so I would expect that, you 11:16:58
know, to be the case. 11:17:03
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identification.) 11:13:49
Q. (By Mr. Wolff) Do you recognize what's been 11:14:05
marked as Exhibit 13? 11:14:08
A. Not particularly. It looks familiar. I 11:14:13
mean, it looks authentic, I guess I should say. 11:14:15
Q. Do you know who Robert -- I'll probably say 11:14:19
his name wrong -- Cailliau was? 11:14:21
A. Sure. 11:14:25
Q. Who is he? 11:14:26
A. Yeah. 11:14:26
I always thought of him as a cofounder of the 11:14:27
WorldWideWeb with Tim Berners-Lee at -- at CERN. 11:14:31
Codeveloper, I should say maybe. 11:14:35
Q. If this message was in your mailbox, how 11:14:40
would you have received it? 11:14:45
A. Through the WWW-Talk global list. 11:14:48
Q. So even though this message doesn't say 11:14:51
www-talk@library.ucsf.edu, you were still subscribed to 11:14:54
the -- was it the CERN list? 11:15:01
A. The global list was hosted at CERN. 11:15:06
Q. But it would have been routed through the 11:15:09
www-talk@ucsf.edu address. 11:15:12
A. Possibly. The date on here is a little bit 11:15:16
earlier than the one that you pointed out that had 11:15:20
that -- that alias on it. 11:15:22
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MR. WOLFF: We will mark as Exhibit 14 11:17:19
another document received from you, dated July 16th, 11:17:20
1993. 11:17:25
(Whereupon, Exhibit 14 was marked for 11:17:24
identification.) 11:17:25
Q. (By Mr. Wolff) Do you recognize what's been 11:17:42
marked as Exhibit 14? 11:17:43
A. Yes. 11:17:45
Q. And what is it? 11:17:45
A. It's an e-mail to the -- well, I guess it's 11:17:46
to Robert Cailliau, copied to the WWW-Talk alias or 11:17:49
mailing list. 11:17:55
Q. Do you remember Mr. Kehoe? 11:18:03
A. I don't know how to pronounce it any better 11:18:06
than you. Well, I'm sorry. Kehoe, you're talking 11:18:08
about? 11:18:10
Q. Yes. 11:18:13
A. I thought you were saying Cailliau. 11:18:12
Q. Well, there's Cailliau down here, but then 11:18:14
it's from Daniel Miles -- 11:18:14
A. Kehoe. 11:18:19
Q. -- Kehoe. 11:18:21
A. I recognize the name. 11:18:23
Q. Okay. Do you recognize receiving this 11:18:24
e-mail? 11:18:26
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1 A. Do I recall? 11:18:27
2 **Q. Yes.** 11:18:29
3 A. Not specifically, but generally, yes. 11:18:31
4 **Q. Does the document appear to be authentic?** 11:18:45
5 A. Yes, it does. 11:18:48
6 MR. WOLFF: Mark as the next exhibit a 11:18:56
7 document, again from you, dated July 19th, 1993. 11:18:59
8 (Whereupon, Exhibit 15 was marked for 11:19:01
9 identification.) 11:19:02
10 **Q. (By Mr. Wolff) Do you recognize what's been 11:19:14**
11 **marked as Exhibit 15?** 11:19:16
12 A. Yes. 11:19:17
13 **Q. How do you recognize it?** 11:19:19
14 A. By our names and the subject matter. 11:19:26
15 **Q. By your name in the subject matter?** 11:19:29
16 A. Our names, I said. 11:19:31
17 **Q. Oh, and the subject matter.** 11:19:32
18 A. And the header, yes. 11:19:33
19 **Q. Okay. And McRae was, again, your e-mail 11:19:34**
20 **address.** 11:19:38
21 A. Yes. 11:19:38
22 **Q. Do you believe you received this message from 11:19:49**
23 **Mr. Martin on July 19th, 1993?** 11:19:51
24 A. Yes. 11:19:54
25 **Q. Do you have any idea why he was pointing out 11:19:57**
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THE VIDEOGRAPHER: This is the end of Disk 11:21:48
No. 1, Volume I. We are off the record at 11:21 a.m. 11:21:49
(Recess taken.) 11:21:54
THE VIDEOGRAPHER: This is the beginning of 11:29:33
Disk No. 2, Volume I. We are back on the record at 11:29:35
11:29 a.m. 11:29:38
You may proceed. 11:29:40
MR. WOLFF: I will have the reporter mark as 11:29:41
the next exhibit, 17 -- I thought I was going to have 11:29:44
her mark it, but it looks like a poor copy. 11:29:53
Well, it's actually a portion of a NeXTWORLD 11:29:57
article, and the content of the article is not so 11:30:02
important as -- as the picture. 11:30:05
(Whereupon, Exhibit 17 was marked for 11:30:06
identification.) 11:30:06
Q. (By Mr. Wolff) Did you subscribe to 11:30:28
NeXTWORLD Magazine? 11:30:30
A. No. 11:30:31
Q. Did you ever read it? 11:30:32
A. I think I probably -- I don't know. I don't 11:30:34
know. 11:30:39
Q. You don't know whether you did or you didn't? 11:30:39
A. No. I don't specifically remember reading a 11:30:42
copy of the NeXTWORLD. 11:30:45
Q. How did you get familiar with the operation 11:30:48
Page 64

1 **that the software was catching interest in other 11:19:57**
2 **locations, too?** 11:20:03
3 A. No. 11:20:03
4 **Q. Do you recall Mr. Martin sending messages to 11:20:15**
5 **the group or individuals on the WWW-Talk group about 11:20:17**
6 **the Acrobat software?** 11:20:19
7 A. Not specifically, no. 11:20:32
8 MR. WOLFF: I will mark as the next exhibit a 11:20:39
9 document that Adobe produced in this case. It's the 11:20:41
10 preferred customer agreement for disclosure of Adobe 11:20:47
11 information, and ask you if you recognize it. 11:20:51
12 (Whereupon, Exhibit 16 was marked for 11:20:53
13 identification.) 11:20:53
14 **Q. (By Mr. Wolff) Does Exhibit 16 refresh your 11:21:17**
15 **recollection as to whether you had ever seen the Adobe 11:21:19**
16 **agreement referred to in your earlier e-mails?** 11:21:22
17 A. No, I never -- 11:21:25
18 MR. BUDWIN: Objection. Form. 11:21:26
19 THE DEPONENT: I never saw this, I don't 11:21:27
20 believe. 11:21:29
21 MR. WOLFF: Okay. If you would like to take 11:21:29
22 a break, we can take a short break and then start up 11:21:39
23 again. 11:21:42
24 THE DEPONENT: Sure. 11:21:44
25 MR. WOLFF: Okay. 11:21:48
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of the NeXt computers you had at UCLA? 11:30:50
A. Direct experience, bundled documentation. 11:30:54
Q. Okay. On the last page of Exhibit 17 there's 11:30:58
a picture of Dick Phillips. 11:31:03
I have an idea of what your answer is, but do 11:31:11
you recognize Mr. Phillips? 11:31:15
A. No. 11:31:18
Q. Okay. And you said you did not attend 11:31:18
SIGGRAPH '92 in Chicago? 11:31:21
A. No. 11:31:25
Q. And did you extend any other SIGGRAPH 11:31:26
conferences prior to '92? Conference in Anaheim? 11:31:31
Conference in Dallas? 11:31:40
A. I don't think so. I think -- no, I don't 11:31:43
think so. 11:31:45
Q. As you came across articles or technical 11:31:48
papers that were interesting to you while you were 11:31:51
either working at UCLA or UCSF, did you ask for copies 11:31:54
of related articles and things that discussed the same 11:31:59
subject? 11:32:03
MR. BUDWIN: Objection. Form. 11:32:07
MR. KAO: Vague and ambiguous. 11:32:08
Q. (By Mr. Wolff) Did you avail yourself of the 11:32:08
library at UCSF or UCLA? 11:32:10
A. Yes. 11:32:12
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1 **Q. And what did you use the library for?** 11:32:13
2 A. Research. 11:32:16
3 **Q. Okay. And what kind of things were you** 11:32:17
4 **researching?** 11:32:20
5 A. A very broad array of things. 11:32:23
6 **Q. As issues came up in your job and you wanted** 11:32:28
7 **to research technical documents -- technical materials, 11:32:30**
8 **would you go to the library to do research?** 11:32:36
9 A. Yes. 11:32:39
10 **Q. And would you use your online tools to search** 11:32:40
11 **electronic databases of the materials at the libraries** 11:32:43
12 **at the University of California San Francisco?** 11:32:46
13 MR. BUDWIN: Objection. Form. 11:32:50
14 THE DEPONENT: Yes. 11:32:52
15 **Q. (By Mr. Wolff) Did you use WAIS?** 11:32:53
16 A. Yes. 11:32:57
17 **Q. Did they have a good collection of the IEEE** 11:32:57
18 **journals at UCSF?** 11:33:01
19 MR. BUDWIN: Objection. Form. 11:33:06
20 MR. KAO: Objection. 11:33:08
21 THE DEPONENT: I don't believe so. 11:33:10
22 **Q. (By Mr. Wolff) How about the ACM journals?** 11:33:10
23 MR. BUDWIN: The same. 11:33:14
24 THE DEPONENT: I don't think so. 11:33:17
25 **Q. (By Mr. Wolff) How about the IEEE?** 11:33:18
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MR. WOLFF: I can tell you the production 11:34:50
numbers. It's also in Dr. Phillips' report. 11:34:50
It's been marked as exhibits multiple times. 11:34:55
Q. (By Mr. Wolff) Do you recognize what's been 11:34:59
marked as Exhibit 18? 11:35:04
A. No. 11:35:05
Q. If you turn towards the back of the article. 11:35:06
Let's see if I can give you a page number. Sixteen 11:35:19
through 17. There are some screen captures. 11:35:24
A. Yes. 11:35:38
Q. And one, if you look on the right side 11:35:39
towards the middle, it says, "MediaView." 11:35:42
A. I see it. 11:35:45
Q. Okay. If you look at the application that's 11:35:46
shown in that screen capture where it says, 11:35:51
"MediaView," do you recognize it at all? 11:35:53
A. No. 11:35:57
Q. If you turn to the next page at the top. I 11:35:58
do appreciate that these are a little bit grainy. 11:36:03
Do you see the application shown in the left 11:36:07
top of the page? 11:36:10
A. Yes. 11:36:12
Q. Do you see where it says, "MediaView"? 11:36:12
A. Not really. It's not clear on the printout. 11:36:17
You are talking about this -- 11:36:27
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MR. BUDWIN: The same. 11:33:20
THE DEPONENT: I don't think so. 11:33:22
Q. (By Mr. Wolff) You don't think they had a 11:33:22
great collection? 11:33:24
A. I'm comparing it to my experience at UCLA 11:33:25
where they had a very good collection. 11:33:27
Q. Okay. 11:33:29
A. U.C. San Francisco is much more focused on 11:33:30
medical technol- -- medical topics. 11:33:33
Q. Beyond just the UCSF library, did you avail 11:33:35
yourself of the U.C. library, maybe the U.C. Berkeley 11:33:39
library, while you were at UCSF? 11:33:43
A. I used the Melville system which spanned the 11:33:46
U.C.'s. 11:33:49
MR. WOLFF: I will mark as the next exhibit a 11:33:55
technical talk. 11:34:09
(Whereupon, Exhibit 18 was marked for 11:34:09
identification.) 11:34:10
MR. WOLFF: These might be fast. 11:34:26
This is a publication, SIGGRAPH talk that was 11:34:34
given. 11:34:40
MR. BUDWIN: Jason, have these been produced? 11:34:43
MR. WOLFF: Yes, this has been produced. 11:34:47
MR. BUDWIN: Do you know the production 11:34:49
numbers? 11:34:50
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Q. You don't recall -- 11:36:28
A. -- this picture? 11:36:28
Q. Yes, I am. 11:36:30
You don't recall ever having reviewed Exhibit 11:36:31
18, right? 11:36:33
A. This exhibit, no. 11:36:35
Q. Yeah. Okay. 11:36:37
And what was your response earlier about 11:36:45
USENIX? Did you say you had attended some USENIX 11:36:51
conferences? 11:36:54
A. I believe my response was no. 11:36:55
Q. You had not. 11:36:57
Did you ever review USENIX papers? 11:36:58
A. Yes. 11:37:03
MR. WOLFF: I will have the reporter mark as 11:37:07
Exhibit 19 a USENIX paper entitled "MediaView: An 11:37:08
Editable Multimedia Publishing System Developed with an 11:37:12
Object-Oriented Toolkit" from USENIX Summer 1991. 11:37:15
(Whereupon, Exhibit 19 was marked for 11:37:18
identification.) 11:37:27
MR. WOLFF: I will give you a standing 11:37:28
request for Bates numbers, Josh. 11:37:30
MR. BUDWIN: Thank you. 11:37:34
Q. (By Mr. Wolff) Do you recognize what's been 11:37:35
marked as Exhibit 19? 11:37:43
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1	A. No. 11:37:44	Q. And this was at UCLA? 11:40:27	
2	Q. If you turn to the second page, page 2. It's 11:37:45	A. Yes. 11:40:30	
3	got a much cleaner screen shot of the MediaView system. 11:37:53	Q. You didn't have NeXt boxes at UCSF, did you? 11:40:30	
4	A. Yes. 11:37:57	A. No. 11:40:39	
5	Q. Does it refresh your recollection of ever 11:37:57	Q. If you thumb through the pictures, let me 11:40:40	
6	looking at or using the MediaView system? 11:37:59	know if you -- if any refresh your recollection about 11:40:42	
7	A. I don't believe I ever saw it. 11:38:01	ever having seen the MediaView system. 11:40:45	
8	Q. What do you mean, you don't believe you ever 11:38:03	A. No. I don't recognize any. 11:41:20	
9	saw it? 11:38:07	MR. WOLFF: I will have the reporter mark as 11:41:25	
10	A. I don't recall ever seeing MediaView. 11:38:07	the next exhibit a publication from Communications of 11:41:27	
11	Q. Do you recall being aware of MediaView? 11:38:10	the ACM from July 1991, entitled "MediaView with 11:41:29	
12	A. No. 11:38:13	General Multimedia Digital Publication System" by 11:41:33	
13	Q. Can you say one way or the other whether you 11:38:13	Richard L. Phillips. 11:41:36	
14	have ever looked at the MediaView system? 11:38:17	(Whereupon, Exhibit 21 was marked for 11:41:36	
15	MR. BUDWIN: Form. 11:38:19	identification.) 11:41:37	
16	THE DEPONENT: I don't recall ever seeing it. 11:38:20	Q. (By Mr. Wolff) Did you subscribe to the 11:41:46	
17	MR. WOLFF: We will mark as Exhibit 19 -- 11:38:35	Communications of the ACM? 11:41:49	
18	MR. BUDWIN: Twenty. 11:38:40	A. No. 11:41:50	
19	MR. KAO: Twenty. 11:38:41	Q. Do you recognize what's been marked as 11:41:54	
20	MR. WOLFF: I'm sorry. Twenty -- I'm glad 11:38:42	Exhibit 21? 11:41:56	
21	somebody is paying attention -- a document entitled "An 11:38:45	A. No. 11:41:57	
22	Interpersonal Multimedia Visualization System" by 11:38:47	Q. Thumb through the pages and turn to the third 11:42:02	
23	Richard Phillips from the IEEE, Computer Graphics and 11:38:49	page where Figures 1 through 4 are shown. 11:42:04	
24	Applications Journal. 11:38:54	Do they refresh your recollection about ever 11:42:12	
25	(Whereupon, Exhibit 20 was marked for 11:38:55	having seen or used the MediaView system? 11:42:14	
	Page 70	Page 72	
1	identification.) 11:39:02	A. I don't recognize these pictures. 11:42:17	
2	Q. (By Mr. Wolff) Do you recognize what's been 11:39:11	Q. Do you see the 3D house above Figure 4? 11:42:21	
3	marked as Exhibit 20? 11:39:13	A. Yes. 11:42:24	
4	A. No. 11:39:14	Q. Do you see the slider bars around three sides 11:42:24	
5	Q. If you turn to the second page, Figure 1, 11:39:17	of it? 11:42:27	
6	it's got another screen capture. It's been annotated. 11:39:20	A. Yes. 11:42:28	
7	And you referred earlier to Mathematica, 11:39:30	Q. You don't recall looking at that before? 11:42:30	
8	installing Mathematica on the NeXt machines? 11:39:33	A. No. 11:42:33	
9	A. Yes. 11:39:39	Q. Can you say for certain that you've never 11:42:36	
10	Q. What was Mathematica? 11:39:40	looked at the MediaView system before? 11:42:38	
11	A. A system or software from -- well, for 11:39:45	A. No. 11:42:41	
12	research was it, or for math -- mathematicians to use 11:39:46	Q. What makes you think you might have seen the 11:42:42	
13	as a digital notebook. 11:39:49	MediaView system before? 11:42:45	
14	Q. And do you recall what generally the 11:39:53	MR. BUDWIN: Form. 11:42:48	
15	architecture was of Mathematica? Was it a client 11:39:59	THE DEPONENT: I don't think I have ever seen 11:42:50	
16	server system? 11:40:02	it before. 11:42:51	
17	A. I don't recall that. I recall it was 11:40:03	Q. (By Mr. Wolff) Do you think you've ever read 11:42:52	
18	object-oriented in nature, but not client server. 11:40:06	anything about the MediaView system before? 11:42:54	
19	Q. Could you put it on a network and have it as 11:40:10	A. No, I don't recall. 11:42:58	
20	a distributed -- 11:40:12	MR. WOLFF: I will mark as Exhibit 22 some 11:43:14	
21	A. Yes. 11:40:12	materials we -- we obtained from the W3C in a folder 11:43:21	
22	Q. -- server system? 11:40:13	called "History," dated 1992-11-03. 11:43:31	
23	A. But we did not have that version, I guess, of 11:40:14	(Whereupon, Exhibit 22 was marked for 11:43:36	
24	the software installed or didn't have it set up that 11:40:16	identification.) 11:43:20	
25	way. It may have been in another part of our network. 11:40:19	Q. (By Mr. Wolff) Do you know --	
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<p>1 MR. KAO: Can we get a --</p> <p>2 Q. (By Mr. Wolff) Do you know what the W3C is? 11:43:38</p> <p>3 MR. KAO: Can we get copies? 11:43:41</p> <p>4 MR. WOLFF: Yes, you can. 11:43:45</p> <p>5 THE DEPONENT: I'm sorry. Could you repeat 11:44:15</p> <p>6 the question, please. 11:44:17</p> <p>7 Q. (By Mr. Wolff) Do you know what the W3C is? 11:44:18</p> <p>8 A. Yes. 11:44:20</p> <p>9 Q. What is it? 11:44:21</p> <p>10 A. WorldWideWeb Consortium. 11:44:22</p> <p>11 Q. You mentioned earlier or we discussed earlier 11:44:26</p> <p>12 some communications with Tim Berners-Lee? 11:44:29</p> <p>13 A. Yes. 11:44:34</p> <p>14 Q. Do you know what his relationship to the W3C 11:44:35</p> <p>15 is? 11:44:38</p> <p>16 A. He's the founder. 11:44:38</p> <p>17 Q. Was he at CERN when you first had 11:44:40</p> <p>18 communications with Mr. Berners-Lee? 11:44:43</p> <p>19 A. Yes. 11:44:48</p> <p>20 Q. Did you look at the Web pages that he 11:44:49</p> <p>21 maintained at CERN or the W3C? 11:44:51</p> <p>22 A. Yes, I did. 11:44:54</p> <p>23 Q. Do you recall Exhibit 22 being a Web page 11:44:55</p> <p>24 that you may have reviewed at the W3C or CERN Websites? 11:44:56</p> <p>25 A. I don't recall seeing these pages 11:45:01</p> <p style="text-align: right;">Page 74</p>	<p>Q. (By Mr. Wolff) Would you have looked at -- 11:46:05</p> <p>do you see "MediaView" towards the middle of the first 11:46:09</p> <p>page? 11:46:11</p> <p>A Yes, I see it 11:46:12</p> <p>Q. Would you have followed up on MediaView to 11:46:13</p> <p>read more about it? 11:46:15</p> <p>MR BUDWIN: Objection Form 11:46:16</p> <p>THE DEPONENT: Yes 11:46:17</p> <p>Q. (By Mr. Wolff) Why is that? 11:46:17</p> <p>A As part of my research 11:46:26</p> <p>Why would I stop at this page if I had viewed 11:46:28</p> <p>this page? 11:46:31</p> <p>MR WOLFF: I will give you another version 11:46:38</p> <p>of the similar content 11:46:39</p> <p>(Whereupon, Exhibit 23 was marked for 11:46:42</p> <p>identification) 11:46:43</p> <p>Q. (By Mr. Wolff) Exhibit 23 is actually from a 11:46:54</p> <p>tarball at the W3C site, having a paper, I think, 11:46:57</p> <p>called "Overview.HTML" or a file named "Overview.HTML." 11:47:05</p> <p>Do you recognize what's been marked as 11:47:13</p> <p>Exhibit 23? 11:47:15</p> <p>A No 11:47:16</p> <p>Q. Do you see "MediaView" at middle of the page? 11:47:21</p> <p>A Yes 11:47:23</p> <p>Q. Was it your practice at the time to visit the 11:47:24</p> <p style="text-align: right;">Page 76</p>
<p>1 particularly. Or -- yeah, I don't recall these -- 11:45:03</p> <p>2 these bullets here. 11:45:08</p> <p>3 Q. Why do you say, "particularly"? Why do you 11:45:09</p> <p>4 qualify your answer that way? 11:45:12</p> <p>5 MR. KAO: Objection. 11:45:14</p> <p>6 THE DEPONENT: I know that I viewed their 11:45:15</p> <p>7 Website, but I don't recall this specific -- 11:45:17</p> <p>8 Q. (By Mr. Wolff) Okay. Why did you -- 11:45:21</p> <p>9 A. -- information. 11:45:22</p> <p>10 Q. -- review the Website? 11:45:22</p> <p>11 A. I thought the tools that Tim Berners-Lee had 11:45:25</p> <p>12 created were really cool. 11:45:31</p> <p>13 Q. Like what? 11:45:32</p> <p>14 A. The Web browser that ran on the NeXt 11:45:33</p> <p>15 platform. It was relevant to my work. 11:45:36</p> <p>16 Q. At UCLA? 11:45:39</p> <p>17 A. Yes. 11:45:40</p> <p>18 Q. And UCSF? 11:45:40</p> <p>19 A. Of course. 11:45:43</p> <p>20 Q. If you went to the page that Mr. Berners-Lee 11:45:46</p> <p>21 hosted, would you have followed up or looked into any 11:45:51</p> <p>22 of these systems that are described on Exhibit 22? 11:45:55</p> <p>23 MR. BUDWIN: Objection. Form. 11:46:00</p> <p>24 THE DEPONENT: If I had viewed this, I would 11:46:00</p> <p>25 have followed up. 11:46:02</p> <p style="text-align: right;">Page 75</p>	<p>CERN or the W3C site and look at the systems and 11:47:26</p> <p>applications page that Berners-Lee was maintaining? 11:47:29</p> <p>MR. BUDWIN: Objection. Form. 11:47:36</p> <p>THE DEPONENT: I had a problem to solve 11:47:37</p> <p>whereas I had a community I was publishing information 11:47:38</p> <p>to, and I was researching tools for doing that. And as 11:47:40</p> <p>a result, I would have looked at their pages. 11:47:45</p> <p>Q. (By Mr. Wolff) What did the tools have to do 11:47:50</p> <p>with the research you were doing? 11:47:52</p> <p>A. I was looking for tools to publish 11:47:58</p> <p>information about our network to our users. 11:48:01</p> <p>Q. And why were you looking at those tools? 11:48:04</p> <p>A. Because our users had questions. There was a 11:48:07</p> <p>lot of information to provide to them. It was my job. 11:48:08</p> <p>MR. WOLFF: What are we up to, 24? 11:48:32</p> <p>THE REPORTER: Yeah. 11:48:34</p> <p>(Whereupon, Exhibit 24 was marked for 11:48:34</p> <p>identification.) 11:48:35</p> <p>Q. (By Mr. Wolff) Now, Exhibit 24 is something 11:48:35</p> <p>we took from a link that was on one of those earlier 11:48:45</p> <p>pages that I showed you. It's entitled "MediaView." 11:48:50</p> <p>And the URL is partially cut off at the bottom here. I 11:48:53</p> <p>apologize for that. 11:48:58</p> <p>Do you recognize what's been marked as 11:48:59</p> <p>Exhibit 24? 11:49:00</p> <p style="text-align: right;">Page 77</p>

<p>1 A. No. 11:49:04</p> <p>2 Q. Do you think you may have seen Exhibit 24 11:49:16</p> <p>3 before? 11:49:18</p> <p>4 MR. BUDWIN: Objection. Form. 11:49:19</p> <p>5 THE DEPONENT: I don't recall ever seeing it 11:49:21</p> <p>6 before. 11:49:22</p> <p>7 Q. (By Mr. Wolff) How about the description of 11:49:23</p> <p>8 the MediaView system; does it refresh your recollection 11:49:23</p> <p>9 as being familiar with the MediaView system in 1992 or 11:49:28</p> <p>10 1993 time frame? 11:49:31</p> <p>11 A. No. I don't see anything I recognize. 11:49:34</p> <p>12 Q. Do you remember downloading any materials 11:49:42</p> <p>13 from the Purdue archive server about MediaView? 11:49:43</p> <p>14 A. No. 11:49:47</p> <p>15 Q. You didn't or you don't recall? 11:49:53</p> <p>16 A. I don't recall. 11:49:54</p> <p>17 Q. So you might have downloaded stuff from the 11:49:54</p> <p>18 Purdue server. 11:49:57</p> <p>19 MR. KAO: Objection. 11:49:58</p> <p>20 MR. BUDWIN: Objection. Form. 11:49:59</p> <p>21 THE DEPONENT: That's two different 11:50:00</p> <p>22 questions. It's ambiguous. 11:50:03</p> <p>23 Did I download from this site or did I 11:50:05</p> <p>24 download MediaView? 11:50:08</p> <p>25 Q. (By Mr. Wolff) Did you download anything 11:50:10</p>	<p>MR. WOLFF: I will mark as the next exhibit, 11:51:58</p> <p>26, an e-mail we received from you from September 8th, 11:52:00</p> <p>1993. 11:52:03</p> <p>(Whereupon, Exhibit 26 was marked for 11:52:04</p> <p>identification.) 11:52:05</p> <p>Q. (By Mr. Wolff) Do you recognize what's been 11:52:17</p> <p>marked as Exhibit 26? 11:52:18</p> <p>A. Yes. 11:52:19</p> <p>Q. What is it? 11:52:20</p> <p>A. It seems to be an e-mail from me to David 11:52:20</p> <p>Martin. 11:52:24</p> <p>Q. From September 8th, 1993? 11:52:26</p> <p>A. Yes. That's what it says. 11:52:29</p> <p>Q. You state in this message, "I know I have 11:52:33</p> <p>seen this page before, but I don't know if you have. 11:52:36</p> <p>At any rate, take a look at" -- and it provides a URL. 11:52:39</p> <p>Then it continues, "In particular, see the MediaView 11:52:42</p> <p>notes." 11:52:45</p> <p>Does this refresh your recollection about 11:52:45</p> <p>ever looking at the MediaView system? 11:52:48</p> <p>MR. BUDWIN: Objection. Form. 11:52:50</p> <p>THE DEPONENT: I don't recall ever seeing the 11:52:51</p> <p>MediaView system. Apparently, I did. 11:52:53</p> <p>Q. (By Mr. Wolff) Do you have any reason -- do 11:52:56</p> <p>you know why you would have told Mr. Martin to go look 11:52:58</p>
<p>1 from the Purdue archive server? 11:50:11</p> <p>2 A. I would have. 11:50:14</p> <p>3 Q. Did you download MediaView from the Purdue 11:50:15</p> <p>4 archive server? 11:50:18</p> <p>5 A. I don't recall ever downloading MediaView. 11:50:20</p> <p>6 Q. So you don't know whether you did it or you 11:50:21</p> <p>7 don't whether you didn't do it, right? 11:50:23</p> <p>8 MR. KAO: Objection. 11:50:24</p> <p>9 MR. BUDWIN: Objection. 11:50:25</p> <p>10 THE DEPONENT: I don't recall. 11:50:26</p> <p>11 Q. (By Mr. Wolff) So you could have downloaded 11:50:26</p> <p>12 it, right? 11:50:27</p> <p>13 MR. KAO: Same objections. 11:50:29</p> <p>14 MR. BUDWIN: Same objections. 11:50:31</p> <p>15 THE DEPONENT: It was my job to download 11:50:31</p> <p>16 software from the Internet and install it for use by 11:50:33</p> <p>17 our users. I downloaded many, many packages. 11:50:35</p> <p>18 (Whereupon, Exhibit 25 was marked for 11:50:47</p> <p>19 identification.) 11:51:05</p> <p>20 Q. (By Mr. Wolff) Do you recognize what's been 11:51:18</p> <p>21 marked as Exhibit 25? 11:51:19</p> <p>22 A. No. 11:51:38</p> <p>23 Q. You don't recall anything about Exhibit 25 11:51:45</p> <p>24 and the MediaView system? 11:51:47</p> <p>25 A. No. 11:51:49</p>	<p>at the MediaView system? 11:53:02</p> <p>MR. BUDWIN: Same objections. 11:53:06</p> <p>THE DEPONENT: I saw it as part of my job. 11:53:07</p> <p>Q. (By Mr. Wolff) Why was it part of your job? 11:53:09</p> <p>A. I -- we were crafting information systems for 11:53:11</p> <p>the library, and I often found things that I thought 11:53:14</p> <p>were of interest and shared them with David or others. 11:53:19</p> <p>Q. And why would MediaView have been of 11:53:22</p> <p>interest? 11:53:25</p> <p>A. Well, I can only respond from what I have 11:53:29</p> <p>seen today, that it was an information system, and 11:53:32</p> <p>that's why it would have been of interest. 11:53:37</p> <p>Q. It would have been of interest for particular 11:53:41</p> <p>projects you were working at at UCSF? 11:53:43</p> <p>A. I say, "In particular." Apparently, so. 11:53:47</p> <p>Q. And why would you draw attention to MediaView 11:53:51</p> <p>in your message to Mr. Martin? 11:53:53</p> <p>A. I don't know why I was interested in that. 11:53:55</p> <p>Q. And so you would have come across this link 11:54:00</p> <p>at least by September 8th, 1993, but in this message 11:54:04</p> <p>you say that you have seen this page before. 11:54:09</p> <p>A. Yes. 11:54:15</p> <p>Q. Do you know how far before? 11:54:18</p> <p>A. I have no way of knowing when it was 11:54:23</p> <p>published, but I did scan through the CERN Website when 11:54:25</p>

1 I first discovered the WWW software. 11:54:35
 2 **Q. And what was the purpose of scanning through 11:54:41**
 3 **the CERN Website? 11:54:43**
 4 A. To educate myself and discover whether 11:54:44
 5 there's anything useful. 11:54:46
 6 MR. WOLFF: We can take a break or I can go 11:54:52
 7 to the next section. What do you want to do? 11:54:54
 8 MR. KAO: What time is it? 11:54:57
 9 MR. WOLFF: It's almost noon. 11:54:58
 10 MR. KAO: Do you want to take -- should we 11:55:01
 11 break for lunch then? 11:55:03
 12 MR. WOLFF: We can do that. 11:55:05
 13 THE VIDEOGRAPHER: We are off the record at 11:55:07
 14 11:54 a.m. 11:55:09
 15 (Recess taken.) 11:55:10
 16 THE VIDEOGRAPHER: We are back on the record 12:44:56
 17 at 12:44 p.m. 12:44:57
 18 You may proceed. 12:45:00
 19 **Q. (By Mr. Wolff) Before we took a break for 12:45:01**
 20 **lunch I was asking you questions about Exhibit 26. 12:45:03**
 21 **This is the e-mail concerning MediaView. 12:45:06**
 22 **Do you recall that? 12:45:09**
 23 A. Yes. 12:45:09
 24 **Q. Do you recall whether you ever had any 12:45:10**
 25 **follow-up discussions with Mr. Martin about the 12:45:12**
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1 **MediaView system? 12:45:17**
 2 A. I don't recall ever having any conversations 12:45:18
 3 with him -- 12:45:21
 4 **Q. Can you say -- 12:45:21**
 5 A. -- about MediaView. 12:45:22
 6 **Q. Can you say that you never had any 12:45:23**
 7 **conversations with Mr. Martin about MediaView? 12:45:25**
 8 MR. BUDWIN: Objection. 12:45:30
 9 THE DEPONENT: No. I can just say I don't 12:45:31
 10 recall. 12:45:32
 11 MR. WOLFF: I will mark the next exhibit as 12:45:37
 12 No. 27. This is a document bearing Bates No. CM000762. 12:45:39
 13 (Whereupon, Exhibit 27 was marked for 12:45:44
 14 identification.) 12:45:45
 15 **Q. (By Mr. Wolff) Do you recognize what's been 12:45:58**
 16 **marked as Exhibit 27? 12:45:59**
 17 A. Yes. 12:46:01
 18 **Q. And what is it? 12:46:01**
 19 A. A sign-up sheet from the Hypertext '93 12:46:02
 20 Conference. 12:46:10
 21 **Q. Is this something that you maintained or is 12:46:11**
 22 **it something that you ended up with a copy of? 12:46:13**
 23 A. Yeah, I don't recall how it came into my 12:46:19
 24 possession. It's possible -- no, actually, I don't 12:46:22
 25 recall. My name is on here as if I signed up for it, 12:46:30
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so... 12:46:33
Q. Besides where your name is listed in here -- 12:46:34
which I assume it is, I didn't even check -- is your 12:46:36
penmanship or your handwriting reflected on Exhibit 27? 12:46:40
 A. Yes. 12:46:45
Q. Where? 12:46:46
 A. The second column about halfway down. 12:46:48
Q. Besides the -- the name. 12:46:51
 A. Oh, no. I don't see anything that looks like 12:46:55
 my handwriting. 12:47:01
 MR. WOLFF: Okay. I will have the reporter 12:47:02
 mark as the next exhibit, No. 28 a document bearing 12:47:04
 Bates Labels CM000758 through 761. 12:47:11
 (Whereupon, Exhibit 28 was marked for 12:47:15
 identification.) 12:47:06
Q. (By Mr. Wolff) Do you recognize what's been 12:47:32
marked as Exhibit 28? 12:47:33
 A. No. I don't recognize it. 12:47:56
Q. Does this -- looking at Exhibit 27, does this 12:47:58
appear to be notes from Hypertext '93 prepared by 12:48:02
someone that you received? 12:48:07
 MR. BUDWIN: Objection. Form. 12:48:09
 THE DEPONENT: Yes. 12:48:13
Q. (By Mr. Wolff) And why do you think that? 12:48:14
 A. It's plausible. And I see this sheet on 12:48:16
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the -- this last sheet. 12:48:22
Q. The last sheet with the sign -- sign-up list? 12:48:27
 A. Yes. 12:48:30
Q. Do you know how you came into possession of 12:48:33
Exhibit 28? 12:48:35
 A. During a session at Hypertext '93. 12:48:38
Q. Are any of the checkmarks on the front of 12:48:50
Exhibit 28 yours? 12:48:53
 A. I don't know. 12:49:02
Q. Could you -- could you tell if you saw the 12:49:04
original document? 12:49:07
 A. Perhaps. This reproduction seems fairly 12:49:09
 good. 12:49:14
Q. But you can't tell whether this was a 12:49:14
reproduction of a reproduction or a reproduction of an 12:49:16
original with pencil or pen checkmarks on it. 12:49:19
 A. No, I can't. 12:49:23
Q. Okay. Are the checkmarks a format that you 12:49:24
would use? 12:49:28
 A. I can't say. I have used checkmarks before. 12:49:35
Q. Fair enough. 12:49:39
 MR. WOLFF: I will have the reporter mark as 12:49:58
 Exhibit 29 a document bearing Bates Labels CM000874 12:50:00
 through CM000875. This is a document that we received 12:50:03
 from your production. 12:50:09
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1 (Whereupon, Exhibit 29 was marked for 12:50:17
 2 identification.) 12:50:06
 3 MR. WOLFF: I will give Josh a copy with
 4 scribble on it. My illegible scribble.
 5 MR. BUDWIN: Does the original not have -- 12:50:29
 6 MS. DOAN: The red marks? 12:50:34
 7 MR. WOLFF: The red marks are added. He 12:50:36
 8 doesn't have a copy of the red marks. I just didn't 12:50:37
 9 realize I didn't have enough copies. 12:50:40
 10 **Q. (By Mr. Wolff) Do you recognize what's been 12:50:42**
 11 **marked as Exhibit 29? 12:50:44**
 12 A. Yes. 12:50:45
 13 **Q. How do you recognize it? 12:50:46**
 14 A. I wrote it. 12:50:47
 15 **Q. How do you know you wrote it? 12:50:48**
 16 A. I recognize it. 12:50:49
 17 **Q. Okay. Do you see your penmanship on it, too? 12:50:50**
 18 A. Yes. 12:50:54
 19 **Q. So this was a printout of something that you 12:50:54**
 20 **typed up and -- 12:50:57**
 21 A. Yes. 12:50:58
 22 **Q. -- wrote over the top of. 12:50:58**
 23 **And do you know approximately when you would 12:51:01**
 24 **have written this up. 12:51:03**
 25 A. Before the first -- well, 12:51:08

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1 September/October 1993. 12:51:13
 2 **Q. Would this be an e-mail or just a typed 12:51:16**
 3 **document that looks kind of like an e-mail? 12:51:19**
 4 A. There's an e-mail header at the top, it looks 12:51:22
 5 like. 12:51:26
 6 **Q. But it says, "Draft," across the top and -- 12:51:26**
 7 A. Yes. 12:51:28
 8 **Q. -- something, so I wasn't sure whether it was 12:51:28**
 9 **something you drafted up and printed out, but never 12:51:30**
 10 **sent, or if it's something you actually sent. 12:51:32**
 11 A. I know I did send some announcement. I don't 12:51:35
 12 know if this is the final draft or not. The word 12:51:39
 13 "Draft" is my writing. 12:51:43
 14 **Q. Did you attend the WorldWideWeb Wizards 12:51:49**
 15 **Workshop in July in Cambridge in 1993? 12:51:54**
 16 A. Yes. 12:51:58
 17 **Q. Did you see the Viola system at that 12:52:02**
 18 **conference? 12:52:07**
 19 A. Yes, I think. 12:52:08
 20 MR. KAO: Objection. Vague. 12:52:09
 21 You can answer, if you understand. 12:52:14
 22 THE DEPONENT: I believe so. 12:52:16
 23 **Q. (By Mr. Wolff) Okay. What is your 12:52:16**
 24 **understanding of the Viola system? 12:52:17**
 25 A. It's a Web browser. 12:52:19

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Q. And what did it do? 12:52:22
 A. It displayed Web pages. 12:52:24
Q. What kind of Web pages? 12:52:27
 A. HTML Web pages. 12:52:34
Q. Were they just static text? Or were there 12:52:35
interactive objects or multimedia objects in those Web 12:52:38
pages? 12:52:41
 MR. BUDWIN: Form. 12:52:43
 MR. KAO: Objection. 12:52:43
 THE DEPONENT: I don't recall specifically 12:52:45
 what I saw Viola do at that particular conference. 12:52:47
Q. (By Mr. Wolff) But you saw Viola running at 12:52:54
that conference? 12:52:57
 MR. BUDWIN: Same objection. 12:52:58
 THE DEPONENT: Yes, I believe so. 12:52:59
Q. (By Mr. Wolff) Was it interesting to you to 12:53:00
see the Viola system? 12:53:05
 A. Yes. 12:53:08
Q. What was interesting about it? 12:53:08
 A. I -- let me correct myself, actually. I'm 12:53:14
 not sure that I actually saw a demo. I did get 12:53:17
 explanations or a description of what it does from Pei 12:53:19
 Wei. 12:53:26
Q. Anyone else? 12:53:26
 A. Possibly. 12:53:27

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Q. Who else would have been there that could 12:53:28
have described it to you? 12:53:30
 A. Scott Silvi. 12:53:32
Q. Anyone else? 12:53:33
 A. Yes. I'm sure others were aware of it, and I 12:53:34
 spoke to quite a few people. 12:53:38
Q. Did you meet Dale Dougherty there? 12:53:40
 A. Yes. 12:53:44
Q. Did I say his last name correctly? 12:53:44
 A. I think so. 12:53:47
Q. Okay. Was he also explaining the Viola 12:53:48
system? 12:53:51
 A. I believe so. 12:53:52
Q. Were there a lot of people getting 12:53:53
explanations about the Viola system while you were 12:53:56
standing around it? 12:53:57
 MR. BUDWIN: Same objection. 12:54:01
 THE DEPONENT: That was the purpose of the 12:54:02
 conference. 12:54:03
Q. (By Mr. Wolff) To demonstrate Viola? 12:54:04
 A. Demonstrate WorldWideWeb tools or discuss 12:54:07
 WorldWideWeb-related technologies, including Viola. 12:54:10
Q. Did you get a technical description of how 12:54:13
Viola operated at the conference? 12:54:16
 MR. BUDWIN: Same objection. 12:54:18

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1	THE DEPONENT: There were technical	12:54:20	recall?	12:57:10
2	discussions.	12:54:22	MR. BUDWIN: Objection. Form.	12:57:11
3	Q. (By Mr. Wolff) What kind of technical	12:54:22	THE DEPONENT: I believe Viola had a	12:57:11
4	discussions?	12:54:24	scripting environment or language to support it.	12:57:13
5	A. About the future of the WorldWideWeb.	12:54:31	Q. (By Mr. Wolff) What could you do in the	12:57:15
6	Current state of the future -- future directions.	12:54:32	scripting language?	12:57:17
7	Q. What about technical discussions about Viola;	12:54:34	A. The purpose of the scripting language was to	12:57:20
8	what were the technical discussions about Viola at the	12:54:36	make it possible for users to extend the browser	12:57:22
9	conference?	12:54:40	behavior in ways not envisioned by the author of the	12:57:32
10	MR. BUDWIN: Same objection.	12:54:41	software.	12:57:36
11	THE DEPONENT: I only recall that there	12:54:48	Q. Such as?	12:57:37
12	were -- I believe there was an interest in -- in	12:54:49	A. I suppose you could write a script to have it	12:57:42
13	agreeing on standards with others so that the browser	12:54:51	not display certain parts or fetch, rather than wait	12:57:48
14	would remain interoperable.	12:54:55	for a click but automatically fetch related pages.	12:57:53
15	Q. (By Mr. Wolff) What kind of standards?	12:54:58	Q. Do you recall a chess board implementation?	12:58:01
16	A. How the HTML format was interpreted and	12:55:05	A. I do recall something like that, yes.	12:58:05
17	displayed so there's consistency between	12:55:13	Q. Did you see it at the conference in	12:58:08
18	implementations.	12:55:16	Cambridge?	12:58:10
19	Q. What was the concern about the consistency of	12:55:18	A. I don't recall where I first saw that.	12:58:11
20	the standard?	12:55:20	Q. What do you remember about the chess board	12:58:14
21	A. There was no standard at that time and there	12:55:20	implementation?	12:58:18
22	was active development going on in separate locations	12:55:26	A. I remember I thought it was cool.	12:58:20
23	by different people. And everybody wants to show off	12:55:30	Q. Did it allow a user to move the chess pieces	12:58:22
24	their -- or do something new and different. And if	12:55:39	around?	12:58:28
25	there is no standard guiding that, then you could -- it	12:55:42	A. That's, yes, what I thought was cool.	12:58:28
		Page 90		Page 92
1	could lead to interoperability problems.	12:55:46	Q. Do you recall a drawing widget or object with	12:58:30
2	Q. Had you used Mosaic at the time you attended	12:55:52	Viola?	12:58:33
3	the conference?	12:55:56	MR. BUDWIN: Form.	12:58:34
4	A. Yes.	12:55:57	THE DEPONENT: Yes.	12:58:35
5	Q. Was there anything different about Mosaic	12:55:57	Q. (By Mr. Wolff) What did that do?	12:58:35
6	versus Viola?	12:56:00	A. Let you scribble.	12:58:38
7	MR. BUDWIN: Objection. Form.	12:56:03	Q. What do you mean, it let you scribble?	12:58:40
8	THE DEPONENT: Yes. There are differences.	12:56:04	A. Pick a pen, pick a color. Drag your mouse	12:58:42
9	Q. (By Mr. Wolff) Like what?	12:56:05	across the screen and you see a line where you dragged	12:58:45
10	A. I believe Viola had a broader range of image	12:56:15	the mouse pointer.	12:58:50
11	types that it supported as inlined embedded images.	12:56:19	Q. Was it inline with the Web page that you were	12:58:52
12	Q. What kind of image types?	12:56:24	viewing?	12:58:56
13	A. At that time I believe Mosaic still only	12:56:27	MR. BUDWIN: Same objection.	12:58:57
14	displayed GIF format images inline, whereas Viola had a	12:56:31	THE DEPONENT: It was in the browser window.	12:58:57
15	broader range of image types that it understood or	12:56:36	Q. (By Mr. Wolff) It wasn't in a separate	12:59:01
16	supported.	12:56:41	window apart from the browser window?	12:59:02
17	Q. Do you recall any of the other types of	12:56:42	MR. BUDWIN: Vague. Objection.	12:59:04
18	images or other objects that could be displayed in	12:56:45	THE DEPONENT: No, I don't think so.	12:59:05
19	Viola?	12:56:51	Q. (By Mr. Wolff) Did you ever use the drawing	12:59:06
20	MR. BUDWIN: Form.	12:56:53	widget?	12:59:10
21	THE DEPONENT: No. I can only guess.	12:56:56	A. I don't recall whether I used it myself. I	12:59:15
22	Q. (By Mr. Wolff) What would you guess?	12:56:58	saw it.	12:59:19
23	A. JPEG.	12:57:02	Q. Was the conference in Cambridge where you met	12:59:28
24	Q. How about non-image types, but other types of	12:57:03	the people from O'Reilly for the first time?	12:59:31
25	files displayable in Viola; were there any that you	12:57:05	A. Yes.	12:59:36
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Q. And then when I look at Exhibit 29, it says 12:59:39
O'Reilly was hosting this SIGWEB Conference. Strike 12:59:41
that. 12:59:46
This actually does not say "SIGWEB" on 12:59:46
Exhibit 29, does it? 12:59:48
MR. KAO: The document speaks for itself. 12:59:53
THE DEPONENT: I'm sorry. Is this Exhibit 12:59:55
29? 12:59:56
Q. (By Mr. Wolff) Yes, it is. 12:59:58
So you don't have to go fishing around for 01:00:02
this, about the middle of the page, it says, "Western 01:00:04
WorldWideWeb weaver's waggle," which I assume was a 01:00:08
play on words to W5, which you attended. 01:00:11
And then beneath that, it says, in 01:00:15
parenthesis, "Software Interest Group on distributed 01:00:16
information systems, which would be SIGDIS. 01:00:20
When did you come up with the name SIGWEB or 01:00:26
when was the name SIGWEB first used? 01:00:32
THE DEPONENT: I couldn't tell you. I don't 01:00:37
know exactly when we first -- at least you could 01:00:38
pronounce it. WWW-SIG is not so easy to pronounce. 01:00:41
Q. (By Mr. Wolff) Is this what ultimately 01:00:50
became SIGWEB? 01:00:53
A. This -- yeah. This was the first SIGWEB 01:00:54
meeting. 01:00:58
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MR. WOLFF: Okay. I will have the reporter 01:00:59
mark as the next document a document bearing Bates 01:01:10
Label CM000726 through 730. This is, again, a document 01:01:14
that we received from you. 01:01:27
(Whereupon, Exhibit 30 was marked for 01:01:28
identification.) 01:01:29
Q. (By Mr. Wolff) Do you recognize what's been 01:01:32
marked as Exhibit 30? 01:01:34
A. Yes. 01:01:35
Q. What is it? 01:01:35
A. It's a description of the SIGWEB group. 01:01:42
Q. And this document uses SIGWEB -- 01:01:46
A. Yes, it does. 01:01:51
Q. -- as the name. 01:01:52
All right. Do you know what the date, 01:01:52
approximately, of this document is? 01:01:53
A. I see a date on the next page. Approximately 01:01:57
the last quarter of 1993. 01:01:58
Q. Would -- would this be something that was 01:02:01
circulated before October 7th, 1993? 01:02:03
A. Circulated? 01:02:07
Q. Yes. 01:02:08
A. No. 01:02:16
Q. Why do you say that? 01:02:16
A. Because the planning for SIGWEB took place 01:02:23
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internally at U.C. San Francisco, I didn't circulate 01:02:25
anything. It was a U.C. San Francisco event and... 01:02:35
Q. Was the public invited to the first SIGWEB 01:02:40
meeting? 01:02:45
A. What's the public? 01:02:45
Q. Just anyone in the public that had expressed 01:02:47
an interest to attend. 01:02:50
A. There was no restrictions on who could come. 01:02:51
Q. In fact, towards the back of this, on page 01:02:54
728, it says, "We have received about 130-plus 01:02:58
responses so far." 01:03:01
Do you see that? 01:03:02
A. Yes, I do. 01:03:09
Q. What is that referring to? 01:03:10
A. People had responded to the announcement that 01:03:14
I sent out. 01:03:16
Q. So you would have sent the announcement out 01:03:17
before the meeting, obviously. 01:03:20
A. Yes. 01:03:21
Q. And would this have been a document that was 01:03:22
given out at the meeting or before the meeting, or 01:03:23
something that was posted just internally at the 01:03:26
University of California? 01:03:33
A. I assume that this was sent out to people and 01:03:34
they responded to it to say they were coming. It would 01:03:37
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have been sent to the WWW-Talk mailing list. 01:03:45
MR. WOLFF: I'll have the reporter mark as 01:03:59
the next exhibit, No. 31, a document bearing Bates 01:04:00
Labels CM000950 through CM000954. 01:04:04
(Whereupon, Exhibit 31 was marked for 01:04:12
identification.) 01:04:13
Q. (By Mr. Wolff) Do you recognize Exhibit 31? 01:04:31
A. Yes. 01:04:33
Q. How do you recognize it? 01:04:33
A. I wrote it. 01:04:35
Q. When did you write it? 01:04:36
A. October 1993. 01:04:43
Q. Before October 3rd, 1993? 01:04:44
A. Yes, or on. 01:04:46
Q. Now, you produced a cassette tape, too. 01:04:48
Would the cassette tape be you reading mostly what's 01:04:50
shown on Exhibit 31? 01:04:55
A. I believe so. 01:04:56
Q. Why did you prepare Exhibit 31? 01:04:58
A. To prepare for the meeting, my remarks at the 01:05:03
meeting. 01:05:09
MR. WOLFF: I will have the reporter mark as 01:05:21
Exhibit 32 a document bearing Bates Labels CM000940 01:05:22
through CM000943. 01:05:28
///// 01:05:29
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1 (Whereupon, Exhibit 32 was marked for 01:05:29
 2 identification.) 01:05:31
 3 **Q. (By Mr. Wolff) Do you recognize what's been 01:05:45**
 4 **marked as Exhibit 32? 01:05:46**
 5 A. Yes. 01:05:48
 6 **Q. How do you recognize it? 01:05:48**
 7 A. I wrote it. 01:05:52
 8 **Q. Is this a report that you wrote up and 01:05:55**
 9 **circulated to anyone? 01:06:00**
 10 A. Yes, I believe so. 01:06:03
 11 **Q. Who did you circulate it to? 01:06:04**
 12 A. The WWW-Talk mailing list. 01:06:06
 13 **Q. And what was your purpose of circulating 01:06:13**
 14 **Exhibit 32? 01:06:15**
 15 A. To provide a reference for people who had 01:06:18
 16 been there and for people who had not been at the 01:06:22
 17 meeting. 01:06:26
 18 **Q. Do you recall a visible embryo project being 01:06:42**
 19 **shown at the SIGWEB Conference? 01:06:46**
 20 A. Yes. 01:06:47
 21 **Q. What was shown? 01:06:48**
 22 A. Are you asking about this specific meeting 01:06:51
 23 or -- 01:06:52
 24 **Q. Yes. 01:06:53**
 25 A. I don't recall whether it was actually shown 01:06:54
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1 at this first meeting. I think it was one of the 01:06:56
 2 subsequent meetings. 01:06:59
 3 **Q. Were you at the subsequent meeting? 01:07:01**
 4 A. I was at all the meetings, yes. 01:07:04
 5 **Q. Okay. On the second page, 941, towards the 01:07:06**
 6 **bottom, it lists some projects. 01:07:08**
 7 **Let me step back a second. What is the 01:07:17**
 8 **Center for Knowledge Management? 01:07:21**
 9 A. It's the organization where I worked. 01:07:23
 10 **Q. It's called the CKM? 01:07:25**
 11 A. It was the U.C. San Francisco Library and 01:07:26
 12 Center for Knowledge Management. 01:07:29
 13 **Q. Okay. And was the visible embryo project 01:07:30**
 14 **something worked -- being worked on at CKM? 01:07:34**
 15 A. Once, yes. Once Mike Doyle arrived. 01:07:37
 16 **Q. And he arrived in June? 01:07:40**
 17 A. June 1st, yeah, was his start date. 01:07:42
 18 **Q. June 1st, 1993? 01:07:46**
 19 A. Yes. 01:07:48
 20 **Q. Were -- what was accessible about the visible 01:07:50**
 21 **embryo project in October 1993? 01:07:55**
 22 A. I don't understand. Accessible? 01:07:59
 23 **Q. Towards the bottom of the page, it says, 01:08:02**
 24 **"Please see," and it provides a URL about the visual 01:08:04**
 25 **embryo project. 01:08:15**
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A. Uh-huh. 01:08:15
Q. If someone went to see visible embryo 01:08:15
project, what would they see? 01:08:19
 A. The contents, such as it was, was there in 01:08:20
 the documents that I produced in -- in -- for you, in 01:08:23
 the backup that I had. 01:08:25
 It's a general overview of what the visible 01:08:31
 embryo project was and some screen shots of the VIZ 01:08:35
 software, I assume. 01:08:39
Q. Did it show any other software besides the 01:08:42
VIZ software? 01:08:48
 A. I don't recall. 01:08:49
 MR. WOLFF: I will have the reporter mark as 01:08:57
 Exhibit 33 a document bearing Bates Labels CM001589 01:08:59
 through CM001606. 01:09:04
 (Whereupon, Exhibit 33 was marked for 01:09:06
 identification.) 01:09:09
Q. (By Mr. Wolff) Do you recognize what's been 01:09:30
marked as Exhibit 33? 01:09:32
 A. Yes. 01:09:33
Q. What is it? 01:09:34
 A. Expense report. 01:09:37
Q. Expense report for what? 01:09:38
 A. For my trip to Boston or Cambridge for the 01:09:39
 WorldWideWeb Wizards workshop. 01:09:48
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Q. And this is the workshop where you saw the 01:09:53
Viola system? 01:09:59
 MR. BUDWIN: Objection. Form. 01:10:00
 THE DEPONENT: Yes. This is the workshop we 01:10:01
 discussed before. 01:10:03
Q. (By Mr. Wolff) If you turn to the last page 01:10:04
on Exhibit 33. 01:10:07
Was this -- towards the bottom, Michael D. 01:10:14
Doyle. Is that his approval for you to attend the 01:10:17
workshop? 01:10:21
 A. Yes. 01:10:23
Q. After you saw the Viola system at the 01:10:32
workshop in July, did you obtain any documents online 01:10:34
or look at the Viola system or information about it 01:10:40
online? 01:10:45
 MR. BUDWIN: Objection. Form. 01:10:46
 MR. WOLFF: Strike that. Let me start that 01:10:51
 question over again. 01:10:53
Q. (By Mr. Wolff) Shortly after you saw the 01:10:54
Viola system in Cambridge in July of 1993, did you look 01:10:57
at Pei Wei's Website or O'Reilly's Website for 01:11:00
additional information about Viola? 01:11:07
 MR. BUDWIN: Objection. Form. 01:11:11
 THE DEPONENT: I don't recall doing so, but I 01:11:12
 would expect that I did. 01:11:14
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1 **Q. (By Mr. Wolff) What would you have been looking for?** 01:11:15
 2 01:11:17
 3 MR. BUDWIN: Same objection. 01:11:19
 4 THE DEPONENT: Things useful to our mission 01:11:21
 5 at the university. 01:11:23
 6 **Q. (By Mr. Wolff) Would you have shared it with anyone else working at CKM?** 01:11:24
 7 01:11:26
 8 MR. BUDWIN: Same objection. 01:11:30
 9 THE DEPONENT: I would have shared if I 01:11:31
 10 thought -- if there was something worth sharing. 01:11:33
 11 **Q. (By Mr. Wolff) And you don't recall one way or the other whether you looked at additional information about Viola, right?** 01:11:35
 12 01:11:36
 13 01:11:38
 14 A. That's right. 01:11:43
 15 **Q. And you don't recall one way or the other whether you shared information about Viola, right?** 01:11:44
 16 01:11:46
 17 A. That's right. 01:11:49
 18 MR. WOLFF: I'm going to hand you a document 01:11:59
 19 that doesn't have a Bates number on it. I don't know 01:12:01
 20 why it doesn't have a Bates number on it, but you can 01:12:03
 21 tell me whether it appears to be a document that you 01:12:06
 22 would have produced. I understand that we did get it 01:12:08
 23 from your production. 01:12:11
 24 (Whereupon, Exhibit 34 was marked for 01:12:12
 25 identification.) 01:12:13

1 **Q. (By Mr. Wolff) Do you recognize what's been marked as Exhibit 34?** 01:12:24
 2 01:12:25
 3 A. Yes. 01:12:27
 4 **Q. What is it?** 01:12:27
 5 A. It's the inside cover of one of my notebooks. 01:12:29
 6 **Q. Can you tell me which notebook this would be?** 01:12:36
 7 01:12:41
 8 A. Yes. I think it's the one -- well, which 01:12:44
 9 one? I don't know how to characterize it. I think 01:12:48
 10 it's one of the later ones like after I had left the 01:12:50
 11 university. 01:12:50
 12 **Q. Okay. Is this your handwriting on Exhibit 34?** 01:12:51
 13 01:12:53
 14 A. Yes. 01:12:54
 15 **Q. And after you left the university, where did you go?** 01:12:55
 16 01:12:57
 17 A. O'Reilly & Associates. 01:12:59
 18 **Q. Who did you work with at O'Reilly?** 01:13:02
 19 01:13:04
 20 A. Dale Dougherty, Pei Wei, Scott Silvi, and -- 01:13:04
 21 well others at O'Reilly. I shared an office with Scott 01:13:09
 22 Silvi and Pei Wei. 01:13:18
 23 **Q. Did you work on the Viola system at all?** 01:13:20
 24 01:13:22
 25 A. No, not really. 01:13:22
Q. Why do you say "not really"? 01:13:23
 A. I had other projects that I was working on. 01:13:25
 I would have had conversations with Pei Wei since we 01:13:27

shared an office. 01:13:31
Q. What kind of conversations would you have with him? 01:13:32
 01:13:33
 A. About everything and anything. 01:13:34
Q. How about Viola? 01:13:37
 A. Not particularly. I -- as I recall he was -- 01:13:40
 you know, it was clearly his project and he wanted it 01:13:41
 to remain that, and wouldn't -- wasn't interested in 01:13:46
 having, you know, my involvement in it. 01:13:51
Q. So why did you have these notes on the inside of your notebook on Exhibit 34? 01:13:54
 01:13:58
 A. These notes tell me where to get the software 01:14:02
 and an environment variable I need to set in order to 01:14:06
 use it. 01:14:10
Q. So did you use it? 01:14:12
 A. Yes, I believe I did. 01:14:15
Q. While you were at O'Reilly? 01:14:19
 A. Yes. 01:14:24
Q. And you started with O'Reilly when? 01:14:25
 A. I don't remember my formal start date. It 01:14:27
 would have been December '93 or January '94. 01:14:31
Q. Do you recall anything about Viola from using it when you were at O'Reilly? 01:14:36
 01:14:41
 A. The main thing I recall about it was that it 01:14:43
 was a sensitive issue between Pei and I. He didn't 01:14:48

want my involvement. I -- maybe there's some -- you 01:14:52
 know he felt threatened or something, and so I backed 01:14:56
 off. 01:15:01
Q. Why do you think he felt threatened? 01:15:01
 A. Well, I had a very, you know, high profile 01:15:03
 because of the SIGWEB meetings and because of my switch 01:15:07
 from the university to O'Reilly. And I was also sort 01:15:12
 of a Johnny-come-lately with -- you know, from Pei's 01:15:16
 point of view. And, finally, I don't think he needed 01:15:21
 me. 01:15:25
Q. Why were you interested in using the Viola system? 01:15:37
 01:15:41
 A. I wanted to fit in at O'Reilly, and I did 01:15:41
 have hope of contributing. Also, I think I was 01:15:47
 expected to present. 01:16:04
Q. Expected to present what? 01:16:09
 A. O'Reilly's products, work. 01:16:10
Q. So you would have been expected to present the Viola system to whom? 01:16:15
 01:16:17
 A. The community in general. 01:16:22
Q. Did you ever get to the point where you felt like you could present the Viola system to the public? 01:16:25
 01:16:27
 A. No. I -- through my work in SIGWEB, I moved 01:16:31
 into, like, a marketing role, which was a mistake. I 01:16:42
 didn't do very well with it. 01:16:45

1 **Q. Why do you think that you weren't able to** 01:16:47
 2 **present on the Viola system?** 01:16:50
 3 A. I only had the most superficial involvement 01:16:52
 4 with it. You know, I started it up and used it a 01:16:57
 5 couple of times. 01:16:59
 6 **Q. Did you look at pages that were coded up that** 01:17:00
 7 **the browser interpreted?** 01:17:04
 8 A. Yes. 01:17:06
 9 **Q. And what do you remember about those pages?** 01:17:07
 10 A. Different look and feel than the XMosaic 01:17:10
 11 browser that I had spent more time with. 01:17:14
 12 **Q. Why was the look and feel different?** 01:17:20
 13 A. Why was it different? 01:17:22
 14 **Q. Yes.** 01:17:23
 15 A. It was coded by a different person. 01:17:26
 16 **Q. Are you talking visually, the way it appeared** 01:17:29
 17 **on the page to the -- to somebody viewing a -- a page** 01:17:32
 18 **that was coded with the Viola markup?** 01:17:36
 19 A. Yes. 01:17:39
 20 **Q. Did you look at the markup itself for the** 01:17:39
 21 **Viola pages to see how they were implemented?** 01:17:42
 22 A. Yes. I believe I looked at -- yes. 01:17:47
 23 **Q. Did they use tags?** 01:17:51
 24 MR. BUDWIN: Form. 01:17:53
 25 THE DEPONENT: Yes. They used HTML. 01:17:54
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1 **Q. (By Mr. Wolff) How were the -- how were the** 01:17:56
 2 **other objects that were included in the page marked up** 01:17:58
 3 **in the Viola system?** 01:18:01
 4 MR. BUDWIN: Same objection. 01:18:03
 5 THE DEPONENT: Well, it did have this 01:18:08
 6 scripting capability, and I did look at that to see how 01:18:09
 7 the language worked, how -- how to use it. 01:18:14
 8 **Q. (By Mr. Wolff) Do you know what sort of** 01:18:18
 9 **interpreter it used?** 01:18:20
 10 A. No. 01:18:23
 11 **Q. Do you know what scripting language it used,** 01:18:25
 12 **if any?** 01:18:28
 13 A. Tk, Tcl, I think. 01:18:29
 14 **Q. Did it use any nonscripting tags or elements** 01:18:34
 15 **to call objects?** 01:18:39
 16 MR. BUDWIN: Objection. Form. 01:18:43
 17 THE DEPONENT: I don't know. I -- I'm not 01:18:45
 18 sure that I understand the question. 01:18:48
 19 **Q. (By Mr. Wolff) Do you know what an EMBED tag** 01:18:50
 20 **is?** 01:18:52
 21 A. Yes. 01:18:53
 22 **Q. Did it use anything like an EMBED tag?** 01:18:54
 23 MR. BUDWIN: Objection. Form. 01:18:57
 24 THE DEPONENT: I don't recall associating 01:18:57
 25 that capability with Viola in particular. 01:18:59
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Q. (By Mr. Wolff) Did you come up with the 01:19:04
EMBED tag? 01:19:08
 A. No. 01:19:08
Q. Who came up with the EMBED tag? 01:19:09
 A. My first knowledge of the EMBED tag came from 01:19:12
 the CERN documentation. There's an e-mail thread from 01:19:16
 Tim Berners-Lee to me on the WWW-Talk mailing list 01:19:25
 describing -- are we discussing typed Lynx. 01:19:28
 And the EMBED -- EMBED was an attribute of 01:19:31
 the anchor tag. It was an -- I think it was labeled an 01:19:35
 experimental component of the WorldWideWeb. 01:19:40
 MR. WOLFF: I will mark as Exhibit 35 a 01:19:48
 document with Bates Labels CM001353 through 1355. 01:19:49
 (Whereupon, Exhibit 35 was marked for 01:19:56
 identification.) 01:19:57
 MR. WOLFF: It's a document dated 01:20:04
 January 24th, 1994 from O'Reilly to someone at 01:20:05
 Stanford. 01:20:11
 MR. BUDWIN: This is 35? 01:20:12
 MR. WOLFF: Yes. 01:20:22
Q. (By Mr. Wolff) Do you recognize Exhibit 35? 01:20:38
 A. Yes. 01:20:40
Q. What is it? 01:20:40
 A. An agreement between Stanford University and 01:20:43
 O'Reilly & Associates. 01:20:50
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Q. And why is it that you have a copy of this 01:20:53
agreement? 01:20:55
 A. It may be that Dale Dougherty wanted me to 01:21:02
 sort of take a leadership role. But at one point -- 01:21:08
 there was an interest between Stanford University and 01:21:11
 O'Reilly Associates doing some sort of collaboration at 01:21:15
 one point. I hoped that might have something to do 01:21:18
 with me, but it fell to Pei instead. And I think 01:21:23
 that's probably how this came to be. 01:21:27
 I think that Dale probably asked me for my 01:21:32
 thoughts or feedback or -- on this. 01:21:34
Q. This is actually a signed letter, right? The 01:21:38
last page has Richard Peck's signature; is that right? 01:21:44
 A. Yes. 01:21:48
Q. So they were asking your feedback after the 01:21:49
letter was sent? 01:21:52
 A. I guess not. I guess -- I guess not. That 01:21:54
 wasn't -- I guess I'm wrong about that then. Maybe he 01:21:56
 was just informing me. 01:21:59
Q. Do you think you had discussions with Dale -- 01:22:10
I'm sorry -- with Richard or Dale prior to 01:22:12
January 22nd, 1994 about your involvement in the 01:22:15
Stanford Viola project? 01:22:21
 MR. BUDWIN: Form. 01:22:25
 THE DEPONENT: It's possible. 01:22:26
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1 **Q. (By Mr. Wolff) Because of what you said 01:22:30**
2 **before about you were thinking you might have a role in 01:22:32**
3 **the project? 01:22:34**
4 A. Yes. 01:22:35
5 **Q. And this doesn't indicate that you would have 01:22:35**
6 **a role in the project, right? 01:22:38**
7 A. That's right. 01:22:39
8 **Q. So -- 01:22:40**
9 A. I may have misconstrued what Dale had said to 01:22:40
10 me earlier. 01:22:44
11 **Q. Fair enough. 01:22:46**
12 **Are you -- were you familiar with the Viola 01:22:49**
13 **object Foo tag? 01:22:52**
14 A. Object Foo? 01:22:55
15 **Q. Yeah. 01:22:56**
16 A. No. 01:22:57
17 **Q. How about the object F tag? 01:22:58**
18 A. No. 01:23:01
19 **Q. It's VOBJF. 01:23:01**
20 A. No. 01:23:05
21 **Q. Do you know whether Viola used an object 01:23:09**
22 **file? 01:23:13**
23 MR. BUDWIN: Form. 01:23:14
24 THE DEPONENT: I don't know what an object 01:23:16
25 file is. 01:23:18

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1 MR. WOLFF: Okay. We can take a break or we 01:23:19
2 can go on to the next subject. This is the last 01:23:30
3 subject I have. 01:23:32
4 THE DEPONENT: Let's take a quick break. 01:23:35
5 MR. WOLFF: Okay. 01:23:36
6 THE VIDEOGRAPHER: We are off the record at 01:23:38
7 1:23 p.m. 01:23:39
8 (Recess taken.) 01:24:10
9 THE VIDEOGRAPHER: We are back on the record 01:32:44
10 at 1:32 p.m. 01:32:45
11 You may proceed. 01:32:47
12 **Q. (By Mr. Wolff) Mr. McRae, earlier in the 01:32:49**
13 **deposition I asked you some questions about your 01:32:54**
14 **communications with Eolas and Eolas' counsel. And I 01:32:55**
15 **know your counsel has some correspondence with them. 01:32:59**
16 **Were you provided a copy of that 01:33:02**
17 **correspondence? 01:33:04**
18 A. No. 01:33:05
19 **Q. You were not provided a copy of the 01:33:05**
20 **correspondence with Eolas' counsel? 01:33:08**
21 A. No. 01:33:10
22 **Q. Did you prepare any of the materials that 01:33:11**
23 **were sent to Eolas? 01:33:12**
24 A. Yes. 01:33:14
25 **Q. And you indicated that you sent Mr. Doyle an 01:33:16**

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e-mail around September of 2011; is that correct? 01:33:20
A. Yes. 01:33:23
MR. WOLFF: Okay. I will mark as the next 01:33:24
exhibit, Exhibit 36. 01:33:27
(Whereupon, Exhibit 36 was marked for 01:33:29
identification.) 01:33:29
MR. WOLFF: This is a document with Eolas' 01:33:32
production numbers on it. 01:33:34
Q. (By Mr. Wolff) This is not something you 01:33:38
produced to us. I assume you -- do you have a copy -- 01:33:38
well, take a look at -- 01:33:40
A. I haven't seen the exhibit. 01:33:44
Q. -- Exhibit 36 and see. 01:33:44
LinkedIn may be a closed system or a walled 01:33:52
garden, or whatever. 01:33:55
Do you recognize Exhibit 36? 01:33:59
A. Yes. 01:34:01
Q. Would this be the e-mail that you referred to 01:34:01
sending to Mr. Doyle? 01:34:04
A. Yes. 01:34:06
Q. And what is the subject? 01:34:07
A. "Honesty is the best policy." 01:34:09
Q. Why were you sending that message to 01:34:12
Mr. Doyle? 01:34:15
A. To follow up on the phone conversation we 01:34:16

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had. 01:34:19
Q. And you said you had that conversation about 01:34:19
two days prior to sending this e-mail? 01:34:22
A. It may have been three days. 01:34:25
Q. Okay. So you had a conversation with him in 01:34:26
August. 01:34:29
A. Yes. 01:34:29
Q. And you said it was a short conversation? 01:34:30
A. Yes. 01:34:32
Q. And, again, what did you do in that 01:34:34
conversation with him? 01:34:37
A. What did I say? 01:34:38
Q. Yes. 01:34:40
A. I reiterated the points that we had earlier 01:34:43
communicated to McKool Smith. That's all. 01:34:46
Q. What were the points you communicated to 01:34:57
McKool Smith? 01:34:59
A. That we had evidence of my inventorship and 01:35:03
that we thought that the best strategy for them would 01:35:11
be to represent me as a member of their team. 01:35:14
Q. So you were seeking to have the McKool Smith 01:35:20
represent you in this litigation? 01:35:24
A. Actually, we were seeking to have the 01:35:25
inventorship corrected. 01:35:28
Q. Did you -- what is your understanding of why 01:35:32

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1 **it is you are an inventor?** 01:35:35
 2 A. In the first or second week of June 1993, 01:35:41
 3 immediately after Mike Doyle started work -- and Cheong 01:35:48
 4 Ang started work at U.C. San Francisco, in our first 01:35:51
 5 technical meeting as a team, I communicated the 01:35:57
 6 fundamental idea to Mike. And at the time he said he 01:35:58
 7 thought it was patentable. 01:36:06
 8 **Q. And what was the fundamental idea you 01:36:11**
 9 **communicated to him?** 01:36:13
 10 MR. BUDWIN: Objection. Form. 01:36:15
 11 THE DEPONENT: The project that I was working 01:36:17
 12 on we referred to as integrating Xv into XMosaic. I 01:36:23
 13 was thinking about how to use the Xv image viewing 01:36:37
 14 program as a, quote/unquote, plug in, what we call a 01:36:41
 15 plug in now to XMosaic so that we could use it to 01:36:45
 16 display image formats as part of the page that the 01:36:51
 17 XMosaic browser didn't know how to display natively. 01:36:53
 18 **Q. (By Mr. Wolff) And why were you thinking 01:36:58**
 19 **about this?** 01:37:00
 20 A. My first assignment at U.C. San Francisco -- 01:37:02
 21 I started in February -- was to work on the WritePages 01:37:06
 22 beta software -- beta test really. 01:37:12
 23 WritePages was some software from AT&T for 01:37:15
 24 delivering electronic medical journals. 01:37:20
 25 Immediately upon seeing it, I thought it was 01:37:26
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1 pretty clunky, and I told David Martin that the 01:37:30
 2 WorldWideWeb could do a better job of presenting the 01:37:35
 3 information. And he agreed that I should look into 01:37:40
 4 converting the WritePages content into Web format. 01:37:44
 5 However, the images that we had, these 01:37:50
 6 medical journal -- electronic medical journal, these 01:37:56
 7 electronic images were in a format that the XMosaic 01:38:00
 8 browser could not display natively. And I had to 01:38:02
 9 explore various ways of getting around that limitation. 01:38:10
 10 And as a result, I thought about using the Xv 01:38:15
 11 image viewer program which, you know, I was very 01:38:19
 12 familiar with several years of using it. It was first 01:38:22
 13 choice. 01:38:27
 14 **Q. Was it possible to use Xv and to have Xv 01:38:28**
 15 **display images that were not shown in the same page as 01:38:33**
 16 **the Web browser at the time?** 01:38:35
 17 A. That is how the system worked at the time. 01:38:37
 18 **Q. And you were trying to change that?** 01:38:42
 19 A. Yes. 01:38:44
 20 **Q. And you were trying to change that to have 01:38:44**
 21 **the images inline in the page.** 01:38:46
 22 A. Yes. 01:38:49
 23 MR. BUDWIN: Objection. Form. 01:38:50
 24 **Q. (By Mr. Wolff) And would they have been 01:38:51**
 25 **interactive images?** 01:38:52
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MR. BUDWIN: Same objection. 01:38:54
 THE DEPONENT: My conception was that they 01:38:55
 would be interactive. 01:38:57
Q. (By Mr. Wolff) And how would they be 01:38:58
interactive? 01:38:59
 A. Zooming, panning, scaling. I was trying to 01:39:05
 match the WritePages' functionality, actually, surpass 01:39:10
 it. 01:39:14
Q. So WritePages was a product from -- I'm 01:39:15
sorry. WritePages was a product or a project from 01:39:17
AT&T? 01:39:20
 A. It was a project intended to be a product, I 01:39:22
 think, eventually. 01:39:25
Q. And how did it handle these images? 01:39:27
 A. The pages of the journals were actually 01:39:30
 images themselves, but the quality was not very good. 01:39:35
 And, specifically, because these were medical journals, 01:39:38
 the images were very important, the quality of the 01:39:42
 images. 01:39:46
 And so it had a facility for viewing a higher 01:39:46
 resolution, higher quality image, you know, for the -- 01:39:50
 for the actual figures in the journal article. 01:39:56
Q. So the journal article is electronic 01:39:59
documents? 01:40:01
 A. Yes. 01:40:02
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Q. And do they have text and multimedia objects 01:40:02
shown in the same page? 01:40:07
 MR. BUDWIN: Form. 01:40:09
 THE DEPONENT: It was a limited system. It 01:40:09
 just had -- the pages themselves were images, and there 01:40:12
 was also text that was used for searching, but it 01:40:15
 wasn't actually -- the text wasn't displayed. 01:40:21
 In fact, the text was not very high quality. 01:40:26
 It had been captured through optical character 01:40:28
 recognition. And one of the things I did was improve 01:40:31
 the quality of the text by comparing the words to a 01:40:32
 dictionary and correcting whatever mistakes I could 01:40:36
 correct. 01:40:42
Q. (By Mr. Wolff) Okay. And then the -- the 01:40:42
images that were shown in these electronic files, were 01:40:43
those interactive in the WritePages project? 01:40:48
 MR. BUDWIN: Form. 01:40:53
 THE DEPONENT: Interactive in the sense 01:40:57
 that -- yes, I mean you could pan around them and zoom 01:40:58
 them. 01:41:03
Q. (By Mr. Wolff) Okay. And when you 01:41:04
ultimately worked on doing this with the Web browser 01:41:05
using Xv and the Web browser, did you have to add the 01:41:10
functionality to perform those interactive features, or 01:41:14
was there already a core component of the Xv software? 01:41:19
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1 MR. BUDWIN: Objection. Form. 01:41:24

2 THE DEPONENT: The Web browser would launch 01:41:27

3 the Xv application, an external, which would create its 01:41:31

4 own separate window. And once that window was 01:41:35

5 available, Xv provided a rich collection of features -- 01:41:38

6 of operations and ways to manipulate the imagine, view 01:41:44

7 the image. 01:41:49

8 **Q. (By Mr. Wolff) Okay. And that was before 01:41:50**

9 **you did your work, right? Because you said it was an 01:41:52**

10 **external window. 01:41:54**

11 A. Yes, that's right. Yes. 01:41:57

12 **Q. And then when you did your work on this, did 01:41:58**

13 **you create it so it was all in the same page? 01:41:58**

14 A. I wasn't able to actually implement that. 01:42:01

15 The project was taken from me and given to Cheong in 01:42:03

16 the first or second week of June, shortly after they 01:42:08

17 began at the university, so... 01:42:12

18 **Q. Do you have an understanding as to why it was 01:42:14**

19 **given to Cheong? 01:42:15**

20 A. Oh, I had some understanding then, there was 01:42:16

21 some justification, and I have some understanding now. 01:42:18

22 **Q. What do you think the justification was then? 01:42:21**

23 MR. BUDWIN: Form. 01:42:24

24 THE DEPONENT: Well, to be honest, I was 01:42:29

25 irritated. I thought it was in some ways the point of 01:42:31

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1 why I had spent the previous four or five months. It's 01:42:36

2 like, oh, here's something I can really -- it was a 01:42:39

3 cool project, you know -- 01:42:44

4 **Q. (By Mr. Wolff) Uh-huh. 01:42:45**

5 A. -- and I wanted to do it. 01:42:46

6 In fact, there was a call in one of the 01:42:48

7 e-mails from Tony Sanders, I think, saying, you know, 01:42:50

8 any volunteers for this project? Not for that exact -- 01:42:53

9 the same project, but something similar. 01:42:57

10 And why? At the time I thought that Mike 01:43:00

11 wanted to give the project -- the project to his guy. 01:43:07

12 Cheong came with Mike from the University of Chicago, I 01:43:09

13 think it was. It happens all the time. 01:43:13

14 **Q. And then do you have -- what's your 01:43:18**

15 **understanding of why it was given to Cheong now? 01:43:21**

16 MR. BUDWIN: Objection. Form. 01:43:25

17 THE DEPONENT: I don't know. You know, same 01:43:32

18 thing really. I don't really know. 01:43:33

19 **Q. (By Mr. Wolff) After you told Mr. Doyle 01:43:42**

20 **about your idea, is it fair to say that your 01:43:49**

21 **relationship among the group deteriorated? 01:43:54**

22 MR. BUDWIN: Objection. Form. 01:44:08

23 THE DEPONENT: Well, you seem to imply a 01:44:08

24 cause and effect. And I'm not sure that that's true. 01:44:09

25 My relationship did deteriorate and eventually I left 01:44:10

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the university. 01:44:12

Q. (By Mr. Wolff) You don't think it had 01:44:13

anything to do with your sharing the idea of -- 01:44:14

A. The deterioration, actually, was primarily 01:44:16

just between my boss and I. And that was a component, 01:44:19

but not the only component. There were some other 01:44:23

things that happened as well. 01:44:25

Q. Your boss being David Martin? 01:44:26

A. That's right. 01:44:28

Q. Not Mr. Doyle. 01:44:30

A. No, not -- no. 01:44:31

Q. Why in your e-mail to him in Exhibit 36 did 01:44:35

you say, "Honesty is the best policy"? 01:44:38

A. Because when I told Mike that -- that I 01:44:46

thought -- well, Mike's response to -- to me was to 01:44:49

tell the truth at the deposition. And I thought he was 01:44:54

implying that I was intending to do something other 01:45:00

than that. 01:45:05

And so I was kind of offended. And so -- 01:45:06

because -- and so that's why I wrote that is because, 01:45:10

yes, I'm going to tell -- that's exactly what I intend 01:45:13

to do, is tell the truth, so... 01:45:17

MR. WOLFF: I will mark as Exhibit 37 some 01:45:21

correspondence that your counsel, I think, had with 01:45:23

lawyers from McKool Smith. 01:45:27

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(Whereupon, Exhibit 37 was marked for 01:45:29

identification.) 01:45:29

Q. (By Mr. Wolff) Now, this is a document that 01:45:52

John Campbell of McKool Smith, Eolas' counsel sent to 01:45:54

us. It's dated August 4th, 2011, 8:42 a.m. 01:46:00

And attached to it was a -- I think it was a 01:46:02

PDF file or something, with a bunch of correspondence 01:46:05

and documents that -- some of which I think you had 01:46:14

produced and others which I'm not sure whether or not 01:46:16

you produced. 01:46:19

Do you recognize what's been marked as 01:46:21

Exhibit 37? 01:46:23

A. I haven't looked at every page, yet. 01:46:25

Q. Okay. And you are not copied on the first 01:46:28

page. I'm mostly concerned about the stuff after the 01:46:31

first page. 01:46:34

A. There's a lot of stuff here, isn't there? 01:47:24

I'm sorry. What -- what is the actual 01:47:26

question? 01:47:50

Q. Do you recognize the materials? Did you put 01:47:51

these materials together that were attached -- 01:47:54

A. Yes. 01:47:56

Q. -- to Exhibit 37? 01:47:56

Okay. And what was your purpose in putting 01:47:57

these materials together? 01:47:59

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1 A. To communicate with Mike Doyle's team, Eolas. 01:48:01
2 **Q. And that was that you thought you were or are** 01:48:06
3 **an inventor on the patents.** 01:48:09
4 A. Not just that I thought, but these -- this is 01:48:13
5 evidence that supports my claim. 01:48:15
6 **Q. And your claim is that you are an inventor on** 01:48:16
7 **the patent.** 01:48:19
8 A. On the patent? 01:48:21
9 **Q. Yes.** 01:48:21
10 A. My name is not on the patent. 01:48:23
11 **Q. It should be an inventor on the patent.** 01:48:26
12 A. That's my claim. 01:48:30
13 **Q. The first e-mail -- the first set of e-mails** 01:48:31
14 **looks like a file that maybe you named, "ucla_www.tbl"?** 01:48:31
15 A. Yes. 01:48:39
16 **Q. I'm sorry. Not --** 01:48:39
17 MR. BUDWIN: Where are you? 01:48:39
18 MR. WOLFF: The first -- the second page of 01:48:41
19 Exhibit 37. I said ".tbl." It's not. It's actually 01:48:43
20 ucla_www.tbl. 01:48:44
21 **Q. (By Mr. Wolff) And what was the significance** 01:49:00
22 **of attaching this correspondence with Tim Berners-Lee?** 01:49:03
23 A. To establish that I had long experience with 01:49:10
24 the WorldWideWeb before I even started at U.C. San 01:49:11
25 Francisco. 01:49:18

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1 **Q. And on the second page of that document, on** 01:49:19
2 **page 2, you say, "I used the NeXt client and the Telnet** 01:49:20
3 **client."** 01:49:26
4 **That's referring to what you talked about** 01:49:26
5 **earlier today, about using the NeXt workstation at** 01:49:28
6 **UCLA?** 01:49:33
7 A. Yes. This was sent from my -- while I was 01:49:34
8 working at UCLA. 01:49:39
9 **Q. The next piece of correspondence is** 01:49:41
10 **announcement that Dr. Doyle accepted the position of** 01:49:43
11 **director?** 01:49:46
12 A. Yes. 01:49:47
13 **Q. And that's, I assume, just to establish that** 01:49:48
14 **you were working on this before that ever happened --** 01:49:49
15 **A. That's right.** 01:49:52
16 **Q. -- before it ever showed up on the screen.** 01:49:53
17 **The next several pages are some -- some** 01:49:58
18 **photographs from your notebooks, I think. And then** 01:49:59
19 **behind that, there are some photocopied pages.** 01:50:05
20 A. Which page are we looking at? 01:50:10
21 **Q. The first one, it looks like it's April 28th,** 01:50:12
22 **1993. It's at the top left corner. It's after the** 01:50:15
23 **photograph pages.** 01:50:19
24 A. Actually, yeah. The same pages in two 01:50:22
25 different forms. 01:50:25

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Q. I think so. I don't know. 01:50:26
A. This page here you're talking about? 01:50:28
Q. Yes. 01:50:29
A. Yes. 01:50:29
Q. Like we had some back and forth, you and I 01:50:29
did about some of the image quality on the -- 01:50:31
A. That's right. 01:50:35
Q. -- on the photographs that you took. 01:50:35
A. Sorry about that. 01:50:36
Q. I appreciate the effort. It was a lot of 01:50:36
effort. 01:50:37
MR. KAO: In this line of questioning, be 01:50:38
careful not to reveal any attorney-client privileged 01:50:40
information. 01:50:43
THE DEPONENT: Thank you. 01:50:43
Q. (By Mr. Wolff) The first -- on that first 01:50:45
page in the upper left corner, it says, "4-28-93." 01:50:47
What is the significance of you putting a 01:50:50
date like that in your notebook? 01:50:52
A. I dated all my entries. Well, most of my 01:50:54
entries. 01:50:57
Q. Uh-huh. So the text that's below that would 01:50:57
have been text that you entered in your notebook in 01:50:59
April 28th of 1993? 01:51:02
A. Yes. 01:51:05

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Q. What's the purpose of the first line in this 01:51:06
notebook, "Merge SGMLs and plus Ghostscript parsers"? 01:51:08
A. Yes. 01:51:16
Q. Why did you write that down? 01:51:16
A. So as part of a design for browser or 01:51:18
information utility for the library, we were working on 01:51:23
things on basically three levels. There was the 01:51:27
immediate, what we could use today. What we might be 01:51:31
able to make happen in the next six months maybe. And 01:51:35
then our longer term plan. And this is part of the 01:51:38
longer term effort. 01:51:42
That particular piece is there because what I 01:51:43
was thinking about doing was representing both the 01:51:47
logical structure of the document, which is what SGML 01:51:51
gave us, and as well as the physical display of the 01:51:57
document, which is what PostScript or Ghostscript 01:51:59
provided. 01:52:05
So the idea was to represent both -- to 01:52:05
capture both those levels of representation in one 01:52:07
format. 01:52:12
Q. Okay. At the time, in April of 1993, do you 01:52:13
know whether you could view a PostScript file with the 01:52:16
XMosaic browser? 01:52:20
A. You could not. 01:52:24
Q. You could not? 01:52:25

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1 A. I don't believe so, no. 01:52:27
 2 **Q. Why do you think you could not?** 01:52:34
 3 A. Because I received a PostScript ToolTalk 01:52:35
 4 document from Sun Microsystems and had a difficulty 01:52:39
 5 printing it out. 01:52:44
 6 **Q. Did you have Ghostview installed in your 01:52:45**
 7 **system?** 01:52:45
 8 A. I think I installed Ghostview specifically so 01:52:47
 9 I could read that document. 01:52:48
 10 Let me correct that though. I'm -- I'm now 01:53:02
 11 thinking about the timing of exactly when I received 01:53:05
 12 that ToolTalk document. It may not have been -- it may 01:53:08
 13 have been a couple weeks after this. But I was 01:53:11
 14 certainly familiar with the Ghostview suite from my 01:53:19
 15 work at UCLA. 01:53:24
 16 MR. WOLFF: I will mark as the next exhibit a 01:53:31
 17 document that Eric Bina produced. When I printed it 01:53:35
 18 out, the Bates number disappeared from it, but I will 01:53:38
 19 give Mr. Budwin over here the Bates number if he wants 01:53:41
 20 it. It was entered as an exhibit, I believe, in Eric 01:53:44
 21 Bina's deposition, too. 01:53:45
 22 This is a documented dated January 31st, 01:53:48
 23 1993, to WWW-Talk from Marc Andreessen. 01:53:51
 24 (Whereupon, Exhibit was marked 38 for 01:53:56
 25 identification.) 01:53:59
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1 MR. WOLFF: Oh, I can tell you the Bates 01:54:12
 2 numbers because it comes out on my copy -- on the 01:54:13
 3 smaller copy. 01:54:14
 4 MR. BUDWIN: I see Bates numbers, too. 01:54:14
 5 MR. WOLFF: Yeah. The bigger printed version 01:54:15
 6 doesn't come out, but it's BINA-EOLAS00006991 through 01:54:17
 7 6992. This is the production number of Exhibit 38. 01:54:24
 8 **Q. (By Mr. Wolff) If you look about two-thirds 01:54:39**
 9 **of the way down the page, the word "addition" occurs 01:54:42**
 10 **three times. And on the third instance, it says, 01:54:45**
 11 **"Addition of outlet to Ghostview for PostScript 01:54:49**
 12 **documents. (This is a hack, but it's a slick demo 01:54:53**
 13 **feature.)"** 01:54:58
 14 **Do you see that?** 01:55:00
 15 A. Yes, I do see it. 01:55:02
 16 **Q. Do you think at this time there was an outlet 01:55:04**
 17 **to view PostScript documents with XMosaic?** 01:55:05
 18 MR. BUDWIN: Form. 01:55:11
 19 THE DEPONENT: That's what it says. 01:55:11
 20 **Q. (By Mr. Wolff) So are you sure that XMosaic 01:55:12**
 21 **did not have that feature in January 1993?** 01:55:18
 22 A. Even seeing this I still am skeptical. 01:55:22
 23 **Q. Why are you skeptical?** 01:55:25
 24 A. I know I never used it and I wasn't aware of 01:55:27
 25 it, but there were some other conversations, 01:55:29
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discussions on the WWW-Talk mailing list after this was 01:55:32
 sent about integrating Ghostscript or Ghostview. 01:55:36
Q. And when were those discussions? 01:55:41
 A. I think they are in the March/April time 01:55:44
 frame. 01:55:46
Q. Okay. Let's go back to Exhibit 37. 01:55:47
Why did you -- 01:55:53
 MR. KAO: Sorry. Is this Exhibit 37? This 01:56:01
 one is Exhibit 37. 01:56:05
 MR. BUDWIN: No, this is 38. 01:56:05
 MR. WOLFF: This should be Exhibit 38. 01:56:06
 MR. KAO: Okay. 01:56:07
 MR. BUDWIN: Thirty-seven is the picture. 01:56:07
 MR. KAO: Okay. Sorry about that. 01:56:07
 MR. WOLFF: That's all right. 01:56:08
Q. (By Mr. Wolff) In that first line from the 01:56:13
April 28th, 1993, entry on Exhibit 37, you say, "Merge 01:56:16
SGMLs plus Ghostscript parsers." 01:56:21
Did you have an understanding at the time 01:56:23
there were two separate parsers: There was a parser 01:56:25
for whatever the browser was and then another parser 01:56:29
that would handle whatever the content type was if you 01:56:31
were viewing a PostScript or Ghostscript-type content? 01:56:34
 A. Yes. 01:56:39
Q. And why -- why did you feel the need to merge 01:56:40
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the two parsers? 01:56:44
 A. Well, as I explained, I wanted to represent 01:56:45
 both the logical structure as well as the physical 01:56:48
 display characteristics of -- of the documents, or Web 01:56:52
 pages. 01:56:56
Q. In the middle of the page you say, "Modify 01:57:00
graphics file rendering utilities such that" -- I'm 01:57:03
sorry. 01:57:07
Why don't you tell me what that says in the 01:57:07
middle of the page there. 01:57:09
 A. "Modify graphics file rendering utilities, 01:57:10
 such as Xv, so that they return PostScript objects." 01:57:11
Q. Okay. And what does that mean? 01:57:17
 A. It means I wanted to modify Xv so it would 01:57:20
 return PostScript. 01:57:24
 The purpose was to integrate Xv with this 01:57:25
 browser utility that I was envisioning designing. 01:57:33
Q. Okay. And then the purpose of doing this in 01:57:37
the combination with the Ghostscript parser up top was 01:57:40
that you could have one tool that would interpret any 01:57:45
type of content in the browser; is that right? 01:57:50
 A. Yes. So it could represent any level, 01:57:54
 structural or physical display, similar to the ISO 01:57:56
 network stack or any of the seven layers. 01:58:01
Q. Uh-huh. 01:58:10
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1 A. Similar content. That's -- that's how I was 01:58:10
 2 thinking. 01:58:13

3 **Q. If you turn to the next page. The first full 01:58:14**
 4 **sentence, I think it reads, "Objects passed between the 01:58:24**
 5 **applications consist of general data formats." 01:58:26**

6 A. Several data formats. 01:58:32

7 **Q. I'm sorry. Again, I should have asked you to 01:58:34**
 8 **read this instead of me. Sorry. It's hard to read on 01:58:35**
 9 **my copy. 01:58:39**

10 **What was the purpose of this section in your 01:58:40**
 11 **notebook? 01:58:42**

12 A. Well, I think that you have to back up a 01:58:50
 13 little bit to -- or I have to back up a little bit to 01:58:52
 14 explain that. 01:58:55

15 **Q. Sure. Go ahead. 01:58:56**

16 A. The beginning of this section here in the 01:58:58
 17 previous page, it says, "The presentation language, 01:59:00
 18 PostScript, is incorporated into the client, i.e., 01:59:04
 19 XMosaic, along with the structural markup language, 01:59:07
 20 SGML, HTML. ToolTalk interface is provided" -- "is 01:59:12
 21 provided for communicating with co-routines, servers, 01:59:17
 22 and the semantic indexers integrate," blah, blah, blah, 01:59:19
 23 blah. 01:59:24

24 So what this is referring to is -- is 01:59:25
 25 allowing external applications to handle processing of 01:59:30

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Is the -- does the diagram have the same 02:00:56
date, April -- I'm sorry -- May 18th, 1993? 02:01:00

A. Yeah, I believe so. I think I would have 02:01:04
 dated it otherwise if it wasn't the same day. 02:01:07

Q. If you turn forward to the beginning of the 02:01:16
e-mail that was attached. I think it's -- 02:01:19

A. This page here? 02:01:29

Q. -- a mix of e-mail. 02:01:29

I think it's -- the first one is XMosaic and 02:01:31
Xv. The June 25th, 1993? 02:01:34

A. Uh-huh. 02:01:37

Q. You sent this message to the Mosaic team at 02:01:44
NCSA? 02:01:48

A. Yes. 02:01:50

Q. Why did you send it to the Mosaic team? 02:01:51

A. After the decision was taken to move the -- 02:01:55
 the project that eventually became the invention from 02:02:00
 me to Cheong, the project that was -- that I was 02:02:03
 working on -- what was referred to as the WritePages 02:02:08
 analog, this WorldWideWeb version of the WritePages 02:02:13
 content, after that decision was taken to move the 02:02:16
 project away from me, it left a hole, basically, in my 02:02:21
 project. Didn't have any way to satisfy the 02:02:23
 requirements that I was trying to fulfill. 02:02:25

And we had some expectation that the NCSA 02:02:29

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1 these various data types in close integration with the 01:59:35
 2 browser itself, XMosaic. 01:59:43

3 **Q. And this would still be an entry from 01:59:46**
 4 **April 28th, 1993? 01:59:49**

5 A. Yes. 01:59:51

6 **Q. If you turn forward in the notebook, there's 02:00:05**
 7 **a page with several redactions on it. About the first 02:00:08**
 8 **half of the page -- that's the page right there. 02:00:14**

9 MR. BUDWIN: I don't know where we're at. 02:00:17

10 MR. WOLFF: There's a date, it says, 02:00:19
 11 "5-18-93." 02:00:20

12 **Q. (By Mr. Wolff) What was the purpose of 02:00:23**
 13 **redacting some of the content on these pages? 02:00:24**

14 MR. BUDWIN: Can you show me where we are at. 02:00:30

15 THE DEONENT: It's not relevant to the 02:00:33
 16 subpoena. What was -- not relevant to my work at U.C. 02:00:38
 17 San Francisco. 02:00:42

18 **Q. (By Mr. Wolff) Okay. Was it some personal 02:00:42**
 19 **information or something? 02:00:44**

20 A. Yes. I don't actually remember exactly what 02:00:45
 21 was there, but yes -- 02:00:47

22 **Q. Okay. 02:00:48**

23 A. -- nonwork-related stuff. 02:00:49

24 **Q. And then beneath that there's a line, and 02:00:51**
 25 **then there's a diagram. 02:00:53**

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Mosaic team might actually do that because of earlier 02:02:32
 discussions. And so, actually, there's an earlier 02:02:37
 e-mail from David Martin. 02:02:42

I objected, you know. The project was 02:02:44
 shifted over to Cheong, and I was like, well, what am I 02:02:47
 going to do now as far as getting these? 02:02:50

And -- and so David first sent an e-mail, I 02:02:53
 think, to Marc Andreessen. And I don't recall -- I 02:02:59
 don't think I saw the response. And then I sent this 02:03:02
 as a follow-up to see if -- the hope was -- David 02:03:05
 Martin's response to me when I said, well, what's going 02:03:09
 to happen now with my project, was, well, maybe NCSA 02:03:11
 will solve that problem for us. 02:03:15

Q. And so here, after he told you that, you went 02:03:17
and followed up with NCSA to say, hey, are you guys 02:03:19
going to work on this? 02:03:22

A. Yeah. Yeah. 02:03:23

Q. And you remembered a thread from April about 02:03:29
integrating Xv into the Mosaic browser? 02:03:33

A. April and earlier, I believe. 02:03:43

Q. Okay. The next -- the next e-mail in the 02:03:44
thread is dated June 26th, 1993. This is -- again, 02:03:48
this is material that you produced to us in your 02:03:50
e-mail? 02:03:52

A. Yes. 02:03:53

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Q. So what was your understanding of Marc's response to your e-mail? 02:03:59
02:04:00
A. He says, "No, we are not going to do it." 02:04:10
Does that answer your question? 02:04:13
Q. Did he understand that you were talking about inlined images? 02:04:19
02:04:21
MR. BUDWIN: Form. 02:04:25
THE DEPONENT: I don't know if he did or not. 02:04:29
Q. (By Mr. Wolff) Well, if you look at the second paragraph of what he sends back to you, it says, "I think Chris is referring to the idea that someone had a while back on WWW-Talk, that Xv could theoretically be used to view inlined images in much the same way as Ghostview uses Ghostscript." 02:04:30
02:04:35
02:04:38
02:04:41
02:04:45
Do you see that? 02:04:49
A. Yes. 02:04:50
Q. Okay. Was the idea to have an inline interactive object in a Web page old by June of 1993? 02:04:50
02:04:53
A. Was it old? 02:04:58
Q. Yes. 02:05:00
02:05:03
MR. BUDWIN: Objection. Form. 02:05:03
THE DEPONENT: I was careful to try to leave out anything about interaction because I considered that as my little twist that I extracted from the discussions that I was -- that inspired me, actually. 02:05:07
02:05:09
02:05:15
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THE DEPONENT: I don't see how one follows from the other. 02:06:13
02:06:14
Q. (By Mr. Wolff) Well, isn't Marc saying that you could have inlined images in much the same way as Ghostview uses Ghostscript? 02:06:15
02:06:20
A. Yes. So he's making an analogy. A Web browser could work like Ghostview works. That's not the same as saying that -- I'm sorry. What is your question? 02:06:23
02:06:25
02:06:32
02:06:34
Q. What would -- what would have to be different in the Xv situation versus the Ghostview situation to have an inline content in your Web page? 02:06:40
02:06:43
02:06:47
A. Just the difference between Ghostview and Xv. It's one application or another application. 02:06:53
02:06:55
Q. But you didn't invent Xv. 02:06:58
02:07:01
A. No. 02:07:01
Q. And you didn't invent Ghostview. 02:07:01
02:07:04
A. No. 02:07:04
Q. You were just putting the two into one browser page, some hypertext content and some Xv content -- 02:07:05
02:07:10
02:07:16
A. So what's referred to -- 02:07:16
Q. -- inline on the same page. 02:07:18
02:07:20
A. I'm sorry. What's referred to here is how -- that Ghostview -- 02:07:20
02:07:21
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Helped show me the way to solving the problem I described earlier with WritePages. 02:05:18
02:05:22
Q. (By Mr. Wolff) Did you have an understanding that people thought they could put Xv content inline in a Web browser before June of 1993? 02:05:23
02:05:26
02:05:31
MR. BUDWIN: Form. 02:05:38
THE DEPONENT: Yes. 02:05:39
Q. (By Mr. Wolff) That was an idea that already existed, right? 02:05:39
02:05:42
A. It was discussed. 02:05:43
Q. It was an idea that already existed if it was discussed. 02:05:45
02:05:49
A. Yes. 02:05:49
Q. Whether it was implemented is a separate question, right? 02:05:50
02:05:52
A. That's right. 02:05:53
Q. And here Marc's response says, "much the same way as Ghostview uses Ghostscript." 02:05:54
02:05:57
A. Yes. 02:06:01
Q. Does that refresh your recollection as to whether or not you could view a PostScript file in a Web browser -- 02:06:01
02:06:04
02:06:06
MR. BUDWIN: Objection. Form. 02:06:08
Q. (By Mr. Wolff) -- before June of 1993? 02:06:08
02:06:12
MR. BUDWIN: Same objections. 02:06:12
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MR. BUDWIN: Objection. Form. I'm not sure if that was a question. If it was, objection. Form. Go ahead. Sorry. MS. DOAN: You can answer.
02:07:22
02:07:23
02:07:27
02:07:31
Q. (By Mr. Wolff) Go ahead and finish your answer. 02:07:32
02:07:33
A. This is describing how Ghostview and Ghostscript interact with each other. It doesn't say anything about what the browser does. But it does make an analogy to what the browser could be doing.
02:07:33
02:07:34
02:07:37
02:07:39
Q. I see what you're saying. 02:07:41
02:07:44
Did you use a -- do you know whether anybody used an X Window ID to show content on a Web page before June 1993? 02:07:46
02:07:54
A. I don't know that anyone did, no. 02:07:55
Q. And what generally is your response back to Eric and Mark? 02:07:59
02:08:03
A. I elaborate about what -- so it's right here. Should I read it or...
02:08:05
02:08:10
Q. Well, why were you telling him the justification for this? 02:08:15
02:08:17
A. Because he says, "I don't see why it's necessary to do this." So...
02:08:25
02:08:27
Q. And why did you think it was necessary? 02:08:29
02:08:35
A. Because Xv displays many different image
02:08:35
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1 types. And using Mosaic to display database in medical 02:08:39
 2 journals. 02:08:44
 3 "Since the page images are TIFF format, I 02:08:45
 4 have to convert them all to GIF. We envision 02:08:46
 5 offloading much of the processing from the client as 02:08:52
 6 possible rather than including local format conversion 02:08:54
 7 capability within the client. 02:08:57
 8 "We expect to provide a community of servers, 02:08:58
 9 with which client can contract to obtain information it 02:09:00
 10 wants in a form which it can use. 02:09:04
 11 "By providing a particular server, such as XP 02:09:09
 12 with a window ID, the client retains control of the 02:09:11
 13 presentation while avoiding having to know anything 02:09:13
 14 about the format of the data being displayed." 02:09:16
 15 **Q. Was this your idea, this response to Eric and 02:09:19**
 16 **Mark? 02:09:23**
 17 A. Yes. 02:09:25
 18 **Q. Was it desirable in the community before June 02:09:28**
 19 **of 1993 to have browsers that displayed multiple 02:09:30**
 20 **different content types? 02:09:34**
 21 A. Yes. 02:09:35
 22 MR. BUDWIN: Form. Objection. 02:09:40
 23 **Q. (By Mr. Wolff) Do you know whether before 02:09:43**
 24 **March -- sorry -- before April of 1993 the community 02:09:47**
 25 **had discussed embedding video in Web pages? 02:09:56**
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1 A. Yes, I do know -- 02:10:05
 2 **Q. And what -- 02:10:08**
 3 A. -- that it did. 02:10:08
 4 **Q. And why was that? 02:10:10**
 5 A. Well, I think there's more than one example, 02:10:15
 6 but the README file for XMosaic, I think released in 02:10:17
 7 March, specifically mentions their intention to do 02:10:23
 8 that. 02:10:26
 9 MR. WOLFF: I will have the reporter mark as 02:10:39
 10 the next exhibit, this is 39. 02:10:40
 11 (Whereupon, Exhibit 39 was marked for 02:10:42
 12 identification.) 02:10:42
 13 MR. WOLFF: You don't have -- you don't have 02:10:46
 14 a Bates-numbered copy on your thing, but the Bates 02:10:47
 15 number, because it dropped for some reason, is 02:10:50
 16 BINA-EOLAS00007212 through 7213. 02:10:52
 17 **Q. (By Mr. Wolff) Do you recognize what's been 02:11:00**
 18 **marked as Exhibit 39? 02:11:02**
 19 A. Yes. 02:11:04
 20 **Q. Is this like the release notes, at least in 02:11:04**
 21 **an e-mail format, that you're referring to? 02:11:07**
 22 A. Yes. 02:11:10
 23 **Q. And the first set of bullets I think that are 02:11:13**
 24 **included here beneath the line that reads, 02:11:15**
 25 **"Multiple" -- "Some multimedia support, you asked for 02:11:18**
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it." 02:11:23
It lists several different data types, right? 02:11:24
 A. Yes. 02:11:30
Q. And what are those data types. 02:11:30
 A. GIF, JPEG, TIFF, audio, AIFF, DVI, MPEG, 02:11:34
 MIME, XWD, PostScript automatically recognized. 02:11:39
Q. And what is an MPEG file format? 02:11:44
 A. It's a video format. 02:11:47
Q. And the last bullet in that set of 02:11:49
sub-bullets read, "Inline MIME/multimedia support will 02:11:51
be coming down the road so this is all just a temporary 02:11:56
hack." 02:11:59
Do you see that? 02:12:00
 A. Yes. 02:12:00
Q. So is it fair to say that the idea of having 02:12:01
inline video in a Web page was known by March 1993? 02:12:03
 MR. BUDWIN: Form. 02:12:09
 THE DEPONENT: Yes. 02:12:10
Q. (By Mr. Wolff) And that's what you would 02:12:15
have been referring to earlier when you said that the 02:12:15
idea was already known. 02:12:18
 MR. BUDWIN: Same objection. 02:12:20
 THE DEPONENT: Yes. 02:12:21
Q. (By Mr. Wolff) Do you recall that anybody 02:12:22
else tried to implement Xv content with a Web browser 02:12:24
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before June 1993? 02:12:33
 A. Bill Janssen of Xerox Park said that he had 02:12:38
 hacked Xv to take a window ID to draw into. 02:12:39
Q. And would that present inline Xv content with 02:12:45
a Web browser? 02:12:49
 MR. BUDWIN: Objection. Form. 02:12:50
 THE DEPONENT: Allowing or changing Xv to 02:12:52
 accept a window ID is not the same thing as having the 02:12:54
 browser use that facility. 02:12:59
Q. (By Mr. Wolff) Why is that? 02:13:01
 A. Well, the program Xv would have that 02:13:03
 capability, but to have the browser actually use that 02:13:05
 capability is something else. 02:13:08
Q. But if Xv would have been doing the rendering 02:13:10
of the content in that window idea; is that correct? 02:13:13
 MR. BUDWIN: Same objection. 02:13:17
 THE DEPONENT: I'm sorry. Say that again. 02:13:18
Q. (By Mr. Wolff) Would Xv have been doing the 02:13:19
rendering for that Xv content in the browser window? 02:13:19
 MR. BUDWIN: Same objection. 02:13:24
 THE DEPONENT: Two separate things. Xv had 02:13:25
 the capability or Bill Janssen described a version of 02:13:28
 Xv having that capability, but I didn't see any 02:13:33
 description of using that capability in the browser. 02:13:35
 It's two separate programs, right? 02:13:40
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1 So Xv can take a window ID, but where's 02:13:44
 2 the -- the browser has to pass the window ID to the Xv 02:13:48
 3 program to have it display. 02:13:54
 4 **Q. (By Mr. Wolff) Okay. If you turn to the 02:13:55**
 5 **next e-mail thread, I think it's April 27th, 1993. 02:13:57**
 6 MR. BUDWIN: Are we going -- switching 02:14:01
 7 exhibits? 02:14:03
 8 MR. WOLFF: Yes. I'm sorry. To Exhibit 37. 02:14:03
 9 **Q. (By Mr. Wolff) Do you see it is from Bill 02:14:06**
 10 **Janssen? 02:14:17**
 11 A. Uh-huh. 02:14:18
 12 **Q. Or Bill Janssen to WWW-Talk? 02:14:18**
 13 A. Yes. 02:14:23
 14 **Q. April 27th, 1993, 11:54. Do you see that? 02:14:24**
 15 A. Uh-huh. 02:14:31
 16 **Q. Here, Mr. Janssen is actually talking about 02:14:33**
 17 **allowing arbitrary embedded things being inline with 02:14:36**
 18 **the browser, isn't he? 02:14:44**
 19 A. Yes, he is. 02:14:46
 20 **Q. So this was an old idea. 02:14:49**
 21 MR. BUDWIN: Objection. Form. 02:14:51
 22 THE DEPONENT: An old idea? 02:14:55
 23 **Q. (By Mr. Wolff) It was an idea that was -- 02:14:56**
 24 **been around since at least April 27th, 1993. 02:14:57**
 25 MR. BUDWIN: Same objection. 02:15:01
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today. 02:16:34
 MR. WOLFF: You want me to find it for you, 02:16:35
 too, Josh? 02:16:36
 MR. BUDWIN: Can I just see what it looks 02:16:50
 like. 02:16:53
 MR. WOLFF: Maybe in the last dozen or so 02:16:54
 pages of the document. 02:16:56
 MR. KAO: "Re: Standardizing New HTML 02:17:01
 Features"? 02:17:03
 MR. WOLFF: Right. April 29th, 1993, 11:41. 02:17:05
 MR. BUDWIN: Got it. Okay. 02:17:12
Q. (By Mr. Wolff) If you can let me know when 02:17:13
you're done reading the page. 02:17:22
 A. Yeah, I'm ready. 02:17:33
Q. Do you see where it's discussed that Paradise 02:17:40
software has a demo of a hypermedia newspaper where it 02:17:42
shows movies run at the location of images in the -- 02:17:48
 A. Yes, I see that. 02:17:54
Q. -- document? 02:17:55
And Mr. Sanders replies back, "There are two 02:17:59
parts to this: Auto-inlining and inlining on 02:18:02
selection." 02:18:04
Do you understand what the difference is? 02:18:04
 A. Yes. 02:18:08
Q. What's the difference? 02:18:08
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1 THE DEPONENT: Yes. 02:15:02
 2 **Q. (By Mr. Wolff) If you turn back several 02:15:02**
 3 **pages, there's an e-mail from Tony Sanders to the 02:15:14**
 4 **WWW-Talk mailing list, dated April 29th, 1993. 02:15:19**
 5 MR. BUDWIN: Where are we looking? 02:15:30
 6 MR. WOLFF: In the subject, it says, "Re: 02:15:32
 7 Standardizing New HTML Features." 02:15:33
 8 THE DEPONENT: Is it backwards or forwards? 02:15:37
 9 **Q. (By Mr. Wolff) It's backwards. It's back 02:15:39**
 10 **further in the -- 02:15:40**
 11 MR. BUDWIN: Is it before the -- 02:15:41
 12 **Q. (By Mr. Wolff) -- e-mails. 02:15:41**
 13 MR. KAO: -- notebook pages? 02:15:41
 14 MR. WOLFF: It's after the notebook pages. 02:15:43
 15 MR. BUDWIN: What's the date? 02:15:46
 16 MR. WOLFF: April 29th, 1993. 02:15:48
 17 THE DEPONENT: I don't see it before the -- 02:15:52
 18 MR. WOLFF: It's after the notebook pages. 02:15:55
 19 MR. BUDWIN: I don't see it either. 02:15:59
 20 **Q. (By Mr. Wolff) You want me to see if I can 02:16:01**
 21 **find it in your copy? 02:16:02**
 22 A. Yeah, sure. 02:16:04
 23 MR. BUDWIN: What comes right before? 02:16:04
 24 MR. KAO: Can we take this time just to 02:16:29
 25 designate this confidential, Mr. McRae's testimony 02:16:30
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A. In the first case, auto-inline, the link is 02:18:10
 followed and the contents are embedded there in the 02:18:15
 page. Whereas, inlining on selection means that first 02:18:17
 you have to click on the link before the content is 02:18:21
 displayed. 02:18:24
Q. And this is an e-mail that you had received 02:18:26
in April of 1993? 02:18:28
 A. Yes. 02:18:30
Q. Through your subscription to the WWW-Talk 02:18:32
mailing list? 02:18:35
 A. Yes. 02:18:36
Q. Have you reviewed the Eolas patents? 02:19:03
 A. Yes. 02:19:08
Q. And you read all the claims? 02:19:08
 A. Let me correct that. 02:19:12
 Patents, you said? 02:19:13
Q. Yes. 02:19:15
 A. I have only looked at the one that ends in 02:19:15
 '906. 02:19:18
Q. You did not look at the '985 patent? 02:19:19
 A. No. 02:19:22
Q. Okay. And you read all the claims in the 02:19:22
'906 patent? 02:19:25
 A. Yes. 02:19:26
Q. And you think you're an inventor on those 02:19:26
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1 **claims?** **02:19:30**

2 MR. BUDWIN: Form. 02:19:31

3 THE DEPONENT: On some of them. 02:19:32

4 **Q. (By Mr. Wolff) Okay. Do you know which 02:19:33**

5 **claims?** **02:19:34**

6 MR. BUDWIN: Same objection. 02:19:35

7 THE DEPONENT: One through 3, I think. 02:19:37

8 **Q. (By Mr. Wolff) Any others? 02:19:38**

9 MR. BUDWIN: Same objections. 02:19:40

10 THE DEPONENT: I -- I believe that 4, 5 and 6 02:19:42

11 are similar, or -- it's a little bit confusing for me, 02:19:45

12 actually, you know, the details of that, or which 02:19:51

13 claims are which. I'm familiar with 1 through 3. 02:19:54

14 **Q. (By Mr. Wolff) Now, why is it that you think 02:19:57**

15 **you're an inventor on Claims 1 through 3? 02:19:58**

16 MR. BUDWIN: Same objection. 02:20:04

17 THE DEPONENT: Because I communicated the 02:20:05

18 idea to Mike Doyle and have the evidence that's 02:20:08

19 presented in the notebook. 02:20:13

20 **Q. (By Mr. Wolff) So what was exactly that idea 02:20:19**

21 **that you communicated to Mr. Doyle? 02:20:23**

22 A. The idea of using external application -- 02:20:25

23 using the browser as a front end for external 02:20:31

24 applications with bidirectional communication between 02:20:33

25 the two programs. 02:20:37

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MR. KAO: Objection. Mr. McRae is not a 02:22:08

patent attorney. 02:22:10

MR. BUDWIN: Same objection. Form. 02:22:12

Q. (By Mr. Wolff) Well, you just testified that 02:22:12

you were surprised that Mr. Doyle thought it was 02:22:13

patentable and you expressed your skepticism about 02:22:15

that, right? 02:22:18

A. That's right. 02:22:19

Q. And what was it that you told him why it 02:22:19

wasn't patentable? 02:22:22

MR. BUDWIN: Same objection. 02:22:23

THE DEPONENT: At the time, I think I said 02:22:24

there was prior art. 02:22:27

Q. (By Mr. Wolff) And what prior art would that 02:22:28

be? 02:22:29

A. I was thinking of -- well the X Window 02:22:30

system, the ideal Window manager, which is essentially 02:22:33

the role that the browser takes in the invention, and 02:22:36

the description of the EMBED tag and the other 02:22:45

discussions here. 02:22:50

Q. The discussions about Xv? 02:22:51

A. Yes. 02:22:54

Q. And discussions about embedding video? 02:22:54

MR. BUDWIN: Objection. Form. 02:22:59

THE DEPONENT: Yes. 02:23:00

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Q. And you didn't think that that's disclosed in 02:20:40

any of the prior discussions about XMosaic and 02:20:43

incorporating Xv and Ghostscript functionality? 02:20:48

A. On the contrary, actually. I -- I took 02:20:53

inspiration from these discussions. And, you know, I 02:20:56

mentioned earlier that I was skeptical of the patent or 02:21:01

the claim of patentability in that first conversation 02:21:05

with Mike Doyle because I knew where -- you know, where 02:21:08

I was coming from. 02:21:15

But at the same time I felt that I had, you 02:21:16

know, a unique twist that I had put on it. But I 02:21:19

didn't -- I guess maybe I was naive. I didn't believe 02:21:23

that was patentable, and honestly I have been 02:21:28

surprised, you know, at the history. 02:21:30

Q. What do you mean, "surprised at the history"? 02:21:33

MR. BUDWIN: Form. 02:21:36

THE DEPONENT: At the litigation, I mean. 02:21:37

Q. (By Mr. Wolff) What litigation are you 02:21:38

surprised with? 02:21:40

MR. BUDWIN: Same objection. 02:21:42

THE DEPONENT: That -- that -- that the 02:21:49

patent has remained valid for so long. 02:21:54

Q. (By Mr. Wolff) So why didn't you think it 02:21:57

was patentable when Mr. Doyle told you that he thought 02:22:03

it was? 02:22:07

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Q. (By Mr. Wolff) And discussions about 02:23:00

embedding Ghostscript or PostScript functionality? 02:23:01

A. Yes. 02:23:05

MR. BUDWIN: Objection. Form. 02:23:06

Q. (By Mr. Wolff) How about the discussions 02:23:06

about embedding Acrobat or PDF content? 02:23:08

MR. BUDWIN: Same objection. 02:23:14

THE DEPONENT: I don't see a particular 02:23:15

distinction about one piece versus another. In my 02:23:15

conception, I was just looking at a general solution to 02:23:20

how you have the browser cooperate with external 02:23:22

applications of any sort. 02:23:28

MR. WOLFF: Okay. I have no further 02:23:29

questions at this time, so I will turn this over to my 02:23:31

co-counsel if they have questions. 02:23:32

MR. BUDWIN: We can stay on. 02:23:41

MR. WOLFF: We can go off the record because 02:23:43

it's almost out of tape anyway. We can switch and ask 02:23:43

Jennifer if she wants to come back. 02:23:43

MR. KAO: Do you need a break? 02:23:45

THE DEPONENT: Yeah, I would like another 02:23:46

quick break. 02:23:47

THE VIDEOGRAPHER: This is the end of Disk 02:23:48

No. 2, Volume I. We are off the record at 2:23 p.m. 02:23:49

(Recess taken.) 02:23:57

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1 THE VIDEOGRAPHER: This is the beginning of 02:32:26
2 Disk No. 3, Volume I. We are back on the record at 02:32:27
3 2:33 p.m. 02:32:31
4 You may proceed. 02:32:32
5 EXAMINATION 02:32:32
6 BY MR. BUDWIN: 02:32:32
7 **Q. Good afternoon, Mr. McRae. 02:32:34**
8 A. Hi. 02:32:35
9 **Q. I'm Josh Budwin of McKool Smith, counsel for 02:32:35**
10 **Eolas. I have some questions for you. 02:32:39**
11 **Okay? 02:32:41**
12 A. I would like to add something to what I just 02:32:43
13 said before we stopped, if I can. 02:32:43
14 Just that, you know, I'm not qualified to 02:32:46
15 judge the validity of the patent. I wasn't in '93 and 02:32:47
16 I'm not now. But, you know, if the patent is valid, 02:32:52
17 which the courts -- you know, it's up to the courts, 02:32:56
18 then I believe I'm a co-inventor. 02:32:59
19 MR. BUDWIN: Do you want to follow up on that 02:33:04
20 before I start my questions? 02:33:05
21 MR. WOLFF: Yes. 02:33:07
22 FURTHER EXAMINATION 02:33:07
23 BY MR. WOLFF: 02:33:07
24 **Q. So your position is that if the patent is 02:33:10**
25 **valid, you are an inventor, but if it's not valid, you 02:33:14**

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1 **are not an inventor. 02:33:17**
2 A. No. If it's not valid, then there's 02:33:19
3 nothing -- there's no -- nothing to own, right? 02:33:22
4 **Q. And you were skeptical back in 1993 when 02:33:24**
5 **Mr. Doyle told you that he thought that this was 02:33:28**
6 **patentable. 02:33:31**
7 A. Yes. 02:33:32
8 **Q. And you were skeptical because you had 02:33:32**
9 **basically built on the ideas of others who had done 02:33:34**
10 **similar things or proposed similar ideas. 02:33:37**
11 A. I was skeptical -- 02:33:42
12 MR. BUDWIN: Form objection. 02:33:43
13 THE DEPONENT: -- because I didn't understand 02:33:44
14 what was novel. 02:33:47
15 **Q. (By Mr. Wolff) Okay. And do you now have a 02:33:49**
16 **different understanding of what's novel? 02:33:52**
17 A. I think so, yeah. 02:33:54
18 **Q. And what's that understanding today? 02:33:55**
19 A. The key element is having hypertext markup 02:33:57
20 launch an interactive external application. 02:34:04
21 **Q. And if the claims of the patent are broader 02:34:09**
22 **than hypertext markup, would you think it was 02:34:11**
23 **patentable? 02:34:14**
24 MR. BUDWIN: Form. 02:34:16
25 THE DEPONENT: I don't know. I'm not 02:34:16

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qualified. I don't really understand that. 02:34:18
Q. (By Mr. Wolff) And in the correspondence 02:34:20
that we looked at in Exhibit 37 -- this was the 02:34:21
correspondence that you prepared and sent to Eolas' 02:34:25
counsel -- 02:34:29
A. Yes. 02:34:29
Q. -- McKool Smith. 02:34:30
That document, Exhibit 37, has discussions 02:34:31
about people putting markup into hypertext to have 02:34:35
inline embedded objects. 02:34:40
A. Yes. 02:34:44
MR. BUDWIN: Form. 02:34:45
MR. WOLFF: I have no further questions at 02:34:46
this time. 02:34:48
EXAMINATION 02:34:48
BY MR. BUDWIN: 02:34:48
Q. Okay. Try again. 02:34:49
Good afternoon, Mr. McRae. I'm Josh Budwin 02:34:50
of McKool Smith, counsel for Eolas. I'm going to 02:34:51
follow up on some of the questioning here just a little 02:34:58
bit. So I'm sorry if some of this seems a little 02:34:59
repetitive to counsel's earlier questioning. 02:35:01
Mr. McRae, can you state your full name, 02:35:06
please. 02:35:07
A. Christopher McRae. 02:35:09

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Q. Do you have a middle name? 02:35:11
A. James. 02:35:13
Q. And what's your present address? 02:35:14
A. My home address? 02:35:17
Q. Yes, present home address. 02:35:19
A. 1532 Jasper Drive, Sunnyvale, 94087. 02:35:20
Q. You understand that you are still under oath 02:35:29
and you have the obligation to answer questions 02:35:31
truthfully and accurately to the best of your 02:35:32
abilities? 02:35:35
A. Yes, I do. 02:35:36
Q. And you understand that the testimony you 02:35:36
give has the same legal effect as if you were appearing 02:35:38
live in a court of law? 02:35:42
A. Yes, I do. 02:35:45
Q. Are there any reasons that you are unable to 02:35:46
testify truthfully and accurately today? 02:35:50
A. No. 02:35:53
Q. Any medication, ill, anything of that nature? 02:35:53
A. No. 02:35:56
Q. Do you have any medical conditions or any 02:35:56
other instances or issues that would impair your 02:35:58
ability to recall past events? 02:36:02
A. Other than age? 02:36:06
Q. Yeah. Other than age, any medical conditions 02:36:08

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1 or -- or anything like that? 02:36:11
 2 A. No. 02:36:14
 3 **Q. Mr. McRae, Exhibit 3 was marked earlier in 02:36:30**
 4 **the deposition, which appears to be a resume of yours? 02:36:33**
 5 A. Yes. 02:36:36
 6 **Q. Can you find that for me. Let me know when 02:36:36**
 7 **you have it. It's Exhibit 3 -- or Exhibit 2. 02:36:49**
 8 A. Okay. I have it. 02:36:53
 9 **Q. Is this, the resume in Exhibit 2, an accurate 02:36:56**
 10 **summary of your work history up through the date of 02:37:00**
 11 **this resume, January 1997? 02:37:03**
 12 A. Yes. 02:37:07
 13 **Q. Can you step me through your employment 02:37:08**
 14 **history from January of 1997 to the present, please. 02:37:11**
 15 A. So this resume only goes to 1994. 02:37:25
 16 **Q. Yeah. 02:37:28**
 17 A. And you want to know from 1997? 02:37:28
 18 **Q. Okay. Well, do you see the first page of 02:37:31**
 19 **Exhibit 2, the letter? 02:37:33**
 20 A. Yes. 02:37:35
 21 **Q. It's dated Friday, January 17th, 1997, 02:37:35**
 22 **correct? 02:37:39**
 23 A. Yes. 02:37:41
 24 **Q. And in the SCCOE, it says, "I began working 02:37:41**
 25 **full time as an independent consultant in 1995." 02:37:45**
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1 A. Yes. 02:37:48
 2 **Q. Okay. So if you look to the second page of 02:37:48**
 3 **Exhibit 2, it's got your work history, and it says, 02:37:54**
 4 **"O'Reilly & Associates, July" -- "from 12-93 to July 02:37:57**
 5 **'94." 02:38:03**
 6 **Do you see that? 02:38:04**
 7 A. Yes, I do. 02:38:05
 8 **Q. Can you step me through your work history 02:38:06**
 9 **from then until now. 02:38:08**
 10 A. So there's a gap after O'Reilly & Associates. 02:38:11
 11 **Q. Okay. What are the -- can you give me the 02:38:14**
 12 **dates and where you worked. 02:38:15**
 13 A. I ended my job at O'Reilly & Associates -- 02:38:17
 14 well, I was -- I wasn't fired, I guess. I don't know. 02:38:19
 15 I was -- they ended my employment because I had a 02:38:25
 16 medical condition and wasn't able to work any longer. 02:38:28
 17 And so I -- I spent eight months, I think it 02:38:36
 18 was, out of work, and then I began working for the 02:38:41
 19 Santa Cruz County Office of Education, building a 02:38:48
 20 network for them. 02:38:51
 21 And I also took on as -- acted as an 02:38:55
 22 independent consultant and I had a number of other 02:38:59
 23 clients that I worked for over the next two years or 02:39:02
 24 so, three years, I think. 02:39:06
 25 And then I worked for a company called 02:39:08
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NaviSite, Incorporated, for two years I think it was. 02:39:11
 And I was laid off of that job after the dotcom bust. 02:39:17
 Then I had several years where I -- it was 02:39:28
 very difficult to find work. I had some -- a few very 02:39:31
 short consulting jobs. 02:39:35
 In 2003, I believe it was, I worked a 02:39:43
 ten-month contract with Cisco Systems. And then I was 02:39:48
 hired at my present job at NetApp in December of '94 -- 02:39:58
 or, I'm sorry, 2004. 02:40:04
 MS. DOAN: I'm sorry. NetApp? 02:40:12
 THE DEPONENT: NetApp, yes. 02:40:15
Q. (By Mr. Budwin) All right. So let me make 02:40:20
sure I understand. 02:40:20
So according to Exhibit 2, you left O'Reilly 02:40:21
& Associates in July of 1994; is that correct? 02:40:21
 A. That's right. 02:40:24
Q. And you left because you had a medical 02:40:25
condition that made you unable to work? 02:40:26
 A. Yes, that's correct. 02:40:28
Q. What was that medical condition? 02:40:29
 A. The diagnosis was thoracic outlet syndrome. 02:40:32
Q. What does that mean? 02:40:39
 A. You're asking me? 02:40:42
Q. Yeah, what is it? Well, describe it to a 02:40:43
layperson. 02:40:45
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A. It's a type of repetitive strain injury 02:40:46
 related to typing, overwork, exhaustion. 02:40:52
Q. Is that medical condition why you left 02:41:02
O'Reilly or were there other reasons that related to 02:41:04
you leaving O'Reilly? 02:41:08
 A. I was unable to do my job. 02:41:11
Q. Because of your medical condition? 02:41:13
 A. Yes. 02:41:15
Q. Were there reasons unrelated to your medical 02:41:15
condition that related to you leaving O'Reilly? 02:41:20
 A. Yes. 02:41:23
Q. Okay. What were those? 02:41:23
 A. I wasn't performing as well as I might 02:41:28
 because I wasn't really interested in the work. And 02:41:33
 that was some degree related to the -- to the medical 02:41:36
 condition as well. 02:41:41
Q. Were you fired from O'Reilly or were you laid 02:41:47
off? Did you resign? 02:41:50
 A. It was like medical leave, I think. I don't 02:41:54
 know the specific -- I wasn't really fired. 02:41:56
Q. Did you have any disagreements with any of 02:42:00
the management of O'Reilly prior to you leaving? 02:42:01
 A. No. 02:42:04
Q. All right. So you were at O'Reilly to July 02:42:04
of 1994. And then you left, in part, because of your 02:42:06
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1 **medical condition and, in part, because you weren't** 02:42:10
2 **interested in the work; is that right?** 02:42:13
3 A. No. The primary reason for me leaving was 02:42:14
4 the medical condition. 02:42:16
5 **Q. Okay. And then you were out of work for a** 02:42:18
6 **little while while you recuperated, and then you went** 02:42:20
7 **to work for Santa Cruz Department of Education?** 02:42:21
8 A. County Office of Education, yes. 02:42:26
9 **Q. And you did that, and you were also an** 02:42:28
10 **independent consultant from 1994 to 1997,** 02:42:28
11 **approximately?** 02:42:32
12 A. Yes. '98 maybe, I think. 02:42:33
13 **Q. Then after that, you went to work for** 02:42:36
14 **NaviSite?** 02:42:37
15 A. That's right. 02:42:40
16 **Q. And that was from approximately 1997 or 1998** 02:42:41
17 **to 1999?** 02:42:43
18 A. No. 02:42:45
19 **Q. Okay.** 02:42:47
20 A. I'm sorry. I think it was '99 to 2000. 02:42:48
21 **Q. Was there a gap between when you were at the** 02:42:53
22 **Santa Cruz County Education and when you started** 02:42:56
23 **NaviSite?** 02:43:01
24 A. I don't recall the exact timing. I handed 02:43:04
25 that work off to a permanent employee -- 02:43:08
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1 **Q. Okay.** 02:43:12
2 A. -- at Santa Cruz County Office of Education 02:43:13
3 because I had too much work from other clients, 02:43:16
4 actually. 02:43:18
5 **Q. And then you went to work for NaviSite from** 02:43:19
6 **1999 to 2000?** 02:43:22
7 A. Yes. 02:43:24
8 **Q. And then you got laid off as part of the** 02:43:24
9 **dotcom bust; is that correct?** 02:43:26
10 A. Yes. 02:43:29
11 **Q. Then you spent several years looking for work** 02:43:29
12 **and taking on kind of only temporary contracts; is that** 02:43:29
13 **right?** 02:43:34
14 A. Exactly. 02:43:35
15 **Q. In 2003, you had a ten-month contract at** 02:43:36
16 **Cisco?** 02:43:38
17 A. Yes. 02:43:40
18 **Q. And after that contract finished at Cisco** 02:43:40
19 **beginning in December 2004, you started working at Net** 02:43:44
20 **Appliance; is that right?** 02:43:48
21 A. Network Appliance. Well, the company's name 02:43:50
22 is formally NetApp. 02:43:50
23 **Q. NetApp. Okay.** 02:43:51
24 **So you started working at NetApp in** 02:43:51
25 **December 2004?** 02:43:53
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A. Yes. 02:43:55
I'm sorry. I believe the Cisco contract was 02:43:55
in 2004. It was for ten months in 2004. 02:43:58
Q. Okay. So December 2004 is when you started 02:44:01
at NetApp? 02:44:05
A. That's right. 02:44:06
Q. And that's where you are employed today? 02:44:07
A. That's right. 02:44:09
Q. And what do you do at NetApp today? 02:44:10
A. I'm a software engineer. 02:44:13
Q. And, Mr. McRae, you worked at the University 02:44:37
of California San Francisco; is that correct? 02:44:39
A. Yes, I did. 02:44:41
Q. And you were there from February 1993 to 02:44:42
December of 1993; is that correct? 02:44:48
A. Yes, it is. 02:44:51
Q. And while you were there, you were working in 02:44:51
the University of California San Francisco Library and 02:44:53
Center for Knowledge Management; is that correct? 02:44:57
A. Yes, it is. 02:44:59
MR. BUDWIN: I'm going to hand you a document 02:45:11
which will be marked as Exhibit 38. 02:45:13
THE REPORTER: Wait. Is this a new document? 02:45:14
MR. BUDWIN: Yes. 02:45:41
THE REPORTER: It's 40. 02:45:41
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MR. BUDWIN: Okay. Forty. Sorry. 02:45:41
Exhibit 40 is a copy of a document that bears 02:45:41
Production No. CM001611 to 1612. 02:45:45
(Whereupon, Exhibit 40 was marked for 02:45:51
identification.) 02:45:52
Q. (By Mr. Budwin) Do you recognize your 02:45:53
signature on this document, Mr. McRae? 02:45:56
A. Yes, I do. 02:45:59
Q. Do you see it on both the first and the 02:46:00
second pages? 02:46:01
A. Yes, I do. 02:46:04
Q. And is this a document that you signed when 02:46:04
you joined the University of California, San Francisco? 02:46:06
A. Yes, it is. 02:46:08
Q. Now -- you can -- you can set that aside. 02:46:12
Now, when you worked at the University of San 02:46:14
Francisco in 1993, you were initially hired by David 02:46:19
Martin; is that right? 02:46:25
A. The University of California at San 02:46:27
Francisco. 02:46:29
Q. Yes. Sorry. The University of California. 02:46:30
A. Yes. 02:46:34
Q. And several months after you started working 02:46:39
at the University of California was when Michael Doyle 02:46:41
was brought in as the director of the group that you 02:46:44
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1 were in? 02:46:47
 2 A. I'm sorry. What was the date there? 02:46:48
 3 Q. Several months after you started at UCSF, 02:46:50
 4 that's when Michael Doyle was brought in as the 02:46:53
 5 director of the group that you were in, correct? 02:46:56
 6 A. Four months, yes. 02:46:59
 7 MR. WOLFF: Object to form. 02:47:00
 8 Q. (By Mr. Budwin) So June of 1993, Mike Doyle 02:47:00
 9 joins? 02:47:03
 10 A. Yes. 02:47:04
 11 Q. He brings Cheong Ang with him? 02:47:04
 12 A. Yes. 02:47:08
 13 Q. Now, prior to the arrival of Mr. Doyle and 02:47:09
 14 Mr. Ang at UCSF, were you and Mr. Martin working on any 02:47:12
 15 projects? 02:47:17
 16 A. Yes. 02:47:18
 17 Q. Were you working on the digital libraries 02:47:19
 18 project? 02:47:22
 19 A. No. 02:47:23
 20 Q. Okay. Were you working on the RedSage 02:47:23
 21 project? 02:47:26
 22 A. Yes. 02:47:27
 23 Q. What projects other than RedSage were you 02:47:30
 24 working on before Mike Doyle joined the group in May -- 02:47:32
 25 or in June of 1993? 02:47:37

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1 A. I was working on a number of different 02:47:41
 2 things. I don't know if they are formal projects, per 02:47:43
 3 se. They are all related to delivering information to 02:47:46
 4 the library community. There's WAIS indexing 02:47:52
 5 integration with external -- well, internal and 02:47:58
 6 external library systems through Z39.50 protocol, 02:48:03
 7 Opaque and Melville. 02:48:06
 8 Q. Were you ever or did you ever formally work 02:48:20
 9 on the visible embryo project? 02:48:23
 10 A. I don't know what formally means. 02:48:29
 11 Q. Were you ever part of the team that worked on 02:48:31
 12 the visible embryo project at UCSF? 02:48:33
 13 A. I worked with Cheong Ang every day while he 02:48:37
 14 was working on that, and so I helped him on a 02:48:39
 15 day-to-day basis. 02:48:41
 16 Q. Did you write any code that was ever used in 02:48:43
 17 any way by the visible embryo project? 02:48:45
 18 A. No, I don't think so. 02:48:48
 19 Q. There were several papers published about the 02:49:02
 20 visible embryo project in 1993 and 1994. Are you aware 02:49:05
 21 of those papers? 02:49:09
 22 A. Vaguely, yes. 02:49:10
 23 Q. Were you listed as an author on any papers 02:49:11
 24 related to the visible embryo project? 02:49:14
 25 A. No, I wasn't. 02:49:16

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Q. Did you ever suggest to anybody in 1993 or 02:49:18
 1994 that you should be listed as an author on those 02:49:20
 papers? 02:49:25
 MR. WOLFF: Objection. Form. 02:49:27
 THE DEPONENT: No, I didn't. 02:49:29
 Q. (By Mr. Budwin) Do you know if Mike -- 02:49:33
 Michael Doyle and Cheong Ang had began working on the 02:49:34
 visible embryo project before they came to UCSF in June 02:49:39
 of 1993? 02:49:43
 A. Yes. 02:49:44
 Q. They -- they had been working on the visible 02:49:45
 embryo project before they came to UCSF? 02:49:46
 MS. DOAN: Objection. Form. 02:49:50
 MR. WOLFF: Objection. Form. 02:49:51
 MS. DOAN: You can answer. 02:49:51
 THE DEPONENT: Yes. 02:49:52
 Q. (By Mr. Budwin) Mr. McRae, do you have a 02:49:54
 copy of Exhibit 3 in front of you? 02:50:31
 A. I'm not sure which document that is. 02:50:36
 Q. Sure. It will say Exhibit 3 on it. It will 02:50:39
 have a sticker. 02:50:43
 A. Yes, I do. 02:50:48
 Q. So Exhibit 3 is a copy of a document that 02:50:52
 doesn't have any Bates numbers on it, but it's dated 02:50:56
 Tuesday, the 21st of September 1993. 02:51:01

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Do you see that? 02:51:03
 A. Yes, I do. 02:51:05
 Q. And in it, there's a -- an e-mail from 02:51:05
 johnloiacono@west.sun.com. 02:51:08
 Do you see that? 02:51:11
 A. Yes, I do. 02:51:13
 Q. And it says, "John Loiacono, Sales Rep, 02:51:14
 Silicon Valley Commercial." 02:51:18
 Do you see that? 02:51:22
 A. Yes. 02:51:23
 Q. Do you have an understanding of who John 02:51:24
 Loiacono was? 02:51:27
 A. Only from this e-mail. It says he's a sales 02:51:33
 rep for the Silicon Valley Commercial. 02:51:35
 Q. Do you recall trying to buy computers from 02:51:37
 Sun in September of 1993? 02:51:41
 A. No. 02:51:45
 Q. Do you recall what the reference to WABI in 02:51:45
 Exhibit 3 is? W-A-B-I. 02:51:49
 A. No. I know that it's something application 02:51:54
 binary interface. 02:51:57
 Q. But you don't know what it stands for? 02:51:59
 A. No, I don't. 02:52:01
 Q. Do you know if the group at UCSF ever 02:52:02
 acquired Sun computers that have the software listed in 02:52:06

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1	Exhibit 3? 02:52:10	A. Not for the RedSage project, I don't believe. 02:57:35
2	A. No. 02:52:14	Q. Did you investigate the use of Adobe PDF for 02:57:38
3	Q. Do you recall ever using Aldus PageMaker 02:52:15	any projects in 1993 while you were at UCSF? 02:57:42
4	during the time that you were employed at UCSF? 02:52:19	A. Yes. 02:57:45
5	A. No, I don't recall. 02:52:24	Q. What did you investigate PDF for? 02:57:45
6	Q. So with respect to Exhibit 3, it's possible 02:52:26	A. For use as a general display mechanism for 02:57:48
7	that you were getting quotes on buying machines that 02:52:28	electronic documents. 02:57:52
8	had certain software, but you don't remember whether 02:52:31	Q. And what did you conclude? 02:57:54
9	you actually got any of these machines listed in 02:52:34	A. They would be useful and we would like to use 02:58:00
10	Exhibit 3? 02:52:37	it. 02:58:02
11	A. That would have been one of David Martin's 02:52:38	Q. Did you ultimately end up using it? 02:58:03
12	responsibilities, not mine. 02:52:40	A. Not while I was there, no. 02:58:05
13	Q. So you don't -- you don't know if you ever 02:52:41	Q. So as far as you're aware, nobody at UCSF 02:58:07
14	got any of the Sun computers mentioned in Exhibit 3. 02:52:43	ended up using Adobe PDF for any of the projects that 02:58:10
15	A. No. 02:52:46	the group was working on? 02:58:13
16	Q. And you don't recall ever using Aldus 02:52:47	A. I'm not aware. 02:58:16
17	PageMaker during the time that you were employed at 02:52:48	MR. WOLFF: Object to form. 02:58:17
18	UCSF. 02:52:53	THE DEPONENT: No, I'm not aware of any such 02:58:18
19	A. No. 02:52:54	use. 02:58:20
20	Q. Okay. Now, you have Exhibit 4 in front of 02:52:58	Q. (By Mr. Budwin) Now, in the 1993 time frame, 02:58:20
21	you, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16. Okay. 02:53:12	did you or did anyone else, to your knowledge, ever 02:58:26
22	So do you have Exhibits 4 through 16 in front 02:53:59	combine Acrobat with a Web browser like Mosaic? 02:58:30
23	of you? 02:54:02	A. No. 02:58:34
24	A. Not yet. 02:54:03	Q. In 1993, had you ever seen anybody use Adobe 02:58:35
25	Q. All right. Look for those and tell me when 02:54:04	PDF to display Acrobat documents embedded within a Web 02:58:39
	Page 166	Page 168
1	you get them. 02:54:07	browser? 02:58:43
2	A. I'm sorry. What was the range again? 02:54:55	MR. WOLFF: Object to form. 02:58:45
3	Q. Sure. Four to 16. 02:54:58	THE DEPONENT: No. 02:58:49
4	A. I seem to be missing No. 12. 02:56:18	Q. (By Mr. Budwin) In 1993, did you or did 02:58:52
5	Q. Once you find that one, maybe while I'm 02:56:30	anyone in your -- the group that you were in at UCSF do 02:58:59
6	asking you my questions, somebody can help you put all 02:56:32	any work to combine Acrobat with a web browser like 02:59:03
7	the rest of your exhibits in order. I'm going to have 02:56:34	Mosaic, to your knowledge? 02:59:10
8	a bunch more questions like this about a whole group of 02:56:34	A. No. 02:59:12
9	exhibits, and it would make things a little faster. 02:56:38	Q. With respect to Exhibits 4, 5 and 6, these 02:59:48
10	A. Okay. 02:56:51	are publications or alleged to be publications about 02:59:59
11	Q. All right. 02:56:51	Adobe PDF. 03:00:03
12	A. I have those documents. 02:56:52	Do you have those exhibits in front of you, 03:00:04
13	Q. Mr. McRae, do you have Exhibits 4 through 16 02:56:53	4, 5 and 6? 03:00:05
14	in front of you? 02:56:57	A. Yes, I do. 03:00:07
15	A. Yes, I do. 02:56:58	Q. When you reviewed these documents and while 03:00:08
16	Q. And do you recall Mr. Wolff asking you 02:57:00	Mr. Wolff was asking you questions about them, did you 03:00:10
17	questions about these exhibits earlier today? 02:57:03	see any reference to a web browser or the Internet or 03:00:11
18	A. Yes, I do. 02:57:05	HTTP in any of these documents? 03:00:14
19	Q. And do you see that the common theme about 02:57:06	MR. WOLFF: Object to form. 03:00:42
20	each of Exhibits 4 through 16 is they relate to Adobe 02:57:09	THE DEPONENT: Should I be looking through 03:01:08
21	and Adobe PDF? 02:57:13	each of these? 03:01:10
22	A. Yes. 02:57:15	Q. (By Mr. Budwin) I was just ask- -- let me 03:01:11
23	Q. Now, in 1993, as part of your work at UCSF, 02:57:21	ask my question again, and maybe that will help you. 03:01:11
24	did you and David Martin investigate the use of Adobe 02:57:25	When you were reviewing Exhibits 4, 5 and 6 03:01:14
25	PDF for the RedSage project? 02:57:30	during Mr. Wolff's questioning of you, did you see any 03:01:17
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1	references to the Internet, Web browsers or HTTP in any	03:01:19	page.	03:03:37
2	of Exhibits 4, 5 and 6?	03:01:22	Do you see that heading?	03:03:37
3	A. No, I don't.	03:01:25	A. I see the heading.	03:03:39
4	MR. WOLFF: Object to form.	03:01:26	Q. Okay.	03:03:40
5	Q. (By Mr. Budwin) And did Mr. Wolff ask you	03:01:27	A. Oh, I'm sorry.	03:03:40
6	any such questions that you recall?	03:01:30	Q. That's all I'm asking you. Do you see the	03:03:41
7	A. No, he didn't.	03:01:32	heading?	03:03:41
8	Q. All right. You can set those aside.	03:01:34	A. I see it. I didn't see "Our contribution," I	03:03:42
9	Do you have Exhibits 7 through 13? These are	03:01:37	see it now.	03:03:43
10	a series of e-mails.	03:01:41	Q. All right. Now, were you proposing to work	03:03:44
11	A. Yes.	03:01:55	with Adobe and use Adobe PDF for the RedSage project?	03:03:47
12	Q. And do you have Exhibit 7 in front of you,	03:01:56	A. I don't think it was specific to RedSage. We	03:03:59
13	which is the May 14th, 1993, e-mail?	03:01:58	were looking to use it, yes.	03:04:02
14	A. Yes, I do.	03:02:04	Q. And to your knowledge, was Adobe responsive	03:04:03
15	Q. Do you see that there's an "About us"	03:02:05	to your inquiries?	03:04:05
16	section?	03:02:09	A. Based on the e-mails I saw this morning, yes,	03:04:10
17	A. Yes.	03:02:10	they did respond.	03:04:12
18	Q. The second paragraph from the bottom of that	03:02:12	Q. No, maybe you're misunderstanding me.	03:04:14
19	section, second sentence starts, "RedSage."	03:02:15	I didn't ask did Adobe respond to you. Were	03:04:16
20	Do you see that?	03:02:19	they responsive to your inquiries about your group	03:04:17
21	A. Third paragraph.	03:02:20	using PDF as a beta site, Adobe PDF as a beta site?	03:04:20
22	Q. Second up from the bottom, but, yeah, third	03:02:22	A. There was a beta agreement that I saw this	03:04:26
23	paragraph from the top.	03:02:26	morning.	03:04:28
24	Do you see the sentence in Exhibit 7 that	03:02:27	Q. Does this document, Exhibit 16, say "beta	03:04:28
25	starts, "RedSage," in the "About us" section?	03:02:28	agreement" on it?	03:04:31
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1	A. "RedSage brings" --	03:02:32	A. That's 17?	03:04:42
2	Q. Yes.	03:02:33	Q. Sixteen.	03:04:43
3	A. -- "the electronic distribution"?	03:02:33	A. Sixteen. "Preferred customer agreement for	03:04:53
4	Q. Yes.	03:02:35	disclosure of Adobe information."	03:04:54
5	A. Yes, I see it.	03:02:35	Q. It doesn't say, "beta agreement," does it?	03:04:56
6	Q. Can you read that sentence out loud, please.	03:02:35	A. I don't see "beta." I haven't read it, every	03:04:58
7	A. "RedSage brings the electronic distribution	03:02:37	sentence, though.	03:05:01
8	of the full text of a number of medical journals to	03:02:39	Q. So all I'm trying to understand, Mr. McRae,	03:05:02
9	several libraries and/or hospitals around the Bay	03:02:43	is did your group, to your knowledge, end up using	03:05:05
10	Area."	03:02:46	Adobe PDF for any purpose that you can recall during	03:05:08
11	Q. And is that, in fact, one of the projects	03:02:47	the time that you were employed at UCSF?	03:05:11
12	that you were working on while you were at UCSF?	03:02:49	A. No, we did not.	03:05:15
13	A. Yes, it was.	03:02:53	Q. Okay. Do you recall the first time that you	03:05:16
14	Q. And to your knowledge, did anyone at UCSF	03:02:54	ever saw an Adobe PDF document embedded in a web	03:05:37
15	ever use Adobe PDF for the RedSage project?	03:02:57	browser?	03:05:43
16	MR. WOLFF: Object to form.	03:03:04	MR. WOLFF: Object to form.	03:05:45
17	THE DEPONENT: No.	03:03:06	THE DEPONENT: No, I don't recall the first	03:05:55
18	Q. (By Mr. Budwin) And in this document,	03:03:07	time.	03:05:58
19	Exhibit 7, there's a section that starts, "Our	03:03:09	Q. (By Mr. Budwin) Was it well after you left	03:05:58
20	contribution."	03:03:15	UCSF?	03:06:01
21	Do you see that?	03:03:16	A. Yes, I believe it was.	03:06:01
22	At the bottom of the page. "Adobe/PDF and	03:03:25	Q. Was it after you left O'Reilly?	03:06:02
23	WorldWideWeb: Our contribution."	03:03:29	A. Yes.	03:06:04
24	Do you see that?	03:03:32	Q. And you left O'Reilly in July 1994?	03:06:07
25	It's the heading on the bottom of the first	03:03:33	A. That's correct.	03:06:10
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1	Q. Now, do you have Exhibit 9, 10, and 11 in front of you? These are e-mails.	03:06:34 03:06:43	MR. WOLFF: Object to form.	03:10:10
2			THE DEPONENT: My design notes referenced PDF.	03:10:12 03:10:14
3	A. Yes, I do.	03:06:55	Q. (By Mr. Budwin) Okay. I want you to listen to my specific question. Okay?	03:10:15 03:10:17
4	Q. All right. You see Exhibit 9 is an e-mail dated June 2nd, 1993?	03:06:58	When you were looking at your notes to prepare for the deposition today, did you see any reference to using, actual use of Adobe PDF for any of the projects that you were working on at UCSF? Yes or no?	03:10:19 03:10:20 03:10:22 03:10:27 03:10:30
5	A. Yes.	03:07:02	MR. WOLFF: Object to form.	03:10:31
6	Q. It refers to "Adobe Acrobat Beta Agreement." Do you see that?	03:07:03 03:07:07	THE DEPONENT: What do you mean by "use"?	03:10:32
7	A. Yes, I do.	03:07:08	Q. (By Mr. Budwin) Did you actually use Adobe PDF?	03:10:34 03:10:35
8	Q. Do you see Exhibit 10 is an e-mail from June 18th, 1993? It says, "Adobe Beta Agreement for Acrobat/PDF"?	03:07:08 03:07:11 03:07:13	A. No.	03:10:37
9	A. Yes, I do.	03:07:17	Q. Okay. Now, in preparing and looking at those same notes the -- strike that.	03:10:37 03:10:42
10	Q. And Exhibit 11 is an e-mail dated June 21st, 1993. And in -- in the e-mail below, it says, "Adobe Beta Agreement."	03:07:18 03:07:21 03:07:27	While you were employed at UCSF, you kept lab notebooks, correct?	03:10:44 03:10:47
11	Do you see that?	03:07:28	A. Yes, I did.	03:10:48
12	A. Yes, I do.	03:07:29	Q. All right. Did you see any reference in any of your lab notebooks to MediaView?	03:10:49 03:10:51
13	Q. Do you know one way or the other whether Exhibit 16 is the Adobe beta agreement referred to in Exhibits 9 through 11?	03:07:31 03:07:34 03:07:38	A. No.	03:10:55
14	A. No, I don't.	03:07:41	Q. Prior to the deposition today, did you recall ever hearing anything about MediaView?	03:10:56 03:10:59
15	Q. As we saw earlier, Exhibit 16 doesn't say anything about a beta agreement, does it?	03:07:43 03:07:46		
16	A. No. I didn't see anything there.	03:07:49		
17				
18				
19				
20				
21				
22				
23				
24				
25				

1	Q. And you don't recall UCSF ever being a beta test site of any kind for Adobe PDF during the time that you were there?	03:07:53 03:07:57 03:08:01	MS. DOAN: Objection. Form.	03:11:05
2			THE DEPONENT: No. I did not recall MediaView.	03:11:07 03:11:09
3	A. No.	03:08:02	Q. (By Mr. Budwin) Now, I believe you testified that when you were at UCSF you didn't have any NeXt machines; is that correct?	03:11:09 03:11:14
4	Q. All right. You can set those -- those aside. So the next group of documents I want you to get is going to start with Exhibit 17 and go through Exhibit 26.	03:08:03 03:08:16 03:08:18 03:08:31	A. That's correct.	03:11:16
5	Okay. Do you have Exhibits 17 through 26?	03:09:28	Q. Do you have an understanding --	03:11:19
6	A. Yes, I do.	03:09:30	A. I'm sorry. It's correct that we didn't have any NeXt machines. I don't think I actually said that earlier.	03:11:20 03:11:21 03:11:24
7	Q. All right. Before I ask you questions about those, let me just follow up, one more question about the Adobe PDF we were talking about before.	03:09:31 03:09:33 03:09:35	Q. It's correct, isn't it, that when you were employed at UCSF, your group, which included yourself and -- and other people, did not have any NeXt machines?	03:11:26 03:11:27 03:11:30 03:11:32
8	You're in the habit of taking notes, correct?	03:09:39	A. That's correct.	03:11:34
9	A. When I need to.	03:09:42	Q. Do you have Exhibit 25 in front of you? Do you see this is a document that starts at the top --	03:11:46 03:11:50 03:12:03
10	Q. You keep lab notebooks and you keep pretty detailed notes, don't you?	03:09:45	A. Just a moment. I would like to get the document.	03:12:04 03:12:06
11	A. I don't know about detailed, but, yes, I do.	03:09:47	Q. I thought you had it.	03:12:06
12	Q. It was your practice when you were employed at UCSF to take notes in a lab notebook; is that right?	03:09:50 03:09:52	A. Yes, I do have it.	03:12:15
13	A. Yes.	03:09:56	Q. It starts at the top, "Los Alamos National Laboratories Software and Visualization Sampler."	03:12:17 03:12:19
14	Q. In reviewing those notes for document production and preparation for the deposition today, did you see any references or discussion about UCSF using Adobe PDF for any of the projects at UCSF?	03:09:56 03:09:58 03:10:01 03:10:04		
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1	Do you see that?	03:12:23	Do you see that?	03:14:44
2	A. Yes.	03:12:23	A. Yes, I do.	03:14:46
3	Q. Fourth paragraph starts, "Also."	03:12:32	Q. Does that also suggest that MediaView was	03:14:48
4	Do you see that?	03:12:34	designed to run solely on the NeXt?	03:14:51
5	A. Yes, I do.	03:12:36	A. Yes, I suppose.	03:14:54
6	Q. "Also included on the CD rom is MediaView, a	03:12:37	Q. Okay. So let's just summarize.	03:14:55
7	general digital multimedia publishing system for the	03:12:40	You have Exhibits 17 through 26 in front of	03:14:58
8	NeXt computer."	03:12:45	you, correct?	03:15:01
9	Do you see that?	03:12:46	A. Yes, I do.	03:15:02
10	A. Yes.	03:12:47	Q. And prior to your deposition, you had no	03:15:03
11	Q. Do you have an understanding as to whether	03:12:47	recollection of MediaView; is that right?	03:15:05
12	MediaView worked only on the NeXt machine?	03:12:50	A. That's correct.	03:15:07
13	A. I don't know if that's true or not.	03:12:54	Q. You don't recall ever working with MediaView	03:15:07
14	Q. Is that what the document in Exhibit 25	03:12:56	at any time while you were at UCSF; is that right?	03:15:09
15	suggests?	03:12:59	MS. DOAN: Objection. Form.	03:15:15
16	A. It says "for the NeXt computer."	03:13:01	Q. (By Mr. Budwin) Is that right?	03:15:15
17	Q. Will you look to Exhibit 21.	03:13:03	A. Yes, that's correct.	03:15:16
18	A. Yes.	03:13:14	Q. And in preparing for your deposition today,	03:15:17
19	Q. The first paragraph, "MediaView is a	03:13:14	you looked through the notes and the lab notebooks that	03:15:18
20	multimedia digital publishing system."	03:13:17	you kept while you were at UCSF; is that right?	03:15:22
21	Do you see that?	03:13:21	A. Not specifically for this deposition, but...	03:15:28
22	A. Publication system.	03:13:22	Q. Prior to the deposition today, you looked	03:15:30
23	Q. Yeah.	03:13:23	through the lab notebooks that you kept while you were	03:15:32
24	Next sentence, "It was also designed to take	03:13:23	employed at UCSF; is that right?	03:15:34
25	maximum advantage of the media rich hardware and	03:13:26	A. Yes, I did.	03:15:38

1	software capabilities of the NeXt computer, especially	03:13:30	Q. And in looking through the lab notebooks that	03:15:38
2	the features of the NeXt dimension subsystem."	03:13:32	you kept while you were at UCSF, you don't recall	03:15:38
3	Do you see that?	03:13:34	seeing any reference to MediaView in your lab notebooks	03:15:40
4	A. Yes, I do.	03:13:35	anywhere.	03:15:45
5	Q. Does that also suggest to you that MediaView	03:13:36	A. No.	03:15:45
6	is solely for the NeXt?	03:13:38	Q. You certainly didn't work with MediaView as	03:15:46
7	MR. WOLFF: Object to the form.	03:13:42	part of any of the work that you were doing at UCSF; is	03:15:49
8	THE DEPONENT: Yes.	03:13:44	that right?	03:15:52
9	Q. (By Mr. Budwin) All right. And do you have	03:13:44	A. That's correct.	03:15:53
10	Exhibit 17 in front of you? It's the one with the	03:13:57	MR. WOLFF: Object to form.	03:15:54
11	picture.	03:14:06	Q. (By Mr. Budwin) Do you recall anybody in	03:15:55
12	A. Yes.	03:14:11	your group ever working with MediaView at any time	03:15:57
13	Q. All right. And can you go to the page with	03:14:11	while you were employed at UCSF?	03:15:59
14	the picture on Exhibit 17.	03:14:15	MS. DOAN: Objection. Form.	03:16:02
15	A. There's pictures on each page.	03:14:20	THE DEPONENT: No. I don't recall any such.	03:16:02
16	Q. The picture of the man with the mountains in	03:14:22	Q. (By Mr. Budwin) And if, in fact, MediaView	03:16:04
17	the background.	03:14:25	ran solely on the NeXt machine, which the documents in	03:16:07
18	Are you there? Yeah, you're there.	03:14:26	Exhibits 17 through 26 that we look at suggest, there	03:16:09
19	Just below the picture, it says, "Indeed, in	03:14:27	would have been no way for your group to run that	03:16:13
20	some ways, the NeXt dimension was designed to run	03:14:30	software; isn't that right?	03:16:16
21	MediaView rather than the other way around."	03:14:33	A. That's correct.	03:16:18
22	Do you see that?	03:14:36	Q. You didn't have a NeXt machine at any time	03:16:18
23	A. Yes, I do.	03:14:37	while you were employed at UCSF.	03:16:21
24	Q. And below, it says, "Phillip's work with NeXt	03:14:38	A. No, I did not.	03:16:24
25	fits well with his work at Los Alamos."	03:14:41	Q. And you don't recall anybody in your group at	03:16:25

1 UCSF ever using a NeXt machine, do you? 03:16:27
 2 A. No, I don't. 03:16:32
 3 Q. Is it fair to say that none of the work that 03:16:46
 4 you did or you can recall the people in your group 03:16:48
 5 doing while you were at UCSF was based in whole or in 03:16:50
 6 part in any way on either MediaView or Adobe PDF? 03:16:55
 7 MR. WOLFF: Object to form. 03:16:59
 8 THE DEPONENT: The question was, is it fair 03:17:02
 9 to say? 03:17:04
 10 Q. (By Mr. Budwin) Yes. 03:17:04
 11 A. Yes, I think so. 03:17:05
 12 Q. Do you have Exhibit 29? 03:17:35
 13 A. Yes. 03:17:56
 14 Q. Exhibit 29 has Bates Nos. CM000874 through 03:17:56
 15 875. And do you see this -- this is a reference to -- 03:18:03
 16 or at least at the top it's got a reference to "the 03:18:09
 17 WorldWideWeb Wizards Workshop last July in Cambridge." 03:18:12
 18 Do you see that? 03:18:16
 19 A. Yes, I do. 03:18:17
 20 Q. And at the top is an e-mail that you sent 03:18:18
 21 that refers, at least in part, to the WorldWideWeb 03:18:18
 22 Wizards Workshop; is that correct? 03:18:25
 23 A. Sent to? 03:18:29
 24 Q. Was an e-mail -- yeah, it's an e-mail you 03:18:30
 25 sent, Christopher McRae -- 03:18:32

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1 A. Yes. 03:18:34
 2 Q. -- that refers, in the first sentence, to 03:18:34
 3 "the WorldWideWeb Wizards Workshop last July in 03:18:34
 4 Cambridge," right? 03:18:39
 5 A. Yes. 03:18:41
 6 Q. There's no reference in this e-mail to the 03:18:41
 7 Viola system, is there? 03:18:43
 8 A. I would have to read it to verify that. 03:18:46
 9 Q. Take your time. 03:18:48
 10 A. It says, "Regarding the development of WWW 03:19:32
 11 and other distributed information systems, Gopher, 03:19:34
 12 WAIS, et cetera." 03:19:36
 13 Q. Okay. 03:19:37
 14 A. No specific mention of Viola, that I see. 03:19:38
 15 Q. Now, again, you kept lab notebooks while you 03:19:41
 16 were employed at UCSF, correct? 03:19:45
 17 A. Yes, I did. 03:19:48
 18 Q. And in looking through those lab notebooks in 03:19:49
 19 advance of today's deposition, you didn't see any 03:19:51
 20 reference to Viola that -- that you put in your lab 03:19:53
 21 notebooks prior to the time that you left UCSF, did 03:19:56
 22 you? 03:19:58
 23 MR. WOLFF: Object to form. 03:20:02
 24 THE DEPONENT: I don't recall seeing any 03:20:05
 25 such. 03:20:06

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Q. (By Mr. Budwin) And you left UCSF in 03:20:07
 December of 1993? 03:20:10
 A. That's correct. 03:20:12
 Q. Now, Mr. Wolff asked you questions about what 03:20:15
 you saw demonstrated at the Wizards Workshop in July of 03:20:18
 1993. 03:20:23
 Do you recall him asking you that? 03:20:23
 A. Yes. 03:20:25
 Q. Do you have a specific recollection, sitting 03:20:30
 here today, of seeing Pei Wei or Scott Silvi or anyone 03:20:32
 else demonstrate Viola at the Wizards Workshop in July 03:20:37
 of 1993? 03:20:42
 A. I don't have a specific recollection of that. 03:20:43
 Q. Do you know if Mr. Wei and Mr. Silvi actually 03:20:50
 pulled some people aside and showed them Viola maybe in 03:20:53
 a side room? 03:20:56
 A. That's certainly possible. There's plenty of 03:20:59
 side discussions. 03:21:02
 Q. You recall there being plenty of side 03:21:03
 discussions at the Wizards Workshop? 03:21:06
 A. That's right. 03:21:08
 Q. You don't recall Mr. Wei or Mr. Silvi or 03:21:08
 Mr. Dougherty, or anybody else, demonstrating Viola to 03:21:10
 the group as a whole, at least while you were there? 03:21:14
 A. Not the entire group as a whole. I don't 03:21:17

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recall, actually, a demonstration specifically at all. 03:21:19
 Q. Sitting here today, you don't recall Mr. Wei 03:21:23
 or Mr. Silvi or Mr. Dougherty demonstrating Viola at 03:21:24
 the Wizards Workshop in July of 1993. 03:21:30
 MR. WOLFF: Object to form. 03:21:32
 THE DEPONENT: No, I don't. 03:21:33
 Q. (By Mr. Budwin) And you attended the 03:21:35
 workshop? 03:21:36
 A. Yes, I did. 03:21:37
 Q. And as we talked about, you kept lab 03:21:39
 notebooks while you were at UCSF? 03:21:42
 A. Yes. 03:21:45
 Q. And during the entirety of the time that you 03:21:45
 were employed at UCSF and looking at those lab 03:21:47
 notebooks before the deposition today, you don't see 03:21:50
 any reference to Viola from the time you were employed 03:21:52
 at UCSF. 03:21:54
 A. Reference to Viola? 03:21:57
 Q. Right. 03:21:58
 A. No. 03:21:59
 Q. And the e-mail in Exhibit 29 doesn't 03:22:00
 reference Viola, right? 03:22:02
 A. That's correct. 03:22:06
 Q. Now, after you left UCSF, you went to 03:22:09
 O'Reilly & Associates; is that right? 03:22:12

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<p>1 A. That's right. 03:22:14</p> <p>2 Q. And so December of 1993, you leave UCSF, you 03:22:15</p> <p>3 go to O'Reilly; is that right? 03:22:18</p> <p>4 A. Yes. 03:22:22</p> <p>5 Q. And you said that after you left UCSF, you 03:22:22</p> <p>6 actually sat in the same office as Mr. Wei and 03:22:25</p> <p>7 Mr. Silvi. 03:22:29</p> <p>8 A. I think beginning in March of 1994. I think 03:22:31</p> <p>9 there were a couple of months I didn't actually work 03:22:34</p> <p>10 with them in Berkeley. 03:22:38</p> <p>11 Q. Okay. Now, Mr. Wolff asked you questions 03:22:40</p> <p>12 about Viola and a chess board. 03:22:46</p> <p>13 Do you recall that? 03:22:49</p> <p>14 A. Yes, I do. 03:22:49</p> <p>15 Q. Needless to say, you don't remember Mr. Wei 03:22:54</p> <p>16 demonstrating Viola with a chess board at the Wizards 03:22:58</p> <p>17 Conference in July of 1993, do you? 03:23:02</p> <p>18 MS. DOAN: Objection. Form. 03:23:05</p> <p>19 THE DEPONENT: Not specifically, no. 03:23:06</p> <p>20 Q. (By Mr. Budwin) And Mr. Wolff also asked you 03:23:07</p> <p>21 questions about Viola and a drawing widget. 03:23:08</p> <p>22 Do you recall that? 03:23:10</p> <p>23 A. Yes. 03:23:11</p> <p>24 Q. Needless to say, you don't recall Mr. Wei or 03:23:12</p> <p>25 anyone else demonstrating Viola with a drawing widget 03:23:15</p>	<p>Q. So you left UCSF in December of 1993, 03:24:26</p> <p>correct? 03:24:27</p> <p>A. That's correct. 03:24:28</p> <p>Q. And shortly thereafter, either December of 03:24:29</p> <p>'93 or January of '94, you joined O'Reilly & 03:24:31</p> <p>Associates. 03:24:34</p> <p>A. That's right. 03:24:35</p> <p>Q. And O'Reilly & Associates is where Viola was 03:24:36</p> <p>being developed? 03:24:39</p> <p>A. That's correct. 03:24:40</p> <p>Q. So it's possible that your recollection of 03:24:41</p> <p>the drawing area widget occurred after you joined 03:24:44</p> <p>O'Reilly & Associates; isn't that right? 03:24:49</p> <p>A. That's correct. It's possible. 03:24:53</p> <p>Q. So let's just make sure that we -- we 03:24:59</p> <p>understand each other. 03:25:01</p> <p>Sitting here today, you have no specific 03:25:02</p> <p>recollection of Mr. Wei, Mr. Silvi, Mr. Dougherty, or 03:25:04</p> <p>anybody else, demonstrating Viola at the Wizards 03:25:08</p> <p>Workshop in July of 1993, right? 03:25:11</p> <p>MS. DOAN: Objection. Form. 03:25:13</p> <p>THE DEPONENT: Correct. 03:25:14</p> <p>Q. (By Mr. Budwin) And you have no recollection 03:25:15</p> <p>seeing the Viola chess board demo shown by Mr. Wei, 03:25:18</p> <p>Mr. Silvi, Mr. Dougherty, or anybody else, at the 03:25:22</p>
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<p>1 at the Wizards Conference in July of 1993, do you? 03:23:17</p> <p>2 A. Actually, I do -- I believe that is what I 03:23:21</p> <p>3 saw, is that part of the demo or that's what I became 03:23:23</p> <p>4 aware of. I saw that -- Viola do that. 03:23:26</p> <p>5 Q. I want to ask very specifically. 03:23:30</p> <p>6 Do you recall the demonstration of Viola from 03:23:33</p> <p>7 the Wizards Workshop in July of 1993? Do you recall 03:23:35</p> <p>8 seeing it with your own eyes? 03:23:39</p> <p>9 A. No. I -- no. 03:23:41</p> <p>10 Q. So do you recall seeing with your own eyes 03:23:44</p> <p>11 Mr. Wei or Mr. Silvi, or anybody else, demonstrating 03:23:46</p> <p>12 the Viola drawing widget at the Wizards Workshop in 03:23:50</p> <p>13 July of 1993? 03:23:54</p> <p>14 A. I recall seeing the demonstration, but I 03:23:56</p> <p>15 cannot place that recollection -- recollection 03:23:59</p> <p>16 specifically at that workshop. 03:24:02</p> <p>17 Q. As we talked about earlier, after you left 03:24:07</p> <p>18 UCSF, you joined O'Reilly & Associates, right? 03:24:09</p> <p>19 A. That's correct. 03:24:13</p> <p>20 Q. You joined O'Reilly & Associates in December 03:24:14</p> <p>21 of 1993? 03:24:16</p> <p>22 A. I don't remember my exact start date. 03:24:18</p> <p>23 Q. December '93, January -- 03:24:21</p> <p>24 A. It might have been January 1st, technically. 03:24:22</p> <p>25 I'm not sure which date it was. 03:24:22</p>	<p>Wizards Workshop in July of 1993? 03:25:27</p> <p>MS. DOAN: Objection. Form. 03:25:32</p> <p>THE DEPONENT: I'm sorry. What was the -- 03:25:33</p> <p>Q. (By Mr. Budwin) You have no specific 03:25:33</p> <p>recollection of seeing the Viola chess board 03:25:33</p> <p>demonstration done by Mr. Wei, Mr. Silvi, 03:25:36</p> <p>Mr. Dougherty, or anybody else, at the Wizards Workshop 03:25:39</p> <p>in July of 1993. 03:25:42</p> <p>A. That's correct. 03:25:44</p> <p>MS. DOAN: Objection. Form. 03:25:45</p> <p>Q. (By Mr. Budwin) And you have no specific 03:25:45</p> <p>recollection seeing the Viola drawing area widget 03:25:46</p> <p>demonstration or -- at the Wizards Workshop in July of 03:25:48</p> <p>1993. 03:25:54</p> <p>MS. DOAN: Objection. Form. 03:25:56</p> <p>THE DEPONENT: That's correct. 03:25:57</p> <p>Q. (By Mr. Budwin) In your e-mail, Exhibit 29, 03:25:57</p> <p>which refers to the Wizards Workshop, there's no 03:26:08</p> <p>reference to Viola that we can see, is there? 03:26:12</p> <p>A. That's correct. 03:26:15</p> <p>Q. And in the lab notebooks that you kept while 03:26:16</p> <p>you were employed at UCSF, no reference to Viola during 03:26:19</p> <p>the time of your employment at UCSF. 03:26:25</p> <p>MR. WOLFF: Object to form. 03:26:28</p> <p>THE DEPONENT: That's correct. 03:26:29</p>
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1 **Q. (By Mr. Budwin) Sitting here today, you have** 03:26:29
2 **no specific recollection of discussing Viola with** 03:26:32
3 **anybody in your group at UCSF before you left UCSF in** 03:26:36
4 **December of 1993, right?** 03:26:40
5 MR. WOLFF: Object to form. 03:26:43
6 THE DEPONENT: On the contrary, I know that I 03:26:45
7 did discuss Viola with them. 03:26:46
8 **Q. (By Mr. Budwin) Okay. Who did you talk** 03:26:47
9 **about it with?** 03:26:48
10 A. I'm not sure about Mike Doyle, but certainly 03:26:52
11 David Martin, Cheong Ang and Marc Solomon. 03:26:55
12 **Q. Do you have any notes from that discussion?** 03:27:01
13 A. No. 03:27:06
14 **Q. Do you have Exhibit 30?** 03:27:12
15 A. Yes, I do. 03:27:51
16 **Q. Do you have 31 and 32 in front of you?** 03:27:53
17 A. Yes. 03:28:07
18 **Q. These are references to a SIGWEB meeting that** 03:28:08
19 **was held in October of 1993.** 03:28:11
20 **Do you see that?** 03:28:16
21 A. Yes, I do. 03:28:17
22 **Q. And there's references to O'Reilly &** 03:28:17
23 **Associates attending the SIGWEB meeting in Exhibits 30,** 03:28:20
24 **31 and 32?** 03:28:24
25 A. Yes. 03:28:25

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1 **Q. There's no reference to Viola in any of** 03:28:28
2 **Exhibits 30, 31 and 32, is there?** 03:28:31
3 A. Let me look. 03:28:34
4 MR. KAO: Let's take a break after the 03:29:23
5 questioning on these documents, these three. 03:29:24
6 Can we get the last question read back. 03:32:35
7 (Record read as follows: 03:32:37
8 "QUESTION: There's no reference to 03:28:28
9 Viola in any of Exhibits 30, 31 and 03:28:29
10 32, is there?") 03:28:32
11 MR. KAO: Can we just let the documents speak 03:32:51
12 for itself? 03:32:53
13 MR. BUDWIN: I would like to get an answer. 03:32:55
14 MR. KAO: Okay. Can we go off the record? 03:32:56
15 MR. BUDWIN: There's a pending question. 03:33:03
16 MR. KAO: Is there a way to maybe ask it from 03:33:20
17 his recollection that's not -- you know, he's just 03:33:23
18 reviewing the document, doing a word search with his 03:33:26
19 own eyes, I think. 03:33:29
20 THE DEPONENT: That's what I'm doing. 03:33:32
21 **Q. (By Mr. Budwin) And I can -- I can ask you a** 03:33:33
22 **question, but I still, you know, want to get an answer** 03:33:34
23 **to it.** 03:33:36
24 **Mr. McRae, do you have Exhibits 30, 31 and 32** 03:33:36
25 **in front of you?** 03:33:40

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A. Yes, I do. 03:33:41
Q. This exhibits refer to a SIGWEB meeting held 03:33:42
in October of 1993, correct? 03:33:45
A. Yes, they do. 03:33:46
Q. And O'Reilly & Associates attended the SIGWEB 03:33:47
meeting in October of 1993, correct? 03:33:50
A. Yes, that's true. 03:33:53
Q. O'Reilly & Associates is where Viola was 03:33:53
being developed, to your knowledge? 03:33:57
A. Yes. 03:33:59
Q. You don't recall seeing or having reviewed 03:34:00
the documents, 30, 31 and 32, any reference to Viola 03:34:02
being discussed or presented at the SIGWEB meeting in 03:34:07
October of 1993, correct? 03:34:10
A. That's correct. 03:34:12
MR. BUDWIN: Do you still want to take a 03:34:13
break? 03:34:16
MR. KAO: Yeah, let's take a quick break. 03:34:17
THE VIDEOGRAPHER: We are off the record at 03:34:21
3:34 p.m. 03:34:22
(Recess taken.) 03:34:22
THE VIDEOGRAPHER: We are back on the record 03:43:50
at 3:43 p.m. 03:43:52
You may proceed. 03:43:53
Q. (By Mr. Budwin) Mr. McRae, I believe you 03:43:55

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testified before the break that you told at least 03:43:57
Mr. Ang and Mr. Martin about Viola before you left 03:43:58
UCSF; is that right? 03:44:02
A. Yes, and Marc Solomon. 03:44:04
Q. Do you have a specific recollection of what 03:44:07
you told them? 03:44:08
A. "Hey, here's a cool another web browser." We 03:44:09
were looking at all -- all the above Web browsers. 03:44:13
Q. Did you tell them about the VOBGF tag in 03:44:16
Viola? 03:44:19
A. I don't specifically recall. 03:44:20
Q. Did you even know about the VOBGF tag in 03:44:21
Viola before you left UCSF in December of 1993? 03:44:24
A. Certainly, before I left UCSF. 03:44:29
Q. Did you describe the chess demo to them? 03:44:31
A. I may have. I think -- 03:44:37
Q. Do you have a specific recollection, sitting 03:44:39
under oath here today, of telling anyone, Martin, Ang, 03:44:41
anyone else, about Viola's chess demo before you left 03:44:45
UCSF? 03:44:49
A. No. 03:44:49
Q. And do you have a specific recollection of 03:44:50
telling Martin, Ang, or anyone else at UCSF, about the 03:44:52
drawing area widget in Viola? 03:44:57
A. I believe I -- I have recollection of telling 03:45:03

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1	David Martin about -- about that.	03:45:06	A. David Martin.	03:47:36
2	Q. You have a specific recollection, sitting	03:45:08	Q. So you think Mr. Martin obtained Viola?	03:47:42
3	here under oath today?	03:45:09	A. David worked on setting up a software archive	03:47:47
4	A. Yes. I don't -- I'm not certain of the	03:45:11	for the group.	03:47:49
5	timing.	03:45:13	Q. Do you know for a fact if Mr. Martin obtained	03:47:51
6	Q. Was it before or after you left UCSF?	03:45:13	Viola while you were at UCSF?	03:47:54
7	A. During my time at UCSF I would have told him.	03:45:16	A. No.	03:47:56
8	Q. What specifically did you tell him?	03:45:19	Q. Who would be the best person to ask whether	03:48:04
9	A. "Hey, Viola can do this."	03:45:21	or not Mr. Martin obtained Viola during the time you	03:48:07
10	Q. Well, did you tell him they could do it in	03:45:23	were employed at UCSF?	03:48:10
11	the browser? outside the browser?	03:45:26	A. David Martin or the backup tapes.	03:48:13
12	A. It would have been in the browser.	03:45:29	Q. Do you recall if the version of Viola you	03:48:33
13	Q. And so you remember specifically having this	03:45:30	recall using supported the VOBJF tag?	03:48:35
14	discussion with David Martin.	03:45:33	A. I don't know.	03:48:39
15	A. Yes.	03:45:35	Q. When you used Viola, were you able to use the	03:48:40
16	Q. What if David Martin doesn't recall this	03:45:36	chess demo?	03:48:42
17	discussion with you?	03:45:38	A. I recall seeing it. I don't recall actually	03:48:49
18	A. What if he doesn't? I don't understand.	03:45:39	using it.	03:48:50
19	Q. Would he be lying?	03:45:42	Q. While you were at UCSF, do you recall using	03:48:51
20	MS. DOAN: Objection. Form.	03:45:44	the chess demo on Viola?	03:48:53
21	THE DEPONENT: I don't know.	03:45:45	A. No.	03:48:55
22	Q. (By Mr. Budwin) You don't have any notes or	03:45:46	Q. While you were at UCSF, do you recall using	03:48:55
23	any written records of what you told people.	03:45:48	the drawing area widget in Viola?	03:48:58
24	A. No.	03:45:51	A. Yes.	03:49:02
25	Q. And you don't have any notes at all,	03:45:51	Q. Do you recall something called VPLOT related	03:49:13
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1	actually, from your time at UCSF related to Viola.	03:45:55	to Viola?	03:49:14
2	A. No.	03:45:59	A. VPLOT? No, I don't.	03:49:15
3	I'm sorry. I just -- there should be a trip	03:46:09	Q. Did you ever obtain VPLOT during the time	03:49:17
4	report, and I haven't seen it in my review of the	03:46:11	that you were employed at UCSF?	03:49:19
5	materials. But David was kind of a stickler for form	03:46:14	A. I don't recall doing so.	03:49:22
6	on things like that.	03:46:18	Q. Do you recall something called PLOT.V?	03:49:23
7	Q. Did you know the -- before you left UCSF, did	03:46:29	A. No.	03:49:26
8	you know the technical details of how Viola operated?	03:46:32	Q. Did you ever obtain PLOT.V during the time	03:49:27
9	A. Only in a general sense.	03:46:40	you were at UCSF?	03:49:30
10	Q. Had you seen the source code?	03:46:41	MS. DOAN: Objection. Form.	03:49:32
11	A. No.	03:46:43	THE DEPONENT: No.	03:49:33
12	Q. Had you studied the source code?	03:46:43	Q. (By Mr. Budwin) So I just want to make sure	03:49:33
13	A. Yes.	03:46:46	that I understand your testimony today, Mr. McRae.	03:51:47
14	Q. Had you used Viola before you left UCSF?	03:46:46	So you attended the Wizards Workshop in July	03:51:50
15	A. Yes.	03:46:49	of 1993 in Cambridge, Massachusetts, correct?	03:51:53
16	Q. When did you first use Viola?	03:46:50	A. Yes. No, August of '93 -- I'm sorry.	03:51:57
17	A. I'm sorry. I don't recall specifically.	03:47:01	Q. You want to refresh your recollection on the	03:52:02
18	There was a period where we were basically checking out	03:47:02	date?	03:52:04
19	everything that was available.	03:47:05	A. Yes. Let me take a look.	03:52:05
20	Q. But you didn't take any notes about your use	03:47:07	Yes, in July.	03:52:17
21	of Viola?	03:47:12	Q. You attended the Wizards Workshop in July of	03:52:18
22	A. No.	03:47:13	1993 in Cambridge, Massachusetts, correct?	03:52:20
23	Q. You don't recall when you obtained Viola?	03:47:23	A. That's correct.	03:52:23
24	A. No. It -- no. It may not have been me.	03:47:31	Q. And you attended the whole conference?	03:52:24
25	Q. Who would it have been?	03:47:34	A. Yes, I did.	03:52:26
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1 **Q. And you don't recall specifically Viola being** 03:52:27
2 **demonstrated at that conference, correct?** 03:52:31
3 MS. DOAN: Objection. Form. 03:52:33
4 **Q. (By Mr. Budwin) You didn't see it with your** 03:52:36
5 **own eyes.** 03:52:37
6 MS. DOAN: Objection. Form. 03:52:39
7 THE DEPONENT: Yes. 03:52:40
8 **Q. (By Mr. Budwin) And you don't recall Mr. Wei** 03:52:40
9 **and Mr. Silvi, Mr. Dougherty, or anybody else,** 03:52:48
10 **presenting either the chess demo or the drawing area** 03:52:51
11 **widget demo of Viola at the Wizards Conference; is that** 03:52:53
12 **right?** 03:52:56
13 A. I don't have -- 03:52:57
14 MS. DOAN: -- objection. Form. 03:52:59
15 THE DEPONENT: -- a specific recollection of 03:53:00
16 that. 03:53:01
17 **Q. (By Mr. Budwin) And it was your practice** 03:53:03
18 **during the time that you were employed at UCSF to take** 03:53:06
19 **notes which you recorded in your laboratory notebooks?** 03:53:09
20 A. Yes. 03:53:12
21 **Q. And you don't recall seeing any reference to** 03:53:13
22 **Viola during your employment at UCSF?** 03:53:16
23 A. No. 03:53:18
24 **Q. And you sent the e-mail that we see in** 03:53:36
25 **Exhibit 29, referring to the Wizards Workshop, in July** 03:53:38
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MS. DOAN: Objection. Form. 03:54:48
THE DEPONENT: No. 03:54:49
Q. (By Mr. Budwin) Prior to the time that you 03:54:49
left UCSF in December of 1993, had you ever seen or 03:54:51
used PLOT.V? 03:54:54
MS. DOAN: Objection. Form. 03:54:59
THE DEPONENT: No. 03:55:00
Q. (By Mr. Budwin) Prior to the time that you 03:55:00
left UCSF, did you have any technical understanding of 03:55:01
the way Viola operated? 03:55:03
A. A general understanding. 03:55:06
Q. Did you ever see the source code? 03:55:07
A. No. 03:55:09
Q. And you had never seen, to your knowledge, 03:55:19
Viola interoperate, for example, with VPLOT before you 03:55:20
left UCSF in December of 1993? 03:55:26
MR. BUDWIN: Objection. Form. 03:55:29
THE DEPONENT: I don't know. 03:55:32
Q. (By Mr. Budwin) And you don't know the 03:55:33
technical details of how Viola and VPLOT interoperate, 03:55:35
do you? 03:55:39
A. I'm wondering whether that was the drawing 03:55:40
widget. No, I don't know for sure. 03:55:42
Q. You don't recall describing the technical 03:55:44
details of the operation of Viola and VPLOT to anyone 03:55:47
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1 **of 1993?** 03:53:41
2 A. Yes. 03:53:44
3 **Q. And there's no reference to Viola in this** 03:53:45
4 **e-mail, in Exhibit 29, is there?** 03:53:47
5 A. I did not see one. 03:53:49
6 **Q. Okay. Now, I believe you testified that you** 03:53:50
7 **may have told Mr. Martin or Mr. Ang about Viola upon** 03:53:58
8 **your return or at some point during your employment at** 03:54:02
9 **UCSF; is that right?** 03:54:05
10 A. Yes. 03:54:06
11 **Q. But you don't recall specifically what you** 03:54:07
12 **told them?** 03:54:08
13 MS. DOAN: Objection. Form. 03:54:10
14 THE DEPONENT: I don't recall the exact 03:54:13
15 words, no. 03:54:14
16 **Q. (By Mr. Budwin) And you don't have any** 03:54:15
17 **written record of any communication related to Viola** 03:54:18
18 **with either Mr. Martin or Mr. Ang?** 03:54:21
19 A. I don't think so. 03:54:27
20 **Q. And prior to the time you left UCSF in** 03:54:27
21 **December of 1993, did you have any understanding of** 03:54:30
22 **what the VOBIF tag in Viola was?** 03:54:33
23 A. I don't know. 03:54:36
24 **Q. Prior to the time that you left UCSF in July** 03:54:39
25 **of 1993, had you ever seen or used VPLOT?** 03:54:43
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prior to when you left UCSF in 1993. 03:55:50
A. No, I don't recall that. 03:55:53
Q. And then you have some -- some SIGWEB notes 03:55:55
from October of 1993; is that right? 03:55:58
Do you see those in Exhibits 30, 31 and 32? 03:56:01
A. Yes. 03:56:23
Q. And you were involved in organizing the 03:56:25
SIGWEB Conferences in 1993, right? 03:56:27
A. Yes. 03:56:32
Q. And was one of the purposes of the SIGWEB 03:56:32
Conference in 1993 to bring people who are active on 03:56:34
the Web together? 03:56:37
A. Yes. 03:56:39
Q. And as we see in the notes for Exhibits 30, 03:56:40
31 and 32, O'Reilly & Associates attended the SIGWEB 03:56:45
Conference in October of 1993? 03:56:50
A. Yes. 03:56:52
Q. And O'Reilly & Associates is where Viola was 03:56:52
being developed? 03:56:56
A. Yes. 03:56:57
Q. And there's no reference in any of Exhibits 03:56:57
30, 31 and 32 to Viola, is there? 03:56:59
A. I don't believe so. 03:57:03
Q. You don't have any recollection of anybody 03:57:05
from O'Reilly presenting or discussing Viola at the 03:57:06
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1 **SIGWEB Conferences in October of '93, do you?** 03:57:10
 2 MS. DOAN: Objection. Form. 03:57:14
 3 You can answer. 03:57:15
 4 **THE DEPONENT:** No. I don't recall any such 03:57:17
 5 conversation. 03:57:19
 6 Actually, I'm sorry. Let me correct that. I 03:57:35
 7 seem to recall Dale Dougherty standing up and giving an 03:57:43
 8 intro for Terry Allen, and mentioning Viola and the 03:57:47
 9 other efforts that they were working on, including -- 03:57:52
 10 **Q. (By Mr. Budwin) Was Viola demonstrated at** 03:57:55
 11 **SIGWEB October '93?** 03:57:57
 12 A. No, it wasn't. 03:57:59
 13 **Q. Other than being mentioned in passing, do you** 03:58:00
 14 **recall any substantive discussion of Viola in SIGWEB** 03:58:01
 15 **'93?** 03:58:05
 16 MS. DOAN: Objection. Form. 03:58:06
 17 **THE DEPONENT:** No. 03:58:07
 18 **Q. (By Mr. Budwin) There's no discussion** 03:58:07
 19 **reflected in these notes, is there?** 03:58:08
 20 A. That's correct. 03:58:11
 21 **Q. Now, you testified that you left UCSF in** 03:58:18
 22 **December of '93, right?** 03:58:20
 23 A. That's correct. 03:58:21
 24 **Q. And then shortly thereafter you joined** 03:58:22
 25 **O'Reilly & Associates, right?** 03:58:26
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1 A. Yes. 03:58:27
 2 **Q. And at some point, at least maybe into March** 03:58:28
 3 **of '94 you actually shared a desk or office space with** 03:58:29
 4 **Pei Wei and Scott Silvi?** 03:58:33
 5 A. Yes. 03:58:36
 6 **Q. I believe you said something to the effect of** 03:58:38
 7 **Pei didn't really want to work with you or didn't** 03:58:40
 8 **really want you to work with him on Viola; is that** 03:58:43
 9 **right?** 03:58:45
 10 MS. DOAN: Objection. Form. 03:58:46
 11 MR. KAO: Same objection. 03:58:48
 12 **THE DEPONENT:** That was my impression at the 03:58:49
 13 time, that he didn't want me pushing my way in and 03:58:50
 14 taking over his -- his project. 03:58:54
 15 **Q. (By Mr. Budwin) Can you describe your** 03:58:56
 16 **interactions with Mr. Wei after you joined O'Reilly in** 03:58:57
 17 **1994.** 03:59:01
 18 MR. KAO: Objection. Vague. 03:59:09
 19 **Q. (By Mr. Budwin) Let me ask you a better --** 03:59:11
 20 **A. Can you be more specific, please.** 03:59:12
 21 **Q. Yeah.** 03:59:13
 22 **I believe you testified that Viola was a** 03:59:13
 23 **sensitive issue between Pei Wei and yourself after you** 03:59:15
 24 **joined O'Reilly; is that correct?** 03:59:18
 25 A. That's what I said, yes. 03:59:20
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Q. Why was Viola a sensitive issue between 03:59:21
Mr. Wei and yourself after you joined O'Reilly? 03:59:23
 A. I think it had to do with the fact that I was 03:59:28
 enthusiastic about it and sort of barged into their 03:59:31
 space. Scott and Pei had been used to working 03:59:42
 independently with very little oversight. 03:59:46
 And I think Dale was at one point thinking 03:59:51
 that I should kind of help organize that office and -- 03:59:54
 and their efforts. 03:59:58
Q. Did that ever happen? 04:00:00
 A. To some extent, yes. 04:00:03
Q. Do you know if Viola was ever incorporated 04:00:06
into any commercial products? 04:00:09
 A. I don't know if that -- if that happened or 04:00:11
 not. 04:00:14
Q. O'Reilly was a book publisher, right? 04:00:14
 A. That's correct. 04:00:17
Q. Technical book publisher, right? 04:00:18
 A. Yes. 04:00:20
Q. To your knowledge, did O'Reilly ever publish 04:00:21
any books on Viola? 04:00:24
 A. I don't recall ever seeing one. 04:00:28
Q. How would you describe the state of Pei's 04:00:38
work -- or Pei Wei's work on Viola when you joined 04:00:42
O'Reilly in 1994? 04:00:44
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MS. DOAN: Objection. Form. 04:00:48
 MR. KAO: Objection. 04:00:48
Q. (By Mr. Budwin) Let me ask -- let me ask a 04:00:50
better question. 04:00:51
Mr. Wei had been working on Viola before you 04:00:53
joined O'Reilly, correct? 04:00:55
 A. That's right. 04:00:57
Q. And did he continue to work on it through the 04:00:57
time that you were at O'Reilly? 04:00:59
 A. Yes, he did. 04:01:01
Q. And to your understanding, while you were at 04:01:02
O'Reilly, did Viola have certain shortcomings, bugs, 04:01:04
other deficiencies? 04:01:08
 MS. DOAN: Objection. Form. 04:01:10
 You can answer. 04:01:12
THE DEPONENT: It must have. 04:01:14
Q. (By Mr. Budwin) And to your knowledge, did 04:01:15
Mr. Wei work on those after you joined Viola -- or 04:01:16
after you joined O'Reilly in 1994? 04:01:19
 A. Yes. 04:01:22
Q. Are you familiar with any of the security 04:01:28
shortcomings in Viola? 04:01:29
 A. No. 04:01:33
Q. Are you familiar with any bugs or code 04:01:36
shortcomings related to Viola's inability to handle 04:01:40
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1 **HTTP communications?** 04:01:42
2 A. No. 04:01:45
3 **Q. You were shown a document which I think was** 04:01:48
4 **Exhibit 35.** 04:01:51
5 A. I'm sorry. Excuse me. I just wanted to -- 04:01:55
6 **Q. Sure.** 04:01:57
7 A. -- correct that. 04:01:57
8 I did -- I am -- I saw a document in the file 04:02:00
9 history that referred to a bug that was discussed. 04:02:03
10 **Q. The file history of the patents --** 04:02:06
11 A. That's right. 04:02:08
12 **Q. -- at issue in this case?** 04:02:08
13 A. That's right. 04:02:10
14 **Q. Did you have any independent knowledge of** 04:02:10
15 **Viola's inability to support HTTP protocols while you** 04:02:10
16 **were at O'Reilly?** 04:02:14
17 A. No. 04:02:15
18 **Q. Can you find Exhibit 35.** 04:02:21
19 A. Sure. 04:02:23
20 **Q. And this refers to some project between** 04:02:40
21 **Stanford and O'Reilly?** 04:02:45
22 A. Yes. 04:02:46
23 **Q. Now, Exhibit 35 is an offer from Richard** 04:02:47
24 **Peck -- strike that.** 04:02:52
25 **Who -- who is Richard Peck, the signer of** 04:02:55
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A. Yes. 04:04:42
Q. And there's an e-mail midway through, which 04:04:57
is between -- it's called "XMosaic and Xv." It's dated 04:05:00
Friday, the 25th of June, 1993. 04:05:11
A. Yes. 04:05:13
Q. Tell me when you have that one. 04:05:14
A. I have it. 04:05:16
Q. Now, the e-mail from you on Friday the 25th 04:05:16
of June, 1993, you sent to the Mosaic team at the 04:05:21
University of Illinois; is that correct? 04:05:27
A. I sent it to mosaic-x@NCSA.uiuc.edu. 04:05:31
Q. Do you have an understanding of what that 04:05:38
e-mail address is? 04:05:40
A. That's the e-mail address for the development 04:05:41
team at NCSA. 04:05:43
Q. And that included -- 04:05:43
A. The XMosaic development team. 04:05:45
Q. -- Marc Andreessen and Eric Bina? 04:05:46
A. Yes. 04:05:50
Q. Marc Andreessen and Eric Bina were the -- two 04:05:51
of the persons responsible for developing Mosaic? 04:05:54
A. I believe there was a broader team. They are 04:05:57
two of the people, yes. 04:05:59
Q. And you asked the team in your e-mail, quote, 04:06:02
what's the status of integrating Xv into Mosaic? Is 04:06:06
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1 **Exhibit 35? Was he an O'Reilly employee?** 04:02:58
2 A. It says here that he is the vice president of 04:03:01
3 business development. 04:03:04
4 **Q. Do you remember Mr. Peck?** 04:03:05
5 A. Yes, I do. 04:03:06
6 **Q. And was Mr. Peck an O'Reilly employee during** 04:03:06
7 **the time you were at O'Reilly?** 04:03:10
8 A. Yes, he was. 04:03:12
9 **Q. Do you recall O'Reilly ever doing any** 04:03:13
10 **collaborative project with Stanford related to Viola?** 04:03:15
11 A. I'm sorry. You're asking whether I actually 04:03:24
12 saw, for instance, Pei on the Stanford campus -- 04:03:26
13 **Q. No.** 04:03:29
14 A. -- working with someone or... 04:03:29
15 **Q. Do you see the document in Exhibit 35 that's** 04:03:31
16 **referring to some digital library project at Stanford** 04:03:32
17 **University?** 04:03:36
18 A. Yes. 04:03:37
19 **Q. Okay. Do you know if that project ever** 04:03:38
20 **happened?** 04:03:40
21 A. No. I don't know whether anything actually 04:03:40
22 came out of that. 04:03:44
23 **Q. Now all my exhibits are out of order.** 04:04:04
24 **Do you have Exhibit 37 in front of you? It's** 04:04:23
25 **the big stack of documents.** 04:04:25
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anyone working on it?" 04:06:11
Do you see that? 04:06:13
A. Yes, I do. 04:06:13
Q. Prior to the time that you sent this e-mail 04:06:15
June 25th, 1993, had you ever seen anybody integrate Xv 04:06:17
into Mosaic? 04:06:22
A. No. Well, XMosaic launched Xv as an external 04:06:23
application. That could be considered integration. 04:06:25
Q. So prior to June 25th, 1993, when you were 04:06:36
using Mosaic, you could click a link and launch Xv as 04:06:40
an external helper application, correct? 04:06:44
A. That's true. 04:06:48
MR. WOLFF: Object to form. 04:06:49
Q. (By Mr. Budwin) Prior to June 25th, 1993, 04:06:49
the date you sent the e-mail, had you ever seen anybody 04:06:52
actually use Xv within a Mosaic browser window? 04:06:55
A. No. 04:07:00
Q. In fact, you wouldn't have had to send the 04:07:09
e-mail June 25th, 1993, if somebody had already done 04:07:11
that, right? 04:07:14
MS. DOAN: Objection. Form. 04:07:15
THE DEPONENT: The point of sending the 04:07:16
e-mail was to inquire whether it had been done. 04:07:17
Q. (By Mr. Budwin) So as of June 25th, 1993, 04:07:22
you are not aware of anyone who had integrated Xv into 04:07:23
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1 the Mosaic browser window, right? 04:07:27
 2 MS. DOAN: Objection. Form. 04:07:32
 3 THE DEPONENT: That's correct. 04:07:33
 4 Q. (By Mr. Budwin) And you had hoped that NCSA, 04:07:33
 5 the University of Illinois, would work on this -- work 04:07:33
 6 on doing that, integrating Xv into the Mosaic browser 04:07:37
 7 window? 04:07:41
 8 A. I hoped that I could do that and was 04:07:42
 9 inquiring whether they would because I was looking -- I 04:07:46
 10 was hoping they were saying -- going to say no, and I 04:07:48
 11 would get to do it myself. 04:07:51
 12 Q. And as we see in the next e-mail, Saturday, 04:07:53
 13 June 26th, 1993, the Mosaic team wrote back to you, 04:07:56
 14 right? 04:08:00
 15 A. That's correct. 04:08:01
 16 Q. And they said that they weren't going to 04:08:01
 17 integrate Xv into the Mosaic browser window, right? 04:08:02
 18 MS. DOAN: Objection. Form. 04:08:06
 19 THE DEPONENT: That's correct. 04:08:08
 20 Q. (By Mr. Budwin) And we see an e-mail here 04:08:08
 21 that's signed, "Cheers, Marc." 04:08:12
 22 Do you see that? 04:08:15
 23 A. Yes, I do. 04:08:16
 24 Q. That's Marc Andreessen? 04:08:17
 25 A. Yes. 04:08:18

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1 Q. And he's saying, "Xv could theoretically be 04:08:18
 2 used if you inline images." 04:08:22
 3 Do you see that? 04:08:24
 4 A. Yes. 04:08:25
 5 Q. Then he says, "However, nope, we haven't 04:08:25
 6 touched it and I doubt we will." 04:08:27
 7 Do you see that also? 04:08:30
 8 A. Yes. 04:08:31
 9 Q. Is that consistent with your understanding 04:08:31
 10 that by June 26th, 1993, no one had integrated Xv into 04:08:33
 11 the Mosaic window? 04:08:40
 12 MS. DOAN: Objection. Form. 04:08:43
 13 MR. WOLFF: Objection to form. 04:08:44
 14 THE DEPONENT: Yes. 04:08:44
 15 Q. (By Mr. Budwin) When you -- now, there's 04:08:56
 16 some notebook entry pages in Exhibit 37 that Mr. Wolff 04:09:16
 17 asked you about, and there's an entry on April 28th, 04:09:20
 18 1993. 04:09:25
 19 A. This one? 04:09:45
 20 Q. Does it have "4/28/93" at the top? 04:09:46
 21 A. Yes. 04:09:51
 22 Q. And the first bullet point says, "Merge SGMLs 04:09:51
 23 and Ghostscript parsers." 04:09:51
 24 Do you see that? 04:09:56
 25 A. Yes, I do. 04:09:57

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Q. Did you actually ever merge the SGMLs and 04:09:57
 Ghostscript parsers? 04:10:01
 A. No. 04:10:02
 Q. Are you aware of anyone else who ever merged 04:10:02
 those parsers? 04:10:05
 MS. DOAN: Objection. Form. 04:10:07
 THE DEPONENT: No, I'm not. 04:10:08
 Q. (By Mr. Budwin) And then the next kind of 04:10:09
 main bullet point says, "Modifying graphics file 04:10:11
 rendering utilities such as Xv so that they return 04:10:16
 PostScript objects." 04:10:19
 Do you see that? 04:10:21
 A. Yes, I do. 04:10:22
 Q. Are you aware of anyone -- or strike that. 04:10:24
 Did you ever modify the graphics file 04:10:27
 rendering utilities, such as Xv, so that they return 04:10:30
 PostScript objects? 04:10:33
 A. No, I didn't. 04:10:35
 Q. Are you aware of anyone who ever modified the 04:10:35
 graphics file rendering utilities, such as Xv, so that 04:10:38
 they return PostScript objects? 04:10:42
 MS. DOAN: Objection. Form. 04:10:45
 THE DEPONENT: No. 04:10:46
 Q. (By Mr. Budwin) Do you see the next bullet? 04:10:46
 It says, "Use ToolTalk to tie it all together"? 04:10:48

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A. Yes, I see it. 04:10:54
 Q. Did you ever use ToolTalk to tie it all 04:10:55
 together? 04:10:57
 A. No. 04:10:59
 Q. Are you aware of anyone who ever used 04:11:00
 ToolTalk to tie it all together? 04:11:02
 MS. DOAN: Objection. Form. 04:11:06
 THE DEPONENT: I know that ToolTalk was used 04:11:07
 in the invention referenced by the patent to -- in -- 04:11:09
 to tie together different components of VIZ. 04:11:15
 Q. (By Mr. Budwin) Did you ever use ToolTalk to 04:11:18
 tie Xv and Mosaic together? 04:11:19
 A. No. 04:11:21
 Q. Did you ever integrate Xv into the Mosaic 04:12:00
 browser? 04:12:03
 A. No. 04:12:04
 Q. And you are not aware of anyone else who ever 04:12:09
 integrated Xv into the Mosaic browser, are you? 04:12:12
 MS. DOAN: Objection. Objection. Form. 04:12:16
 THE DEPONENT: No. 04:12:17
 Q. (By Mr. Budwin) Did you ever write any 04:12:17
 technical descriptions about exactly how Xv and Mosaic 04:12:21
 could be integrated together? 04:12:27
 MS. DOAN: Objection. Form. 04:12:29
 THE DEPONENT: You mean, other than these 04:12:30

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<p>1 notes. No. 04:12:31</p> <p>2 Q. (By Mr. Budwin) And is it true that you've 04:12:33</p> <p>3 never written any browser code? 04:13:25</p> <p>4 MR. KAO: Objection. Vague. 04:13:33</p> <p>5 THE DEPONENT: No, it's not -- what do you 04:13:34</p> <p>6 mean, browser code? 04:13:36</p> <p>7 Q. (By Mr. Budwin) Let me rephrase. 04:13:38</p> <p>8 During the time you were employed at UCSF, 04:13:39</p> <p>9 did you ever write any browser code? 04:13:39</p> <p>10 A. Yes. 04:13:47</p> <p>11 Q. What did you write? 04:13:47</p> <p>12 A. I wrote some code to interpret symbolic links 04:13:54</p> <p>13 in the UNIX file system as URLs. 04:14:01</p> <p>14 Q. Other than that, did you write any other 04:14:05</p> <p>15 browser code while you were at UCSF? 04:14:06</p> <p>16 A. No, I don't think so. 04:14:13</p> <p>17 Q. And it's true that you never integrated Xv 04:14:15</p> <p>18 and Mosaic while you were employed at UCSF? 04:14:18</p> <p>19 A. Yes. 04:14:21</p> <p>20 Q. Nor ever, you've never actually integrated Xv 04:14:24</p> <p>21 and Mosaic, have you? 04:14:30</p> <p>22 A. That's correct. 04:14:32</p> <p>23 MR. BUDWIN: Why don't we take a short break 04:14:42</p> <p>24 so I can check my notes. 04:14:43</p> <p>25 THE VIDEOGRAPHER: We are off the record at 04:14:46</p> <p style="text-align: right;">Page 214</p>	<p>Q. Is it something that you kind of left out 04:22:23</p> <p>open on your desk, shared with other people, or did you 04:22:25</p> <p>usually keep them personal to yourself? 04:22:28</p> <p>A. I usually kept them close to myself. I had 04:22:30</p> <p>some stuff that I felt very proprietary about. 04:22:33</p> <p>Q. Can you just -- without telling me exactly 04:22:35</p> <p>what's proprietary, just give me a descriptor of some 04:22:36</p> <p>of the proprietary information that would be in your 04:22:38</p> <p>notebooks. 04:22:42</p> <p>A. Two specific things come to mind. First of 04:22:45</p> <p>all, personal journal/diary kind of entries where I am 04:22:47</p> <p>writing about my own emotions or relationship, you 04:22:56</p> <p>know, intimate relationships. And the other is a 04:22:58</p> <p>patent application that I was working on that was 04:23:03</p> <p>unrelated to my -- it's a completely different field, 04:23:08</p> <p>robotics, rather than anything to do with information 04:23:12</p> <p>systems. 04:23:16</p> <p>Q. So it was your practice during the time that 04:23:16</p> <p>you were employed at UCSF to keep your notebooks 04:23:19</p> <p>private and personal to yourself? 04:23:22</p> <p>A. Yes. 04:23:24</p> <p>Q. Because your notebooks contained information 04:23:25</p> <p>that was personal to yourself, such as description of 04:23:26</p> <p>your emotions, relationships, things that would be 04:23:30</p> <p>expected in a personal journal or diary? 04:23:36</p> <p style="text-align: right;">Page 216</p>
<p>1 4:14 p.m. 04:14:48</p> <p>2 (Recess taken.) 04:15:04</p> <p>3 THE VIDEOGRAPHER: We are back on the record 04:21:38</p> <p>4 at 4:21 p.m. 04:21:38</p> <p>5 You may proceed. 04:21:41</p> <p>6 Q. (By Mr. Budwin) Mr. McRae, in Exhibit 37 04:21:43</p> <p>7 there's some -- some pages from your notebook, some of 04:21:46</p> <p>8 which we have talked about today. 04:21:47</p> <p>9 Do you see those pages? 04:21:49</p> <p>10 A. Yes, I do. 04:21:50</p> <p>11 Q. And I think Mr. Wolff asked you about this. 04:21:51</p> <p>12 But there are some pages from your notebook that are 04:21:54</p> <p>13 redacted? 04:21:57</p> <p>14 A. Yes. 04:21:58</p> <p>15 Q. And they are redacted because they contain 04:21:58</p> <p>16 your personal information? 04:22:01</p> <p>17 A. Or things unrelated to my work at UCSF. 04:22:03</p> <p>18 Q. During the time that you were employed at 04:22:06</p> <p>19 U.C. San Francisco, where did you keep your notebooks? 04:22:08</p> <p>20 A. In my apartment. 04:22:12</p> <p>21 Q. You kept them at home? 04:22:13</p> <p>22 A. I -- actually, well, I carried -- always had 04:22:15</p> <p>23 one with me. 04:22:19</p> <p>24 Q. Carried it in your bag or... 04:22:20</p> <p>25 A. Yes. 04:22:22</p> <p style="text-align: right;">Page 215</p>	<p>A. Yes. 04:23:38</p> <p>Q. You mentioned that you were also working on a 04:23:41</p> <p>patent application during the time you were employed at 04:23:43</p> <p>UCSF? 04:23:51</p> <p>A. Yes. 04:23:51</p> <p>Q. So that was a patent application related to 04:23:51</p> <p>robotics? 04:23:55</p> <p>A. Yes. 04:23:56</p> <p>Q. Did you ever file that patent? 04:23:56</p> <p>A. No. 04:23:59</p> <p>Q. Did you engage counsel to help you work on 04:24:00</p> <p>that patent? 04:24:03</p> <p>A. No. 04:24:04</p> <p>Q. Why did you decide not to file your robotics 04:24:05</p> <p>patent? 04:24:11</p> <p>A. Ideas weren't mature enough. 04:24:12</p> <p>Q. But you were aware during the time that you 04:24:16</p> <p>were employed at UCSF of patents. You heard of them. 04:24:18</p> <p>A. Yes. 04:24:24</p> <p>Q. And you were aware that you could file for 04:24:24</p> <p>patents? 04:24:27</p> <p>A. Yes. 04:24:28</p> <p>Q. Have you ever filed for any patents? 04:24:30</p> <p>A. No. 04:24:33</p> <p>MR. BUDWIN: No further questions, although 04:24:44</p> <p style="text-align: right;">Page 217</p>

1 I'm sure I'm going to have several follow-ups. 04:24:46
 2 MR. WOLFF: I have some follow-ups. 04:24:51
 3 MS. DOAN: I do. You can go ahead though 04:24:53
 4 first. 04:24:55
 5 FURTHER EXAMINATION 04:24:56
 6 BY MR. WOLFF: 04:24:56
 7 **Q. Mr. McRae, is any of the testimony you gave** 04:24:57
 8 **to me earlier today untruthful or inaccurate?** 04:24:59
 9 A. No. 04:25:02
 10 **Q. And with the testimony you gave to** 04:25:02
 11 **Mr. Budwin, you are not changing any of your earlier** 04:25:04
 12 **testimony besides maybe amplifying or further** 04:25:06
 13 **clarifying; is that correct?** 04:25:09
 14 A. I'm not aware of any such inconsistencies. 04:25:11
 15 **Q. Okay. He -- Mr. Budwin asked you lots of** 04:25:14
 16 **questions about your specific recollection.** 04:25:17
 17 **Do you recall that?** 04:25:19
 18 A. Yes. 04:25:20
 19 **Q. When you were preparing for your deposition** 04:25:22
 20 **and looking through your notebooks, were you** 04:25:24
 21 **specifically looking for references to Viola?** 04:25:26
 22 A. Yes. 04:25:30
 23 **Q. You were.** 04:25:30
 24 **And were you specifically looking for** 04:25:31
 25 **references --** 04:25:33

1 A. I'm sorry. I thought you were asking about 04:25:33
 2 when he was asking me that question. 04:25:35
 3 **Q. When he was asking you a question, he asked** 04:25:36
 4 **you questions about whether you specifically -- whether** 04:25:39
 5 **there was anything in your notebooks about Viola or** 04:25:40
 6 **whether there was anything about -- anything in your** 04:25:42
 7 **notebooks that you specifically recall as part of your** 04:25:45
 8 **preparation about MediaView.** 04:25:47
 9 **Do you recall those questions?** 04:25:49
 10 A. Yes. 04:25:50
 11 **Q. When you were preparing for your deposition,** 04:25:52
 12 **were you specifically looking through your notebooks** 04:25:53
 13 **for references to Viola?** 04:25:56
 14 A. No. 04:25:58
 15 **Q. Were you specifically looking for references** 04:25:58
 16 **for MediaView?** 04:26:00
 17 A. No. 04:26:03
 18 **Q. Were you specifically looking for references** 04:26:03
 19 **for Xv?** 04:26:05
 20 A. Yes. 04:26:08
 21 **Q. And you cited some of those in Exhibit 37; is** 04:26:09
 22 **that right?** 04:26:12
 23 A. Yes. 04:26:13
 24 **Q. Now, Mr. Budwin also asked you questions** 04:26:18
 25 **about what you actually saw when you were at the** 04:26:18

Wizards or the Web Conference, for example, in 04:26:22
Cambridge. 04:26:25
Do you recall that? 04:26:25
 A. In July 1993, yes. 04:26:27
Q. Correct. 04:26:30
And do you -- you did attend the conference, 04:26:31
correct? 04:26:32
 A. Yes. 04:26:34
Q. And you do recall that Viola was shown at the 04:26:34
conference, correct? 04:26:37
 A. Yes. 04:26:39
Q. And was it -- was Viola a secret at the 04:26:39
conference? 04:26:43
 A. No. 04:26:43
Q. Do you recall there being any particular 04:26:45
point or particular purpose for the O'Reilly 04:26:47
demonstration at the conference? 04:26:51
 A. O'Reilly hosted the conference and shared 04:26:54
 their work as part of the program. 04:26:57
Q. Do you recall any of the other work that 04:27:00
O'Reilly showed at the conference? 04:27:03
 A. No. 04:27:05
Q. But you do recall the Viola. 04:27:06
 A. Yes. 04:27:09
Q. And why was it that it stuck out in your 04:27:11

mind? 04:27:14
 A. Because it's visual, I think, as opposed to 04:27:14
 just ideas. There were a lot of acronyms and 04:27:17
 terminology that was more abstract, I maybe never had 04:27:22
 heard of and didn't understand, so it didn't stick in 04:27:26
 my brain quite as well. 04:27:30
Q. But just because can't -- you don't have a 04:27:32
specific recollection of exactly what it is you saw, 04:27:33
you still -- there's no dispute in your mind that it 04:27:36
was shown at the conference? 04:27:38
 A. Yes, I believe so. 04:27:41
Q. Okay. Just like you brought a picture of 04:27:42
your daughter in to the deposition today. 04:27:44
 A. Yes, I did. 04:27:46
Q. Right. And she is how old, ten? 04:27:47
 A. Yes. 04:27:49
Q. Sorry. I remembered that from earlier. 04:27:50
Do you recall specifically the day she 04:27:54
walked? 04:27:57
 A. Yeah, I think so. 04:28:01
Q. Do you recall what she was wearing? 04:28:02
 A. No. 04:28:03
Q. Do you recall whether she put her left foot 04:28:04
forward or her right foot forward first? 04:28:06
 A. No. 04:28:09

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Q. You do recall that she walked though. 04:28:10
 A. There's a gradual thing. 04:28:13
Q. Just like that, how long ago was it that you 04:28:16
went to the Wizards of the Web Conference? 04:28:19
 A. Roughly 18 years. 04:28:22
Q. And your daughter was born ten years ago. 04:28:23
And did she start walking when she was approximately 04:28:25
one? 04:28:28
 A. Two. 04:28:29
Q. Two. 04:28:30
 A. I think. 04:28:30
Q. So it would have been eight years ago. But 04:28:31
you do recall that she walked. 04:28:33
 A. Yes. 04:28:35
Q. Mr. Budwin referred you to Exhibit 3, which 04:28:38
was discussing PageMaker. And he asked you whether you 04:28:40
had actually used PageMaker. 04:28:45
Do you recall that? 04:28:48
 A. Yes. 04:28:48
Q. Is there any dispute in your mind that 04:28:50
PageMaker existed as of September 1993? 04:28:52
 MR. BUDWIN: Form. 04:28:58
 THE DEPONENT: I have no reason to question 04:28:58
 that it did. 04:29:00
Q. (By Mr. Wolff) Because it's referred to in a 04:29:01
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message between Mr. Martin and some Sun staff referring 04:29:02
to products that existed, correct? 04:29:07
 A. Yes. 04:29:09
Q. Mr. Budwin asked you lots of questions about 04:29:12
Adobe Acrobat. And I think the thrust, generally, of 04:29:15
those questions was whether you actually saw anyone 04:29:19
combine Acrobat with a web browser. 04:29:23
Do you recall those questions? 04:29:26
 A. Yes. 04:29:27
Q. Whether you saw it done or not, do you recall 04:29:27
the discussions on the WWW-Talk distributions about 04:29:29
combining Acrobat with web browsers? 04:29:34
 MR. BUDWIN: Form. 04:29:38
 THE DEPONENT: No. I do not recall such 04:29:39
 things. 04:29:40
Q. (By Mr. Wolff) You don't recall any 04:29:41
discussions about combining Acrobat with web browsers. 04:29:42
 A. Discussion of the use of Acrobat or the 04:29:49
 usefulness of Acrobat. Specifically about combining 04:29:51
 them, I don't -- I don't recall specific discussions 04:29:53
 about that. 04:29:57
Q. Do you recall an e-mail you sent in 04:29:58
June 1993? 04:29:59
 A. That we referred to earlier? 04:30:04
Q. Yes, that we referred to earlier today. 04:30:06
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A. Yes, I recall that. 04:30:08
Q. And what -- and do you remember what the 04:30:11
thrust of that e-mail was? 04:30:14
 A. The usefulness of Acrobat. 04:30:15
Q. The usefulness of what about Acrobat? 04:30:18
 A. I'll have to take a look at it again. 04:30:21
 Which exhibit is it? 04:30:26
Q. That's what I'm looking for, too. I'm 04:30:28
thinking it was June 21st. Exhibit 12. 04:30:31
 A. Yes, I see it. 04:30:43
Q. Do you see where it says, "So why don't we 04:30:45
lobby Adobe to put in URL-based links into its next 04:30:46
version of PostScript and go home now?" 04:30:51
This was a WWW-Talk mailing, right? 04:30:52
 A. Yes. 04:30:57
Q. And that's the mailing where people were 04:30:57
talking about features for Web browsers. 04:30:59
 MR. BUDWIN: Form. 04:31:04
 THE DEPONENT: Yes. 04:31:04
 I'm -- sorry. Do you have a question? 04:31:06
Q. (By Mr. Wolff) No. I don't have another 04:31:11
question on that. 04:31:13
 A. I just want to clarify my earlier answer. I 04:31:16
 was making a distinction between integrating Acrobat 04:31:18
 into the Web browser and integrating URLs into Acrobat. 04:31:21
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There's two different things there. 04:31:23
Q. What about combining Acrobat content into Web 04:31:24
browser pages? 04:31:27
 MR. BUDWIN: Form. 04:31:29
Q. (By Mr. Wolff) Do you recall discussions 04:31:29
about that on WWW-Talk? 04:31:30
 MR. BUDWIN: Same. 04:31:35
 THE DEPONENT: Not specifically. 04:31:35
Q. (By Mr. Wolff) Okay. With respect to 04:31:36
MediaView. Mr. Budwin asked you questions about 04:31:41
MediaView pertaining to how it was only made available 04:31:47
for the NeXt environment, correct? 04:31:51
 A. Yes. 04:31:53
Q. And you had the NeXt system at UCLA, correct? 04:31:53
 A. Yes. 04:31:58
Q. And you don't have a recollection one way or 04:31:58
the other whether you installed MediaView on that 04:32:00
system; is that right? 04:32:02
 MR. BUDWIN: Form. 04:32:03
 THE DEPONENT: That's correct. 04:32:03
Q. (By Mr. Wolff) But it was your practice at 04:32:04
the time to download software and test it on the NeXt 04:32:05
system -- 04:32:07
 MR. BUDWIN: Form. 04:32:08
Q. (By Mr. Wolff) -- you had at UCLA. 04:32:09
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1	A. Yes, it was. 04:32:10	Berners-Lee maintained, correct? 04:34:39
2	Q. Now, Mr. Budwin also asked you whether there 04:32:12	A. Apparently, yes. 04:34:43
3	were ever any discussions at UCSF about the MediaView 04:32:16	Q. And it would have been a site that you would 04:34:44
4	system. 04:32:22	have visited at the time you were working at UCSF. 04:34:46
5	Do you recall that? 04:32:22	A. Yes. 04:34:49
6	A. Yes. 04:32:23	Q. Would you have also visited that site when 04:34:49
7	Q. And you said that there were not; is that 04:32:23	you were working at UCLA? 04:34:51
8	right? 04:32:25	A. Possibly. 04:34:54
9	A. That's correct. 04:32:26	Q. In fact, I think in the Exhibit 37, you had 04:34:59
10	Q. If you could take a look at Exhibit 26 and 04:32:27	an e-mail back and forth with Tim Burners-Lee, I think 04:35:02
11	also grab Exhibit 23. 04:32:32	from May of 1992. 04:35:09
12	A. Okay. 04:32:59	A. Oh, that's 37. 04:35:13
13	Q. Now, isn't Exhibit 26 a discussion, a 04:33:00	Q. Yes. 04:35:14
14	particular reference to David Martin to tell him to go 04:33:01	A. Yes. 04:35:14
15	look at the MediaView notes? 04:33:04	Q. I think it's one of the first things you 04:35:15
16	A. Yes, it is. 04:33:06	attached to that message. 04:35:16
17	Q. Now, if MediaView only worked on the NeXt 04:33:07	A. Yes. 04:35:17
18	computer and was only available for the NeXt operating 04:33:10	Q. At least as of May of 1992, were you looking 04:35:18
19	system, why would you tell Mr. Martin to go look at the 04:33:14	at Mr. Berners-Lee's Website or Web pages? 04:35:21
20	MediaView notes? 04:33:18	A. Yes. 04:35:25
21	A. It may have been interesting conceptually. 04:33:19	Q. And why were you looking at those? 04:35:25
22	even if not practically based on hardware that we had. 04:33:23	A. To discover what tools were available to use 04:35:27
23	We had general interest in information systems and 04:33:29	to publish information to my user community. 04:35:30
24	multimedia systems. 04:33:32	Q. And he was focused primarily on Web browsers 04:35:33
25	Q. Was it your practice to send Mr. Martin 04:33:33	or the WorldWideWeb? 04:35:37
	Page 226	Page 228
1	completely irrelevant e-mails? 04:33:36	A. Yes. WorldWideWeb, yes. 04:35:39
2	MR. BUDWIN: Form. 04:33:38	Q. Mr. Budwin asked you about the drawing demo 04:35:46
3	THE DEPONENT: Completely irrelevant? No. 04:33:39	and the chess demo for Viola. 04:35:49
4	Q. (By Mr. Wolff) So this would have been 04:33:42	Do you recall that? 04:35:52
5	relevant to the work you were doing at UCSF, Exhibit 04:33:42	A. Yes, I do. 04:35:52
6	26. 04:33:44	Q. Regardless of whether you recall specifically 04:35:52
7	MR. BUDWIN: Form. 04:33:45	seeing those at the Wizards of the Web Conference in 04:35:54
8	THE DEPONENT: Yes. 04:33:46	Cambridge in July 1993, you do recall seeing those 04:35:58
9	Q. (By Mr. Wolff) And why would you have called 04:33:47	demos, correct? 04:36:02
10	out MediaView in particular in referring him to this 04:33:48	A. Yes, I do. 04:36:03
11	Web page? 04:33:51	Q. If you had conversations with individuals at 04:36:05
12	A. I don't know. 04:33:52	UCSF about the Wizards of the Web Conference or about 04:36:10
13	Q. And if you look at Exhibit 23, the discussion 04:33:53	Viola, what would you talk to them about if you don't 04:36:13
14	about MediaView, there's essentially three sentences. 04:33:58	have any specific recollection of Viola? 04:36:16
15	What do those three sentences read, if you 04:34:01	MR. BUDWIN: Form. 04:36:20
16	could read them into the record. 04:34:05	MR. KAO: Objection. 04:36:21
17	A. "Note from Dick Phillips. See also README. 04:34:06	THE DEPONENT: I said before is that it was 04:36:22
18	Graphics publishing system." 04:34:09	cool. Seemed to have capabilities that we didn't see 04:36:24
19	Q. So reviewing those three sentences, what was 04:34:13	in XMosaic. 04:36:30
20	it about that that made you want to tell Mr. Martin 04:34:15	Q. (By Mr. Wolff) Such as? 04:36:32
21	about MediaView? 04:34:18	MR. BUDWIN: Form. 04:36:36
22	A. We were in the business of publishing things 04:34:22	THE DEPONENT: Drawing in the window. 04:36:40
23	to the community at the library there, and so that 04:34:25	Drawing demo. The chess demo. 04:36:41
24	would have been the connection. 04:34:32	I don't recall all the specifics. 04:36:46
25	Q. And Exhibit 23 is from a Web page that Tim 04:34:36	Q. (By Mr. Wolff) And those things were the 04:36:48
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1 kinds of things that stuck out in your mind over all 04:36:49
 2 these years about the Viola system. 04:36:51
 3 A. I didn't recall them until they were 04:36:57
 4 mentioned earlier today. 04:36:59
 5 Q. All right. So your recollection was 04:37:01
 6 refreshed. 04:37:02
 7 A. Yes. 04:37:03
 8 Q. Okay. You referred to a software archive at 04:37:04
 9 UCSF. 04:37:16
 10 Do you recall that? 04:37:17
 11 A. Yes. 04:37:18
 12 Q. And what was the software archive? 04:37:18
 13 A. It was a single place where we could keep 04:37:21
 14 copies of software that was useful to us. 04:37:24
 15 Q. Do you recall what the server name was for 04:37:27
 16 the software archive? 04:37:30
 17 A. No, not for that specific machine. 04:37:34
 18 Q. Do you recall who maintained that machine? 04:37:37
 19 A. I believe it was a collaboration between Ben 04:37:39
 20 Chang and David Martin. 04:37:43
 21 Q. Do you recall who had rights to put 04:37:45
 22 information on that machine? 04:37:47
 23 A. I believe we all did. 04:37:51
 24 Q. Did you all have rights to delete information 04:37:53
 25 from that machine? 04:37:55

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1 A. We would have had the same -- yes, we would 04:37:57
 2 have had -- if we had one, we would have had the other. 04:37:59
 3 Q. Would Michael Doyle have rights to delete 04:38:03
 4 information from that machine? 04:38:05
 5 MR. BUDWIN: Form. 04:38:06
 6 THE DEPONENT: I don't know. 04:38:07
 7 Q. (By Mr. Wolff) As the primary person 04:38:08
 8 responsible for the group, you don't know whether he 04:38:10
 9 would have rights, too? 04:38:11
 10 MR. BUDWIN: Same objection. Assumes facts. 04:38:15
 11 THE DEPONENT: I don't know if he would have 04:38:18
 12 had rights or not. 04:38:20
 13 Q. (By Mr. Wolff) How was the information 04:38:21
 14 stored on the software archive at the University of 04:38:22
 15 California? 04:38:25
 16 A. In what sense? I don't understand the 04:38:26
 17 question. 04:38:28
 18 Q. Were they tarballs? Were they binaries? 04:38:28
 19 Were they just exactly what it was that was downloaded, 04:38:31
 20 or were they actually installed software systems that 04:38:33
 21 you had tested? 04:38:35
 22 A. They would have been in the -- it would have 04:38:37
 23 been either source code or binary. It would have been 04:38:42
 24 the distribution packages from the publishers. 04:38:45
 25 Q. And you refer to this as a library that UCSF 04:38:48

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maintained? 04:38:52
 A. An archive. 04:38:54
 Q. An archive. 04:38:54
 Now, did you -- did you run the software from 04:38:56
 that machine? Was it installed on there as well? 04:38:58
 A. No. That was for distribution. 04:39:02
 Q. So it was there, and anyone in the group 04:39:03
 could take it and install it on their machines and test 04:39:05
 it out? 04:39:09
 A. That's correct. 04:39:10
 Q. Do you recall when UCSF first started 04:39:13
 maintaining this library of archived software? 04:39:16
 A. I -- no. I don't know the exact time. 04:39:25
 Q. Do you recall whether it was in existence 04:39:28
 when you started at UCSF? 04:39:30
 A. I know that it was not. 04:39:34
 Q. It was not. 04:39:35
 Do you recall at some point in time during 04:39:36
 your tenure that there was a library started? 04:39:38
 A. Yes. 04:39:41
 Q. And who was it that started the library? 04:39:42
 A. David Martin. 04:39:44
 Q. Okay. Do you recall approximately what month 04:39:45
 it was he started the library? 04:39:48
 A. No. 04:39:51

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I don't know if he really started it, but he 04:39:55
 formalized it. 04:39:58
 Q. Why do you say he formalized it? 04:39:59
 A. Because he provisioned a specific area for 04:40:07
 it, made it available, and informed everyone where it 04:40:11
 was and what it could be used for. 04:40:15
 Q. You said you read the '906 patent? 04:40:23
 A. Yes. 04:40:28
 Q. Mr. Budwin asked you some questions about 04:40:30
 security shortcomings for some of the prior art 04:40:33
 systems. 04:40:38
 Do you recall those? 04:40:39
 A. I believe he asked about Viola specifically. 04:40:40
 Q. When you read the '906 patent, did you see 04:40:42
 that it specifically addressed something about the 04:40:45
 security shortcomings? 04:40:48
 A. No. I don't recall anything in there about 04:40:49
 security. 04:40:52
 Q. Do you recall a detailed discussion in the 04:40:56
 '906 patent about HTTP and how exactly it worked? 04:40:57
 A. I recall there was some discussion in there, 04:41:04
 yeah. 04:41:06
 Q. Do you recall it was a detailed discussion, 04:41:06
 tell you exactly how to implement an HTTP server? 04:41:09
 A. I recall not reading it very carefully 04:41:13

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1 because I thought I already knew the information. 04:41:15
2 **Q. It was something that was already known?** 04:41:17
3 A. And it was out of date. 04:41:22
4 MR. WOLFF: All right. I have no further 04:41:27
5 questions. 04:41:28
6 MR. KAO: Can I just say it's -- it's 4:37. 04:41:29
7 I don't want to do a round Robin forever. I don't know 04:41:31
8 if -- 04:41:35
9 MS. DOAN: I haven't asked any yet at all. 04:41:37
10 Mine are very, very short, but I do want to go over 04:41:38
11 there -- 04:41:38
12 MR. KAO: Okay. 04:41:39
13 MS. DOAN: -- so let's go off the record. 04:41:39
14 MR. KAO: Yeah. Maybe we can work out -- 04:41:42
15 MS. DOAN: Yeah. 04:41:43
16 MR. KAO: You guys can work out how much time 04:41:43
17 each side needs, or something like that. 04:41:43
18 THE VIDEOGRAPHER: This is the end of Disk 04:41:46
19 No. 3, Volume I. We are off the record at 4:41 p.m. 04:41:47
20 (Recess taken.) 04:41:55
21 THE VIDEOGRAPHER: This is the beginning of 04:46:24
22 Disk No. 4, Volume I. We are back on the record at 04:46:25
23 4:46 p.m. 04:46:29
24 You may proceed. 04:46:30
25 /////
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1 EXAMINATION 04:46:31
2 BY MS. DOAN: 04:46:31
3 **Q. Mr. McRae, my name is Jennifer Doan, and I 04:46:32**
4 **think I told you earlier today I represent Yahoo! and 04:46:35**
5 **Amazon.** 04:46:36
6 **We haven't talked before today, have we, sir?** 04:46:36
7 A. No, we haven't. 04:46:39
8 **Q. I will try to make this as brief as possible, 04:46:39**
9 **but I know you have had a lot of questions that they 04:46:40**
10 **have already asked, so I may be skipping around just a 04:46:41**
11 **little bit.** 04:46:44
12 **If you don't know where I'm coming from or I 04:46:45**
13 **speak too quickly or too slowly, will you please stop 04:46:47**
14 **me and ask me to clarify.** 04:46:49
15 A. Sure. 04:46:50
16 **Q. Okay. I want to start with Viola real quick. 04:46:51**
17 **You mentioned something about when Mr. Budwin was 04:46:54**
18 **asking you about some documents, that this was 04:46:57**
19 **everything on Viola, or something like that. 04:46:59**
20 **And you mentioned that there was a trip 04:47:01**
21 **report that you thought you had produced as well that 04:47:03**
22 **mentioned Viola.** 04:47:05
23 **Do you recall that?** 04:47:06
24 A. I said that David Martin was a stickler for 04:47:07
25 things like form, like trip reports. 04:47:09
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Q. Right. And Mr. Budwin didn't mark that to go 04:47:13
over with you, did he, sir? 04:47:16
A. Mark it? 04:47:18
Q. Yeah. He didn't mark it as an exhibit. He 04:47:18
didn't cover that -- 04:47:20
A. No. 04:47:21
Q. -- with you, did he? 04:47:21
Mr. Budwin asked you a couple of questions -- 04:47:23
or Eolas' attorney asked you a couple of questions 04:47:28
about the technical aspects of Viola, do you recall 04:47:31
that, while you were at UCSF? 04:47:34
A. Yes. 04:47:37
Q. Okay. And so while you were at UCSF, you 04:47:37
mentioned that you had never seen the Viola source 04:47:40
code; is that right? 04:47:43
A. That's correct. 04:47:44
Q. Did you ever ask to see the Viola source code 04:47:45
while you were at UCSF? 04:47:49
A. No, I don't think so. 04:47:50
Q. So you -- you weren't ever denied access to 04:47:51
the Viola source code, you just didn't ask for it; is 04:47:54
that fair? 04:47:57
A. I would think so, yes. 04:47:58
Q. Okay. He also asked you some questions about 04:48:00
PLOT.V and VPLOT. 04:48:02
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While you were at UCSF, did you even know 04:48:05
what those were? 04:48:08
A. I don't recall knowing what they were -- that 04:48:09
I knew what they were. 04:48:11
Q. And those would be technical programs within 04:48:12
the Viola source code, right? Best of your 04:48:15
understanding. 04:48:18
MR. BUDWIN: Form. 04:48:19
THE DEPONENT: Yes. 04:48:20
Q. (By Ms. Doan) And even though you might not 04:48:20
have seen the source code with PLOT.V or VPLOT, you do 04:48:25
recall seeing the drawing widget within the browser 04:48:30
page, right? 04:48:34
A. Yes. 04:48:35
Q. And can you explain to us what the drawing 04:48:35
widget actually is, what it looked like in the 04:48:38
demonstration you saw of Viola. 04:48:41
A. Actually, I'm not sure I can -- 04:48:45
Q. Okay. 04:48:49
A. -- because I can easily imagine any number of 04:48:49
drawing widgets I have seen over the years. 04:48:53
Q. Okay. Well, in general, you know, for my 04:48:55
purposes, is a drawing widget that you would see in 04:48:57
the Viola browser, is it, like within the browser 04:49:00
window, there opens up a place where you can actually 04:49:04
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1 draw and interact on the page itself? 04:49:08
 2 MR. BUDWIN: Objection. Form. 04:49:11
 3 MR. KAO: Objection. 04:49:13
 4 THE DEPONENT: I don't know. 04:49:14
 5 Q. (By Ms. Doan) You don't remember? 04:49:15
 6 A. Not specifically. 04:49:16
 7 Q. Okay. In general, a drawing widget, does 04:49:17
 8 that allow you to draw inside the page? 04:49:20
 9 A. Yes. 04:49:23
 10 Q. Okay. And in Viola, it would have been 04:49:23
 11 inside the browser page, right? 04:49:26
 12 MR. BUDWIN: Form. 04:49:32
 13 THE DEPONENT: Yes. 04:49:33
 14 Q. (By Ms. Doan) Eolas' attorney asked you 04:49:33
 15 about a bunch of questions that you would have seen at 04:49:41
 16 the Wizards Conference in July 1993. 04:49:49
 17 Remember that? 04:49:50
 18 A. Yes. 04:49:52
 19 Q. And they were asking you a whole bunch of 04:49:52
 20 specific questions about what you saw at different 04:49:52
 21 times. 04:49:54
 22 Do you remember that? 04:49:55
 23 A. Yes. 04:49:56
 24 Q. About what you specifically remember. 04:49:56
 25 And I think you testified that you couldn't 04:50:01
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1 remember specific conversations or specific 04:50:02
 2 demonstrations from the July 1993 Wizards Conference; 04:50:06
 3 is that right? 04:50:11
 4 A. That's correct. 04:50:11
 5 Q. And just because you don't remember 04:50:13
 6 specifically as you sit here today, you are not telling 04:50:13
 7 this jury that it wasn't demonstrated there, are you, 04:50:16
 8 sir? 04:50:18
 9 A. No. I'm not saying that. 04:50:20
 10 Q. Okay. So you weren't at every demonstration 04:50:22
 11 that Pei Wei or Scott Silvi or Dale Dougherty gave at 04:50:24
 12 the Wizards Conference in 1993, were you, sir? 04:50:27
 13 A. No, I was not. 04:50:30
 14 Q. Highly possible they could have given a 04:50:32
 15 demonstration where you weren't present; is that right? 04:50:34
 16 MR. BUDWIN: Form. 04:50:37
 17 THE DEPONENT: Yes. 04:50:38
 18 Q. (By Ms. Doan) And you weren't working at 04:50:38
 19 O'Reilly then in July 1993. You weren't working at 04:50:39
 20 O'Reilly yet then, were you, sir? 04:50:42
 21 A. No, I was not. 04:50:44
 22 Q. Did you meet Pei Wei and Scott Silvi at that 04:50:45
 23 conference? 04:50:48
 24 A. Yes. 04:50:49
 25 Q. Did you meet Dale Dougherty for the first 04:50:49
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time at that conference? 04:50:50
 A. Yes. 04:50:52
 Q. Had you met Tim Berners-Lee before the 04:50:52
 Wizards Conference? 04:50:55
 A. No. 04:50:56
 Q. Was that the first time you got to see him in 04:50:56
 person? 04:50:59
 A. Yes. 04:50:59
 Q. Had you meet Eric Bina or Marc Andreessen 04:51:00
 before the Wizards Conference in July '93? 04:51:03
 A. No. 04:51:04
 Q. Had you -- did you get to meet them 04:51:05
 personally at the Wizards Conference as well? 04:51:06
 A. Yes. I don't recall meeting Eric Bina, 04:51:09
 specifically. 04:51:11
 Q. Do you recall meeting Marc Andreessen? 04:51:12
 A. Yes, I do. 04:51:15
 Q. And you recall the Wizards Conference was put 04:51:18
 on by O'Reilly & Associates in conjunction with Tim 04:51:20
 Berners-Lee at CERN; is that right? 04:51:24
 A. I don't know about in conjunction, but -- 04:51:26
 Q. Or together. 04:51:28
 A. He was there. They -- 04:51:29
 Q. Okay. 04:51:31
 A. They hosted the conference. He was there. 04:51:32
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Q. Is that the first type of conference that you 04:51:34
 had gone to where really the developers and leaders of 04:51:35
 the Web are coming together to exchange and share 04:51:38
 ideas, how to make the Web a better place? 04:51:42
 A. Yes. 04:51:45
 Q. Was Michael Doyle or anybody else from the 04:51:47
 University of California San Francisco there? 04:51:51
 A. No. 04:51:53
 Q. I want to ask you a couple of questions about 04:52:09
 Exhibit 37. 04:52:11
 We talked earlier about the combination of Xv 04:52:22
 and XMosaic. 04:52:26
 Do you remember that? 04:52:27
 A. Yes. 04:52:27
 Q. Okay. And at the time in 1993, Xv was 04:52:28
 already a known concept, right? 04:52:32
 A. Yes. 04:52:36
 Q. And XMosaic was already well known as well, 04:52:37
 correct? 04:52:41
 A. Yes. 04:52:41
 Q. And X Windows was already known as well, 04:52:42
 correct? 04:52:44
 A. Yes. 04:52:45
 Q. And I believe you referred to it as VIZ, but 04:52:45
 you worked on it at University of California San 04:52:47
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1 **Francisco. That was already a well-known concept as** 04:52:50
2 **right -- as well, correct?** 04:52:53
3 A. It was a program being developed in our 04:52:54
4 National Science Foundation research grant to Michael 04:52:57
5 Doyle. 04:53:02
6 **Q. Okay. So what we're talking about when** 04:53:03
7 **you're talking about combining Xv and XMosaic, those** 04:53:05
8 **are combination of already known ideas, correct?** 04:53:09
9 MR. BUDWIN: Form. 04:53:13
10 THE DEPONENT: Yes. 04:53:14
11 **Q. (By Ms. Doan) So in the e-mail, it looks** 04:53:14
12 **like, where you're talking with Marc Andreessen -- it's** 04:53:16
13 **part of Exhibit No. 37 called "Re: XMosaic and Xv."** 04:53:21
14 **I believe it starts at, "Hi, what's the** 04:53:33
15 **status of integrating Xv into XMosaic?"** 04:53:34
16 A. Yes. 04:53:38
17 **Q. That idea that you are having is the** 04:53:44
18 **combination of two well-known concepts or programs,** 04:53:46
19 **correct?** 04:53:49
20 MR. BUDWIN: Objection. 04:53:49
21 **Q. (By Ms. Doan) Integrating them together.** 04:53:52
22 A. Yes. 04:53:53
23 **Q. And I know we talked already about the** 04:53:54
24 **correspondence that you had with NCSA about this** 04:53:59
25 **concept and combination, so I don't want to re-cover** 04:54:03
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1 **that.** 04:54:06
2 **Did you ever work with the Mosaic team at** 04:54:11
3 **NCSA?** 04:54:13
4 A. I'm not sure what that means. 04:54:16
5 **Q. Well, I'm trying to -- I can't remember, but** 04:54:19
6 **I don't believe you were ever -- you never worked at** 04:54:21
7 **NCSA, did you, sir?** 04:54:21
8 A. No. 04:54:25
9 **Q. Okay. So you -- the information that you** 04:54:25
10 **know about what NCSA or the Mosaic team was developing** 04:54:26
11 **was the e-mails or the correspondence and communication** 04:54:30
12 **that you received from them, correct?** 04:54:33
13 A. Yes. 04:54:35
14 **Q. Do you recall in early 1993 when Mosaic came** 04:54:35
15 **out with the image tag within the Mosaic code?** 04:54:39
16 A. Yes. 04:54:45
17 **Q. Okay. And do you recall that shortly before** 04:54:45
18 **Mosaic -- Marc Andreessen released the image tag within** 04:54:48
19 **the Mosaic source code, they were talking about how** 04:54:51
20 **difficult it was to put the image tag in there, that** 04:54:55
21 **they might not be able to do it, as a marketing ploy?** 04:54:56
22 MR. BUDWIN: Form. 04:55:00
23 MR. KAO: Objection. 04:55:01
24 THE DEPONENT: I have no idea what you're 04:55:02
25 talking about. 04:55:02
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MR. KAO: Can -- I'm going to talk to my 04:55:03
client for a couple minutes. 04:55:04
MS. DOAN: Sure. 04:55:06
MR. KAO: Okay. 04:55:08
MS. DOAN: You want to go off the record? 04:55:10
MR. WOLFF: Are you almost done, Jennifer? 04:55:11
MS. DOAN: I'm almost done. 04:55:11
MR. KAO: I -- 04:55:11
MS. DOAN: I've got like three questions. 04:55:12
MR. KAO: Yeah. I just got to -- okay. 04:55:13
And how long do you have? 04:55:13
MR. WOLFF: Well, let's let her finish, and 04:55:15
then we can go off the record and talk about it. 04:55:16
MR. KAO: Yeah. Okay. We -- let me -- let 04:55:19
me take two minutes. Thanks. 04:55:22
THE VIDEOGRAPHER: We are off the record at 04:55:26
4:55 p.m. 04:55:29
(Recess taken.) 04:55:35
THE VIDEOGRAPHER: We are back on the record 05:00:39
at 5:00 p.m. 05:00:43
You may proceed. 05:00:44
MS. DOAN: Sure. 05:00:45
Q. (By Ms. Doan) Mr. McRae, would you get in 05:00:45
front of you Exhibit No. 26, please, sir. Short little 05:00:48
e-mail. 05:01:04
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A. You said 2-6? 05:01:05
Q. Yes. 05:01:07
A. Okay. 05:01:07
Q. And this is an e-mail that you sent to David 05:01:08
Martin on September the 8th, 1993, correct? 05:01:10
A. Yes. 05:01:14
Q. And in this e-mail, Exhibit No. 26, you say, 05:01:15
"I know I have seen this before, but I don't know if 05:01:17
you have. At any rate, take a look at" -- and you give 05:01:20
the URL for the CERN address which points to "Hypertext 05:01:24
products overview"; is that right? 05:01:31
A. Yes. 05:01:34
Q. And then you say, "In particular, see the 05:01:35
MediaView notes"; is that correct? 05:01:36
A. Yes. 05:01:40
Q. So before September the 8th, 1993, you had 05:01:40
already seen the MediaView notes; is that right? 05:01:44
MR. BUDWIN: Form. 05:01:47
THE DEPONENT: Apparently. 05:01:48
Q. (By Ms. Doan) Okay. And as of September the 05:01:48
8th, 1993, you are pointing David Martin to MediaView 05:01:49
as well, correct? 05:01:52
A. Yes. 05:01:53
Q. I think you told us earlier that back in 05:01:58
1993, 1994, during that time period, as a software 05:02:01
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1 engineer -- and you were a software engineer during 05:02:07
 2 that time period, correct? 05:02:09
 3 A. Yes. 05:02:10
 4 Q. So you would -- would you consider yourself 05:02:11
 5 one of ordinary skill in the art in designing software 05:02:13
 6 during that time period, 1993, 1994? 05:02:17
 7 MR. BUDWIN: Form. 05:02:20
 8 MR. KAO: Objection. Legal conclusion. 05:02:21
 9 Q. (By Ms. Doan) You can answer. 05:02:22
 10 A. As ordinary. 05:02:24
 11 Q. Okay. One of ordinary skill in the art in 05:02:25
 12 the area of a software engineer; is that fair? 05:02:27
 13 MR. BUDWIN: Form. 05:02:32
 14 MR. KAO: Same objection. 05:02:32
 15 THE DEPONENT: Yes. 05:02:34
 16 Q. (By Ms. Doan) Okay. During that time 05:02:34
 17 period, 1993, 1994, I believe you told us earlier that 05:02:38
 18 you didn't think there was anything new or novel about 05:02:44
 19 combining these already known concepts; is that 05:02:48
 20 correct? 05:02:50
 21 MR. BUDWIN: Form. 05:02:52
 22 THE DEPONENT: I said I didn't understand the 05:02:54
 23 novelty. 05:02:55
 24 Q. (By Ms. Doan) Okay. Back then in 1993, you 05:02:55
 25 did not think combining these known concepts was novel, 05:02:57
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1 did you, sir? 05:02:59
 2 MR. BUDWIN: Form. 05:03:02
 3 THE DEPONENT: I didn't understand what was 05:03:02
 4 novel about it. 05:03:04
 5 Q. (By Ms. Doan) Okay. Have you heard Tim 05:03:04
 6 Berners-Lee talk about the reason he did not apply for 05:03:06
 7 a patent on the Web is because it was just combining 05:03:08
 8 known concepts at the time, he did not think the Web 05:03:11
 9 was patentable? 05:03:13
 10 MR. BUDWIN: Form. 05:03:15
 11 THE DEPONENT: I -- no, I have never heard of 05:03:15
 12 that. 05:03:17
 13 Q. (By Ms. Doan) Okay. Would you agree that 05:03:17
 14 taking already known concepts and just combining them 05:03:18
 15 with the WorldWideWeb is not something that's new or 05:03:22
 16 novel? 05:03:27
 17 MR. BUDWIN: Form. 05:03:27
 18 MR. KAO: Objection. 05:03:28
 19 THE DEPONENT: I'm not sure I can make 05:03:29
 20 that -- I don't have -- I'm not qualified to make that 05:03:30
 21 determination. 05:03:32
 22 Q. (By Ms. Doan) Okay. You just have no 05:03:32
 23 opinion one way or the other; is that fair? 05:03:33
 24 THE DEPONENT: Not having an opinion -- 05:03:35
 25 MR. KAO: Misstates. Objection. 05:03:37
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THE DEPONENT: I don't know. 05:03:40
 MS. DOAN: Okay. I think that's all I have. 05:03:41
 Thank you, sir. 05:03:45
 THE DEPONENT: Thank you. 05:03:48
 MR. BUDWIN: Just a few more, sorry, 05:03:48
 follow-up on what counsel asked you. 05:03:49
 FURTHER EXAMINATION 05:03:51
 BY MR. BUDWIN: 05:03:51
 Q. So let's pick up with Ms. Doan. She asked 05:03:53
 you about Exhibit 26, which is the September 8th, 1993, 05:03:56
 e-mail. 05:04:00
 Do you see that? 05:04:01
 A. Yes, I do. 05:04:02
 Q. It refers to MediaView? 05:04:03
 A. Yes, it does. 05:04:05
 Q. As we talked about earlier, the documents 05:04:06
 Mr. Wolff showed you suggest that MediaView run solely 05:04:09
 on NeXt machines? 05:04:14
 A. I'm sorry. Could you repeat the question, 05:04:15
 please. 05:04:15
 Q. The documents that Mr. Wolff showed you 05:04:16
 suggest that MediaView run solely on NeXt machines, 05:04:18
 correct? 05:04:22
 A. That was the assertion that you -- he made. 05:04:24
 Q. And you didn't have any NeXt machines during 05:04:27
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the time you were employed at UCSF. 05:04:28
 A. No. 05:04:31
 Q. You have no recollection of ever downloading 05:04:32
 the MediaView software and running it at any time while 05:04:35
 you were at UCSF, do you? 05:04:37
 A. I have no recollection of that. 05:04:39
 Q. And you don't recall anybody else in your 05:04:41
 group at UCSF obtaining the MediaView software or 05:04:43
 running it while you were at UCSF? 05:04:47
 MS. DOAN: Objection form. 05:04:50
 You can answer. 05:04:51
 THE DEPONENT: That's true. 05:04:52
 Q. (By Mr. Budwin) Do you know if MediaView is 05:04:52
 a Web browser? 05:04:55
 A. No, I don't. 05:04:58
 Q. Would you generally consider a Web browser to 05:05:07
 be something that accesses Web pages over the Internet? 05:05:09
 A. Yes. 05:05:14
 Q. Do you know if MediaView had the capability 05:05:15
 to access Web pages over the Internet as a Web browser 05:05:17
 would? 05:05:21
 A. I don't know if it had that capability. 05:05:22
 Q. If MediaView did not have the capability to 05:05:25
 access Web pages over the Internet, would you agree 05:05:27
 that it's not a Web browser? 05:05:31
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1	A. Not necessarily.	05:05:35	THE DEPONENT: Yes.	05:07:38
2	Q. Okay. Why not?	05:05:36	Q. (By Mr. Budwin) And if you look to Exhibit	05:07:39
3	A. There's no reason it has to do it over the	05:05:39	37, it's the Saturday, June 26th, 1993, e-mail from	05:07:43
4	Internet.	05:05:41	Marc Andreessen.	05:07:47
5	Q. Over it. Okay.	05:05:42	Do you see that?	05:07:49
6	A. I think.	05:05:43	A. Yes.	05:07:54
7	Q. Over a network?	05:05:45	Q. He says, "Xv could theoretically be used to	05:07:54
8	A. Not --	05:05:45	view inline images. However, nope, we haven't touched	05:07:57
9	Q. Does the Web browser need to have the ability	05:05:49	it and I doubt we will."	05:08:01
10	to access and display a Web page?	05:05:51	Do you see that? Do you see that?	05:08:02
11	A. Yes.	05:05:53	A. Yes, I see it.	05:08:05
12	Q. If MediaView did not have the ability to	05:05:54	Q. Is that your -- consistent with your	05:08:06
13	access and display a Web page, would it be a Web	05:05:54	recollection of the discussions -- your discussions	05:08:08
14	browser in your opinion?	05:05:58	with the Mosaic team in June of 1993?	05:08:11
15	MR. WOLFF: Object to form.	05:06:00	MS. DOAN: Objection. Form.	05:08:14
16	THE DEPONENT: No. I don't think it would	05:06:03	You can answer.	05:08:14
17	be.	05:06:04	THE DEPONENT: This is my discussion with the	05:08:16
18	Q. (By Mr. Budwin) Ms. Doan asked you some	05:06:05	Mosaic team.	05:08:18
19	questions about Exhibit 37, which was your notes. And	05:06:07	Q. (By Mr. Budwin) Okay. So as far as you're	05:08:19
20	there's a reference in Exhibit 37, in some of the	05:06:13	aware, as of June 26th, 1993, neither you, nor the	05:08:36
21	e-mails, to Xv and Mosaic.	05:06:15	XMosaic team, nor anyone else, which you're aware, ever	05:08:40
22	Do you see that?	05:06:19	actually combined Mosaic and Xv within the Mosaic	05:08:44
23	A. Oh, Exhibit 37.	05:06:20	browser window?	05:08:48
24	Q. In particular, there's a June 25th, 1993,	05:06:30	MS. DOAN: Objection. Form.	05:08:50
25	e-mail from you to mosaic@ncsa.uiuc.edu.	05:06:33	THE DEPONENT: That's correct.	05:08:51

1	Do you have that e-mail?	05:06:36	Q. (By Mr. Budwin) Now, Ms. Doan asked you some	05:08:51
2	A. Yes, I do.	05:06:45	questions about a trip report related to the Wizards	05:08:56
3	Q. And this is where you ask, "What's the status	05:06:47	Conference.	05:08:59
4	of integrating Xv into Mosaic?"	05:06:49	Do you recall that?	05:08:59
5	Do you see that?	05:06:51	A. Yes.	05:09:00
6	A. Yes, I do.	05:06:52	Q. And she was suggesting that I had a copy of	05:09:00
7	Q. So Xv and XMosaic were known in June 25th,	05:06:55	the trip report and didn't show it to you.	05:09:02
8	1993, correct?	05:06:59	Do you have a copy of that trip report?	05:09:05
9	A. Yes.	05:07:01	A. I don't know.	05:09:07
10	Q. As far as you're aware, neither you nor	05:07:02	Q. Okay. Do you recall producing that in this	05:09:08
11	anyone else has ever combined Xv and XMosaic.	05:07:05	case?	05:09:09
12	MS. DOAN: Objection. Form.	05:07:10	A. No.	05:09:11
13	THE DEPONENT: No. I described earlier how	05:07:11	Q. Have you ever seen -- when was the last time	05:09:11
14	they are combined.	05:07:13	you saw it?	05:09:13
15	Q. (By Mr. Budwin) All right. You described	05:07:13	A. I don't know that it exists.	05:09:14
16	earlier how they were combined, where you could have a	05:07:15	Q. Okay. Now, during the time that you were --	05:09:16
17	link, you could click the link, and then XMosaic would	05:07:17	you were at UCSF, you don't recall knowing what VPLOT,	05:09:29
18	open as a helper application; is that right?	05:07:20	PLOT.V or VOBJF were in relation to Viola; is that	05:09:33
19	MS. DOAN: Objection. Form.	05:07:25	true?	05:09:39
20	THE DEPONENT: Xv would.	05:07:27	MS. DOAN: Objection. Objection. Form.	05:09:40
21	Q. (By Mr. Budwin) It's true, isn't it, that	05:07:27	THE DEPONENT: I don't recall that.	05:09:42
22	you're not aware of anyone who has ever combined Xv and	05:07:27	Q. (By Mr. Budwin) And you never saw the Viola	05:09:43
23	XMosaic within the Mosaic browser window?	05:07:29	code while you were at UCSF?	05:09:45
24	MS. DOAN: Objection. Form.	05:07:34	A. I don't recall seeing it.	05:09:48
25	MR. KAO: Objection.	05:07:38	Q. And Ms. Doan asked you if you recalled seeing	05:09:50

1 the drawing widget in Viola. 05:09:54
 2 Do you recall that discussion with her? 05:09:57
 3 A. Yes, I do. 05:09:58
 4 Q. She never asked you when. Do you know for 05:09:59
 5 sure that you had seen that drawing area widget in 05:10:02
 6 Viola during the time you were employed at UCSF -- 05:10:05
 7 MS. DOAN: Objection. 05:10:09
 8 Q. (By Mr. Budwin) -- or could it -- could it 05:10:10
 9 have been after? 05:10:11
 10 MS. DOAN: Objection. Form. 05:10:12
 11 THE DEPONENT: I don't think it was after. 05:10:13
 12 Q. (By Mr. Budwin) Could it have been? 05:10:14
 13 MS. DOAN: Objection. Form. 05:10:17
 14 THE DEPONENT: If I did see it after, I think 05:10:18
 15 I also saw it -- it would not be the first time. 05:10:19
 16 Q. (By Mr. Budwin) Do you have any notes of the 05:10:23
 17 demo or any time that you ever saw Viola while you were 05:10:25
 18 at UCSF? 05:10:28
 19 A. I don't have any notes of that. 05:10:29
 20 Q. Do you have any written discussion, an 05:10:31
 21 e-mail, or anywhere else about what you saw and when 05:10:34
 22 you saw it in relationship to Viola? 05:10:37
 23 MR. WOLFF: Object to form. 05:10:40
 24 THE DEPONENT: I don't know. 05:10:42
 25 Q. (By Mr. Budwin) Mr. Wolff asked you if you 05:10:42
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MS. DOAN: Same objection. 05:11:53
 THE DEPONENT: Well, no, I don't. 05:11:57
 Q. (By Mr. Budwin) In Web design, it's true, 05:12:04
 isn't it, that you don't want -- or strike that. 05:12:13
 In browser design, it's true, isn't it, that 05:12:15
 you don't want Web page authors to be able to launch 05:12:18
 whatever applications they can -- or whatever 05:12:21
 applications they want on a user's computer? 05:12:24
 MR. WOLFF: Object to form. 05:12:26
 MR. KAO: Objection. 05:12:28
 THE DEPONENT: Not necessarily. 05:12:29
 Q. (By Mr. Budwin) I will just leave that. 05:12:30
 Was any of the work that you did while you 05:12:36
 were at UCSF based upon or taking work from Adobe or 05:12:38
 PDF? 05:12:45
 MR. WOLFF: Object to form. 05:12:47
 THE DEPONENT: No. 05:12:48
 Q. (By Mr. Budwin) Was any of the work that you 05:12:48
 did at UCSF taking or based upon MediaView? 05:12:51
 A. No. 05:12:55
 Q. Was any of the work that you did at UCSF 05:12:56
 taking or based upon Viola? 05:12:59
 MR. WOLFF: Object to form. 05:13:02
 THE DEPONENT: No. 05:13:03
 Q. (By Mr. Budwin) It's true, isn't it, that 05:13:04
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1 read the '906 patent and if it had a discussion of 05:10:55
 2 securities. 05:10:59
 3 Do you remember that? 05:10:59
 4 A. I remember him asking that. 05:11:00
 5 Q. Do you recall if the '906 patent claims 05:11:02
 6 include a limitation that the browser identifies and 05:11:02
 7 locates the executable application? 05:11:05
 8 MS. DOAN: Objection. Form. 05:11:09
 9 THE DEPONENT: I'm not sure. 05:11:10
 10 Q. (By Mr. Budwin) Do you know if in Viola the 05:11:10
 11 browser is able to identify and -- identify the 05:11:13
 12 executable application? 05:11:18
 13 A. Identify the executable application. 05:11:22
 14 MS. DOAN: Objection. Form. 05:11:27
 15 Q. (By Mr. Budwin) Do you know if in Viola, 05:11:28
 16 Viola is able to identify and locate the executable 05:11:30
 17 application based on type information? 05:11:34
 18 MS. DOAN: Same objection. 05:11:38
 19 THE DEPONENT: No. I don't know what 05:11:39
 20 capability it had at that time. 05:11:40
 21 Q. (By Mr. Budwin) Do you know if Viola uses 05:11:43
 22 type information? 05:11:45
 23 MS. DOAN: Same objection. 05:11:46
 24 THE DEPONENT: I believe it did. 05:11:48
 25 Q. (By Mr. Budwin) Do you know for sure? 05:11:49
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during the time that you were employed at UCSF you 05:13:14
 never saw Adobe Acrobat being used to display a 05:13:17
 document within a Web browser window? 05:13:21
 A. Yes. 05:13:23
 Q. You don't know what technically would be 05:13:25
 involved in having to combine Adobe Acrobat with a 05:13:27
 browser in order to enable the browser to display PDF 05:13:32
 content embedded in the window, do you? 05:13:33
 A. I think I do. I'm not sure what you are 05:13:40
 asking. 05:13:42
 Q. Okay. Did you ever write any programs that 05:13:42
 would allow PDF content to be displayed within a 05:13:44
 browser? 05:13:48
 A. No, I did not. 05:13:48
 Q. Do you know when the first time PDF content 05:13:49
 was ever able to be displayed within a browser window 05:13:51
 was? 05:13:56
 A. No. I don't know exactly when that was. 05:13:57
 Q. But it was after you left O'Reilly & 05:13:58
 Associates, you believe? 05:14:01
 A. Yes, I believe it was. 05:14:02
 Q. And during the time that you were at UCSF, 05:14:07
 you never saw Acrobat content embedded in a Web 05:14:08
 browser, did you? 05:14:13
 A. No. 05:14:14
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1 MR. BUDWIN: All right. Thanks. 05:14:24
 2 MS. DOAN: Jason, I have like two questions 05:14:28
 3 unless you do -- 05:14:30
 4 MR. WOLFF: Go ahead. 05:14:31
 5 MS. DOAN: Okay. 05:14:31
 6 FURTHER EXAMINATION 05:14:31
 7 BY MS. DOAN: 05:14:31
 8 Q. Mr. McRae, Eolas' attorney was asking you a 05:14:33
 9 whole bunch of questions about this e-mail again with 05:14:34
 10 XMosaic and Xv, about whether you were aware that 05:14:37
 11 anyone from the XMosaic team ever integrated XMosaic 05:14:43
 12 and Xv. 05:14:46
 13 Do you recall that line of questioning? 05:14:48
 14 A. Yes, I do. 05:14:49
 15 Q. Okay. And I just want to make sure, since we 05:14:50
 16 are on the record, I want to make sure we're really 05:14:52
 17 clear. 05:14:54
 18 With respect to whatever the XMosaic team was 05:14:55
 19 developing at NCSA, you weren't a part of that team, 05:14:57
 20 right? 05:15:02
 21 A. That's correct. 05:15:03
 22 Q. So if they testified to something differently 05:15:03
 23 in this case that they indeed they were developing some 05:15:04
 24 type of integration with Xv and XMosaic inline, you are 05:15:07
 25 not saying that you know or don't know or that's true 05:15:11
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1 or not true, fair? 05:15:14
 2 A. I'm sorry. Could you rephrase that. 05:15:17
 3 Q. Sure. You don't know anything about what the 05:15:18
 4 XMosaic team was developing at NCSA other than what 05:15:20
 5 they told you through e-mails; is that correct? 05:15:24
 6 A. That's correct. 05:15:27
 7 Q. Okay. So if they have said and testified in 05:15:27
 8 this case that indeed they did develop some type of 05:15:30
 9 inline interactive objects within Mosaic, you are not 05:15:34
 10 disputing that testimony, are you, sir? 05:15:38
 11 MR. BUDWIN: Form. 05:15:41
 12 MR. KAO: Objection. Nonsensical. 05:15:42
 13 THE DEPONENT: No, I'm not disputing -- 05:15:45
 14 Q. (By Ms. Doan) Okay. 05:15:46
 15 A. -- anything they have said. 05:15:47
 16 MS. DOAN: Okay. Thank you, sir. No further 05:15:48
 17 questions? 05:15:50
 18 MR. KAO: I have -- I have four. 05:15:53
 19 MR. BUDWIN: Okay. Can I -- can I follow up 05:15:55
 20 real quick on her questions, and then you can go. 05:15:56
 21 FURTHER EXAMINATION 05:15:59
 22 BY MR. BUDWIN: 05:15:59
 23 Q. Mr. McRae, you were pretty active in the Web 05:16:00
 24 community in 1993. 05:16:03
 25 A. I suppose. 05:16:05
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Q. You were on the WWW-Talk, you attended 05:16:06
 SIGWEB, the Wizards Conference, things of that nature? 05:16:09
 A. Yes. 05:16:12
 Q. You met Marc Andreessen, Tim Berners-Lee, 05:16:12
 Eric Bina, all those people? 05:16:16
 A. Yes, I did. 05:16:17
 Q. And as we saw on Exhibit 37, you, in fact, 05:16:17
 sent an e-mail to the Mosaic team asking about their 05:16:19
 integration of Mosaic and Xv? 05:16:22
 A. Yes. 05:16:25
 Q. And asked if they were interested, if they 05:16:25
 were going to work on that? 05:16:28
 A. Yes. I was asking whether they would. 05:16:30
 Q. And Mr. Andreessen wrote back to you and told 05:16:32
 you that that was not something the Mosaic team was 05:16:34
 interested in, right? 05:16:36
 MS. DOAN: Objection. Form. 05:16:37
 THE DEPONENT: That's correct. 05:16:38
 Q. (By Mr. Budwin) Did you have any reason to 05:16:39
 doubt Mr. Andreessen's statement in his e-mail to you? 05:16:44
 MS. DOAN: Objection. Form. 05:16:49
 THE DEPONENT: The thought crossed my mind 05:16:50
 that -- that they may not be willing to be completely 05:16:52
 open. 05:16:55
 Q. (By Mr. Budwin) But he told you they weren't 05:16:55
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working on developing Mosaic with Xv, right? 05:16:57
 A. That's what the e-mail says. 05:17:00
 Q. The e-mail in Exhibit 37? 05:17:01
 A. Yes. 05:17:02
 Q. And even though you were active in the Web 05:17:03
 community, WWW-Talk, SIGWEB, Wizards, all these 05:17:05
 conferences, you're not aware of anyone who actually 05:17:09
 released a version of Mosaic that had support for Xv in 05:17:12
 the browser, right? 05:17:14
 MS. DOAN: Objection. Form. 05:17:16
 THE DEPONENT: That's correct. 05:17:17
 MR. BUDWIN: Okay. Thank you. 05:17:18
 EXAMINATION 05:17:18
 BY MR. KAO: 05:17:18
 Q. Okay. Mr. McRae, if you turn back to Exhibit 05:17:20
 37, I just want to go over your notebook entry, 05:17:22
 April 28th, 1993. 05:17:26
 What's described here, would you be able to 05:17:39
 implement this if you had enough time and resources? 05:17:42
 A. Yes, I would have. 05:17:46
 Q. So "Merge SGML and PostScript parsers," do 05:17:47
 you see where it says that -- 05:17:51
 A. Yes. 05:17:53
 Q. -- and then the steps below? 05:17:53
 If you can review that and let me know if you 05:17:55
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1 **would be able to implement that step.** 05:18:00
 2 A. Yes. I don't think there are any particular 05:18:15
 3 technical challenges. 05:18:17
 4 **Q. So back in April of 1993, you would have been 05:18:18**
 5 **able to implement that?** 05:18:21
 6 MR. BUDWIN: Form. 05:18:24
 7 THE DEPONENT: Yes. 05:18:24
 8 **Q. (By Mr. Kao) Would you have been able to 05:18:25**
 9 **guide an engineer to implement that?** 05:18:27
 10 A. Yes. 05:18:30
 11 MR. BUDWIN: Form. 05:18:31
 12 **Q. (By Mr. Kao) What about the next step, 05:18:31**
 13 **"Modify graphics file rendering utilities such as Xv so 05:18:34**
 14 **that they return PostScript objects"?** 05:18:38
 15 **Do you see that entry?** 05:18:42
 16 A. Yes, I do. 05:18:43
 17 **Q. Would you be able to implement that back in 05:18:44**
 18 **1993 if you had enough time and resources?** 05:18:46
 19 MR. BUDWIN: Form. And I'm going to object 05:18:49
 20 to the questions as being leading. 05:18:50
 21 THE DEPONENT: Yes. I would have been able 05:18:54
 22 to implement it given the tools that were available at 05:18:54
 23 that time. 05:18:57
 24 **Q. (By Mr. Kao) And "Use ToolTalk to tie it all 05:18:58**
 25 **together," is that something you would be able to 05:19:05**
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A. Yes, they were. 05:20:19
 MS. DOAN: Thank you, sir. No further 05:20:20
 questions. 05:20:22
 MR. BUDWIN: Jason. 05:20:24
 EXAMINATION 05:20:25
 BY MR. WOLFF: 05:20:25
Q. Mr. McRae, do you have Exhibit 37 in front of 05:20:25
you? 05:20:27
 A. Yes, I do. 05:20:28
Q. Your counsel asked you some questions about 05:20:29
the notebook entry of April 28th, 1993. 05:20:30
Do you see that? 05:20:33
 A. Yes, I do. 05:20:35
Q. You didn't actually implement any of the 05:20:35
things discussed on the page of your notebook entry 05:20:37
from Exhibit 37, dated April 28th, 1993, did you, sir? 05:20:40
 A. I was stopped from implementing it by Mike 05:20:45
 Doyle and David Martin, basically. 05:20:48
Q. I want you to listen to my question and I 05:20:49
want you to ask -- answer my specific question. 05:20:50
Okay? 05:20:53
 A. Yes. 05:20:54
Q. Do you have Exhibit 37 in front of you? 05:20:54
 A. Yes, I do. 05:20:56
Q. Do you have it opened to the page of your 05:20:57
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1 **implement with enough time and resources?** 05:19:08
 2 MR. BUDWIN: Form. Leading. 05:19:12
 3 THE DEPONENT: Yes. ToolTalk was intended by 05:19:14
 4 the publishers to make it easy for people to do things 05:19:16
 5 like that. And I would have been able to do that. 05:19:20
 6 **Q. (By Mr. Kao) And anything else on this 05:19:23**
 7 **document that you would have been able to implement?** 05:19:27
 8 MR. BUDWIN: Form. Leading. 05:19:32
 9 MR. KAO: Sorry. Strike that. 05:19:43
 10 **Q. (By Mr. Kao) With respect to code routines, 05:19:44**
 11 **is that something you would have been able to implement 05:19:48**
 12 **with enough time and resources?** 05:19:51
 13 MR. BUDWIN: Form. Leading. 05:19:53
 14 THE DEPONENT: Yes. Every computer science 05:19:55
 15 curriculum includes basic coprocessing exercises like 05:19:57
 16 that, and I -- I did -- I did some of those. Dining 05:20:00
 17 philosophers. 05:20:05
 18 MR. KAO: I don't have any other questions. 05:20:06
 19 MS. DOAN: I just have a couple of follow-up 05:20:08
 20 on that. 05:20:10
 21 FURTHER EXAMINATION 05:20:10
 22 BY MS. DOAN: 05:20:10
 23 **Q. Mr. McRae, the SGMLs, Ghostscript parsers and 05:20:10**
 24 **ToolTalk, those were all well-known programs at the 05:20:13**
 25 **time back in 1993, correct?** 05:20:16
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notebook dated April 28th, 1993? 05:20:58
 A. Yes, I do. 05:21:01
Q. You never implemented any of the things 05:21:02
discussed on the page of your notebook, April 28th, 05:21:06
1993, in Exhibit 37, did you? 05:21:09
 A. No. 05:21:13
Q. And the only written disclosure that you have 05:21:17
technical ways to do the things that you were working 05:21:19
on is contained in this notebook entry that we see in 05:21:23
Exhibit 37; is that right? 05:21:26
 A. I'm sorry. Would you say that again, please. 05:21:29
Q. Sure. Are you aware of any technical 05:21:31
descriptions of your ideas, other than your notebook 05:21:33
entries that we see in Exhibit 37? 05:21:37
 A. Well, there's some elements in some of the 05:21:49
 e-mails communications. 05:21:51
Q. Other than what we see in Exhibit 37, okay -- 05:21:53
do you have Exhibit 37 in front of you? 05:21:55
Okay. Other than what we see in Exhibit 37, 05:21:58
are you aware of any technical description regarding 05:21:59
the implementation of your ideas? 05:22:02
 A. No. 05:22:05
Q. And at least with respect to the portions of 05:22:07
your notebook page, see, for example, April 28th, 1993, 05:22:08
it was your practice to keep your notebook personal to 05:22:12
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yourself; is that right? 05:22:16
A. Yes. 05:22:18
Q. It's because you had some personal details and journal entries and things like that in the notebook? 05:22:18 05:22:20 05:22:22
A. Yes. 05:22:24
Q. So you didn't freely share your notebook with others, did you? 05:22:24 05:22:27
A. At times I shared parts of it. 05:22:28
Q. You didn't ever share this April 28th, 1993, entry -- you never gave a copy of it to anyone, did you? 05:22:30 05:22:34 05:22:39
A. No. 05:22:39
MR. WOLFF: All right. Thank you. 05:22:43
MS. DOAN: Just a follow-up on that just briefly. 05:22:44 05:22:45
FURTHER EXAMINATION 05:22:45
BY MS. DOAN: 05:22:45
Q. With respect to the same entry, April 28th, 1993, the SGMLs and PostScript parsers, those are both -- those are both well-known programs at the time back in 1993, correct? 05:22:46 05:22:48 05:22:54 05:22:56
A. Yes. 05:23:00
Q. They are known concepts, right? 05:23:01
A. Yes. 05:23:03

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Q. So the combination of merging SGMLs and PostScript parsers would be the combination of two well-known ideas or well-known programs -- 05:23:03 05:23:07 05:23:09
MR. BUDWIN: Form. 05:23:11
Q. (By Ms. Doan) -- is that correct? 05:23:12
MR. BUDWIN: Form. 05:23:13
THE DEPONENT: It would -- may have involved some additional things that weren't quite so well known. 05:23:14 05:23:17 05:23:19
Q. (By Ms. Doan) Okay. But, in general, those are two well-known concepts, right? 05:23:20 05:23:21
A. Yes -- 05:23:22
Q. Programs? 05:23:24
A. -- they were. 05:23:24
Q. And then you talk later about Xv. And I think we have already established that Xv was a well-known program as well at the time, correct? 05:23:25 05:23:28
A. Yes. 05:23:31
Q. And ToolTalk was a well-known program as well at the time back in 1993; is that correct? 05:23:31 05:23:35 05:23:37
A. I don't know what well known means in that sense. 05:23:40
Q. Okay. 05:23:41
A. It was fairly new and -- and not so well known. 05:23:41 05:23:43

Q. It's -- it's a known concept or a known program to someone who is a computer engineer or Web developer like you were; is that correct? 05:23:44 05:23:46 05:23:52
MR. BUDWIN: Object. Form. 05:23:54
THE DEPONENT: To some people, yes. 05:23:55
Q. (By Ms. Doan) Okay. It was well known to you, fair? 05:23:56 05:23:57
A. Yes. 05:23:58
Q. Okay. And for others that are Web developers or that are Web designers such as you were at the time, these four programs would have been known to someone of ordinary skill in the art at the time back in 1993, correct? 05:23:58 05:24:01 05:24:08 05:24:11
MR. BUDWIN: Form. 05:24:12
THE DEPONENT: I'm not sure that many people knew what ToolTalk was -- 05:24:12 05:24:13
Q. (By Ms. Doan) Okay. 05:24:15
A. -- at that time. 05:24:16
Q. Okay. There were others with your same level of education and experience that knew what ToolTalk was, correct? 05:24:17 05:24:19 05:24:22
A. I believe so. 05:24:23
Q. Okay. And they were also computer programmers, correct? 05:24:23 05:24:25
A. That's true. 05:24:27

Q. So anyone that had the same level of ordinary skill in the art as you would have back in 1993 as a computer programmer would have worked with ToolTalk; is that fair? 05:24:28 05:24:31 05:24:34 05:24:36
MR. BUDWIN: Form. 05:24:39
THE DEPONENT: I don't know how many people had experience working with ToolTalk. It was very new. 05:24:40 05:24:41
Q. (By Ms. Doan) Okay. Would you agree with me that back in 1993, with someone of your level of ordinary skill in the art, being a computer programmer, that they would have known of the concept of -- or program of SGMLs, PostScript parser, Xv and ToolTalk? 05:24:43 05:24:48 05:24:56 05:24:59 05:25:03
MR. BUDWIN: Form. 05:25:09
THE DEPONENT: I'm sorry. Repeat that, please. 05:25:11 05:25:11
Q. (By Ms. Doan) Sure. Those four programs -- 05:25:12
A. Uh-huh. 05:25:15
Q. -- or concepts, were they well known to someone of ordinary skill in the art such as you back in 1993? 05:25:15 05:25:17 05:25:20
MR. BUDWIN: Form. 05:25:21
THE DEPONENT: Possibly, yes. 05:25:23
MS. DOAN: Thank you, sir. 05:25:25
MR. BUDWIN: Got anything, Jason? 05:25:28
MR. WOLFF: Go ahead. 05:25:30

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MR. BUDWIN: Well, do you have any questions. 05:25:31
MR. WOLFF: No. 05:25:33
FURTHER EXAMINATION 05:25:33
BY MR. BUDWIN: 05:25:33
Q. Mr. McRae, Ms. Doan asked you some questions about Xv, Mosaic, ToolTalk and Ghostscript parser, do you recall that? 05:25:35
A. Yes. 05:25:43
Q. She suggested that those were known in the art in 1993. 05:25:43
MS. DOAN: Objection. Form. 05:25:47
Q. (By Mr. Budwin) Yes? 05:25:49
A. Yes. 05:25:50
Q. Regardless of whether Xv and Mosaic, ToolTalk and Ghostscript were known in the art in 1993, you're not aware of anyone who actually combined those four things together in 1993 in a working fashion, are you? 05:25:51
A. I'm not aware -- 05:26:05
MR. WOLFF: Object to form. 05:26:06
THE DEPONENT: -- of anybody doing that, no. 05:26:07
MR. BUDWIN: Thanks. 05:26:10
MS. DOAN: One final thought. 05:26:13
FURTHER EXAMINATION 05:26:13
BY MS. DOAN: 05:26:13
Q. Just because you're not -- just because your 05:26:14
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well versed in the Internet and the community in 1993, you just didn't know about it, right? 05:26:47
A. That's correct. 05:26:53
MR. BUDWIN: Okay. Thanks. 05:26:55
MR. KAO: We're done. 05:27:01
THE VIDEOGRAPHER: This is the end of today's deposition. We are off the record at 5:26 p.m. The master disk will be held at Veritext. (Deposition concluded at 5:26 p.m.)
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05:27:06
05:27:09
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testimony is that you are not aware, that doesn't mean it wasn't happening somewhere else; is that fair? You just don't know about it as you sit here today. 05:26:17
A. That's true. 05:26:19
MS. DOAN: Thank you, sir. 05:26:22
FURTHER EXAMINATION 05:26:23
BY MR. BUDWIN: 05:26:26
Q. You were active in the Internet community in 1993? 05:26:27
A. Yes, I was. 05:26:29
Q. You are not aware of anyone combining Xv, Mosaic, ToolTalk and Ghostscript together, are you? 05:26:30
A. No, I am not. 05:26:32
MR. BUDWIN: Thanks. 05:26:36
FURTHER EXAMINATION 05:26:36
BY MS. DOAN: 05:26:36
Q. But if someone has testified differently in this case, you are not saying that their testimony is not truthful; is that fair? 05:26:37
A. That's true. 05:26:41
MS. DOAN: Thank you, sir. 05:26:44
FURTHER EXAMINATION 05:26:44
BY MR. BUDWIN: 05:26:44
Q. All you are saying is even though you were 05:26:44
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STATE OF CALIFORNIA) ss:
)
COUNTY OF CONTRA COSTA)

I, Rebecca L. Romano, CSR No. 12546, do hereby certify:
That the foregoing deposition testimony was taken before me at the time and place therein set forth and at which time the witness was administered the oath;
That the testimony of the witness and all objections made by counsel at the time of the examination were recorded stenographically by me, and were thereafter transcribed under my direction and supervision, and that the foregoing pages contain a full, true and accurate record of all proceedings and testimony to the best of my skill and ability.
I further certify that I am neither counsel for any party to said action, nor am I related to any party to said action, nor am I in any way interested in the outcome thereof.
IN WITNESS WHEREOF, I have subscribed my name this 22nd day September, 2011.

Rebecca L. Romano, CSR No 12546
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