

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MAINE

3
4 SURFCAST, INC.,
5 Plaintiff,
6 vs. No. 2:12-cv-00333-DBH
7 MICROSOFT CORPORATION,
8 Defendant.

9
10
11 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
12 SUBJECT TO PROTECTIVE ORDER
13 VIDEOTAPED 30 (b) (6) DEPOSITION
14 JOSEPH BELFIORE

15
16 TAKEN ON
17 THURSDAY, JULY 11, 2013
18 9:04 A.M.

19
20 10885 NORTHEAST 4TH STREET, SUITE 700
21 BELLEVUE, WASHINGTON 98004

22
23
24 Reported by: David A. Hart
25 Job No.: 63454

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1 INDEX

2	EXAMINATION BY:	PAGE
3	MR. HEINTZ	8

4 EXHIBIT INDEX

5	EXHIBIT NO.	DESCRIPTION	PAGE
6	Exhibit 1	Plaintiff SurfCast, Inc.'s	11
7		Deposition Notice of Microsoft	
8		Corporation Pursuant to Federal	
9		Rule of Civil Procedure 30(b)(6)	
10	Exhibit 2	Plaintiff SurfCast, Inc.'s Notice	14
11		of Deposition of Joseph Belfiore	
12	Exhibit 3	Document labeled "How Microsoft Hit	37
13		CTRL+ALT+DEL on Windows Phone,"	
14		Bates-stamped	
15		MS_SURFCAST_000000593 through 596	
16	Exhibit 4	U.S. patent number 7,933,632	46
17	Exhibit 5	Document with heading "WM7 Mule Shell	74
18		Functional Specification," Bates-stamped	
19		MS_SURFCAST_000017071 through 17083	
20	Exhibit 6	Document with heading "'Life in	82
21		Motion' Drives Development of New	
22		Windows Phone 7 Series," Bates-stamped	
23		MS_SURFCAST_000097277 through 97279	

24
25

1	Exhibit 7	Document with heading "Steve Ballmer	91
2		and Joe Belfiore: Windows Phone 7	
3		Press Conference," Bates-stamped	
4		MS_SURFCAST_000001199 through 1210	
5	Exhibit 8	Document with heading "Windows	98
6		Phone 7: A Fresh Start for the	
7		Smartphone," Bates-stamped	
8		MS_SURFCAST_000098964 through 98966	
9	Exhibit 9	Document with heading "Windows	103
10		Phone 8 Launch Event - October 29,	
11		2012, Joe Belfiore Script -	
12		Draft V7," Bates-stamped	
13		MS_SURFCAST_000269170 through 269178	
14	Exhibit 10	Document with heading "Keynote	108
15		(Teleprompter) Script - JOEB	
16		10/29," Bates-stamped	
17		MS_SURFCAST_000268488 through 268496	
18	Exhibit 11	Document with heading "Nokia Gears	112
19		Up for Windows Phone 8 With Lumia	
20		920 and 820," Bates-stamped	
21		MS_SURFCAST_000000884 through 888	
22	Exhibit 12	Document with heading "Windows	119
23		Phone 8 Arrives: What You Need	
24		to Know," Bates-stamped	
25		MS_SURFCAST_000001489 through 1494	

1	Exhibit 13	Copy of U.S. patent 5,617,526	125
2	Exhibit 14	Document entitled "Microsoft	132
3		Internet Explorer Resource Kit,"	
4		Bates-stamped MS_SURFCAST_000078682	
5		through 78914	
6	Exhibit 15	Excerpt of a book, entitled	150
7		"Microsoft Internet Explorer 4,"	
8		Bates-stamped MS_SURFCAST_000075865	
9		through 75963	
10	Exhibit 16	Document with heading "Shell/Browser	170
11		Work Items," Bates-stamped	
12		MS_SURFCAST_000287945 through 287979	
13			
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1 JOSEPH BELFIORE
2 BELLEVUE, WASHINGTON;
3 THURSDAY, JULY 11, 2013
4 9:04 A.M.
5

6 THE VIDEOGRAPHER: All right. This is the start
7 of the videotape labeled No. 1, deposition of Joseph
8 Belfiore, in the matter of SurfCast, Inc., vs. Microsoft
9 Corporation, and in the U.S. District Court for the District
10 of Maine, Case No. 2:12-cv-00333-DBH.

11 This deposition is being held at 10885 Northeast
12 4th Street, Suite 700, Bellevue, Washington, on July the
13 11th, 2013. The time is approximately 9:04 a.m.

14 My name is Jann Trudell, from TSG Reporting, and
15 I'm the legal video specialist. The court reporter is David
16 Hart, in association with TSG Reporting.

17 And will counsel please introduce yourselves for
18 the record.

19 MR. HEINTZ: James Heintz, with the firm of DLA
20 Piper. Also with me today is Tiffany Miller, also with the
21 firm of DLA Piper. And we're here representing SurfCast,
22 Inc.

23 MR. MCBRIDE: John McBride, Sidley Austin LLP,
24 on behalf of Microsoft and the witness. With me is Stacy
25 Quan from Microsoft.

1 JOSEPH BELFIORE

2 THE VIDEOGRAPHER: Thank you. Will the court
3 reporter please swear the witness.

4
5 JOSEPH BELFIORE,
6 Having been first duly sworn, was deposed and testified as
7 follows:

8
9 EXAMINATION

10 BY MR. HEINTZ:

11 Q. Good morning, sir.

12 A. Good morning.

13 Q. I just want to make sure I'm pronouncing your name
14 correctly. Is it "Belfiore"?

15 A. "Belfiore." Yeah.

16 Q. Okay. Thank you.

17 We've never met before, have we?

18 A. No.

19 Q. Okay. Thank you.

20 Sir, before we get going, I wanted to ask you if
21 you've been -- ever been deposed before.

22 A. Yes.

23 Q. When were you deposed previously?

24 A. A few times. Honestly, I couldn't tell you the date.
25 Probably a year and a half, two years ago.

1 JOSEPH BELFIORE

2 Q. And what were you deposed in connection with?

3 A. There was a Microsoft lawsuit.

4 Q. Did it involve patents?

5 A. Yes.

6 Q. Do you remember what patents were involved?

7 A. No.

8 Q. That's fine.

9 Do you remember who the parties were?

10 A. I think the other party was Novell, but I may be
11 incorrect about the exact specifics.

12 Q. Okay. But in any event, that was about a year and a
13 half ago?

14 A. That's my recollection right now.

15 Q. Any other testimony, deposition, before?

16 A. Yes.

17 Q. When -- when else were you deposed?

18 A. I couldn't list the time, the -- all of the times.

19 I was deposed for the Department of Justice case
20 against Microsoft back in like 1997. I just -- I remember
21 that one in particular. There are probably a couple of
22 others, that I couldn't name.

23 Q. Okay. Do you recall whether any of the other
24 deposition testimony you gave concerned patent lawsuits?

25 A. I don't know. I don't know.

1 JOSEPH BELFIORE

2 Q. Okay. Well, even though you've done this a number of
3 times before, I just want to go over a couple of ground
4 rules with you.

5 So the first rule and perhaps the most important
6 is that we don't speak at the same time so the court
7 reporter can accurately record my questions and your
8 answers. So I'll ask that you allow me to finish a question
9 before you start your answer. And I will try to do the same
10 for you. Is that all right?

11 A. Yep.

12 Q. Okay. Another important rule is that we must give
13 verbal responses. So head shakes and nods are not going to
14 be sufficient here. We need to have a -- a spoken, verbal
15 answer, and it's got to be a word rather than a sound such
16 as "uh-huh." Is that all right?

17 A. Yes.

18 Q. Okay. Thank you.

19 Now, sir, is there any reason that you couldn't
20 give full and complete testimony here today?

21 A. Not that I could think of.

22 Q. You're under no medication, anything that would
23 impair your memory? Is that correct?

24 A. No.

25 Q. Any physical ailments that would prevent you from

1 JOSEPH BELFIORE

2 testifying today? Back problems or anything like that?

3 A. No.

4 Q. Okay. Thank you.

5 MR. HEINTZ: I'm going to ask the reporter to
6 mark as Exhibit 1 the 30(b)(6) deposition notice in this
7 case. Counsel from previously marked this Exhibit 1, so
8 I'll ask the reporter to place a label over it, if that's
9 all right with you.

10 (Whereupon, Exhibit 1 was marked
11 for identification.)

12 BY MR. HEINTZ:

13 Q. Mr. Belfiore, the reporter has handed you Exhibit 1.
14 I'll ask you to take a look at it and let me know if you
15 recognize this document.

16 A. Yes.

17 Q. When did you first see this document?

18 A. Two days ago.

19 Q. Okay. And do you have an understanding that you're
20 here to testify today on behalf of Microsoft with respect to
21 certain questions listed on this document?

22 A. Yes.

23 Q. Okay. I'll ask you to turn to Page No. 3 of
24 Exhibit 1. And if you could please tell me which topics
25 you're prepared to testify on today.

1 JOSEPH BELFIORE

2 A. You want me to read each of those and tell you yes or
3 no for each ones?

4 Q. You can just tell me which numbers.

5 A. Okay.

6 Q. Or I can ask you, if you prefer.

7 A. That's fine. I can read through it.

8 Q. All right. Are you prepared to testify with respect
9 to Topic No. 2? And again, that's Topic 2 listed on Page 3.

10 A. Yes.

11 Q. Okay.

12 MR. MCBRIDE: Counsel, I'll just clarify for the
13 record, we're offering Mr. Belfiore for research and
14 development of tiles and the decision to incorporate and use
15 tiles in the accused products, not the entirety of the
16 topic.

17 MR. HEINTZ: Okay.

18 BY MR. HEINTZ:

19 Q. Mr. Belfiore, I'll ask you to turn to Page 5. And
20 the same question. Topic 15. Are you prepared to testify
21 today with respect to Topic 15?

22 A. Yes.

23 Q. Okay.

24 MR. MCBRIDE: Again, I'll clarify, just subject
25 to our objections regarding SurfCast.

1 JOSEPH BELFIORE

2 BY MR. HEINTZ:

3 Q. Sir, how about Topic 16?

4 A. Yes, although I'm not an expert in the source code.

5 MR. MCBRIDE: And again, subject to our
6 objections.

7 BY MR. HEINTZ:

8 Q. Okay. How about on Page 6, Topic 17? Are you
9 prepared to testify with respect to that topic today?

10 A. Yes, except, again, for the caveat that I'm not
11 familiar with the source code.

12 MR. MCBRIDE: And again, subject to our
13 objections.

14 BY MR. HEINTZ:

15 Q. All right. Mr. Belfiore, how about Topic 18?

16 A. Yes, subject to the caveat that I don't know the
17 source code.

18 Q. Okay.

19 MR. MCBRIDE: And subject to our objections.

20 MR. HEINTZ: Counsel, you're also offering
21 Mr. Belfiore for 19?

22 MR. MCBRIDE: Yes. That's correct.

23 MR. HEINTZ: Okay.

24 MR. MCBRIDE: Subject to our objections.

25

1 JOSEPH BELFIORE

2 BY MR. HEINTZ:

3 Q. So Mr. Belfiore, same question with respect to
4 Topic 19 at the bottom of Page 6.

5 A. Okay.

6 Q. Are you prepared to testify today with respect to
7 Topic 19?

8 A. Yes.

9 THE VIDEOGRAPHER: Excuse me, Mr. Belfiore.
10 Could you just move your microphone just a little bit out.

11 THE WITNESS: This way?

12 THE VIDEOGRAPHER: Yes. That's better. Thank
13 you.

14 MR. HEINTZ: I'll ask the court reporter to mark
15 as Exhibit 2 a Notice of Deposition of Joseph Belfiore.

16 (Whereupon, Exhibit 2 was marked
17 for identification.)

18 BY MR. HEINTZ:

19 Q. Mr. Belfiore, you've been handed Exhibit 2. My
20 question is, do you recognize that document?

21 A. Yes.

22 Q. When did you see that document previously?

23 A. Earlier this morning.

24 Q. Okay. Was that the first time you had seen that
25 document?

1 JOSEPH BELFIORE

2 A. I don't know whether it's the first time I've seen it
3 or not, but I definitely saw it earlier this morning.

4 Q. All right. In any event, you understand you're here
5 today not just as a 30(b)(6) witness but also in your own
6 capacity; correct?

7 A. Yes.

8 Q. All right. All right. So let me turn back to
9 Exhibit 1, which, again, was the 30(b)(6) notice. I believe
10 you said earlier you first saw this document earlier this
11 week? Is that correct?

12 A. Yes.

13 Q. Okay. What, if anything, did you do to prepare
14 yourself to testify with respect to the 30(b)(6) notice?

15 A. I watched some videos of presentations that I had
16 done, that some people in our team had done; I read through
17 a book we published on the Internet Explorer adaptation kit;
18 looked at some presentations.

19 Q. And those presentations you looked at, were they oral
20 or a video or --

21 A. PowerPoint.

22 Q. PowerPoint presentations. Okay.

23 You mentioned a book I think you referred to as
24 the Internet Explorer adaptation kit. Is that correct?

25 A. Yeah. The -- it was a book that came as part of

1 JOSEPH BELFIORE

2 the -- to be more precise, the Internet Explorer 4.0
3 resource kit.

4 Q. Okay.

5 A. And it described the way the IEAK worked.

6 Q. Okay. So the book was entitled "Internet Explorer
7 Resource Kit," and I -- and you read the adaptation kit part
8 of it?

9 A. I'm not sure -- there was an Internet Explorer
10 resource kit. It contained a book. I believe the book's
11 title was related to the resource kit, although I'm not
12 really certain of the book's actual title.

13 And the book documents a number of ways that
14 people can distribute Internet Explorer, including the IE
15 adaptation kit. This refreshed my memory of things I'd
16 worked on -- you know, whenever that was -- I should do the
17 math -- 15-plus years ago.

18 Q. Okay. You also mentioned you looked at PowerPoint
19 presentations.

20 A. Uh-huh. (Witness answers affirmatively.)

21 Q. Do you remember what the subject matter of those
22 presentations was?

23 A. Yeah. There were some that I presented, one on -- on
24 how to do effective program management at Microsoft.

25 I'm trying to think of what others.

1 JOSEPH BELFIORE

2 That's the only one that pops into my memory
3 right now.

4 Q. And did that PowerPoint on how to do effective
5 program management relate to any particular topics in the --

6 A. It did.

7 Q. -- 30(b)(6) notice?

8 A. It did, because I used Active Desktop as an example
9 of effective program management, and it describes some of
10 the characteristics of Active Desktop.

11 Q. Do you remember which characteristics were described?

12 A. No.

13 Q. Okay. About how many hours would you say you spent
14 preparing for today's deposition on the 30(b)(6) topics?

15 A. Ten.

16 Q. Ten.

17 And has that all been this week?

18 A. No.

19 Q. Okay. When did you first start preparing?

20 A. When counsel first reached out to me about doing
21 this. And I couldn't tell you what date that was. Maybe
22 two or three months ago.

23 Q. Okay. Out of the ten hours you think you spent
24 preparing, how much of that was spent this week?

25 A. Nine and a half.

1 JOSEPH BELFIORE

2 Q. Did you meet with anybody in order to prepare for the
3 testimony today?

4 A. Counsel.

5 Q. And by "counsel," you're referring to Mr. McBride?

6 A. Yeah.

7 Q. Okay. Anybody else?

8 A. No.

9 Q. And other than the documents you mentioned earlier,
10 do you remember reviewing any other documents in preparation
11 for today's testimony? And that could be documents that you
12 may have had stored electronically in your computer, or hard
13 copy, or in any other format.

14 A. No.

15 Q. Okay. Sir, I'd like you, if you would, to give us a
16 little bit about your background. So I'll start with
17 education. What is your education?

18 A. I studied computer science at Stanford, as a
19 bachelor's degree.

20 Q. Okay. Anything past bachelor's degree?

21 A. Nope.

22 Q. All right. Prior to your study of computer science
23 at Stanford, had you had any work experience?

24 A. Yes.

25 Q. Okay. Was it work experience in the computer field?

1 JOSEPH BELFIORE

2 A. Some.

3 Q. Please describe what work experience you had.

4 A. I did a long, six-month -- it wasn't really an
5 internship; it was a job at a small software company, where
6 I wrote and adapted software for mini computers in -- that
7 were used in the fashion industry.

8 Q. Who was your employer at that time?

9 A. Fisher Rambusch & Associates.

10 Q. That was Fisher Rambusch?

11 A. Yep.

12 Q. Okay. And -- and what was the business of Fisher
13 Rambusch & Associates?

14 A. They sold computer systems to garment industry
15 wholesalers in New York City.

16 Q. And you say that was about a six-month engagement?

17 A. Yeah.

18 Q. Okay. Were you in -- in New York City at the time?

19 A. Yeah.

20 Q. Okay. And again, this is all prior to your
21 bachelor's degree. What other computer industry experience
22 did you have, if any?

23 A. I was a teaching assistant at Stanford.

24 Q. Okay. What was your first job after you obtained
25 your degree at Stanford?

1 JOSEPH BELFIORE

2 A. I came to work at Microsoft.

3 Q. Do you remember what year that was?

4 A. 1990.

5 Q. And what was your first job at Microsoft? What was
6 your first job title, I should say?

7 A. Program manager.

8 Q. And were you a program manager of any particular
9 program?

10 A. For the first month or so, it was OS/2.

11 Q. Was it typical for someone to be named a program
12 manager at Microsoft right out of college?

13 A. Yep.

14 Q. And how long were you a program manager on the OS/2
15 project?

16 A. A very short time.

17 Q. Okay. What was -- what happened next at Microsoft?

18 A. For me?

19 Q. Yes.

20 A. I worked as a program manager in a systems strategy
21 group.

22 Q. What -- I'm sorry. Go ahead.

23 A. I'm trying to think of how long that was. That was
24 probably three months. In that job capacity, I wrote a
25 white paper to help explain to companies how they could

1 JOSEPH BELFIORE

2 write applications for Windows. And after that, I was a
3 program manager for the user interface of what became
4 Windows NT 3.1.

5 Q. Your -- your earlier position, as a systems strategy
6 group program manager, you said that involved writing
7 applications for Windows? Is that right?

8 A. I wrote a white paper. I wrote a paper.

9 Q. A paper about writing applications --

10 A. Yes.

11 Q. -- for Windows. Okay.

12 And what experience did you have writing
13 applications for Windows when you wrote that white paper?

14 A. None.

15 Q. Is that usual for someone at Microsoft?

16 A. Yeah.

17 Q. Yeah? Okay.

18 Do you know why you were asked to do that white
19 paper, with your experience?

20 A. It was a good learning experience. It was a way to
21 expose me to the kinds of questions that corporations at the
22 time had in terms of whether they would target their line of
23 business applications at OS/2 or at Windows. And so I had
24 to research and learn the kinds of technical architectures
25 involved and be able to propose a method that would work for

1 JOSEPH BELFIORE

2 line of businesses.

3 Q. Okay. And you mentioned you were a program manager
4 for the user interface portion of Windows NT 3.1? Is that
5 correct?

6 A. Yes.

7 Q. Okay. There was a Windows NT 3.0? Correct?

8 A. Nope.

9 Q. So 3.1 was the first version?

10 A. Yeah.

11 Q. All right. And so what did your duties as the
12 program manager for the user interface for Windows NT 3.1
13 involve?

14 A. Writing specifications for how the various user
15 interface elements would work and driving those user
16 interface elements to completion in software by
17 collaborating with software development engineers and
18 testers.

19 Q. What was the form of that collaboration?

20 A. You know, I'd write a spec document, and we'd go
21 through a spec document meeting or in one-on-one discussion.
22 Lots of one-on-one discussion.

23 Q. Okay. Would it be -- would part of your duties have
24 been they would write a demonstration piece of code to
25 implement some portion of the UI and then you would give

1 JOSEPH BELFIORE

2 feedback to them?

3 A. That was -- that would happen often, but not always.

4 Q. Okay.

5 A. Yeah.

6 Q. Were you writing code on this project at all?

7 A. Nope.

8 Q. Okay. Are -- are you a programmer or do you know how
9 to program?

10 A. I did when I graduated from college, but I would not
11 call myself a programmer today.

12 Q. Okay. With what languages are you familiar in -- for
13 programming computers?

14 A. C.

15 Q. Anything else?

16 A. Everything else is arcane and I'm sure I couldn't
17 remember it at all.

18 Q. Fair enough.

19 Okay. So after you were program manager for the
20 user interface for Windows NT 3.1, what did you do next?

21 A. I was a lead program manager for the user interface
22 of what became Windows 95.

23 Q. You say for "what became Windows 95." Does that mean
24 that you were not the program manager for the user interface
25 for Windows 95?

1 JOSEPH BELFIORE

2 A. I was.

3 Q. You was.

4 A. But at the time I transitioned into the job, it
5 wasn't known as Windows 95; it was known as Chicago. And,
6 you know, years later, it was named Windows 95.

7 Q. Okay. And then after that position, what was your
8 next position at Microsoft?

9 A. I was a group program manager for Internet Explorer
10 and Windows user interface.

11 Q. I'm sorry. You said for Internet Explorer, and what
12 was the second?

13 A. And Windows user interface.

14 Q. So what year was that?

15 A. 1996, I think.

16 Q. All right. You mentioned that your position was a
17 group program manager.

18 A. Um-hmm. (Witness answers affirmatively.)

19 Q. What group were you the program manager of?

20 A. A group of program managers who had responsibility
21 for defining the user interface of Windows and of Internet
22 Explorer.

23 Q. And what version of Internet Explorer did this
24 position deal with?

25 A. Some of IE3, and then IE4.

1 JOSEPH BELFIORE

2 Q. Were you responsible for the portions of Internet
3 Explorer 3 or 4 that involved the Active Desktop?

4 A. Yes.

5 Q. Was Active Desktop a part of Internet Explorer 3?

6 A. No.

7 Q. Okay. Do you remember when your work on Active
8 Desktop began?

9 A. Yes. Well, at least vaguely. In late 1995 or early
10 1996.

11 Q. And what did that work involve?

12 A. We had finished the Windows 95 UI, and the timing --
13 Windows 95 finished, you know, in mid '95. I think we
14 shipped it in August. And at the time, the Internet was
15 really starting to take off. It was this new, massively
16 interesting technology wave.

17 And our team spent a lot of time and energy
18 thinking about how we could use the new benefits afforded by
19 the Internet to improve Windows. And Active Desktop grew
20 directly out of that thinking and analysis.

21 And the idea was that we could take the core
22 part of the Windows UI, which millions of people see when
23 they turn on their PC, and light it up by providing live
24 information in the desktop.

25 And so it was one of the first new design

1 JOSEPH BELFIORE

2 explorations my team worked on for how we wanted to evolve
3 the Windows user interface for releases following
4 Windows 95.

5 Q. Earlier you mentioned Windows NT 3.1 and Windows 95.
6 Were those two products fairly similar?

7 Let me rephrase that.

8 Was the user interface for those two products
9 fairly similar?

10 A. I don't think I would answer that yes, although you
11 could draw parallels between them, certainly. They were
12 both graphical user interfaces. But the core fundamental
13 shell user experience in both was quite different.

14 Q. In what ways were they different?

15 A. Windows NT 3.1 was modeled on the Windows 3.1 user
16 experience, which had a more simplistic and less complete
17 operating system shell. It had a program manager and a file
18 manager. It wasn't a, in my opinion, particularly elegant
19 or easy-to-use metaphor.

20 Windows 95 introduced a desktop, a common
21 foldering system, the file explorer that let you look at
22 printers or your control panel or your documents in a
23 uniform way, and that uniformity made it a lot easier to
24 use.

25 Windows 95 also introduced the task bar and the

1 JOSEPH BELFIORE

2 start menu, which was a very simple and accessible means for
3 users to learn how to use their PC. At the time, not many
4 people used PCs, so having that learnability was highly
5 valuable. That was present in Windows 95, but not in
6 Windows NT 3.1. The desktop itself, present in Windows 95,
7 not in Windows NT 3.1.

8 Q. Okay. Let me go back to the Active Desktop now. You
9 say your work on that began in late '95, early '96; right?

10 A. Um-hmm. (Witness answers affirmatively.)

11 Q. Who were the people with -- with whom you were
12 working on that project in that time period?

13 A. I couldn't possibly give you any kind of exhaustive
14 list, but the people in my team that I spent the most time
15 with were Teresa Martineau and Chris Brown.

16 Q. Okay. Do you remember whether a gentleman named
17 Mr. Shum worked on that project during this time period?

18 A. Who? Sorry?

19 Q. Shum, S-h-u-m.

20 A. No.

21 Q. Okay. How about Mr. Flynt, F-l-y-n-t?

22 A. Not that I remember. No.

23 Q. Okay. Would that be true for any -- any of your work
24 on the Active Desktop project?

25 A. What -- what's your question?

1 JOSEPH BELFIORE

2 Q. Whether you knew -- whether you were familiar with
3 either one of those people at any time, for Active Desktop.

4 A. No.

5 Q. Okay. After -- how long did your work on Active
6 Desktop last?

7 A. Well, we started as Win 95 was finishing, and we
8 went -- we -- well, we finished and shipped it as part of
9 the IE4 product, which shipped in two ways: it shipped as a
10 free download in early '97, and it shipped as part of
11 Windows 98. So all the way -- I would say all the way
12 through Windows 98. And then work on Active Desktop
13 continued, although I think that -- I can't remember whether
14 I was still working on it in '99 and later.

15 Q. Okay. So you were working on the project -- the
16 Active Desktop project through the -- the shipping of
17 Windows 98; correct?

18 A. Yes.

19 Q. And then there was a period of time after that, that
20 you continued to work on that project?

21 A. Yeah. The -- we continued to work on Windows user
22 experiences, although the -- I can't remember how much
23 continued energy we spent on evolving Active Desktop between
24 1998 and 2001. I think we continued to evolve it, my team
25 was doing that work, although I don't remember it being a

1 JOSEPH BELFIORE

2 specific area of focus for me.

3 Q. Okay. Who were the folks on your team during that
4 period of time, who were working on Active Desktop?

5 A. I think it was the same: Chris Brown, Teresa
6 Martineau. It's possible that people changed later on and I
7 don't remember. The team grew.

8 Q. Would you classify Active Desktop as a successful
9 product?

10 A. It's not a product.

11 Q. Okay. Would you classify it as a successful -- well,
12 how would you classify it, Active Desktop?

13 A. Active Desktop was a feature of Windows 98 and of
14 Internet Explorer 4.

15 Q. Was the Active Desktop feature well received
16 critically?

17 A. Well, by "critically," I assume you mean in reviews?

18 Q. Yes.

19 A. I don't remember.

20 Q. Okay. That reminds me of something I forgot to
21 instruct you about earlier. So when I ask questions, please
22 feel free to ask me for clarification of anything you don't
23 understand, and -- and I'll be happy to clarify it. If you
24 don't ask, I'll assume you understood the question. Is that
25 all right?

1 JOSEPH BELFIORE

2 A. Yep.

3 Q. Okay. Thanks.

4 And you said you didn't remember whether the
5 Active Desktop feature was well received critically;
6 correct?

7 A. I don't remember.

8 Q. Do you have any understanding as to how widely it was
9 used among the users of Windows 98?

10 A. I think it was used quite widely, although I can't --
11 I don't have any quantitative metric that I recall or could
12 quote on that.

13 Q. Then on what do you base your belief that it was used
14 quite widely?

15 A. We continued to evolve it in future releases of
16 Windows. It had some characteristics we wanted to improve,
17 but we kept it a part of Windows. And it's still a part of
18 Windows 7. I don't think it's part of Windows 8, although
19 I'm unsure whether part of it is still present or not.

20 Q. Does the fact that you continue to evolve it mean
21 that people are using it?

22 A. Oh, not necessarily. But the things tend to be
23 highly correlated, because we tend to remove or disinvest in
24 things that -- a very, very small number -- we know people
25 aren't using.

1 JOSEPH BELFIORE

2 Q. But you're not aware of any metric that would -- that
3 Microsoft used to determine how widely it was being used.

4 A. No.

5 Q. So after your -- well, let me go back. When did you
6 move on from your duties as part of Active Desktop in
7 Windows 98? What was your next position?

8 A. I -- my next job role was the product unit manager
9 for the Windows user experience team. And I -- I think my
10 job role changed around 1999, although I don't remember the
11 exact date. It might have been 1998; it might have been
12 1999.

13 Q. Okay. So that's a mouthful. Let me try to get this
14 right. So we're talking about the product unit manager for
15 the Windows user experience; correct?

16 A. Yes.

17 Q. And what did that involve?

18 A. That was a -- what we would call a multidisciplinary
19 management role, where I managed the program management
20 team, the -- the people doing design and user assistance or
21 user education, usability research. For part of the time, I
22 managed dev and test, and part of the time I shared that
23 responsibility with someone else.

24 Q. Okay. When you said dev and test, does that mean
25 development and test?

1 JOSEPH BELFIORE

2 A. Yes.

3 Q. And was that related to a particular version of
4 Windows?

5 A. Windows XP.

6 Q. I'm not sure if you answered this already, but how
7 long did that position last?

8 A. Through ship of Windows XP, which I believe was 2001.

9 Q. Okay. And after that position, what was your next
10 position at Microsoft?

11 A. General manager for the eHome user experience.

12 Q. And what was the eHome user experience?

13 A. It was a new group that looked at different form
14 factors that we could build PC derivative devices and add
15 value in people's homes. The product that eventually
16 shipped from that team was Windows Media Center and Windows
17 Media Center extenders and extender technology.

18 Q. What was -- or what was or is Windows Media Center?

19 A. Windows Media Center is a -- it's a -- an environment
20 inside Windows, inside certain versions of Windows, that
21 let's the user use their PC as a sort of consumption and
22 entertainment device with a remote control. It's designed
23 to run full-screen. You can display it on your TV.

24 At the time, Windows PC manufacturers built PCs
25 that were rack-type PCs that would go into your AV system,

1 JOSEPH BELFIORE

2 and you'd use a remote control to run the media center UI.
3 You could watch TV, record TV, listen to music, look at
4 photos, look at videos, run some applications.

5 And the extender technology enabled that
6 software to be displayed on other TV sets in your house,
7 using your home network, via inexpensive boxes called media
8 center extenders, or via the Xbox, which is also a media
9 center extender.

10 Q. The Xbox is Microsoft's gaming console? Is that
11 correct?

12 A. Yeah.

13 Q. Okay. Would it be fair to characterize the Windows
14 Media Center as a type of set-top box?

15 A. I -- I wouldn't. No.

16 Q. Okay. Was it intended that the Windows Media Center
17 would replace a set-top box of the type that was typically
18 used for cable television delivery inside a consumer's
19 house?

20 A. It might.

21 Q. Did the Windows Media Center -- was that ever sold to
22 cable or satellite television operators?

23 A. No.

24 Q. This was a product that was sold directly to
25 consumers? Is that correct?

1 JOSEPH BELFIORE

2 A. Well, we sold a software license to PC manufacturers,
3 and then they sold PCs. There was also -- actually, I don't
4 think it was ever available.

5 Windows Ultimate Edition was available for
6 consumers to buy directly and install on their own PCs, and
7 Ultimate Edition contained the Media Center software.

8 But there was a specific SKU of Windows, for a
9 number of years, called Windows Media Center, which was not
10 available to consumers to buy, only to PC vendors.

11 Q. Okay. So if I were a consumer and I wanted a Windows
12 Media Center PC, is that the kind of thing I could go to my
13 local Best Buy and pick up off the shelf?

14 A. Yes.

15 Q. Okay. Was the Windows Media Center considered a
16 successful product at Microsoft?

■ [REDACTED]

1 JOSEPH BELFIORE

2 Q. Do you have any sense for the number of people who
3 use it?

█ [REDACTED]

6 Q. Okay. After your work on the Windows Media Center,
7 what was your next position at Microsoft?

8 A. I moved to the Zune team and managed Zune software
9 and services.

10 Q. Did that position have a -- a title?

11 A. Well, I was VP of Zune software and services.

12 Q. And what was Zune?

13 A. Zune was Microsoft's combination portable
14 entertainment device and software and service ecosystem that
15 went with it. So there was a Zune hardware device, a Zune
16 PC client application, a Zune service, a Zune website. For
17 a while, there was Zune on the Xbox.

18 Q. Did -- you described it as a combo entertainment
19 device? Is that correct?

20 A. I think I said a combo entertainment device and
21 service and software.

22 Q. Okay. What kind of entertainment was available on
23 the Zune device?

24 A. Music, videos, TV shows, some games, photos. One of
25 the Zunes had web browsing.

1 JOSEPH BELFIORE

2 Q. How do you spell "Zune"? Is that Z-u-n-e?

3 A. Yes.

4 Q. Did other products compete with the Zune device?

5 A. Yes.

6 Q. What was -- what were some of the competing products?

7 A. The iPod. There were devices from other hardware
8 companies. I think Sony had a product. Iriver had a
9 product. Creative had a product.

10 Q. Is the -- the Zune still being sold today?

11 A. No.

12 Q. Okay. Was that a successful product?

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

18 Q. Okay. After your work on the Zune team, what did you
19 do next at Microsoft?

20 A. I moved to the Windows Phone team as the vice
21 president of program management.

22 Q. Do you remember when you moved into that position?

23 A. Early 2009.

24 Q. Do you remember who, if anyone, was your predecessor
25 in that position?

1 JOSEPH BELFIORE

2 A. No. There really wasn't one. We -- at the time I
3 joined, we did a significant reorganization of the team, so
4 the job I was in didn't exist before I had it.

5 Q. Did this reorganization occur in early 2009?

6 A. Yeah. Yes.

7 Q. Okay.

8 MR. HEINTZ: I'll ask the reporter to mark as
9 Exhibit No. 3 a multipage document bearing Bates labels
10 MS_SURFCAST, six zeros, 593 through 596.

11 (Whereupon, Exhibit 3 was marked
12 for identification.)

13 BY MR. HEINTZ:

14 Q. Sir, I'll ask you if you recognize that document.

15 A. Yes.

16 Q. Okay. And is that you in the picture on the -- on
17 the first page of Exhibit 3?

18 A. Yes.

19 Q. Okay. So I'll -- I'll refer your attention to the
20 passage on the first page, four lines beneath your photo,
21 that reads, "Microsoft staff refer to December 2008 as 'The
22 Reset'" --

23 A. Um-hmm. (Witness answers affirmatively.)

24 Q. -- "the month that the company killed all progress on
25 its Windows phone project and started over."

1 JOSEPH BELFIORE

2 Do you see that?

3 A. Yes.

[REDACTED]

10 Q. I believe you said you became involved with the --
11 the Windows Phone team in early 2009. Correct?

12 A. Yes.

13 Q. So -- and you mentioned earlier that you became
14 involved in that position in connection with a
15 reorganization of some sort; right?

16 A. Yes.

17 Q. So what kind of reorganization was going on?

18 A. Previous to the time I joined, the mobile effort at
19 Microsoft was organized in a method that had a number of
20 multidisciplinary managers, each responsible for a separate
21 section of the effort.

[REDACTED]

1 JOSEPH BELFIORE

2 Chad Knowlton.

3 Q. And would you mind spelling that name as well.

4 A. K-n-o-w-l-t-o-n.

5 Charlie, David ...

6 Q. How about a gentleman named Andy Lees? Does that
7 name ring a bell?

8 A. It rings a bell. Yeah. He was not on my team.

9 Q. Okay. Do you know what team he was a part of?

10 A. He was the president of the division. He was my
11 manager's manager.

12 Q. Got it.

13 Any other names you can remember?

14 MR. MCBRIDE: Objection. Vague.

15 BY MR. HEINTZ:

16 Q. Sorry. I mean, are there any other names of your
17 immediate subordinates that you can remember at the time?

18 A. No.

19 Q. Okay. So I'll ask you to turn to the second page of
20 Exhibit 3. And at about the middle of the page, there's a
21 passage -- passage that reads, "The company spent six weeks
22 hatching a plan for a Windows phone do-over, and it set a
23 deadline of one year to build and ship a brand new OS."

24 Do you see that?

25 A. I see that.

1 JOSEPH BELFIORE

2 Q. Okay. Were you a part of that six-week -- the six
3 weeks that's mentioned in this document?

4 A. My recollection of what happened is not what's stated
5 in this document.

6 Q. Okay. What's your recollection of what happened?

7 A. There was a pretty systematic effort to first
8 reinvest in the team. So the reorganization was part of
9 that. And a number of senior people came into the group
10 from a wide range of places at Microsoft. I was one of
11 those people. My peer who managed development or
12 engineering was one of those people. There were many
13 others.

14 We spent months getting a healthy team in place,
15 creating the kind of engineering process that we would use
16 that would specify a product, and we spent months looking at
17 new designs and designing and then creating an effective
18 organization, and that ultimately resulted in the product
19 Windows Phone 7. And it wasn't six weeks.

20 Q. Okay. You mentioned --

21 A. Nor was there a deadline of one year.

22 Q. Sorry.

23 Earlier in your answer, you mentioned your peer
24 who management -- I'm sorry -- your peer who managed
25 development engineering, I think. Who was that person?

1 JOSEPH BELFIORE

2 A. Henry Sanders.

3 Q. And if I understood your answer correctly, you -- you
4 said you spent a fair amount of time and -- and effort
5 designing and creating an effective organization. Is that
6 correct?

7 A. Yes.

8 Q. Did that effort involve the engineering of what
9 became the Windows Phone 7, or was that limited to
10 organizational structure?

11 A. Well, those are highly related. I mean, to get a
12 good product, you -- you want to create a healthy and
13 effective organization. So I don't see them as separate.

14 Q. So the designing of the product and the creation of
15 the organization and structure were -- were tasks that were
16 carried out concurrently, or simultaneously? Is that right?

17 A. Yes.

18 Q. They were both -- it was an ongoing process; is that
19 correct?

20 A. Well, yeah. I mean, what I said specifically was
21 design the org and its process.

22 Getting the -- the organizational reporting
23 structure, you do relatively early in that, but then you
24 spend a lot of time figuring out what meetings should we
25 have, how often should people meet, which people make what

1 JOSEPH BELFIORE

2 decisions, how do you record and memorialize and make
3 decisions stable, how do you revisit them, who has a vote.

4 That process of figuring out how you make the
5 organization work effectively takes months. It takes more
6 than months. You continue to refine forever. So -- so, you
7 know, this article makes it sound like a relatively short
8 period of time, and it wasn't like that at all.

9 Q. I think you said earlier that it lasted more than a
10 year. Is that correct?

11 A. Uh-huh. (Witness answers affirmatively.)

12 Q. How long did that process last?

13 A. I wouldn't characterize it as having an ending at
14 all. I think it's something you do continually as you keep
15 building products and keep making the organization more
16 effective.

17 Q. Okay. And you mentioned earlier that one of the
18 results of that process was -- is -- is what was known as
19 Windows Phone 7; is that correct?

20 A. Yes.

21 Q. Okay. Now, was this team you put in place -- well,
22 let me retract that and start again.

23 Was Windows Phone 7 software, or was it also
24 hardware?

25 A. Well, the products that people buy are hardware

1 JOSEPH BELFIORE

2 products that contain software. The -- the -- what our team
3 creates is software that runs on hardware built by other
4 companies. But the process of creating the software also
5 involves spec'ing the hardware to a certain degree.

6 So it's not a simple split. I can't say it's
7 software but not hardware, because there's plenty of
8 hardware work involved, although our actual work product
9 that a consumer buys is software.

10 Q. Did you have a particular hardware platform that you
11 intended for -- as your first platform for Windows Phone 7?

12 A. I don't know what you mean by "hardware platform."

13 Q. Well, we're talking about a phone.

14 A. Yeah.

15 Q. So in this context, I mean a phone. Was there a
16 particular model --

17 A. No.

18 Q. -- of phone?

19 A. No.

20 Q. Okay. Was there a particular manufacturer with whom
21 you were working?

22 A. Not one in particular.

23 Q. Okay. So do you recall what the first physical
24 device -- sorry.

25 Do you recall what the first phone was, on which

1 JOSEPH BELFIORE

2 you ran Windows Phone 7?

3 A. No.

4 Q. All right. Let me take a step back. So we talked
5 earlier about this reorganization that occurred. What was
6 the name, if any, of the product that caused the
7 dissatisfaction and resulted in the reorganization?

8 MR. MCBRIDE: Objection. Misstates testimony.

[REDACTED]

20 BY MR. HEINTZ:

21 Q. Okay. So at the time of the reorganization, what
22 were the Microsoft phone products, if any?

23 A. You mean that were on sale at the time?

24 Q. Correct.

25 A. There was a version of the Windows Mobile operating

1 JOSEPH BELFIORE

2 system. And I don't recall what its name was and if there
3 were more than one. There probably was more than one.

4 MR. HEINTZ: Let me ask the reporter to mark as
5 Exhibit 4 U.S. patent number 7,933,632.

6 (Whereupon, Exhibit 4 was marked
7 for identification.)

8 BY MR. HEINTZ:

9 Q. Sir, I'll ask you to take a look at Exhibit 4 and let
10 me know if you've ever seen this document before.

11 A. No, I've never seen this.

12 Q. Okay. Let me direct your attention to the front page
13 of Exhibit 4. On the left-hand column, under the heading
14 "Inventors," there are a number of names listed, starting
15 with "David Wayne Flynt." Do you see that?

16 A. Yes.

17 Q. Do you recognize any of those names?

18 A. Yes.

19 Q. Which names do you recognize?

20 A. Bryan Agnetta.

21 Q. Any others?

22 A. Peter Chin.

23 Q. Okay.

24 A. Horace Luke.

25 Q. Okay. And how do you recognize those names?

1 JOSEPH BELFIORE

2 A. They were all designers at Microsoft.

3 Q. Were any of those folks on the Windows Phone project
4 with you?

5 A. Bryan Agnetta.

6 Q. Was he on the Windows Phone project before or after
7 you arrived?

8 A. I think he was there when I arrived, but I'm not sure
9 if that's true. Actually, he may -- I don't know, actually.
10 He may have been on a different project. I don't know.

11 Q. But at some point, he was on the Windows Phone
12 project.

13 A. Yes. Absolutely. Yeah.

14 Q. Do you remember when -- let me retract that.

15 Do you remember how long he was on the Windows
16 Phone project?

17 A. It's likely he was on it for a long time. I can't
18 say for certain, because when I -- when I first joined the
19 team, you know, there were a ton of new people. I didn't
20 get to know everybody immediately. When I first joined the
21 group, the design team was organized in a separate part of
22 the company, because we kept design together. So I didn't
23 get to know the broad design team all that well until later
24 on it moved, to work for me.

25 I certainly got to know Bryan well probably

1 JOSEPH BELFIORE

2 three years ago, I would guess, as he took a broader
3 leadership role in the Windows Phone design team.

4 Q. And so what is Mr. Agnetta's current position on the
5 Windows Phone team?

6 A. I think he recently left Microsoft, although I'm
7 uncertain that's true. He may have just left the phone
8 team.

9 Q. All right. What was his last position while on the
10 Windows Phone team?

11 A. He was a lead in the design team, and his
12 responsibilities revolved around helping third-party
13 application vendors create excellent applications for
14 Windows Phone.

15 Q. Would you say Mr. Agnetta had a high degree of
16 familiarity with the Windows Phone operating system?

17 A. Its design. Yes.

18 Q. All right. Sir, I'll ask you to take a look at
19 Figure 3 of the patent. It's about the fifth page in. I
20 know you don't -- you haven't seen the document before, but
21 the -- the depiction in Figure 3, are you familiar with that
22 depiction?

23 A. No.

24 Q. Okay. So you wouldn't know whether this was a
25 depiction of the current -- the then-current version of the

1 JOSEPH BELFIORE

2 Windows Mobile product that --

3 A. I don't -- I don't think we ever shipped a Windows
4 Mobile product that looked like this.

5 Q. Okay. All right.

6 MR. HEINTZ: You know, we've been going for
7 quite a while. Why don't we take a break.

8 THE WITNESS: Sure. Good time for it.

9 THE VIDEOGRAPHER: Okay. We're going off the
10 record now at 10:02.

11 (Whereupon, a recess was taken.)

12 THE VIDEOGRAPHER: We're back on the record now
13 at 10:15.

14 BY MR. HEINTZ:

15 Q. Okay, Mr. Belfiore. Prior to the break, we -- we had
16 discussed Mr. Agnetta, and I believe you had also identified
17 Peter Chin as someone with whom you were familiar. Correct?

18 A. Yes.

19 Q. How are you familiar with Mr. Chin?

20 A. Peter was a longtime designer at Microsoft, and I
21 worked with him on various projects, although I can't
22 remember which ones.

23 Q. Do you remember if he was part of Active Desktop?

24 A. I don't remember.

25 Q. Okay. And was he part of the Windows Phone project?

1 JOSEPH BELFIORE

2 A. I think he overlapped, but I can't remember for how
3 long.

4 Q. Okay. I believe you also mentioned Mr. Hok-Sum
5 Horace Luke as another person with whom you are familiar?

6 A. Yes.

7 Q. How are you familiar with Mr. Luke?

8 A. Horace was a design leader at Microsoft. While I was
9 working on Windows, he worked on the rebranding of Windows
10 for Windows XP. And later on, he did some mobile work. He
11 may have been doing mobile work at that time too.

12 Q. Now, when you say "mobile work," what do you mean?

13 A. Working on the Windows Mobile product line.

14 Q. That would have included phones?

15 A. Yes.

16 Q. And earlier we were looking at Figure 3 of Exhibit 4.
17 Do you recognize that depiction as being relevant to any --
18 sorry -- Microsoft Mobile's product?

19 A. No.

20 Q. Do you know if Figure 3 represents the current
21 direction of the Windows Phone -- sorry. Let me restate
22 that.

23 Do you know if Figure 3 represented the
24 direction of the Windows Mobile group at the time you came
25 on board?

1 JOSEPH BELFIORE

2 A. I don't think it did.

3 Q. Okay. Can you think of any other group inside
4 Microsoft that would have been working on a product that
5 looked like what's shown in Figure 3 for a mobile device?

6 A. No.

7 Q. Okay. Let me direct your attention to Column 2 of
8 Exhibit 4. That's about two-thirds of the way back. It's
9 right after the figures end and the text begins.

10 A. Okay.

11 Q. Okay. I'll -- I'll direct your attention in
12 particular to Column 2, Line 6, which states, "Briefly
13 described, the provided subject matter concerns an improved
14 user interface for mobile devices such as smartphones,
15 personal digital assistants ... and the like."

16 Do you see that?

17 A. I see it.

18 Q. Okay. Your group -- sorry. The position you were
19 in -- let me retract that question and start again.

20 You became the vice president of program
21 management for the Windows Phone team in early 2009;
22 correct?

23 A. Yes.

24 Q. Okay. Could you think of any other group inside of
25 Microsoft that would have been working on improved user

1 JOSEPH BELFIORE

2 interfaces for mobile devices such as smartphones and
3 personal digital assistants?

4 A. It's hard to say whether other groups at Microsoft
5 were. I was not aware of any.

6 Q. Okay. And you are not familiar with Mr. Flynt at
7 all; is that correct?

8 A. No.

9 Q. And whether you know him personally or not, are you
10 familiar with the name at all? Have you ever --

11 A. No.

12 Q. -- heard the name before today?

13 Okay. And would the same be true for Sally
14 Louise Barton? You never met her and don't --

15 A. No.

16 Q. -- recognize the name?

17 A. Don't recall that name.

18 Q. And the same would be true for the other names listed
19 as inventors on Exhibit 4 whom you didn't really testify you
20 recognized?

21 A. The name "Kiersten Carr Sengupta" seems vaguely
22 familiar. But I can't -- I can't -- I don't even -- I can't
23 even tell if that's a man's or a woman's name, frankly. I
24 don't know that person. Or I'm not -- I don't recall
25 knowing that person.

1 JOSEPH BELFIORE

2 Q. Okay. I'm sorry if I'm repeating this question, but
3 the figure in Exhibit 3, you've never seen that figure prior
4 to today; is that correct?

5 I'm sorry. I said the figure in Exhibit 3.
6 What I meant to say is Figure 3 in Exhibit 4. You've never
7 seen that figure prior to today; is that correct?

8 A. I've seen an image similar to this figure, in a
9 presentation that was part of the prep for this deposition.
10 But outside of that, no.

11 Q. Do you remember what that presentation was?

12 A. I think it related to a mobile project code-named
13 Photon, but I don't remember the date or the author.

14 Q. And what was the -- the mobile project that was
15 code -- code-named Photon?

16 A. I don't know.

17 Q. You mentioned it was a mobile project. Does that
18 mean smartphone, or was it something different?

19 A. I don't know.

20 Q. For what purpose were you reviewing this
21 presentation?

22 MR. MCBRIDE: Just caution the witness not to
23 reveal privileged information.

24 THE WITNESS: Generally preparing for the
25 deposition today.

1 JOSEPH BELFIORE

2 BY MR. HEINTZ:

3 Q. Was the presentation relevant to any particular topic
4 on the 30(b)(6) list for which you are testifying here
5 today?

6 A. I don't know.

7 Q. Okay. All right. Earlier we were talking about
8 the -- the reorganization of the Windows Phone team. And
9 you mentioned that the end result or a result of that
10 reorganization was the Windows Phone 7 --

11 A. Yes.

12 Q. -- product; correct?

13 Okay. I'm going to ask you to turn your
14 attention back to Exhibit 3 now. And sir, in the lower
15 right-hand corner of the pages of Exhibit 3, there are a
16 series of numbers beginning with "MS SURFCAST." I'm going
17 to refer to those as Bates numbers. And I'll just read the
18 last three.

19 So I'll ask you to turn to the page ending with
20 Bates number 595.

21 A. Okay.

22 Q. There's a picture of you there at the top of the
23 page. Do you see that?

24 A. Yes.

25 Q. And the passage underneath the picture indicates a

1 JOSEPH BELFIORE

2 gentleman named Don Coyner, I believe it's pronounced, who
3 is the general manager of "US Shared Studios." Do you see
4 that?

5 A. Yes.

6 Q. What was "US Shared Studios"?

7 A. There was a design team that contained a large number
8 of designers, and that team was called the design studio, or
9 in this case, "US Shared Studios" refers to that team.

10 Q. Are these Microsoft employees?

11 A. Yes.

12 Q. Okay. Was Mr. Coyner part of the team that worked on
13 the Windows Phone 7 project?

14 A. Don oversaw the whole design team, so all of the
15 design work that was being done for at the time what was
16 Microsoft's E and D division, which included Xbox, Media
17 Center, Zune, phone, mobile generally, some other projects.
18 At the time, there was a Surface project. There are
19 probably others I don't remember. That design studio was
20 managed by Don.

21 So he wasn't directly involved in all those
22 projects, but he was the -- he was the guy who ran the
23 studio.

24 Q. So did he work for you or you work for him, or you
25 were sort of in parallel?

1 JOSEPH BELFIORE

2 A. No, it was -- it was parallel. Separate
3 organization.

4 Q. Okay. So the folks who were part of the U.S. shared
5 studios who worked on -- well, I'm sorry.

6 So there were people in U.S. shared studios who
7 worked on the design of Windows Phone 7? Correct.

8 A. Yes.

9 Q. So they were sort of temporarily assigned to both the
10 U.S. shared studio and the Phone 7 project?

11 A. I don't think that's an accurate characterization,
12 although it might have been temporary. The way we chose to
13 organize was to have all the designers be together in one
14 studio, whether that meant designers on Xbox, on Zune, on
15 mobile, on -- I can't remember -- Surface, whatever.

16 Q. Okay.

17 A. Because better work, in our opinion, would happen if
18 they worked in close proximity to each other. So there were
19 people who were members of that team whose job assignment
20 was to work on Windows Phone.

21 Q. And when you say they worked together in one studio,
22 you're talking about a physical location?

23 A. Well, often it wasn't. It was -- it's more an
24 organizational statement. Sometimes it was a physical place
25 and sometimes it wasn't.

1 JOSEPH BELFIORE

2 Q. Okay. So at some point in the development of Windows
3 Phone 7, a decision was made to include something which is
4 referred to as "live tiles"; correct?

5 A. Yes.

6 Q. Okay. What is live tiles? What are live tiles?

7 A. "Live tiles" refers to what on other phones might be
8 characterized as the home screen of the product. It's
9 the -- the first launch point that a user sees after they go
10 through the initial setup of the phone. And typically, as
11 in our case, there's a hardware button that gives you fast
12 access to the screen so that you can see what's available
13 and launch into other experiences.

14 Q. How was the name "tiles" chosen?

15 A. The name is "live tiles," and it was chosen as part
16 of a marketing effort late in the Windows Phone process so
17 that we would have a way to describe our unique take on the
18 phone's home screen.

19 Q. You mentioned that the name "live tiles" was adopted
20 late in the Windows Phone process; correct?

21 A. Yes.

22 Q. Was there an earlier name by which the tiles were
23 known?

24 A. I think we generally refer to it as the start screen,
25 because typically Microsoft, since the Windows days, when I

1 JOSEPH BELFIORE

2 worked on Windows 95, had a start button. We believed in
3 this concept of a clear place that a user starts. And -- so
4 we talked about it as the start screen. It contained tiles;
5 the tiles were live; thus the name "live tiles" later on.

6 Q. Okay. In the Windows Phone 7 product, the -- the
7 word "live tile" in the -- in the individual sense would
8 refer to a square area on the screen, on the start screen;
9 correct?

10 A. Well, not necessarily. It could be a rectangle.

11 Q. Could be a rectangle. Okay.

12 Prior to adopting the name "live tiles" late in
13 the process, by which name would -- would you use to refer
14 to a square or rectangular area on the screen that formed a
15 part of the start screen?

16 A. Probably "tiles."

17 Q. Tiles.

18 Was the word "token" ever used to refer to that
19 area?

20 A. Yes, it was, now that you mention it.

21 Q. So "token" was the predecessor to "tiles"?

22 A. I don't remember the ordering. We -- we -- when
23 we're in the engineering phase, we try not to get too
24 attached to any particular names because we want to have a
25 formalized naming process later. So I don't remember which

1 JOSEPH BELFIORE

2 came first, whether it was "tokens" or "tiles." Probably
3 both at the same time and we used them both.

4 Q. Okay. To your knowledge, was the word "tiles" used
5 previously in the computer art to refer to a square or
6 rectangular area on the screen?

7 A. I don't know.

8 Q. You'd never heard it used that way, though, prior to
9 your work --

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED] It's just a common word. So I expect I've heard
14 it a lot. I don't remember it being used as a formal name
15 for anything.

16 Q. And you say you've heard it a lot. Was that in the
17 computer industry?

18 A. Sure.

19 Q. Other than "tokens" and "tiles," was there any other
20 name that was typically used for those -- denoted by those
21 two names?

22 A. I don't know. I don't remember any other. Maybe
23 "previews." I -- I don't know. We might have called them
24 "icons."

25 Q. Was the -- the choice to incorporate tiles -- well,

1 JOSEPH BELFIORE

2 let me rephrase it.

3 Were tiles used in whatever version of the
4 Windows Mobile product that existed prior to the
5 reorganization we -- we discussed earlier?

6 MR. MCBRIDE: Objection. Vague.

7 THE WITNESS: What do you mean by "tiles"?

8 BY MR. HEINTZ:

9 Q. Well, I mean -- well, let me state this: What's your
10 understanding of the word "tiles" as used in Windows
11 Phone 7?

12 A. What I would -- what I would -- I wouldn't use the
13 word "tiles" today. I'd use the word "live tiles."

14 We have a specific name for a specific
15 construct, and my understanding of live tiles is the
16 specific visual design that we have for what are essentially
17 icons on our home screen except that ours are larger,
18 they're more colorful, they have different shapes, the user
19 can resize them, they update with useful information. And
20 so in that sense, they're differentiated than what -- from
21 what other smartphones do.

22 So I would say "live tiles." We have a formal
23 name for our formal concept.

24 Q. Okay. So I'll use the word "live tiles."

25 Were -- were live tiles something new for

1 JOSEPH BELFIORE

2 Windows Phone 7?

3 MR. MCBRIDE: Objection. Vague.

4 THE WITNESS: No, actually, I wouldn't say they
5 were.

6 BY MR. HEINTZ:

7 Q. Okay. Had live tiles ever been incorporated into a
8 Microsoft mobile product?

9 A. Something -- I'd -- I'd say the precursor to live
10 tiles was in a Microsoft mobile product.

11 Q. What was that precursor?

12 A. The Zune HD.

13 Q. Okay. And the Zune HD, does that refer to a hardware
14 device or a software device?

15 A. Hardware device.

16 Q. Okay. So what was the name associated with the
17 precursor to live tiles in the Zune HD?

18 A. As far as I know, they were not named.

19 Q. And you mentioned these were a precursor to live
20 tiles? Correct?

21 A. Yes.

22 Q. What do you mean by "precursor"?

23 A. They shared visual characteristics but didn't share
24 all of the characteristics of live tiles.

25 Live tiles are specifically defined, because in

1 JOSEPH BELFIORE

2 the history of our products, they uniquely have this
3 particular combination of elements.

4 But the tiles, rectangles, squares -- I don't
5 remember what we called them. I don't even -- I don't think
6 they had a name, actually. -- on Zune HD were the visual
7 precursor, in a mobile device, to the live tiles on Windows
8 Phone 7.

9 There were other visual precursors, but you
10 asked about a mobile device.

11 Q. Right.

12 So what characteristics did the -- those
13 precursors in the Zune HD product share with live tiles?

14 A. They were rich in terms of color and visual
15 appearance. They gave the user a very clear grid layout of
16 music albums or videos or games. Visually, that was what
17 led us to the appearance of live tiles in the Windows
18 Phone 7 start screen.

19 Q. Okay. And what characteristics did those precursors
20 not share with live tiles?

21 A. I don't think that the Zune HD had any tiles that
22 dynamically updated based on information that came from the
23 Internet. They also weren't resizable.

24 Q. Anything else?

25 A. That's all I remember right now.

1 JOSEPH BELFIORE

2 Q. Okay. So was the Zune HD product the inspiration for
3 the incorporation of live tiles into the Windows Phone 7
4 product?

5 A. I wouldn't characterize it that singly. It was one
6 of many inspirations.

7 Q. What were the others?

8 A. I -- I certainly can't give an exhaustive list,
9 because there's so many things that go into making a design
10 conclusion.

11 The design lineage, I would say, includes the
12 Media Center product, which also used the visual
13 representation of tiles throughout its experience. That
14 wasn't a mobile product, but many of the same people worked
15 on it.

16 I think that the Active Desktop was one in the
17 sense that we were using the Internet as a mechanism for
18 putting glanceable information on what was essentially the
19 user's home screen.

20 I mentioned Zune.

21 Q. Okay. Any others?

22 A. You know, frankly, the iPhone, I think. You know,
23 the iPhone put the focus on a single home screen with a
24 hardware button. Not very live and not at the same visual
25 representation.

1 JOSEPH BELFIORE

2 Q. Okay. Anything else you want to add?

3 A. That's probably good.

4 Q. Okay. In your answer earlier, you used the word
5 "glanceable."

6 A. Uh-huh. (Witness answers affirmatively.)

7 Q. What do you mean by "glanceable"?

8 A. Let's take the Active Desktop as an example. The
9 user -- the desktop is sort of an interesting construct in
10 computing our software design, because it has kind of a
11 secondary role. It tends not to be the primary place where
12 users launch things, although for some users it is the
13 primary place where they launch things. It's behind other
14 windows. And so you see it often, but typically not as a
15 primary thing.

16 And so when I refer to "glanceable," what we
17 were trying to do in the Active Desktop was take advantage
18 of the fact that there's this always-present background that
19 users will run into frequently, although incidentally, and
20 put snippets of information on there which are changing and
21 would be useful in those sort of fleeting moments that they
22 pass it by. That's what I mean by "glanceable."

23 The same concept holds for live tiles in Windows
24 Phone 7. You're pressing your start button to get to your
25 start screen. You probably have a purpose in mind. You

1 JOSEPH BELFIORE

2 might not. And in the fleeting moments that you're trying
3 to get a purpose done, it's useful that glanceable
4 information is available. It might change what you intend
5 to do or it might give you something useful to do after you
6 do what you came to do in the first place.

7 Q. So does "glanceable" include the concept that you
8 aren't required to take a specific physical action to see
9 it?

10 A. I don't know if I'd say that. In -- in the case of
11 live tiles, you do have to. You have to push the start
12 button. You wouldn't see these glanceable items if you
13 didn't take a physical action. In the case of Active
14 Desktop, it would be potentially accidental. But in the
15 case of live tiles in Windows Phone, you did have to take a
16 physical action.

17 Q. Right. But I remember in your answer you mentioned
18 that the person was clicking the -- or pressing the start
19 button --

20 A. Yeah.

21 Q. -- probably because they had in mind something else
22 to do, some --

23 A. Yeah.

24 Q. -- application they wanted to launch or some other
25 task they wanted to accomplish. And so what I'm trying to

1 JOSEPH BELFIORE

2 get at is, is the concept of "glanceable" a reflection of
3 the fact that they're not doing something extra than they
4 would --

5 A. I think you stated that as a requirement, and I
6 wouldn't. I'd say "glanceable" means you can do it quickly
7 and easily --

8 Q. Okay.

9 A. -- and thus it might happen serendipitously or it
10 might happen intentionally.

11 Q. Whose decision was it to incorporate live tiles into
12 the Windows Phone 7 product?

13 A. It's hard to isolate those to any particular person.
14 I was certainly involved. The design team, the program
15 managers that were responsible for our home screen or start
16 screen. But it's sort of -- if you -- if you want an
17 organizational authority -- authority kind of answer, me.

18 Q. Would you characterize yourself as the driving force
19 between -- behind incorporating live tiles in Windows
20 Phone 7?

21 A. I think my role is -- my role is more of an editor
22 role. My role is to say that the product needs to
23 accomplish these things, and to make a judgment call on
24 whether the current ideas do or not and direct the team
25 towards ideas that I think do a better job of what we're

1 JOSEPH BELFIORE

2 looking for versus not.

3 So I don't -- I wouldn't credit myself as the --
4 the conceiver or even the proposer but as the approver.

5 Q. Okay. Who would you credit, if anyone, as the
6 conceiver?

7 A. I don't know.

8 Q. How about as the proposer?

9 A. I don't remember. It's -- it's an interesting
10 situation, because we have many people. There's program
11 managers; there's designers. They work independently and
12 collaboratively. A bunch of ideas are presented. We don't
13 really keep track of that. So I don't know.

14 Q. Is there anybody in your mind who is most closely
15 associated with the concept of live tiles on the Windows
16 Phone 7 project?

17 Let me rephrase that.

18 Is there anyone in your mind who is most closely
19 associated with the proposal of the idea of --

20 A. Yeah.

21 Q. -- live tiles?

22 A. No.

23 Q. Okay. Do you know if Mr. Agnetta had any role in the
24 proposal of adopting live tiles --

25 A. I don't know.

1 JOSEPH BELFIORE

2 Q. How about Mr. Chin?

3 A. I don't know.

4 Q. Or Mr. Luke?

5 A. No. He was not at Microsoft at the time.

6 Q. Who are the people who most closely worked with the
7 implementation of live tiles for the Windows Phone 7
8 product?

9 A. I don't know.

10 Q. Who would know that?

11 A. Henry Sanders might remember.

12 Q. Is there anyone else you can think of?

13 A. I think Julian Jiggins was the manager of that area,
14 but I might be remembering that incorrectly.

15 Q. So is it fair to say, then, that the idea was
16 eventually presented to you as someone who had final
17 approval authority for the implementation of that for
18 Windows Phone 7?

19 A. The way you phrased it I think is inaccurate in its
20 connotation because it implies a singular event and it just
21 doesn't work that way.

22 Q. How does it work?

23 A. In a series of meetings over many months, we
24 continually refined the design by identifying the things
25 that seemed to work best in practice or would result in the

1 JOSEPH BELFIORE

2 most unique product. And so over months, maybe more than a
3 year, one concept led to another, led to another, led to
4 another, which resulted in live tiles. And I was involved
5 in that throughout the entire process.

6 Q. Okay. And so when you mentioned earlier the
7 inspirations for live tiles, which included iPhone, Active
8 Desktop, Media Center, were those your personal
9 inspirations, or was those -- were those the inspirations of
10 the group?

11 A. Certainly my personal ones. It's hard to speak for
12 other individuals. But we absolutely discussed many or all
13 of those as part of the process. And furthermore, many of
14 the people who worked on it had worked on those other
15 products.

16 Q. Would that have been true of the iPhone?

17 A. Not that particular example. No.

18 Q. Okay. For the Media Center, then?

19 A. Yes.

20 Q. Who were the folks that worked on the Media Center
21 product who also worked on the phone --

22 A. There -- there were two people that worked on Media
23 Center and Zune, that were contributors in the visual design
24 of Windows Phone.

25 One was Bill Flora, who I think, if I remember

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2 this correctly -- and I might be misremembering the
3 chronology. I don't think Bill had direct job
4 responsibility for it. I think -- he was somebody that many
5 of us knew and respected and had worked with for many years.
6 And he consulted heavily and added ideas and gave us
7 opinions on which ideas were better or not.

8 Jeff Fong did work on it directly, and he did
9 have job responsibility. And he was part of the Media
10 Center project, part of the Zune project, and part of the
11 Windows Phone project.

12 Q. Okay. Was that Jeff Fong, F-o-n-g?

13 A. Yes.

14 Q. Okay. How about Active Desktop?

15 A. I think I'm possibly the only person that worked on
16 that directly, because it's many, many years ago. I can't
17 remember anybody else who was in the phone team that
18 actually worked on that.

19 Q. Was Active Desktop well known within Microsoft?

20 A. I'd say yes.

21 Q. Okay. You mentioned Mr. Flora and Mr. Fong as both
22 Media Center and Zune. Was there someone who worked on
23 Windows Phone who only worked on Zune?

24 A. Probably, although I couldn't tell you who right now.

25 Q. Okay. I take it that means -- well, let me rephrase.

1 JOSEPH BELFIORE

2 Is it correct to say that there were people who
3 worked on the Windows Phone 7 implementation of live tiles
4 who had not worked on either Media Center, Zune, or Active
5 Desktop?

6 A. It's highly likely there were people who had not
7 worked on those things. Yes.

8 Q. Would -- would -- would you characterize that as the
9 majority of people who had not worked on one of those three
10 projects?

11 A. I couldn't say. A lot of people who worked on Zune
12 and Media Center came to work on Windows Phone. So it
13 depends on how you split it up. It might be the majority;
14 it might not.

15 Q. Okay. So you mentioned earlier that the -- the
16 decision to incorporate live tiles was -- correct me if I'm
17 mischaracterizing your testimony -- but the decision to
18 adopt live tiles was an ongoing process that involved --
19 well, it was an ongoing process? Is that correct?

20 A. I think -- I -- I don't -- I think it's inaccurate to
21 characterize it as a decision. We needed to design -- we
22 knew we wanted a start screen or a home screen. We had to
23 choose its characteristics. And the process of choosing its
24 characteristics, which resulted in what we later named "live
25 tiles," was a process that took almost a year, or probably

1 JOSEPH BELFIORE

2 the better part of a year, maybe even more than a year, and
3 wasn't singular in its, I don't know, essence.

4 Q. Okay. So that process to which you referred, I'm
5 trying to get an idea for who are the people who were most
6 closely involved in that process. I think you identified
7 earlier Mr. Fong as one of those --

8 A. Yes.

9 Q. -- people? Is that correct?

10 Who else?

11 A. Myself. I believe that -- I believe Brett Bentsen
12 was the program manager, who worked for me and was -- was
13 responsible for that area, although I might be
14 misremembering that, because people's jobs have changed a
15 bunch since then.

16 Q. Anyone else besides those three, that you can recall?

17 A. I think those are the primary -- that's the primary
18 set, as I remember right now.

19 Q. Okay. Is live tiles an important feature of Windows
20 Phone 7?

21 MR. MCBRIDE: Objection. Vague.

22 THE WITNESS: I'd say yes.

23 BY MR. HEINTZ:

24 Q. Okay. Why would you say yes?

25 A. We have made a decision to emphasize that particular

1 JOSEPH BELFIORE

2 feature because visually it shows Windows Phone as appearing
3 different than iPhones or Androids.

4 Q. Are live tiles important for functional reasons?

5 MR. MCBRIDE: Objection. Vague.

6 THE WITNESS: I'd say they have functional value
7 to the user, if that's what you mean.

8 BY MR. HEINTZ:

9 Q. Do you believe users consider that functional value
10 to be important?

11 A. What does --

12 MR. MCBRIDE: Calls for speculation.

13 THE WITNESS: What does "important" mean?

14 BY MR. HEINTZ:

15 Q. A significant factor in the selection of the Windows
16 Phone.

17 A. I think for some users it's probably a significant
18 factor. Certainly there are many, many, many, many
19 significant factors. I think for some users it's
20 incidental. But it's -- it -- it is the thing that we think
21 that can most readily visually identify us.

22 MR. HEINTZ: I'm going to ask the reporter to
23 mark as -- Exhibit 5?

24 THE REPORTER: Correct.

25 MR. HEINTZ: -- a multipage document bearing

1 JOSEPH BELFIORE

2 Bates labels 071 through 083.

3 (Whereupon, Exhibit 5 was marked
4 for identification.)

5 BY MR. HEINTZ:

6 Q. Mr. Belfiore, I'd like you to take a look at that
7 document and let me know if you recognize it.

8 A. No, I don't recognize it.

9 Q. Although you may not recognize the document, are you
10 familiar with the term "mule shell"? That's m-u-l-e, shell.
11 It appears right under the "WindowsMobile7" header on the
12 first page.

13 A. I'm familiar with the term "mule," but not
14 specifically "mule shell."

[REDACTED]

25 Q. Okay. I'd like you to turn to the page that's

1 JOSEPH BELFIORE

2 Bates -- Bates-labeled 073. It's the third page of the
3 document. You see in the first paragraph -- paragraph at
4 the top of Page 3, it says, "Windows Mobile has just
5 undergone a major face lift."

6 Do you see that?

7 A. (Witness nods head affirmatively.)

8 Q. Do you have an understanding as to what the major
9 facelift was that's referred to in that passage?

10 A. Yes.

11 Q. What was that major facelift?

12 A. Broadly speaking, we changed the entire user
13 experience of what was previously Windows Mobile when we
14 defined Windows Phone 7.

15 Q. Okay. And the next sentence reads, "The design
16 studio has created a new user interface design, code named
17 'Metro'"

18 Do you see that?

19 A. Yes.

20 Q. Is that what you're referring to?

21 A. Yes.

22 Q. And that design studio, is that the U.S. design
23 studio associated with Mr. Coyner that we spoke about
24 earlier?

25 A. Probably a subset of it, but yes.

1 JOSEPH BELFIORE

2 Q. Okay. And the second line on -- on Bates 073 reads,
3 after the word "Metro," "... that is a big move away from
4 the existing versions of the operating system."

5 Do you see that?

6 A. Yes.

7 Q. Would you agree with that statement?

8 A. Yes.

9 Q. Okay. The next sentence says, "The Windows Mobile
10 team is tasked with modifying existing Windows Mobile 7 code
11 to support Metro while also providing updates to Silicon
12 Vendors and OEMs so they can write the necessary drivers
13 needed to support the phone, and get the operating system
14 running on their devices."

15 Do you see that?

16 A. Yes.

17 Q. Okay. The next paragraph reads, "It's highly
18 desirable to keep the Metro design a secret until the new
19 operating system is ready to be released."

20 Do you see that?

21 A. Yes.

22 Q. Okay. And you would agree with that statement.

23 A. Yes.

24 Q. Okay.

25 A. Well, I'd agree with "until we are ready to talk

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JOSEPH BELFIORE

about it," which is not necessarily its release, but --

Q. Okay. So in other words, Microsoft wanted to maintain secrecy until Microsoft was ready to disclose.

A. Yes.

[REDACTED]

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JOSEPH BELFIORE

Q. In any event, a few months after the -- the revisions of this document; correct?

A. Yes.

Q. So at that time, Microsoft believed it was important to -- to hide the then-current version of the token list from the public.

A. Among many other things, yes.

Q. Okay. And the start experience and these Microsoft hubs that's listed at the bottom of Page 3, under Section 2.1; correct?

A. Yes.

[REDACTED]

Q. Okay. Do you know what's meant by "the new

1 JOSEPH BELFIORE

2 experiences"?

3 A. I'm sure a wide range of things that were part of
4 what we would have defined as Metro.

5 Q. Okay. And "OEM," does that stand for
6 "original-equipment manufacturer"?

7 A. Yes.

8 Q. In this context, would those be cell phone providers?

9 A. Yes.

10 Q. Or cell phone manufacturers.

11 A. Manufacturers. Yes.

[REDACTED]

1 JOSEPH BELFIORE

2 (Whereupon, Exhibit 6 was marked
3 for identification.)

4 BY MR. HEINTZ:

5 Q. Okay. Mr. Belfiore, I'll ask you to take a look at
6 that document and let me know if you recognize it.

7 A. I do not.

8 Q. Okay. Near the top of Exhibit 6, there is a lead-in
9 that reads: Redmond, Washington, February 15, 2010. Do you
10 see that?

11 A. Yes.

12 Q. To the best of your recollection, is that about the
13 time that Windows Phone 7 was unveiled to the public?

14 A. Roughly.

15 Q. The second paragraph there reads, "Along with
16 striking evolution" -- "Along with the striking evolution of
17 mobile technology, Senior Vice President Andy Lees,"
18 L-e-e-s, "of Microsoft's Mobile Communications Business says
19 the most important part of the market for mobile phones is
20 the people who use them."

21 Do you see that?

22 A. Yes.

23 Q. Mr. Lees is the person you spoke about earlier who
24 was your manager's manager?

25 A. Yes.

1 JOSEPH BELFIORE

2 Q. Okay. There is a -- I can best describe as a black
3 box --

4 A. Actually, can you just give me -- I just want to read
5 through this --

6 Q. Absolutely.

7 A. -- because I haven't seen it before, so I don't -- I
8 don't really know what it is, and it would be good if I
9 familiarized myself with what's in here.

10 Q. Sure. And at any time you want to take time to --

11 A. Okay.

12 Q. -- read the exhibit, please feel free to.

13 THE VIDEOGRAPHER: Mr. Heintz, this might be a
14 good time to switch tapes.

15 MR. HEINTZ: Sure.

16 THE VIDEOGRAPHER: We're going off the record
17 now at 11:02. This ends the Tape No. 1 in the deposition of
18 Joseph Belfiore.

19 (Whereupon, a recess was taken.)

20 THE VIDEOGRAPHER: Okay. We're back on the
21 record now. We're back on the record now at 11:12. This
22 begins Videotape No. 2 in the continuing deposition of
23 Joseph Belfiore.

24 BY MR. HEINTZ:

25 Q. Mr. Belfiore, before the break, you were examining

1 JOSEPH BELFIORE

2 Exhibit 6. Have you had the chance to --

3 A. I'm still -- still finishing.

4 Q. All right.

5 A. Okay.

6 Q. Okay. So there is a black area on the first page of
7 Exhibit 6. Beneath that black area reads, "Albert Shum,
8 director of Mobile Experience Design at Microsoft, discusses
9 a" -- "discusses the design inspiration for Windows Phone 7
10 Series."

11 Do you see that?

12 A. Yes.

13 Q. Okay. Are you -- again, are you familiar with
14 Mr. Shum?

15 A. Yes.

16 Q. Okay. Who is Mr. Shum?

17 A. Albert now works for me as the manager of the design
18 studio for Windows Phone.

19 Q. Do you have an understanding as to what's inside that
20 black box in Figure 6 -- I'm sorry -- in Exhibit 6?

21 A. No.

22 Q. Okay. I forget. Have you seen Exhibit 6 before
23 today?

24 A. Not that I remember. No.

25 Q. The caption there underneath the black box seems to

1 JOSEPH BELFIORE

2 indicate that Mr. Shum is discussing the design inspiration
3 for Windows Phone 7 series. Was -- was he one of the folks
4 who was involved in the decision to adopt live tiles for
5 Windows Phone -- Windows 7 phone? Sorry.

6 A. I don't remember. In fact, I think he wasn't. He --
7 yeah, I think he wasn't.

8 Q. What portions of Windows Phone 7 was Mr. Shum
9 involved with?

10 A. I don't remember that he had any official job
11 responsibility for Windows Phone 7. I believe he was
12 working on Kin. His job responsibilities changed at some
13 point in time, and I can't remember whether that was before
14 Windows Phone 7 shipped or after.

15 Q. You mentioned the word "Kin"? Is that correct?

16 A. Yes.

17 Q. What is Kin?

18 A. Kin was a different mobile product that -- actually,
19 product line, that Microsoft worked on with other phone
20 vendors. It was distinct from Windows Phone 7.

21 Q. Are any of these Kin mobile phone products available
22 to the -- to the consumer today?

23 A. Not through normal retail channels.

24 Q. How are they available to the consumer today?

25 A. You might be able to find one on eBay.

1 JOSEPH BELFIORE

2 Q. Okay. Were Kin products ever available to the
3 consumer?

4 A. Yes.

5 Q. Okay. And what -- can you give me an example of any
6 of those Kin products?

7 A. There were two Kin phones, and they were available on
8 Verizon for a short period of time.

9 Q. Did those Kin products have any -- anything similar
10 to live tiles?

11 MR. MCBRIDE: Object as beyond the scope.

12 THE WITNESS: I don't remember what the Kin's
13 default user experience was. So honestly, I -- I'm not sure
14 I remember well enough to answer that question.

15 BY MR. HEINTZ:

16 Q. When did Mr. Shum become the manager of the design
17 studio for Windows Phone 7?

18 A. I don't know that he ever did as you phrased it. I
19 don't remember.

20 Q. At some point, you said, he came to work for you on
21 the Windows Phone --

22 A. Oh.

23 Q. -- project; right?

24 A. Yes. There are a number of steps that I think
25 happened here, and I don't remember the order.

1 JOSEPH BELFIORE

2 Q. Okay. Could you just walk through them, please.

3 A. Albert initially worked on Kin, and different people
4 were working on Windows Phone 7. At some point in time, he
5 became the manager of the design efforts for both. But as I
6 recall, he spent most of his time on Kin. When the Kin
7 product was canceled, all of the people who were doing Kin
8 work were reassigned to Windows Phone. But I believe that
9 was after Windows Phone 7 shipped. I'm fuzzy on the exact
10 chronology.

11 Q. Does the fact that Mr. Shum was depicted in this news
12 center story as talking about the design of -- the design
13 inspiration for Windows Phone 7 series indicate that he was
14 assigned to the Windows Phone 7 project prior to
15 February 15, 2010?

16 A. It's likely, but not conclusive.

17 Q. Okay. I'd like you to turn your attention to the
18 second page of Exhibit 6, bearing Bates label 278. I'll
19 direct your attention to the first illustration depicted in
20 the top half of the page. Do you see that illustration
21 inside the box with the label "Windows Phone," "Put people
22 first"?

23 A. Yes.

24 Q. Okay. Does that arrow indicate that, in fact, this
25 box was some sort of animation?

1 JOSEPH BELFIORE

2 A. I don't know.

3 Q. Okay. In the figure that's shown on the top half of
4 Bates 278, there are a -- a number of squares depicted on
5 the display of a phone; is that correct?

6 A. Yes.

7 Q. Okay. Are those squares -- and one of them being --
8 and one -- and one rectangle, are those live tiles?

9 A. Yes.

10 Q. All right. I'll direct your attention to "Focus on
11 Consumers." This is a heading about midway through Page 2
12 of Exhibit 6. Do you see that?

13 A. Yes.

14 Q. Okay. The first paragraph reads, "At the core of
15 Microsoft's new mobile experience is what Lees and his team
16 call 'life in motion' - where events are happening all the
17 time, just like life, and the phone keeps pace."

18 Do you see that?

19 A. Yes.

20 Q. Okay. And then the next paragraph reads, "For
21 example, there are 'live tiles' on the Start screen -
22 dynamically updated icons that show user's real-time content
23 from their contacts, applications, services and other items,
24 Lees says." Is that correct?

25 A. Yes.

1 JOSEPH BELFIORE

2 Q. Then Mr. Lees goes on to give an example of "friends'
3 status updates are shown," and that was -- that's in the
4 next paragraph. That would be shown in live tiles; correct?

5 A. Yes.

6 Q. Okay. The same thing for a calendar appointment,
7 where Mr. Lees is discussing a calendar appointment. "You
8 see what it is and where you're going." That's through a
9 live tile; correct?

10 A. Yes.

11 Q. Okay. The next paragraph reads, "Live tiles act as a
12 doorway into more detailed pages called 'hubs' that connect
13 to Web services, applications, contacts and other items."

14 Do you see that?

15 A. Yes.

16 Q. Okay. And then it says, "The live tile displays a
17 synopsis of what's happening, and" -- "and tapping a live
18 tile takes the user to the hub where more information is
19 available and the user has the ability to act on it.
20 Windows Phone 7 Series includes live tiles for contacts,
21 games, calendars, calls and more, and independent software
22 vendors," parenthesis, "ISVs," end parenthesis, "can add
23 their own live tiles for users to customize. Hubs bring
24 together related content from the Web, applications and
25 services into a single view that simplify common tasks."

1 JOSEPH BELFIORE

2 Do you see that?

3 A. Yes.

4 Q. Okay. All that is correct?

5 MR. MCBRIDE: Objection. Vague. Overbroad.

6 THE WITNESS: Yes.

7 BY MR. HEINTZ:

8 Q. Okay. The next paragraph reads, "'It's all done in a
9 very simple interface with beautiful graphics,' says Lees.
10 'The flow of how you use it is really quite different from
11 anything that's done'" -- I'm sorry -- "'anything that's
12 been done before.'"

13 Do you see that?

14 A. Yes.

15 Q. Would you agree with that statement?

16 A. I think Andy is being melodramatic. I think it is a
17 very simple interface. I think it does have beautiful
18 graphics. Some people don't agree with me. I think Andy is
19 playing up that the packaging, the design appearance, Metro,
20 how it flows throughout the user experience is different
21 than other mobile experiences, and I think that's true.

22 Q. You characterize Mr. Lees' statements as being
23 melodramatic; is that correct?

24 A. Yes.

25 Q. Why did you characterize them that way?

1 JOSEPH BELFIORE

2 A. Phones have had home screens for a long time, and I
3 think to the extent that you're -- you're doing a marketing
4 pitch, which Andy is doing here, he's playing up the
5 differences. And if I were a usability researcher looking
6 at the mechanics of how the user experience works, I
7 wouldn't be as dramatic as Andy is.

8 Q. You think Mr. Lees was being untruthful?

9 A. No. I think he was being dramatic.

10 MR. HEINTZ: Ask the reporter to mark as
11 Exhibit 7 a multipage document bearing Bates notations 199
12 through 210.

13 (Whereupon, Exhibit 7 was marked
14 for identification.)

15 BY MR. HEINTZ:

16 Q. Mr. Belfiore, I'll ask if you recognize that
17 document.

18 A. Not as a document. No.

19 Q. Do you recognize it as something other than a
20 document?

21 A. Well, it's referring to an event that I think I
22 recall, but I need to read it and see if I can figure out
23 exactly what this is.

24 Q. Okay. Please go ahead and do so.

25 A. Okay.

1 JOSEPH BELFIORE

2 Q. So the date on this document, which appears right
3 underneath the heading "Steve Ballmer and Joe Belfiore:
4 Windows Phone 7 Press Conference," is October 11, 2010;
5 correct?

6 A. Yes.

7 Q. And the Joe Belfiore mentioned, that's you, is it
8 not?

9 A. Yes.

10 Q. Okay. October 11, 2010, is eight months, more or
11 less, after the launch of Windows Phone 7? Correct?

12 A. No. I don't think so.

13 Q. After the release of Windows Phone 7?

14 A. I don't think so. 2010. Let me think about this.

15 No. I think that was the announce of Windows
16 Phone 7.

17 Q. Well, earlier we -- earlier we talked about -- pardon
18 me.

19 Let me direct your attention to Exhibit 6.

20 A. Yes.

21 Q. Okay. So that has a date on it of February 15, 2010;
22 correct?

23 A. Yes.

24 Q. And that's a -- that's a story on Microsoft's
25 website? Correct?

1 JOSEPH BELFIORE

2 A. Yes.

3 Q. And that's talking about Windows Phone 7.

4 A. Yes.

5 Q. Okay. So what -- what event would you say
6 corresponded to February 15, 2010, this document? Is this
7 the release of the product?

8 A. No. February 15, 2010, was the unveiling, or the
9 announce the product would exist. October 11th was the
10 announce of the final product, the product is available.

11 Q. Okay. So in any event, October is about twenty --
12 I'm sorry -- eight months after the unveiling of the
13 product, then.

14 A. Correct.

15 Q. And this is the time when the product is first going
16 to be released; correct?

17 A. Yes.

18 Q. What does "release of a product" mean?

19 A. Well, we had released our software already. This is
20 the time frame in which phones would be available to buy,
21 roughly.

22 Q. And that would be available to the consumer?

23 A. Yes.

24 Q. So around this time, I could walk into a Verizon
25 store and then hopefully be able to pick out a Microsoft

1 JOSEPH BELFIORE

2 phone.

3 A. Yes.

4 Q. Let's see. About the sixth paragraph from the bottom
5 of the first page of Exhibit 7, there's a statement that
6 reads: And I hope we all agree, with all of that in mind,
7 that we've taken a very different tack at the same time.

8 Do you see that?

9 A. Yes.

10 Q. That's one of Mr. Ballmer's statements?

11 A. Yes.

12 Q. Would you agree with that statement?

13 A. Yes.

14 Q. Okay. I'd like to direct your attention to the third
15 page of the document, ending in Bates label 201. Do you see
16 that?

17 A. Yes.

18 Q. Okay. And down near the bottom, your name appears;
19 correct?

20 A. Yes.

21 Q. Okay. And this signifies -- let me take a step back.
22 This is a transcript. According to page -- the first page
23 of the document, what we're looking at is a transcript of
24 remarks made by Steve Ballmer and Joe -- and yourself,
25 Mr. Belfiore, on October 11, 2010; correct?

1 JOSEPH BELFIORE

2 A. Yes.

3 Q. Okay. So on the third page of the document, next to
4 your name, now that you've had a chance to review the
5 document, do those words after your name accurately reflect,
6 to the best of your knowledge, what you said on that day?

7 A. Yes.

8 Q. Okay. So let me direct your attention on to -- I'm
9 sorry. Still staying on Page 201, the third page. It
10 reads: Thank you. Hello. I'm really thrilled to be here
11 with you today and walk you through the final software
12 experience for Windows 7.

13 Do you see that?

14 A. Yes.

15 Q. Windows Phone 7.

16 A. Yes.

17 Q. About midway through the page -- let's see -- there's
18 a paragraph --

19 A. Which page?

20 Q. I'm sorry. We're going to go on to Page 4 now, which
21 ends Bates 202.

22 A. Okay.

23 Q. About midway -- midway through the page, there's a
24 paragraph that reads, "Now, when I pan this up to unlock it,
25 you see the Windows Phone start experience."

1 JOSEPH BELFIORE

2 Do you see that?

3 A. Yes.

4 Q. Okay. And then the paragraph goes on to read, "Down
5 on the bottom there in hardware," I think it says, "you'll
6 see we have three hardware buttons. These are consistent on
7 all the phones. There is a back button, really simple,
8 takes you back to where you were, a start button to get you
9 to this experience, and a search button; more on that
10 later."

11 Do you see that?

12 A. Yes.

13 Q. Okay. When the Windows Phone 7 is first turned on,
14 the user has to go through a number of steps to configure
15 the phone; correct?

16 A. Yes.

17 Q. Okay. And after that configuration process has been
18 done and the -- and the phone has been powered off the first
19 time, on subsequent start-ups, would the Windows Phone start
20 experience be present right at the beginning, or would the
21 user have to press this start button reference in that
22 paragraph in order to get that start screen to appear?

23 A. Probably they have to unlock the phone.

24 Q. Okay. After the unlocking is done, though, the --
25 would the start experience be the default screen?

1 JOSEPH BELFIORE

2 A. Generally. Yes.

3 Q. Okay. And the next paragraph reads, "And as I pan
4 down, you'll see that these live tiles are lighting up with
5 information about all my experiences, and telling me I have
6 two unread mail messages. It's telling me that I have an
7 unread text message."

8 Those passages refer to live tiles; correct?
9 Live tiles are telling you that you have two unread mail
10 messages and telling you that you have an unread text
11 message?

12 A. Yes.

13 Q. Okay. The next paragraph reads, "And one of the key
14 features for making this phone really wonderfully yours,
15 really deeply personal, is being able to put the people that
16 you care about right up there on your start experience in a
17 live tile."

18 Would you agree with that statement?

19 A. Yes.

20 Q. Okay. "And these tiles are live because, as Steve
21 updated his Facebook post, you could see past" -- sorry --
22 "you can see last night he's on the ground in New York City.
23 If he posts pictures, I'll see them right there. I don't
24 have to go in and out of a whole lot of applications to see
25 all these sorts of things, it's aggregated for me right on

1 JOSEPH BELFIORE

2 the home screen."

3 Do you agree with that statement?

4 A. Yes.

5 Q. Now, a little further down the page, the third
6 paragraph from the bottom reads, "Anyway, that's the start
7 experience, and how fast and easy it is to create an
8 environment that really becomes deeply personal. It's about
9 the people you care about, the tasks you want to do, and
10 it's just one button click away always."

11 Is that a true statement?

12 A. Yes.

13 Q. Okay.

14 MR. HEINTZ: I'll ask you -- I'll ask the
15 reporter to mark as Exhibit 8 a multipage document bearing
16 Bates labels MS_SURFCAST 000098964 through -966.

17 (Whereupon, Exhibit 8 was marked
18 for identification.)

19 BY MR. HEINTZ:

20 Q. Okay. Mr. Belfior, I -- sorry -- Mr. Belfiore, I'll
21 ask you if you've seen this document before.

22 A. I don't recognize it.

23 Q. All right. Would you like to take the time to read
24 it before I ask you questions about it?

25 A. Yes. Please.

1 JOSEPH BELFIORE

2 Q. Please do.

3 A. Okay.

4 Q. On the first page, it indicates that the date of this
5 document is October 11, 2010. Do you see that?

6 A. Yes.

7 Q. That's the day after the transcript we reviewed
8 previously in Exhibit 7; correct?

9 A. Yeah. Same date.

10 Q. Oh. Same date. I'm sorry. My mistake.

11 I'm going to direct your attention to the second
12 paragraph under the date. It begins, "'When you first get
13 the phone, the stuff that's more obvious makes you smile,'
14 says Andy Lees, Microsoft's Mobile Communications Business
15 president. On the phone's Start screen, 'live tiles' show
16 users real-time content, such as social media updates and
17 contacts. 'The features sort of scream out at you,' says
18 Lee."

19 Do you see that?

20 I'm sorry. It says "Lees."

21 Do you see that?

22 A. Yes.

23 Q. Is that a correct statement?

24 A. Is it correct that the features scream out at you?
25 Is that what you're asking?

1 JOSEPH BELFIORE

2 Q. Yes.

3 A. Not literally.

4 Q. Okay. They are -- despite not being literally
5 correct, would you agree with Mr. Lees' sentiment?

6 A. I don't think I know what Andy is talking about,
7 "scream out at you."

8 Q. Okay. This is a Microsoft document, though; correct?

9 A. It doesn't say who the author is, so I don't know if
10 it's accurate to characterize it as a Microsoft document.
11 But it appears that it was on our website.

12 Q. Again, in -- in the front page of Exhibit 8, we see a
13 square with a Windows Phone 7 depicted in it. Do you see
14 that?

15 A. Yes.

16 Q. Okay. Underneath that square reads, "The new phone
17 is an important step for Microsoft in three ways. To begin,
18 it is a completely fresh start for Microsoft in
19 smartphones."

20 Would you agree with that statement?

21 A. Yes.

22 Q. Okay. And near the bottom of that paragraph is a
23 statement that reads, "And finally, the new phone approach
24 is critical to Microsoft's efforts to make new gains in the
25 huge smartphone market, which despite the success of the

1 JOSEPH BELFIORE

2 as Exhibit 9 a multipage document bearing Bates labels 170
3 through 178.

4 (Whereupon, Exhibit 9 was marked
5 for identification.)

6 BY MR. HEINTZ:

7 Q. Mr. Belfiore, I'll ask you to take a look at that
8 document and let me know if you recognize it.

9 A. Okay. I'm going to have to look at it to --

10 Q. Please go right ahead.

11 A. Okay.

12 Okay. I've looked at it.

13 Q. Okay. So the title of this document reads, "WINDOWS
14 PHONE 8 LAUNCH EVENT," hyphen, "OCTOBER 29, 2012." Do you
15 see that?

16 A. Yes.

17 Q. Okay. What was the Windows Phone 8 launch event?

18 A. We had a press event in San Francisco where we
19 unveiled the final version of Windows Phone 8 and kicked off
20 the selling season for those phones.

21 Q. Were there a lot of people in attendance at the
22 Windows Phone 8 launch event?

23 A. Yes.

24 Q. Did that event occur on October 29, 2012?

25 A. I don't remember the exact date. But it's a matter

1 JOSEPH BELFIORE

2 of public record. It would be easy to determine. I'm not
3 disputing that it did. Probably.

4 Q. That's fine.

5 Now, the second line reads, "JOE BELFIORE
6 SCRIPT," hyphen, "DRAFT V7." Do you see that?

7 A. Yes.

8 Q. Okay. So again, that's you, Joe Belfiore?

9 A. Yes.

10 Q. Okay. And it says "SCRIPT." So what does that word
11 denote to you?

12 A. Someone wrote this document with the intent that they
13 would be words I would say on stage.

14 Q. Okay. And then it says "DRAFT V7." Do you see that?

15 A. Yes.

16 Q. Is the "V7" version 7?

17 A. I presume so.

18 Q. Okay. Did you have any input into this script?

19 A. Yes.

20 Q. Okay. How much input into the script did you have?

21 A. A lot.

22 Q. Okay. Would it be consistent with your recollection
23 that there were at least seven drafts of this script?

24 A. There were certainly more.

25 Q. Okay. Any idea of a rough number?

1 JOSEPH BELFIORE

2 A. No.

3 Q. Okay. Would you say that a lot of effort went into
4 the preparation of this script?

5 A. Yes.

6 Q. Okay. So I'd like to direct your attention down
7 about halfway through -- halfway down the page. There's
8 a -- there's a paragraph that reads, "We decided to think
9 differently. We knew there was a better way."

10 Do you see that?

11 A. Yes.

12 Q. Okay. Then it says, "With Windows Phone 8, we
13 created a new way to think about smartphones - one that puts
14 people at the center of the experience. Not apps, like
15 iPhone. Not speeds and feeds, like Android."

16 Do you see that?

17 A. Yes.

18 Q. Do you agree with that?

19 A. Yes.

20 Q. Okay. The next line reads, "This is the focus of our
21 design, and when you try it you'll see for yourself."

22 I -- I assume you agree with that statement as
23 well?

24 A. Yes.

25 Q. Okay. Let me turn your attention to the second page

1 JOSEPH BELFIORE

2 of the document, bearing Bates label MS_SURFCAST_000269171.
3 Under a grayed-out box that reads "SLIDE," it says, "With
4 Windows Phone 8, we reinvented the smartphone around you.
5 It's unlike any mobile operating system on the market
6 today." Correct?

7 A. Oh. Sorry. Hang on. I'm not -- where -- where is
8 this?

9 Q. Right under the word "SLIDE" in the gray box near the
10 top of the page.

11 A. Okay. Yes. I'm with you.

12 Q. Would you agree with that statement?

13 A. "It's unlike any other mobile operating system on the
14 market today," you're asking?

15 Q. Yes.

16 A. Yes, I would agree.

17 Q. Okay. There's another gray box that reads "VISUAL
18 TRANSITION/SLIDE." Do you see that?

19 A. Yes.

20 Q. And then it says, "AS UNIQUE AS YOU."

21 The next thing -- the next paragraph reads, "It
22 all starts out with our Start screen and Live Tiles, the
23 heart and soul of Windows Phone 8."

24 Do you see that?

25 A. Yes.

1 JOSEPH BELFIORE

2 Q. Would you agree with that statement?

3 A. That's a flowery marketing metaphor. I think it's an
4 effective way to draw attention to those features, but if I
5 were putting on my engineer hat, I wouldn't call them the
6 heart and soul. It depends on what point of view you take.

7 Q. So is this an untruthful statement?

8 A. Well, software doesn't actually have a heart and
9 soul. So I don't know how -- what -- I don't know how to
10 characterize it as truthful or not.

11 Q. What did you mean by that statement?

12 A. I don't think I wrote that.

13 Q. You had control over this script, did you not?

14 A. Ultimately I had control over the words that came out
15 of my mouth. But in the process of writing scripts, lots of
16 other people have the Word document and type words into it.

17 Q. Did this script get approved by somebody?

18 A. This?

19 Q. Yeah.

20 A. No.

21 Q. Okay. Was there a final version of the script at
22 some point?

23 A. Yes.

24 Q. Who approved that?

25 A. It didn't work that way.

1 JOSEPH BELFIORE

2 Q. How did it work?

3 A. The -- what I would characterize as the final version
4 of the script was the words that I typed into the
5 teleprompter the night before the launch event. And really,
6 the final version of the script is the words that actually
7 came out of my mouth.

8 MR. HEINTZ: Okay. I'll ask the reporter to
9 mark as Exhibit 10 a multipage document bearing Bates label
10 MS_SURFCAST, triple zero, 268488 through -496.

11 (Whereupon, Exhibit 10 was marked
12 for identification.)

13 BY MR. HEINTZ:

14 Q. Sir, I'll ask you to take a look and let me know if
15 you recognize that document.

16 A. Okay.

17 Q. Okay. Earlier you testified that "what I," meaning
18 you, "would characterize as the final version of the script
19 was the words that I typed into the teleprompter" --
20 sorry -- "into the teleprompter the night before the launch
21 event."

22 A. Yes.

23 Q. Were these the words you typed into the teleprompter
24 the night before the launch event?

25 A. I don't think so.

1 JOSEPH BELFIORE

2 Q. Okay. Do you know what this document represents,
3 then?

4 A. I suspect, but it's impossible to identify with
5 certainty, it is a draft of the words that went into the
6 teleprompter in the rehearsals that led up to the night
7 before.

8 Q. And what makes you think it's a draft rather than the
9 words that were -- that you typed into the teleprompter?

10 A. Well, it doesn't include cueing Jessica Alba to come
11 on stage, and it doesn't look like what I typed into the
12 teleprompter, in my vague recollection.

13 Q. Okay. Do you recall whether this was something that
14 was done before or after the -- the version 7 that we looked
15 at in Exhibit 9?

16 A. I think this is more recent, but it's hard to know.

17 Q. Okay. Did you have input into this version of the
18 script?

19 A. Yes.

20 Q. Okay. And I'll turn your attention to -- actually,
21 let's stay on the first page, ending in Bates label 488.
22 There's a paragraph, second paragraph from the bottom, that
23 says, "Before I jump into showing you all the amazing
24 consumer features that our" -- "our team has conceived and
25 created - I want to go back and remind you about the idea at

1 JOSEPH BELFIORE

2 the core of Windows Phone. Its heart and soul. Its reason
3 for being."

4 Do you see that?

5 A. Yes.

6 Q. Those weren't your words? Is that correct?

7 A. I don't know.

8 Q. Okay. On the top of the second page, bearing Bates
9 label 489, it says: With Windows Phone, we created a new
10 way to think about smartphones.

11 Now, there is a caretted two letters there, "SA,"
12 in the middle of that sentence. Do you know what the "SA"
13 stands for?

14 A. Yes.

15 Q. What is "SA"?

16 A. "Slide advance."

17 Q. Okay. It says: With Windows Phone, we created a new
18 way to think about smartphones, one that puts people at the
19 center of the experience. Not apps, like iPhones. Not
20 speeds and feeds, like Androids. Correct?

21 A. Yes.

22 Q. And you'd agree with that.

23 A. Yes.

24 Q. Okay. Underneath that paragraph, there's a -- again
25 a caretted section, that says "MANIFESTO VIDEO PLAYS." Do

1 JOSEPH BELFIORE

2 you see that?

3 A. Yes.

4 Q. What was the manifesto video?

5 A. It was a video that showed -- if you forgive my, you
6 know, foofy language -- sort of the spiritual aspects of
7 what we think makes Windows Phone so valuable: Focused on
8 the degree to which it understands the people in your life,
9 helps you stay closer to the people in your life, becomes
10 personal for you, and so on.

11 Q. Okay. Then you have a little below that the words
12 "Now LET'S TAKE A LOOK AT THE PRODUCT!" Do you see that?

13 A. Yes.

14 Q. And then the second paragraph down from that says:
15 Back in June, I introduced our new live tiles and start
16 screen, which are the heart and soul of Windows Phone.

17 Do you see that?

18 A. Yes.

19 Q. Okay. And that's right at the beginning when you
20 start talking about the new product; correct?

21 A. Yes.

22 Q. And at least at the time of this draft, this was your
23 intention to express these thoughts; correct?

24 A. Yes.

25 Q. Okay. Do you remember the -- your -- your speech at

1 JOSEPH BELFIORE

2 the -- at the -- what did you call it again? -- the
3 introduction event?

4 A. Unveil.

5 Q. The unveiling event, the kickoff event. Do you
6 remember your speech?

7 A. I remember giving it.

8 Q. Do you remember whether you said the words "the heart
9 and soul"?

10 A. I have no idea whether I said that or not.

11 Q. Okay.

12 MR. HEINTZ: Counsel, has this video been made
13 available to us?

14 MR. MCBRIDE: Yes, it has.

15 MR. HEINTZ: We will take a look at it, then.

16 I'll ask the reporter to mark as Exhibit -- 12?

17 THE REPORTER: 11.

18 MR. HEINTZ: Sorry.

19 -- Exhibit 11 a multipage document bearing Bates
20 label 884 through 888.

21 (Whereupon, Exhibit 11 was marked
22 for identification.)

23 BY MR. HEINTZ:

24 Q. Mr. Belfiore, I'll ask you to take a look at that
25 document and let me know if you recognize it.

1 JOSEPH BELFIORE

2 A. I do not recognize it.

3 Q. Do you want to take some time to review it?

4 A. Yes. Please.

5 Q. Go right ahead.

6 A. Okay.

7 Q. Okay. Let me start by asking, do you have an
8 understanding to what this document refers when it mentions
9 a launch event in New York to announce several new features
10 for Windows Phone 8? And that appears a couple of lines
11 below the -- the paragraph -- I'm sorry -- the photograph in
12 the middle of the first page.

13 A. Yes.

14 Q. Okay. What does that refer to?

15 A. Nokia -- the purpose of the event was for Nokia to
16 announce their phones. And as a close partner of Nokia's,
17 we participated in the event, and we chose certain features
18 of Windows Phone 8 software to also unveil at the event in
19 support of their device announcement.

20 Q. Okay. Near the top of the document, underneath the
21 headline that reads "Nokia Gears Up for Windows Phone 8 With
22 Lumia 920 and 820," do you see that?

23 A. Yes.

24 Q. The Lumia 920 and 820 were two Nokia phones? Is that
25 correct?

1 JOSEPH BELFIORE

2 A. Yes.

3 Q. That were -- were going to run Windows Phone 8?

4 A. Yes.

5 Q. Okay. Underneath that, two lines down, reads the
6 notation "09.05.12." Do you think that's the date
7 September 5, 2012?

8 A. Yes.

9 Q. Is that -- do you have a recollection as to whether
10 that was when the Nokia launch event took place?

11 A. Sounds right.

12 Q. I'll ask -- I'll direct your attention to the third
13 page of the document, bearing Bates label 886. Do you see
14 that?

15 A. Yes.

16 Q. What we see there is a photograph showing two phones.
17 Do you see that?

18 A. Yes.

19 Q. And the phone on the right, is that depicting
20 Windows 8 live tiles?

21 A. I can't say for sure.

22 Q. Okay.

23 A. Oh. No. Sorry. Yes. It is.

24 Q. Okay.

25 A. My mistake.

1 JOSEPH BELFIORE

2 Q. And the last paragraph on Bates label 886 states,
3 "Both phones will, of course, come loaded with Windows
4 Phone 8, and Joe Belfiore, Microsoft's manager for the
5 Windows" -- sorry -- "for Windows Phone Program, took the
6 stage to demonstrate some of the new features of the
7 forthcoming OS. Belfiore focused a lot of his time on apps
8 and Live Tiles. He customized his Start Screen with various
9 sized tiles, including a new small-sized option, and showed
10 off IE 10, which users can customize to show what they want
11 when they launch the app." Correct?

12 A. Yes.

13 Q. Okay. Is that a -- was that true, that you did take
14 the stage and focused a lot of your time on apps and live
15 tiles?

16 A. Yes.

17 Q. Okay. Whose choice was it to focus a lot of your
18 time on -- on apps and live tiles?

19 A. Probably mostly mine in conjunction with the
20 marketing folks that would have worked on the event.

21 Q. You mentioned earlier that one of the reasons you
22 believed Windows Phone 7 was successful, that it brought you
23 Nokia; correct?

24 A. Yes.

25 Q. Okay. And that's the same Nokia here that --

1 JOSEPH BELFIORE

2 A. Yeah.

3 Q. For the launch event.

4 So is it fair to say, that in September 2012,
5 Nokia was an important partner to Microsoft or at least the
6 Microsoft phone program?

7 A. Yes.

8 Q. Okay. So you'd want to support their launch as best
9 you could; isn't that correct?

10 A. Yes.

11 Q. Okay. And to do that, you chose to focus on apps and
12 the live tiles; correct? Your part of the presentation.
13 Excuse me.

14 A. Well, that's what -- I'm agreeing that that's what
15 this reporter wrote, although as I recall, I spent the most
16 time, in that demo, on the camera, which was what Nokia was
17 highlighting as the key -- one of the key, if not the key --
18 differentiator of the 920.

19 Q. And that's the discussion that appears on Bates 887
20 of that draft? It says -- it says, "Belfiore also
21 demonstrated that Windows Phone 8 can finally support taking
22 quick screen shots - a small feature but one that Windows
23 Phone 8" -- "Windows Phone users have been clamoring for."

24 A. That's not what I was referring to.

25 Q. Oh. Okay. Okay.

1 JOSEPH BELFIORE

2 MR. HEINTZ: Can we go off the record briefly?

3 THE WITNESS: Do you do that with me or with
4 them?

5 MR. HEINTZ: I'm sorry. I'm looking at you, but
6 I'm --

7 MR. MCBRIDE: It's fine. Do you want to take a
8 break now?

9 MR. HEINTZ: Well, here's the thing. I'm about
10 to be -- my next line of questioning is in a different
11 direction, and it doesn't make sense to start -- start for a
12 short period and then stop, and we have this one o'clock
13 conference.

14 So I'm wondering if we could take a fairly
15 lengthy lunch break, if that would be all right with
16 everybody, so I could attend this hearing. I'm thinking
17 that, you know, the hearing -- so the hearing is at 1:00.
18 And so I don't know how long it's going to last, I don't
19 know how much patience the judge is going to have to hear
20 this kind of thing, but I want to make sure I'm available.

21 So can we, say, come back at 2:00 and then -- or
22 even 1:45, with the understanding that it might be somewhat
23 delayed? Is that all right with everybody?

24 MR. MCBRIDE: I certainly just don't want to
25 keep Mr. Belfiore here unnecessarily. So yes, let's plan

1 JOSEPH BELFIORE

2 for -- let's plan for 1:45.

3 MR. HEINTZ: 1:45. And if I'm done -- hopefully
4 we will be -- we'll just move on at that point.

5 MR. MCBRIDE: Sure.

6 MR. HEINTZ: Okay.

7 MR. MCBRIDE: But do you want to take a brief
8 break now, or are we fine to just keep marching --

9 THE VIDEOGRAPHER: Do you want to go off the
10 record for this?

11 MR. MCBRIDE: I thought we were.

12 MR. HEINTZ: We're not off the record?

13 THE VIDEOGRAPHER: You didn't give me a chance.

14 MR. HEINTZ: Okay. It doesn't really matter.

15 THE VIDEOGRAPHER: We're off the record at
16 2:14 (sic).

17 (Whereupon, a recess was taken.)

18 THE VIDEOGRAPHER: We're back on the record now
19 at 12:17.

20 MR. HEINTZ: And I'll ask the reporter to mark
21 as Exhibit -- 13?

22 THE REPORTER: 12.

23 MR. HEINTZ: -- 12 a multipage document bearing
24 Bates label MS_SURFCAST_000001489 through -1494.

25

1 JOSEPH BELFIORE

2 (Whereupon, Exhibit 12 was marked
3 for identification.)

4 MR. HEINTZ: Sorry. May I have that for a
5 second. I may have inadvertently given you the wrong one.

6 And, Counsel, I inadvertently passed the wrong
7 one. I'm now going to ask this to be marked as
8 Exhibit 12 --

9 MR. MCBRIDE: Perfectly fine.

10 MR. HEINTZ: -- as a substitute.

11 (Whereupon, Exhibit 12 was re-marked
12 for identification.)

13 BY MR. HEINTZ:

14 Q. Okay. Mr. Belfiore, I'll ask you to take a look at
15 that document and let me know if you recognize it.

16 A. I do not recognize it.

17 Q. I'm going to ask you a couple of questions about it.
18 Do you want to read it first?

19 A. Yeah.

20 Q. Go ahead, sir.

21 A. Okay.

22 Q. Okay. So the first question is, the document
23 indicates beneath the headline "Windows Phone 8 Arrives:
24 What You Need to Know," this was published by something
25 called the Chip Chick Staff in Smartphones. Do you see

1 JOSEPH BELFIORE

2 that?

3 A. Yep.

4 Q. Do you know what the Chip Chick Staff in Smartphones
5 is?

6 A. No.

7 Q. Okay. I'm going to direct your attention to the
8 second page of the document. That bears Bates label 1490.
9 Do you see that?

10 A. Yes.

11 Q. Okay. Near the bottom, the last full paragraph
12 reads, "Most importantly, Windows 8" -- sorry -- "Windows
13 Phone 8 aims to create a unified design philosophy and user
14 experience across all Windows devices. In that, Microsoft
15 has doubtless succeeded. And they have succeeded in
16 creating the most customizable and personalized smartphone
17 OS." And the paragraph goes on. But do you see those
18 lines?

19 A. Yes.

20 Q. Okay. So what does it mean "to create a unified
21 design philosophy and user experience across all Windows
22 devices"?

23 MR. MCBRIDE: Objection. Calls for speculation.

24 THE WITNESS: Well, in my interpretation, I
25 think they're referring to the more aligned visual design

1 JOSEPH BELFIORE

2 and application-type design that exists between Windows
3 Phone 8 and Windows 8.

4 BY MR. HEINTZ:

5 Q. So would an example of that be that the live tiles
6 that are part of Windows Phone 8 are also a part of
7 Windows 8?

8 A. Yes. I think that is an example.

[REDACTED]

25 Q. Was the development of Windows Phone 8 and Windows 8

1 JOSEPH BELFIORE

2 on parallel paths, or was it a sequential process?

3 A. If you're referring to timing --

4 Q. Yes.

5 A. -- much of the development was happening at the same
6 time.

7 Q. Do you know if the Windows 8 implementation of live
8 tiles started with any version of Windows Phone?

9 A. I don't know.

10 Q. Would it be typical for Microsoft to reinvent the
11 wheel, so to speak, by recoding the live tiles
12 implementation between one product and another?

13 A. Yes.

14 Q. Why would they do that?

15 A. Because people believe it has more benefits than
16 drawbacks.

17 Q. What would be some of the benefits?

18 A. You control your own schedule; you decide what bugs
19 to fix; you choose the code to depend on.

20 Q. Was creating a unified design philosophy and user
21 experience across all Windows devices an important goal for
22 Microsoft?

23 MR. MCBRIDE: Objection. Speculation. Beyond
24 the scope.

25 THE WITNESS: Your question implies a degree of

1 JOSEPH BELFIORE

2 intentionality and top-downness that I don't think existed
3 at the company.

4 BY MR. HEINTZ:

5 Q. Are you aware of any benefits that Microsoft would
6 achieve through the unified design philosophy and user
7 experience across all Windows devices?

8 A. Yes.

9 Q. What benefits would they be?

10 A. Well, hypothetically, you would benefit from user
11 familiarity in -- in the situation where a user is exposed
12 to or -- or uses one of the products. Then that familiarity
13 that they gain with that product possibly would lead them to
14 purchase one of the others.

15 Q. Do you know why the decision was made to incorporate
16 live tiles into Windows Phone -- sorry -- why the decision
17 was made to incorporate live tiles into Windows 8?

18 A. No.

19 Q. Do you know who would know the answer to that
20 question?

21 A. Jensen Harris is probably the best person to ask.

22 Q. And who is Jensen Harris?

23 A. He is the director of program management for the
24 Windows 8 user experience.

25 Q. Are you aware of any advertising for either Windows 8

1 JOSEPH BELFIORE

2 or Windows Phone 8 that -- that touts the unified design
3 philosophy and user experience --

4 MR. MCBRIDE: Objection. Beyond --

5 BY MR. HEINTZ:

6 Q. -- across those two products?

7 MR. MCBRIDE: Sorry, Counsel. Objection.

8 Beyond the scope.

9 THE WITNESS: It wouldn't surprise me if some
10 existed, although I can't recollect some specific in the
11 moment.

12 BY MR. HEINTZ:

13 Q. Okay. Near the top of the page with the Bates label
14 490 -- I'm sorry -- at the top, there's a paragraph that
15 reads, "In a video showing off Windows Phone 8, Joe
16 Belfiore, manager of the Windows Phone program, commented on
17 the static nature of iOS and Android, with rows of apps of
18 equal sizes. He calls it an experience 'created for all,'
19 as opposed to Windows Phone 8," comma, "'created for each.'
20 Contrasting with the static app icons of iOS and Androids
21 (and conveniently ignoring Android's widgets altogether),
22 Belfiore touted the dynamic nature of the Windows Phone 8
23 home screen."

24 Do you see that?

25 A. Yes.

1 JOSEPH BELFIORE

2 Q. Would you agree that you did tap the dynamic nature
3 of the Windows Phone 8 home screen?

4 A. Yes.

5 Q. Okay. "IOS" in that paragraph, does that stand for
6 Apple's operating system on its phone products?

7 A. Yes.

8 Q. Okay. And "Android," of course, is the operating
9 system on Android smartphone products; correct?

10 A. Yes.

11 Q. Okay. Given the date of this, do you know whether --
12 which is October 30, 2012 -- do you know whether this refers
13 to your launch event speech on October 29?

14 A. I don't know.

15 Q. Okay.

16 MR. HEINTZ: I'm going to ask the reporter to
17 mark as Exhibit 13 a copy of U.S. patent 5,617,526.

18 (Whereupon, Exhibit 13 was marked
19 for identification.)

20 BY MR. HEINTZ:

21 Q. Sir, do you recognize this document?

22 A. No.

23 Q. Okay. I'll direct your attention to the left-hand
24 column on the front page.

25 A. Yes.

1 JOSEPH BELFIORE

2 Q. Under the heading "Inventors," there appears the name
3 Joseph D. Belfiore. Do you see that?

4 A. Yes.

5 Q. Do you believe that's you, sir?

6 A. Yes.

7 Q. Okay. But you don't recognize this document.

8 A. I've never -- I don't typically read patent
9 documents, so I don't recognize this patent document.

10 Q. All right. Do you have a recollection of being an
11 inventor on the invention described in this document?

12 A. Yes.

13 Q. Okay. Let me ask you to turn your attention to
14 Figure 2.

15 All right. Do you recognize what is depicted in
16 Figure 2?

17 A. Yes.

18 Q. What is shown there?

19 A. It's a Windows PC desktop.

20 Q. Do you have a sense for what resolution is shown in
21 Figure 2?

22 A. I'd have to guess.

23 Q. What would be your guess?

24 A. 640 by 480.

25 Q. Why would you guess that?

1 JOSEPH BELFIORE

2 A. It was a highly common resolution around 1993 to
3 1995. And it was the basis resolution of the VGA standard.

4 Q. Sir, you're, in fact -- sorry. You're, in fact, an
5 inventor on several Microsoft patents; is that correct?

6 A. Yes.

7 Q. Okay. Do you have an opinion as to whether software
8 should be patentable?

9 A. Sure.

10 Q. What's your opinion?

11 A. Sure.

12 Q. And in fact, you've taken advantage of -- well, at
13 least Microsoft has taken advantage of that by patenting
14 several of your inventions; is that correct?

15 A. Yes.

16 MR. HEINTZ: All right. Well, now, Counsel, we
17 are at the point where I'm about to begin a new line of
18 questioning. So we'll go off the record at this point and
19 reconvene at 1:45.

20 THE VIDEOGRAPHER: We're going off the record
21 now at 12:31.

22 (Whereupon, a lunch recess was taken.)

23 (Ms. Miller exits proceedings.)

24 THE VIDEOGRAPHER: Okay. We are back on the
25 record now at 1:57.

1 JOSEPH BELFIORE

2 BY MR. HEINTZ:

3 Q. Okay, Mr. Belfiore. Prior to the break, we were
4 discussing a speech you gave at a launch event on what I
5 believe was October 29, 2012. During the break, we located
6 the video, which I would like to show to you now.

7 MR. HEINTZ: So what I will do is hand my
8 computer to Mr. Belfiore, ask him to press the play button,
9 and at some point, I'll ask him to press stop. Is that all
10 right?

11 THE WITNESS: Okay. Yep.

12 MR. HEINTZ: All right.

13 (The following video clip was played:

14 "MR. BELFIORE: Now, before I jump into talking
15 about the new features that are built into Windows Phone 8,
16 what I want to do is back up and remind you all about the
17 idea that's sort of at the center of Windows Phone, its
18 heart and soul, what we all get up and think about when
19 we're building the software. And I want to put it in
20 perspective of the smartphone industry just a little bit.

21 If you look at where smartphones are and where
22 they've been, I would say the state of the art in the core
23 smartphone experience, it hasn't really evolved much in the
24 five years since its inception.

25 If you think about the predominant user

1 JOSEPH BELFIORE

2 experience on most of the smartphones that people are using
3 today, it was standardized by Apple and the iPhone, and
4 essentially that same interface was copied by Android on
5 Android phones. And it really hasn't evolved all that much.
6 The static grid of icons has been sort of the standard on
7 smartphones.

8 Apple did announce the iPhone 5. They added a
9 fifth row of icons, so users got a little bit more that they
10 could do with that experience.

11 But we wanted to come at it with a different
12 point of view. So with Windows Phone, we decided not to use
13 that tired old metaphor, and instead, we've created a new
14 way for people to think about how they could connect with
15 their smartphones and all the value the smartphone connects
16 to for them.

17 Our way is to put people at the center of the
18 experience, not icons for apps, not focus on speeds and
19 feeds like the iPhone and Android do, respectively. People
20 are the focus of our design.

21 And many of you in the room already know this,
22 but for those of you who haven't tried or haven't spent much
23 time with it, when you use Windows Phone and you get to
24 experience this focus on people firsthand, you get a sense
25 for how it improves a lot of the phone experience.

1 JOSEPH BELFIORE

2 It's not just a little more convenient to text
3 one of your family or friends; you actually can maintain a
4 better relationship with people because you get a stronger
5 sense of what they're up to in the moment. It's not just
6 having a lot of apps to choose from; it's being able to
7 choose apps that light up and improve your smartphone
8 experience so that what you get really means more to you.

9 We like to think of this as the work we're doing
10 is to reinvent the smartphone around you.

11 Now, we made a video to sort of capture this
12 idea, and I want to run it to give you a sense, really, of
13 what our team thinks about as we build this very unique
14 smartphone experience. So let's take a look.

15 "SPEAKER: We are not for everybody. We're for
16 the individual, we're for the food lover, the movie lover,
17 the road-tripper, and the music mentor. We're for the
18 gamer, the fashion hunter, the page turner, and the single
19 dad. We're for the social" --)

20 MR. HEINTZ: That's enough. You can stop it.

21 BY MR. HEINTZ:

22 Q. I'll ask you to hand the computer back to me.

23 A. Yep.

24 Q. Okay. So during your -- during the statements made
25 during that speech, you did use the words "heart and soul";

1 JOSEPH BELFIORE

2 correct?

3 A. I did. Yes.

4 Q. And as you mentioned earlier, you had -- what came
5 out of your mouth was your decision? Correct? Not --

6 A. Yes.

7 Q. -- anybody else's?

8 A. Yes.

9 Q. Okay. All right.

10 MR. HEINTZ: Let's move on to what I'll ask the
11 court reporter to mark as Exhibit 14, which is a multipage
12 document, which I'll represent to counsel is a portion of
13 the "Microsoft Internet Explorer Resource Kit." The portion
14 I've -- I've chosen is the -- the first few pages, that
15 include the copyright notice and the table of contents, and
16 then a Chapter 4 from that book.

17 And so the -- the first Bates number on the
18 first page is 00078682. The last Bates number in the
19 exhibit is 000078914. But as mentioned earlier, there --
20 these are not consecutive. There will be a break in the
21 exhibit.

22 MR. MCBRIDE: Objection to the fact it's not a
23 complete document. And I'm sorry, Counsel. I've lost track
24 of the exhibit number.

25 MR. HEINTZ: 14.

1 JOSEPH BELFIORE

2 MR. MCBRIDE: 14? Thank you.

3 (Whereupon, Exhibit 14 was marked
4 for identification.)

5 BY MR. HEINTZ:

6 Q. Mr. Belfiore, I'll ask you to take a look at
7 Exhibit 14. And as you know, that's a portion. But do you
8 recognize the book from which Exhibit 14 was excerpted?

9 A. Yes.

10 Q. Earlier today, you -- you -- your testimony referred
11 to a -- a book that I think you used by a different name but
12 thought it might have been called the Internet Explorer
13 Resource Kit. Is this the book to which you referred
14 earlier?

15 A. Let me just look at it to confirm.

16 Q. Sure.

17 A. Yes.

18 Q. I'll ask you to turn to the page with the Bates
19 label, on the bottom, 78687. On that page, you'll see a
20 list of contributors.

21 A. Okay.

22 Q. Under the title "Technical Contributors," the second
23 name down is Joe Belfiore. Is that you, sir?

24 A. Yes.

25 Q. Okay. And did you, in fact, contribute to this book?

1 JOSEPH BELFIORE

2 A. Yes.

3 Q. Okay. What is the subject matter of Exhibit 14?

4 A. This book provides technical information for a wide
5 range of audiences who might create content for Internet
6 Explorer or more likely deploy Internet Explorer for people
7 to use in a company or in a -- some situation where they're
8 choosing a web browser and giving it to end users.

9 Q. Was this book intended for end users themselves?

10 A. No.

11 Q. Sir, I'm going to ask you to turn to the portion of
12 the document that constitutes Exhibit -- sorry -- Chapter 4.
13 And the first page of the chapter bears the Bates label
14 78699 on the bottom. It says -- I'm sorry. That's
15 incorrect. Let me ask -- let me -- let me -- let me start
16 again. Withdraw that last question.

17 I'm going to ask you to turn to the page of the
18 document labeled -- with Bates label 687 -- sorry -- 714 --
19 I apologize, sir -- Bates label 714, which is paginated as
20 Roman numeral XXX in the native document.

21 This portion of the -- of the document, sir, is
22 in the Welcome section of the book. It's sort of a
23 preliminary section. And the -- the heading across the top
24 is "Active Desktop." Do you see that?

25 A. Yes.

1 JOSEPH BELFIORE

2 Q. Okay. Is that the Active Desktop to which we
3 referred earlier?

4 A. Yes.

5 Q. Thank you.

6 There is a figure shown at Bates label 714. Do
7 you recognize that figure?

8 A. Yes.

9 Q. What's depicted on that figure?

10 A. That is a Windows PC that has the desktop displaying
11 Active Desktop content.

12 Q. Okay. And there are various areas on that figure I'd
13 like to ask you about, so I'm going to start with the area
14 on the far right. It's a rectangle in which several logos
15 appear, including three logos including letter A. Do you
16 see that?

17 A. Yes.

18 Q. Okay. What is that area of the screen?

19 A. That's a desktop component.

20 Q. Is this desktop component known as the channel bar?

21 A. I think it is, although I don't recall it looking
22 exactly like that.

23 Q. All right. Now, that channel bar includes several
24 smaller rectangles located within it. Do you see that?

25 A. Yes.

1 JOSEPH BELFIORE

2 Q. Okay. And it's difficult to read from this copy, and
3 I apologize, but one of them -- in fact, the lower one --
4 appears to be "MSNBC News." Do you see that?

5 A. Yes.

6 Q. Okay. Did that area denoted by "MSNBC" -- sorry --
7 denoted by "MSNBC News," did that content update?

8 A. I think so.

9 Q. How would it update?

10 A. If there was new information available from that
11 source, then the tile would change to indicate to the user
12 that new information was available.

13 Q. How would the -- you called it a tile? Is that
14 correct?

15 A. Yes.

16 Q. How would the tile know that the information was new?

17 A. As part of the technology behind these desktop
18 components, there's a subscription schedule where the
19 operating system goes out to the Internet on a periodic
20 basis, which is determined either by the provider of the
21 desktop component or by the end user, and it checks the
22 Internet to see if there's newer content on the Internet
23 than is currently cached on the local machine. And if there
24 is, it updates the information. And in some cases, that
25 will result in a change to the visualization of the tile.

1 JOSEPH BELFIORE

2 Q. Can you give me an example of in what case the
3 visualization on the tile would change?

4 A. Sure. There's lots of different examples. Like if
5 you take this weather tile, if that were on a -- let's say
6 an hourly schedule --

7 Q. Excuse me. I'm sorry to interrupt you.

8 A. Yeah.

9 Q. You're talking about a weather tile.

10 A. Yeah.

11 Q. I don't see a weather tile in the channel bar that
12 we're talking about.

13 A. Oh. No. I was talking about the -- you were asking
14 generally how these things might change or alter their
15 visual appearance based on new information on the Internet,
16 and I was answering your question.

17 Q. I'm sorry. So I -- I may have misspoken. I'm asking
18 particularly now --

19 A. Yeah.

20 Q. -- about the rectangular region on the right-hand
21 side of the screen that we previously referred to as the
22 channel bar.

23 A. Okay.

24 Q. And then inside the channel bar, there are a number
25 of rectangles --

1 JOSEPH BELFIORE

2 A. Yes.

3 Q. -- one of which says "MSNBC News," and three of the
4 others have the letter A visible in them. I'm talking
5 particularly about --

6 A. Okay.

7 Q. -- that area of the screen only.

8 A. Okay.

9 Q. So my question to you is, does that area of the
10 screen update dynamically?

11 A. Yes, I think it does, which I already answered.

12 Q. Okay. And -- and so how -- then I asked you, I
13 believe, for an -- for an example of how one of those areas
14 would update.

15 A. You mean within this particular -- the thing you've
16 described as the channel bar.

17 Q. Yes.

18 A. Okay. So the way this works is that each one of
19 these items, the channel bar being one example -- and there
20 are -- one, two, three -- I guess there are four in this
21 picture, although it's hard to tell with how it's drawn.

22 Each one of those four things gets to operate on
23 a schedule. The channel bar, depending on how it's
24 implemented, has lots of flexibility in how it might alter
25 any of those tiles. It might update to show a new news

1 JOSEPH BELFIORE

2 story, it might update with a simple indicator that tells
3 the user there's new content.

4 It depends on how this particular item was
5 implemented. And the implementer of any one of these tiles
6 has lots of flexibility in how they make that user interface
7 alter when new content arrives.

8 In this particular case, it's unclear to me
9 whether this is one that we implemented. And if it is,
10 then -- actually, we tried lots of different visualizations
11 for how the subtiles here would update.

12 I believe the one we eventually shipped with was
13 a gleam that would appear when there was new content in that
14 channel, but my recollection on where we exactly landed is a
15 little bit fuzzy, because we tried many different things.
16 And it's not clear whether this is one that we implemented
17 or whether it's one that a third party implemented.

18 Q. Your answer referred to a gleam. Could you explain
19 what a gleam is, please.

20 A. I'm sorry. Gleam, with an "m."

21 Q. Oh. I'm sorry. Gleam.

22 A. Like a -- you know, a little shiny "something is
23 new."

24 Q. I see. So that would mean that the -- at least the
25 textual content of the -- the area wouldn't change, but

1 JOSEPH BELFIORE

2 the -- some sort of coloration would change?

3 A. Yeah. So again, that would be up to the implementer
4 of the larger tile. The implementer of the larger tile
5 could choose to, you know, make the whole thing start
6 dancing around if they wanted to. They could display the
7 text of the news story; they could display a picture from
8 the news story.

9 If in this particular case -- and I can't tell
10 by looking at the picture. If in this case the implementer
11 was Microsoft, then we did have one desktop component that
12 had subtiles like this, and when the content behind them
13 changed, we changed the subtitle to indicate to the user that
14 there was new information. But our design choice was a
15 relatively subtle "there's something new here" so the user
16 knows they can go click it and then read the news story,
17 which -- which, as I recall, we characterized as a gleam.

18 Q. So you're using the word "tile" --

19 A. Yes.

20 Q. -- in your answer. Is the word "tile" used in this
21 book anywhere?

22 A. I don't know.

23 Q. Okay. Was the word "tile" used by anyone to refer to
24 Active Desktop items?

25 A. I don't think we used it then. I used it because you

1 JOSEPH BELFIORE

2 used it. You called that -- I think you called that a tile.
3 Or maybe you didn't.

4 Q. I don't think I did.

5 A. Okay. Well, this looks to me like a tile. Maybe I
6 have tiles on the brain today because that's what we called
7 them today. But it's the same basic idea: the rectangle on
8 the screen that launches into a window and so on.

9 Q. Now, there's -- there's -- there's another area on
10 the screen that is not so well defined. But from what I can
11 see in this figure, the numbers 1, 5, and then a colon, and
12 then what appears to be part of a number 4 show up. Do you
13 see that?

14 A. Yes.

15 Q. Do you have an understanding of what that is?

16 A. Yes.

17 Q. What is that?

18 A. It's a clock.

19 Q. Okay. Is that a Java clock?

20 A. I don't know how it's implemented.

21 Q. Okay. Is there some reason that -- so -- let me
22 rephrase.

23 So if this is a clock, then the 1, 5, and the
24 colon would be a display of time in a military format? Is
25 that correct?

1 JOSEPH BELFIORE

2 A. It might be. Or the 1 might be a date that's
3 preceding a time that's five o'clock. I don't know.

4 Q. Okay. In any event, in either one of those
5 possibilities, it does not appear that the entire time is
6 visible in the figure shown on Bates 714; correct?

7 A. Yes. I'd agree.

8 Q. Do you know why that is?

9 A. Yes.

10 Q. Why is that?

11 A. Because this clock is animating, and you need to see
12 it over time to see the numbers spinning around. That's
13 just a moment in time in a rectangle, which is being updated
14 very frequently. It's live.

15 Q. So this would be a display in kind of a -- sorry --
16 I'm at a loss for words now -- almost like a teletype kind
17 of arrangement --

18 A. Yeah. It's animated.

19 Q. Okay. Now, there is another area on the left that
20 shows four pictures, one of which I think might be the
21 Golden Gate Bridge. Do you see that?

22 A. Yes.

23 Q. Okay. Is that one -- well, let me ask this question:
24 This -- this -- this book refers to a thing such as the
25 weather map you referred to earlier as an Active Desktop

1 JOSEPH BELFIORE

2 item, and that's -- I see that on the second line of text on
3 Bates 714. Do you see that?

4 A. Yes.

5 Q. Okay. So is that clock that we just talked about --
6 is that an Active Desktop item?

7 A. Well, the book refers to them as Active Desktop
8 items. I don't think that's what we called them in the
9 product. But I do think that's the -- that the clock is an
10 example of what the book is referring to.

11 Q. Okay. What do you think you would call these --
12 those things in the product?

13 A. Desktop components.

14 Q. Desktop components.

15 And when you say "in the product," that -- would
16 that be the -- the online documentation?

17 A. No. I mean the -- in the actual software that an end
18 user would have got on their PC or they would have
19 downloaded and installed on their PC.

20 Q. So if someone were to try to manipulate one of these
21 either Active Desktop items or desktop components, a menu
22 item might say -- might refer to "desktop components" rather
23 than "Active Desktop items"?

24 A. Yes.

25 Q. Okay. Do you have a preference for which term we use

1 JOSEPH BELFIORE

2 today?

3 A. Well, I'd probably prefer "desktop components,"
4 because I think it's more accurate.

5 Q. Okay. I'm going to ask you to bear with me. I -- I
6 think it will make the questioning go easier if we call them
7 Active Desktop items. That way, it will back --

8 A. Okay.

9 Q. -- the text in the book.

10 A. Sure.

11 Q. Does that sound reasonable?

12 A. That's fine.

13 Q. All right. Thank you, sir.

14 A. Um-hmm. (Witness answers affirmatively.)

15 Q. Okay. So going back to the area of the screen on the
16 left, where we see what appears to be a picture of the
17 Golden Gate Bridge.

18 A. Um-hmm. (Witness answers affirmatively.)

19 Q. Is that one Active Desktop item, or is that multiple
20 Active Desktop items?

21 A. I don't know.

22 Q. Okay. Beneath the picture of the Golden Gate Bridge,
23 there are two circles, one of which has what appears to be
24 the letter "I" in it. And then over to the right, there is
25 another what appears to be a circular area, and I -- I

1 JOSEPH BELFIORE

2 think -- I suspect that when you look at the original book
3 you would see that that's some bar that stretches across the
4 two bottom pictures.

5 Does that refresh your recollection as to
6 whether this is one Active Desktop item or multiple Active
7 Desktop items?

8 A. I don't -- I don't actually know what that is. But
9 it's pretty reasonable to conclude, because the bar's at the
10 bottom, that this is probably all one. But I don't know
11 what it is.

12 Q. And do you know what the -- I -- I suspect the answer
13 is no, but do you know what the source of these images
14 are --

15 A. No.

16 Q. Okay. Do you know whether this Active Desktop item
17 would change its appearance while on the user's desktop?

18 A. I'd say it's quite likely that it would, but I don't
19 know, because I don't know what it is.

20 Q. Okay.

21 A. I think that would be the point of including it here.

22 Q. And then I'll refer your attention now to what I
23 believe you referred to earlier as a weather map. Do you
24 see that?

25 A. Um-hmm. (Witness answers affirmatively.)

1 JOSEPH BELFIORE

2 Q. That is another Active Desktop item? Is that
3 correct?

4 A. Yes.

5 Q. So is there an application associated with this
6 weather map that's depicted on Bates 714?

7 A. Can you define what you mean by "application"?

8 Q. Yes. Is there some -- is there some code associated
9 with this weather map that would get invoked if a user -- if
10 a user clicked on the weather map?

11 A. It's possible. There's no way to know by looking at
12 the picture. And I don't know what it actually is.

13 Q. Okay. I'm going to direct your attention to the
14 textual portion of Bates 714 now. The first sentence reads,
15 "The Active Desktop interface brings the Web right to users'
16 desktops with HTML wallpaper, screen savers, and Active
17 Desktop items."

18 Do you see that?

19 A. Yes.

20 Q. Okay. Does "wallpaper" refer to the image that would
21 be shown in the background of both the Active Desktop items
22 and the icons that are visible in the figure on Bates 714?

23 A. "Wallpaper" generally refers to the background,
24 although I think you characterized it as an image, and I
25 don't think it's limited to being an image.

1 JOSEPH BELFIORE

2 Q. Could be graphics as well?

3 A. And text and so on.

4 Q. Okay. So when the -- the sentence states that "The
5 Active Desktop brings the Web right to users' desktops with
6 HTML wallpaper," to what does that refer?

7 A. Well, I think that refers to the notion that the --
8 the rearmost layer of the screen, which, in previous
9 versions of Windows, was only an image, could be defined by
10 HTML and thus have frames or components that are
11 live-running code or which refer to live sites on the
12 Internet. It's more flexible, it allows much more
13 customization, and so on.

14 Q. So in other words, I could have the wallpaper point
15 to, for instance, the MSNBC website if I chose to do so.

16 A. Yes.

17 Q. And screen savers is also mentioned. Are screen
18 savers the kind of things that become active when the user
19 has not interacted with the computer's I/O devices for some
20 period of time?

21 A. Yes.

22 Q. Commonly understood as screen savers.

23 A. Yes.

24 Q. And again, the Active Desktop items, we've talked
25 about here.

1 JOSEPH BELFIORE

2 A. (Witness nods head affirmatively.)

3 Q. Okay. A little lower, the paragraph reads, "Active
4 Desktop items, which are essentially miniature Web pages
5 that reside on the desktop, complement this functionality."

6 Do you see that?

7 A. Yes.

8 Q. Okay. We don't know whether this figure on Bates 714
9 shows a miniature website, do we?

10 A. That depends on your definition of a website. I
11 would say we know that it does.

12 Q. I apologize. Miniature web pages. None of these
13 Active Desktop items shown in 714 are miniature web pages,
14 are they?

15 A. I would have said they are all miniature web pages.

16 Q. So the photograph of the Golden Gate Bridge, you
17 believe that's a web page?

18 A. Yes.

19 Q. What's your definition of a web page?

20 A. I would define a web page as a region that's defined
21 by the web platform, meaning HTML scripting, Java, ActiveX,
22 and implemented, in our case, using the MS HTML rendering
23 control. That web page might be defined in a file that
24 exists locally or it might be on an HTTP server.

25 Q. So if I had a photograph stored locally in a JPEG

1 JOSEPH BELFIORE

2 format, would that be something you would call a web page?

3 A. I think by itself, for me, that wouldn't quite
4 qualify, although in the strictest definition, yes. If you
5 had an HTML file with a tag that pointed to food.jpeg, it
6 would certainly qualify. And in all of these cases, I think
7 that's true.

8 Q. Okay. I'd like to ask you to turn your attention to
9 the page of the document with the Bates label 719, and
10 that's Roman numeral XXXV in the document.

11 A. I don't think -- either my -- I don't have a 719,
12 unless these are misordered.

13 Q. It should be a few pages back from where you were.
14 Five pages.

15 A. I got 4, 5, 6 -- oh. No. Sorry. I made a mistake.
16 There's 7. No. Mine stops on 8.

17 MR. MCBRIDE: Mine does as well. And then we
18 jump to 901.

19 MR. HEINTZ: Oh, boy.

20 BY MR. HEINTZ:

21 Q. Okay. So your -- you have through Page 718?

22 A. Yes.

23 Q. Then you go to Chapter 4? Is that correct?

24 A. Yes. 14. Chapter 14.

25 Q. Chapter 14. Okay.

1 JOSEPH BELFIORE

2 Let me direct your attention back to Page 714 of
3 Exhibit 14.

4 A. Okay.

5 Q. Do you know why it is the Active Desktop items shown
6 on 714 are arranged the way they are?

7 A. No.

8 Q. All right. Let me direct your attention to what I'll
9 ask the reporter to mark as Exhibit 15, which is, again, an
10 excerpt of a book, entitled "Microsoft Internet Explorer 4."
11 And again, this is an excerpt of the book.

12 The first page is MS_SURFCAST, quadruple zero,
13 75865, and the last page of the document is 75963. And
14 again, this is an excerpt of a book, which includes an
15 introductory portion and a portion that's labeled
16 "Lesson 4."

17 THE VIDEOGRAPHER: Counsel, before we go through
18 with that, we've got just under ten minutes on the tape.
19 Should we switch tapes and then they can -- we can start
20 fresh?

21 MR. HEINTZ: Sure.

22 THE VIDEOGRAPHER: Okay. We're going off the
23 record now. The time is 2:28, and this ends Tape No. 2.

24 (Whereupon, a recess was taken.)

25

1 JOSEPH BELFIORE

2 (Whereupon, Exhibit 15 was marked
3 for identification.)

4 THE VIDEOGRAPHER: Okay. We're back on the
5 record now. The time is 2:35. This begins No. 3 in the
6 continuing deposition of Joseph Belfiore.

7 BY MR. HEINTZ:

8 Q. Mr. Belfiore, you've been handed what's marked as
9 Exhibit 15. Do you have that?

10 A. Yes.

11 Q. Okay. Do you recognize that document?

12 A. No.

13 Q. Okay. I'd ask you to take a look at it. In
14 particular, the description on the page that's labeled
15 75940. Do you see that?

16 A. Yeah. I'm going to look -- just look through it for
17 a second here.

18 Q. Please go ahead.

19 MR. MCBRIDE: And I can't remember if I objected
20 to this being an incomplete document before we went off the
21 record, so I apologize if I'm repeating myself, but I do so
22 now.

23 THE WITNESS: Okay.

24 BY MR. HEINTZ:

25 Q. Let me direct your attention to the portion -- the

1 JOSEPH BELFIORE

2 page of the document with the Bates label 942. It's Page 57
3 in the native pagination.

4 A. Okay.

5 Q. The heading in the top part of the page reads,
6 "Adding the Web to Your Desktop." Do you see that?

7 A. Yes.

8 Q. Okay. Underneath that, there is a heading that
9 reads, "Add a new item to the Active Desktop." Do you see
10 that?

11 A. Yes.

12 Q. Okay. And that portion of the document extends on to
13 the next page, which is native page 58, Bates 943. Do you
14 see that?

15 A. Yes.

16 Q. Okay. Do you have an understanding of what is
17 discussed in this section of the document, under the heading
18 "Add a new item to the Active Desktop"?

19 A. Yes.

20 Q. Okay. What's discussed in that section?

21 A. The notion that the Active Desktop enables users to
22 put stuff they want on it.

23 Q. The first portion of the paragraph under the heading
24 "Add a new item to the Active Desktop" reads, "The Active
25 Desktop Gallery contains items you can add to your Desktop

1 JOSEPH BELFIORE

2 to bring your Desktop to life."

3 Do you see that?

4 A. Yes.

5 Q. Okay. What was the Active Desktop Gallery?

6 A. At Microsoft, we ran a website that collected a
7 limited number of desktop components. So there was one
8 place users could look for their first set of sample desktop
9 components to add to their desktop if they'd like.

10 Q. Okay. And while we're at it, let's go above that
11 now. Under the heading "Adding the Web to Your Desktop" on
12 the same page, there's a passage that reads, in the middle,
13 "You can use your Desktop background to display one large
14 Web page or display many Web pages. You could also add
15 items, such as a stock ticker or a 3-D rotating clock, from
16 the Microsoft" -- "Microsoft Active Desktop Gallery to your
17 Desktop."

18 Do you see that?

19 A. Yes.

20 Q. Okay. Is that 3-D rotating clock, to the best of
21 your knowledge, a reference to the clock image we saw in the
22 last document?

23 A. I don't know.

24 Q. Okay. Do you have an understanding of what the stock
25 ticker was?

1 JOSEPH BELFIORE

2 A. I think this is -- is giving hypothetical examples
3 and not real ones, although I could be wrong about that. I
4 don't remember what items we had in the Active Desktop
5 Gallery.

6 Q. Okay. And referring now back to the section under
7 the heading "Add a new item to the Active Desktop." Would
8 it be fair to say that the numbered steps 1 through 11 in
9 this section refer to the steps a user would take to add an
10 Active Desktop item to the desktop?

11 A. Let me read them and I'll tell you.

12 I think these are terrible.

13 Q. I'm sorry. What do you mean by that?

14 A. I think whoever wrote this book did a bad job of
15 identifying the steps that would be the most likely or
16 easiest ones that a user would use to customize their Active
17 Desktop.

18 Q. Okay. Would the steps numbered 1 through 11 be a way
19 to adding an Active Desktop item to a desktop?

20 A. I -- it might be. I can't say for sure. There's
21 information that's missing in Step 6. And I think Step 11
22 is inaccurate.

23 Q. Okay. Let's start with Step 6. What's missing from
24 Step 6?

25 A. I don't know what the new active item -- Active

1 JOSEPH BELFIORE

2 Desktop item dialogue box says and what clicking "yes" will
3 do, because it does not describe it here. I don't -- I
4 can't imagine why it would be necessary to maximize your
5 screen.

6 Q. Okay. And what's the issue with Step 11?

7 A. I don't think that the screenshot is what it would
8 look like.

9 Q. Why not?

10 A. Well, I think this is showing some bugs in the
11 ticker. This ticker is ugly.

12 Q. Okay. Let's start with the question what is the
13 ticker to which you refer.

14 A. Well, the -- the steps here in Step 7, it describes,
15 "On the Active Desktop Gallery page, click to choose the MSN
16 Investor Ticker." So I presume in this example the user is
17 installing a ticker onto their Active Desktop.

18 And I suspect that the author of this either had
19 an unfinished build and took a screenshot or they
20 manipulated the screenshot manually before taking the
21 screenshot, because this ticker doesn't look like it's
22 operating at all. It has scroll bars. I'm unsure why it's
23 landed in this particular position. And so I think this is
24 inaccurate.

25 Q. Okay. Other than the appearance of the -- well,

1 JOSEPH BELFIORE

2 first of all, in the figure shown on Bates 943, the ticker
3 to which you're referring is the rectangular area beneath
4 the -- the logo for MSN and -- and the words "The Microsoft
5 Network"; correct?

6 A. Yes.

7 Q. Okay. Other than the appearance of the ticker, is
8 there anything else that you think is inaccurate about --

9 A. Probably not.

10 Q. So there's -- do you have any issue with the location
11 or the size of the ticker?

12 A. Well, I count that as the appearance. Yes.

13 Q. Oh. What issues do you have with the location and
14 size of the ticker?

15 A. Well, it's unclear why the ticker is in that
16 particular position. I don't -- depending on what the
17 person was doing with this before then, I don't know that it
18 would have ended up there. And the size seems incorrect,
19 because it's got scroll bars in there and there's no reason
20 for a ticker to have scroll bars, and it shouldn't, and I
21 don't think it did.

22 So my suspicion is that the author of this
23 article -- and I don't know who that is -- either
24 manipulated things on their PC before they took the
25 screenshot or they had an unfinished build which resulted in

1 JOSEPH BELFIORE

2 something that's much messier than we would have shipped or
3 intended to ship.

4 Q. How would the ticker have appeared in what you
5 shipped or intended to ship?

6 A. Well, you'd see little stock quotes going across it;
7 it wouldn't have scroll bars; it probably wouldn't be that
8 big; it might be that long, but I don't think it would be
9 that tall. I can't tell what these blank areas are at all.

10 So it's possible that this is a messed-up web
11 page where the dark area in the middle is the actual ticker
12 and the gray above and below is HTML slop that shouldn't be
13 present at all. But I can't tell.

14 Q. Okay.

15 A. I mean, this is not elegant and attractive. This
16 looks like shareware, and typically we didn't ship that.

17 Q. You mentioned that you thought the number of steps
18 that were described here in native pages 57 to 58 of
19 Exhibit 15 were more numerous than they needed to be? Is
20 that correct?

21 A. Um-hmm. (Witness answers affirmatively.)

22 Q. How would -- what steps would you take to install an
23 Active Desktop item on the version of the Internet Explorer
24 that was shipped?

25 A. If I were explaining to -- the feature to somebody to

1 JOSEPH BELFIORE

2 get them to know how to use it in the general-use case or to
3 understand its benefits, I would direct them to a website
4 that had an Active Desktop component available for use,
5 where there was a button on the website that said "Put this
6 on my Active Desktop."

7 The user clicks the button -- they've just gone
8 to a website. They click the button; they confirm that they
9 want a desktop item; they confirm the schedule that's
10 suggested by the content author; and voila, it appears on
11 the desktop. Much simpler.

12 This -- this has 11 steps, including make your
13 desktop visible, verify that "View desktop as web page" is
14 turned on, and that's not necessary in the general case.

15 Q. What you -- what you just described I believe is
16 referred to in some of the documentation I've seen as
17 subscribing to a -- to a channel. Correct? Or subscribing
18 to a website.

19 A. No.

20 Q. No?

21 A. They're -- they're related concepts but different.

22 Q. Okay. In the example you just gave, it is necessary
23 for the website to have some sort of button on it by which
24 the user would confirm that he wanted to have it as an
25 Active Desktop item; correct?

1 JOSEPH BELFIORE

2 A. Yes.

3 Q. That -- that functionality wouldn't be present on all
4 of the websites, would it?

5 A. No.

6 Q. In fact, it wouldn't be present on most of them;
7 isn't that correct?

8 A. Well, that would depend on how many people did it.
9 There was a period of time where it was present on a number
10 of them in the places where it was useful. But certainly
11 now you wouldn't find it anywhere.

12 Q. Okay. So even back at the time period we're talking
13 about here, if I were to go to a website that was not --
14 that did not have a functionality built in --

15 A. Right.

16 Q. -- would I still be able to have that website be
17 displayed as an Active Desktop item on my desktop?

18 A. You could, but it would be pretty weird to do that.

19 Q. Why would it be weird to do that?

20 A. Because a website wasn't generally designed to
21 operate nicely as a desktop component.

22 Q. What was necessary for a website to be designed to
23 operate nicely as a desktop component?

24 A. Mostly size. Desktop components were designed to let
25 the user have a small number of reasonably sized rectangles,

1 JOSEPH BELFIORE

2 that are a subset of the size of their screen, to be laid
3 out on the screen in a way that would be visible, to provide
4 snippets of information, not full web pages. Full web pages
5 are generally designed to be pretty big, like a piece of
6 paper. And in these days, we had small-resolution screens,
7 so that was even more the case.

8 Q. When you say small resolution, does that refer to
9 something like 640 by 480 that you --

10 A. Yes.

11 Q. -- spoke about earlier?

12 Okay. So if I had a website that was designed
13 to operate nicely as a desktop component and I, in fact,
14 installed it on a -- as a desktop component, the Active
15 Desktop -- I'm sorry -- the desktop component, which, again,
16 is what we referred to earlier as the Active Desktop item,
17 would display the snippet of information you had indicated;
18 correct?

19 A. You kind of lost me in your --

20 Q. Yeah. Sorry.

21 So I'm assuming, now, that I've installed an
22 Active Desktop item, or a desktop component, if you will,
23 from one of these websites that you mentioned that was
24 designed to operate nicely as a desktop component.

25 A. I think -- I think you've -- I think you've

1 JOSEPH BELFIORE

2 misinterpreted what I meant to say or I wasn't clear about
3 what I was trying to say.

4 Q. Well, please -- yeah. Go ahead and explain.

5 A. It's not that the whole website is designed to be a
6 desktop component. It's that the website presents a
7 component that was designed to be the -- a desktop
8 component.

9 So if you think of websites -- like if you think
10 about websites today, you'll find websites that have along a
11 left column a rectangle that's rotating through information,
12 or a ticker at the top. Those parts of websites are
13 appropriate as desktop components, not really the whole site
14 itself.

15 When you say "the website," you tend to mean a
16 thing that's the size of a piece of paper. That's generally
17 not going to be the best results for desktop components and
18 not what we intended the design for.

19 What is applicable is small rectangles that fit
20 onto the screen nicely, where you can have four or five or
21 six of them laid up if you'd like, where they give you
22 preview information that indicates when it's useful to go
23 into a larger experience. They're glanceable. They launch
24 into a full-screen view when you're interested in the
25 information that's presented in them.

1 JOSEPH BELFIORE

2 Q. And does launching into a full-screen view -- is that
3 what you meant when you -- when you testified about "a
4 larger experience"?

5 A. I don't remember what the context was when I said
6 that.

7 Q. You said that they give you -- I'm sorry -- they
8 present information that indicates when it's useful to go
9 into a larger experience, they're glanceable, they launch
10 into a full-screen view when you're interested in the
11 information that's presented in them. So I'm asking if by
12 "larger experience" you mean launch into a full-screen view.

13 A. Yes. And just to be very precise about it, I'm
14 saying full-screen view but I don't -- that's not really a
15 requirement. It's really "open a new window which you could
16 maximize." It's generally going to be much larger. It's
17 not necessarily full screen, but it might be.

18 Q. Okay. So for instance, using the example we've been
19 talking about on Bates 943 of Exhibit 15, you said that that
20 would be a ticker, an investor ticker of some kind. So what
21 would happen if I -- how would I invoke this larger
22 experience?

23 A. Click on the ticker.

24 Q. Okay. And then what would happen?

25 A. A window would open, giving you more information on

1 JOSEPH BELFIORE

2 the thing you clicked on.

3 Q. Okay. Is there -- would there be only one
4 destination for --

5 A. Not necessarily.

6 Q. Okay. Let me finish the question.

7 A. Sorry. I'm sorry.

8 Q. That's okay.

9 Would there be only one destination to which the
10 user would be brought if he were to click on an Active
11 Desktop item?

12 A. Not necessarily.

13 Q. Okay. When would there be more than one?

14 A. That's up to the author of the desktop component.

15 Q. So do you have a recollection of the MSN investor
16 ticker?

17 A. Vaguely.

18 Q. Okay. Do you know whether that --

19 A. I don't know.

20 Q. Okay.

21 A. Sorry. Go ahead.

22 Q. Let me finish the question so we have it on the
23 record.

24 A. I'm sorry.

25 Q. Do you know whether that Active Desktop item or

1 JOSEPH BELFIORE

2 desktop component would have more than one destination when
3 clicked on by a user?

4 A. I don't know.

5 Q. Thank you.

6 Did every Active Desktop item have a -- I'm
7 sorry.

8 Would clicking on every desktop item result in
9 some larger user experience or the opening of a -- of a
10 window?

11 A. I don't think so. But I may be misremembering that.
12 I think it was not necessary but it was frequent.

13 Q. So assuming you were correct, it would be up to the
14 author to provide the mechanism by which the larger
15 experience -- i.e., the window would open -- and if an
16 author chose not to include that functionality, then the
17 Active Desktop item would not operate in that manner;
18 correct?

19 A. I believe so.

20 Q. Okay. So let's go back to what we previously marked
21 as Exhibit 14, which is the excerpts from the Internet
22 Explorer Resource Kit book. And I'll ask you to go back to
23 Page -- I believe it was Page 30 that we talked about
24 earlier. That's -- I'm sorry. That's native page 30.
25 Bates 714 in the lower right-hand corner.

1 JOSEPH BELFIORE

2 A. Yes.

3 Q. Okay. So I'll -- I'll start off again referring to
4 the -- the Active Desktop item with the picture of the
5 Golden Gate Bridge in it.

6 A. Yes.

7 Q. So if I clicked on, let's say, the -- the portion of
8 the item that reflects the Golden Gate Bridge, would that
9 necessarily take me to some window that popped open?

10 A. Not necessarily, as I recall.

11 Q. Okay. The same issue with the -- the same question
12 for the -- what we -- what we referred to earlier as the
13 weather map. Do you -- do you have a recollection of that
14 particular weather map Active Desktop item?

15 A. I don't.

16 Q. All right. Then it would be the case, then, that no
17 clicking on the Active Desktop item would result in a larger
18 experience or the opening of a window; correct? That's one
19 possibility?

20 A. I think that is a possibility.

21 Q. Okay. And it's also a possibility that different
22 active -- sorry -- different windows would be open depending
23 upon which portion of the weather map Active Desktop item
24 one were to click on; correct?

25 A. Yes.

1 JOSEPH BELFIORE

2 Q. Okay. So just to finish this up: So in that image
3 we see of the weather map Active Desktop item, there appear
4 to be what I'm guessing are kind of weather depictions of
5 various places on the map. I presume those are clouds of
6 some kind. It's possible, then, if I clicked on one cloud,
7 I might get one window with one image, and if I clicked on a
8 different cloud in the diagram, I'd get a different window
9 with a different image.

10 A. Yes.

11 Q. And the same would be true of the states that are
12 depicted on the map.

13 A. Yes.

14 Q. All right. And then what would happen if I clicked
15 on what we called the clock earlier?

16 A. I don't know.

17 Q. All right. Now, with respect to the rectangle on the
18 right that I think we referred to earlier as the channel
19 bar, if I clicked on the MSNBC News rectangle in the channel
20 bar, would that take me to the MSNBC website of some kind?

21 A. Yes.

22 Q. Okay. And presumably, if I clicked on one of those
23 rectangles with the letter A in it, I'd be brought to some
24 other window in some other location.

25 A. Yes.

1 JOSEPH BELFIORE

2 Q. Okay.

3 Okay. Sir, I'm going to ask you to -- again, in
4 Exhibit 14, to turn to the portion of the document with the
5 native pagination Page 175. And the Bates label in the
6 lower right-hand corner is 78903.

7 A. Okay.

8 Q. Okay. The title here reads, "Layers of the Active
9 Desktop." Do you see that?

10 A. Yes.

11 Q. Okay. The first sentence reads, "The Active Desktop
12 in Internet Explorer 4 is built from two separate layers."

13 Do you see that?

14 A. Yes.

15 Q. Okay. What does that refer to?

16 A. It refers to the -- both the user interaction layers
17 and the sort of implementation layers. The desktop icons
18 which people would have been familiar with from Windows 95
19 are in one layer, and the HTML is in another.

20 Q. Okay. Just so we're clear, I'm going to ask you to
21 turn briefly back to Page -- native page 30 of the document.
22 That's the -- the diagram we looked at earlier. And by
23 "icons," we're referring to those things on the left-hand
24 side of the diagram. The first one reads "My Computer"; the
25 second one reads "The Internet." Those are the icons to

1 JOSEPH BELFIORE

2 which you're referring; correct?

3 A. Yes.

4 Q. Okay. So this passage on Page 175 is essentially
5 saying that there are two layers, one of which includes the
6 icon such as "My Computer," and another one which includes
7 the HTML layer that hosts the Active Desktop items, among
8 other things?

9 A. Yes.

10 Q. As well as the wallpaper?

11 A. Yes.

12 Q. Okay.

13 All right. Again, on Page 175, native, which is
14 Bates 903, the first bullet point reads, "HTML tags that
15 represent each Active Desktop item. Each Active Desktop
16 item consists of a single HTML tag of arbitrary x- and
17 y-positions. The HTML tag used for Active Desktop items can
18 either be an image," paren, "IMG tag," end paren, "or a
19 floating frame," paren, "IFRAME tag," end paren, "and is
20 generated automatically by Internet Explorer 4."

21 Do you see that?

22 A. Yes.

23 Q. Okay. So what -- what's an image tag?

24 A. It points to a simple image like a JPEG.

25 Q. Okay. And again, with respect to native page 30 of

1 JOSEPH BELFIORE

2 this document, that might be something like the Golden Gate
3 Bridge that we talked about earlier.

4 A. I don't think so.

5 Q. Oh. Okay. Why is it you don't think that would be
6 the case?

7 A. Because as you pointed out, that rectangle appears to
8 have a bar across the bottom. And you would have to have
9 that whole thing be just an image, not the separate Golden
10 Gate Bridge part. It's either -- that's either five
11 distinct desktop components or it's a single desktop
12 component which is not an image.

13 Q. Understood. Okay.

14 And what is an iframe?

15 A. An iframe -- an iframe is a rectangle -- is a
16 rectangle that hosts a new instance of the Microsoft HTML --
17 MS HTML control and thus can render any web page -- defined
18 broadly, web page, Java applet, ActiveX control, image, HTML
19 code script and so on. It's a rectangle that hosts a little
20 live area of HTML.

21 Q. Okay. A little below -- I'm sorry.

22 The paragraph below the bullet point, there's a
23 statement that reads, "You can see this by dragging a
24 desktop item around your Active Desktop; it will always be
25 drawn underneath the icons and" -- "and on top of the

1 JOSEPH BELFIORE

2 wallpaper."

3 Do you see that?

4 A. Yes.

5 Q. Okay. Does that mean if I were to, for instance,
6 drag the weather map item -- Active Desktop item, or desktop
7 component, up into the upper left-hand corner of the screen
8 that's shown on native -- native Roman numeral XXX,
9 Bates 714, that the "My Computer" icon would cover a portion
10 of the Active Desktop item --

11 A. Yes.

12 Q. -- known as the weather map? Okay.

13 That would always be the case?

14 A. Yes.

15 Q. And the next -- sorry.

16 A little beneath that, there's a sentence that
17 reads, "An Active Desktop item can act as a desktop shortcut
18 or a quickly referenced source of" --

19 A. Actually, I'm sorry. I'm not -- I'm not with you.

20 Q. Yeah. I'm sorry. So it's the same paragraph on
21 Bates label 903, native page 175.

22 A. Okay.

23 Q. Eight lines down --

24 A. Okay.

25 Q. -- from the paragraph that begins "Active Desktop

1 JOSEPH BELFIORE

2 items."

3 A. Yes.

4 Q. So it reads, "An Active Desktop item can act as a
5 desktop shortcut for a quickly referenced source of
6 regularly updated information."

7 Do you see that?

8 A. Yes.

9 Q. Okay. The portion of the sentence that refers to
10 acting as a desktop shortcut, is that referring to what we
11 talked about earlier, that if the designer of the item had
12 included one or more tags that would open up a window? Is
13 that what was meant by "a desktop shortcut"?

14 A. Yes.

15 MR. HEINTZ: Ask the reporter to mark as 16 a
16 multipage document bearing Bates labels 287945 through
17 287979.

18 (Whereupon, Exhibit 16 was marked
19 for identification.)

20 BY MR. HEINTZ:

21 Q. Sir, I'll ask you if you recognize this document.

22 A. Nope.

23 Q. Any idea what -- what this might be?

24 A. It looks like it is a list of development-team work
25 items.

1 JOSEPH BELFIORE

2 Q. And in the -- on the first page of the document,
3 there's a Column A labeled "Component," and underneath that
4 appear the words "Active Desktop." Do you see that?

5 A. Yes.

6 Q. Do you know if this document had anything to do with
7 the Windows Phone 7 development project, or projects?

8 A. I don't think it did.

9 Q. Okay. Was any code from Active Desktop items
10 included -- sorry. Let me rephrase that.

11 Was any code from the Active Desktop project
12 included in the Windows Phone 7 project?

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

18 MR. HEINTZ: Counsel, why don't we take about a
19 five-minute break. I may be just about done here. So let's
20 take a break.

21 MR. MCBRIDE: Sure.

22 THE VIDEOGRAPHER: Okay. We're going off the
23 record now at 3:11.

24 (Whereupon, a recess was taken.)

25 THE VIDEOGRAPHER: We're back on the record now

1 JOSEPH BELFIORE

2 at 3:17.

3 MR. HEINTZ: Just a couple more quick questions,
4 sir, and I'll -- we'll be done.

5 THE WITNESS: Okay.

6 BY MR. HEINTZ:

7 Q. Earlier today we talked about the possibility of
8 having an Active Desktop item display a web page or a
9 website that was not configured for an Active Desktop item.
10 So it's possible, is it not, to have an Active Desktop item
11 that takes up most of the screen, a large portion of the
12 screen?

13 A. Either the user would have to choose to do that or
14 the author of the Active Desktop component would have to
15 explicitly choose to do that.

16 Q. Okay. So if a user were to create an -- or add an
17 Active Desktop item to his desktop and have that --
18 configure that Active Desktop item to display a nonspecially
19 designed website and size the Active Desktop items so it
20 covered most of the screen, he could do so; correct?

21 A. Yes.

22 Q. Okay. If a user were to do that, would the -- what
23 would happen if the user were to click on that Active
24 Desktop item?

25 A. It depends what is in the HTML they're clicking on.

1 JOSEPH BELFIORE

2 Q. Okay. If they were at a -- on a portion of a web
3 page in which no links were present, would anything happen?

4 A. No.

5 Q. Okay.

6 MR. HEINTZ: No further questions.

7 MR. MCBRIDE: No questions from me.

8 We will review and sign.

9 I think we've looked at some documents that were
10 labeled under the protective order, so I'll designate the
11 entire deposition "attorneys eyes only, subject to
12 protective order."

13 MR. HEINTZ: No objection.

14 MR. MCBRIDE: All right. Thanks very much.

15 THE VIDEOGRAPHER: Okay. The court reporter
16 will now take orders for the copies, please.

17 THE REPORTER: Mr. Heintz, just to confirm, you
18 want to order the original transcript, and is one-week
19 turnaround okay for the final transcript?

20 MR. HEINTZ: I don't need to see anything but
21 the final.

22 THE REPORTER: Okay.

23 MR. HEINTZ: And whatever the normal turnaround
24 time is fine.

25 THE REPORTER: Do you want to get a rough draft

1 JOSEPH BELFIORE

2 tonight, as well?

3 MR. HEINTZ: No, I don't need a rough draft
4 tonight.

5 THE REPORTER: Okay. And do you want to order
6 the video?

7 MR. HEINTZ: You know what? Give me your card,
8 and I'll have my -- my folks contact you. Is that all
9 right? Or do I have to answer now?

10 THE REPORTER: Oh. Sure. Okay. I'll do so.

11 And, Mr. McBride, do you want to order a copy?

12 MR. MCBRIDE: Yeah. Whatever -- however we've
13 done it in the past, I will stick with that strategy, and if
14 that includes a rough tonight, then that's fine as well.
15 But if -- no pressure on you. If it takes a day or two,
16 that's perfectly fine as well. We don't need it tonight.

17 THE REPORTER: Oh. Okay. Do you want a video
18 as well?

19 MR. MCBRIDE: Yes, a copy of the video, please.

20 THE REPORTER: Thank you.

21 THE VIDEOGRAPHER: Okay. We're going off the
22 record now. The time is 3:20. This ends Tape No. 3. This
23 concludes the deposition of Joseph Belfiore July the 11th,
24 2013.

25 (Whereupon, the deposition concluded at 3:20 p.m.)

CERTIFICATE

1
2
3 I, David A. Hart, certify that the foregoing
4 was reported and reduced to written form; that the
5 transcript prepared by me or under my direction, is
6 a true and accurate record of same to the best of my
7 knowledge and ability; that there is no relation nor
8 employment by any attorney or counsel employed by the
9 parties hereto, nor financial or otherwise interest
10 in the action filed or outcome.
11
12

13 IN WITNESS HEREOF, I have hereunto set my hand
14 this 23rd day of July, 2013.
15
16
17

18 _____
19 David A. Hart
20

21 Professional Court Reporter
22
23
24
25

1 CORRECTION SHEET

2 Deposition of: Joseph Belfiore Date: 07/11/13

3 Regarding: SurfCast v. Microsoft Corporation

4 Reporter: David A. Hart

5 _____

6 Please make all corrections, changes or clarifications
7 to your testimony on this sheet, showing page and line
8 number. If there are no changes, write "none" across
9 the page. Sign this sheet on the line provided.

10 Page Line Reason for Change

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

20 _____

21 _____

22 _____

23 _____

24 Signature _____

25 Joseph Belfiore

DECLARATION

Deposition of: Joseph Belfiore Date: 07/11/13
Regarding: SurfCast v. Microsoft Corporation

I declare under penalty of perjury the following to be true:

I have read my deposition and the same is true and accurate save and except for any corrections as made by me on the Correction Page herein.

Signed at _____, _____
on the _____ day of _____, 2013.

Joseph Belfiori