23 Q Mr. Gates, you've been sued by Sun Microsystems over Java, have you not?
24 A There's a lawsuit with Sun.
Q  Well, there's a lawsuit with Sun, and
it's a lawsuit with Sun relating to the use of Java; right?
A  It relates to a very specific contract
that we have with Sun.
Q  And does that very specific contract
with Sun relate to Java?
A  It's a license to various Sun
technologies related to Java.
Q  Now, you're familiar with that lawsuit,
are you not, sir?
A  Not very.
Q  Not very?
A  Do you know what the contentions in
that lawsuit are?
A  No.
Q Did you ever try to find that out?
A What?
Q What the claims were more than your present knowledge.
A I read something that was on our web site about four days ago.
Q About the Sun lawsuit?
A Yeah. Bob Mu lia had some statements.
Q Other than that, did you ever try to find out what Microsoft is being charged with, what
they're alleged to have done wrong?

A I've had discussions with Maritz saying: Do I need to learn about this lawsuit? Do I need to spend a lot of time on it?

Q What did he say?

A He said, no, he's focused on that and I can focus on other things

Q Is one of the things that you're focused on trying, in Mr. Slivka's words, to wrest control or get control, if wrest is a word that you don't like, of Java away from Sun?

A No.
Q. BY MR. BOIES: Isn't it a fact, Mr. Gates, that in addition to whatever other reasons you say you had for what you did with Java and Windows APIs, part of what you were trying to do was to prevent Java from having a wide enough distribution so that it could support programs that could be used on platforms other than Windows?

A. We had no way of preventing Java from being used on other platforms. It is used on other platforms.
Q       That wasn't my question, sir. My
2       question is whether or not part of what you and
3       Microsoft was trying to do was to limit the
4       distribution of Java sufficiently so that you could
5       thereby limit or reduce the extent to which
6       applications were written that could be used on
7       platforms other than Windows.
8       A       No. In fact, we sell the most popular
9       Java tools in the market.
10      Q       It is your testimony, then, sitting
11      here, that Microsoft was not at all motivated by a
12      desire to limit the extent to which Java could be
13      used to develop applications programming that could
14      be used on platforms other than Microsoft's Windows?
15      Is that your testimony?
16      A       Yes.
Q Did Microsoft believe that Netscape's browser was a means of distributing Java APIs?

Well, Netscape had some APIs in its browser. I'm not sure if you would refer to them as
Java APIs or not.

Q. It's not a question whether I would refer to them that way or not, Mr. Gates. What I'm asking you is what you and Microsoft believe.

And my question is: Did you and others at Microsoft believe that Netscape's browser was a method for distributing Java APIs?

A. There were APIs in the Netscape browser. I don't think they were strictly Java APIs or even in a direct sense specifically.

Q. Have you completed your answer, sir?

A. Uh-huh.

MR. BOIES: Can I have the question read back again?

(The following question was read:
"Q. It's not a question whether I would refer to them that way or not, Mr. Gates. What I'm asking you is what you and Microsoft believe.

"And my question is: Did you and others at Microsoft believe that Netscape's browser was a method for distributing Java APIs?

Q. BY MR. BOIES: Can you tell me that,
A    There were APIs in Netscape browser
some of which under some definition of Java APIs
you'd call Java APIs.
Q    And was there concern within Microsoft
that the distribution of these things that you say
could be called Java APIs would adversely affect
Microsoft?
A    Our concern is always to get people to
develop Windows applications. And to the degree that
there's other APIs people to develop to, there's some
competition for the attention of developers and
focusing on those APIs. But that doesn't relate to
distribution.

MR. BOIES: Can I have my question read
back again, please?
(The following question was read:
"Q    And was there concern
within Microsoft that the
distribution of these things that you
say could be called Java APIs would
adversely affect Microsoft?"
Q    BY MR. BOIES: Could I have an answer
to that question, please, sir?
A    No, not the distribution.
Q       Let me ask you to look at a document
that has been previously marked as Government Exhibit
The first message in this exhibit is an e-mail
from Paul Maritz to you and a number of other people
dated July 14, 1997; correct, sir?

A       That's what it appears to be, yes.

Q       Did you receive this e-mail, sir?

A       I don't remember it. But I don't have
any reason to doubt that I did.

Q       Mr. Maritz writes to you in the third
sentence, quote,

"If we look further at
Java/JFC being our major threat, then
Netscape is the major distribution
vehicle."

Do you see that, sir?

A       Uh-huh.

Q       Do you recall Mr. Maritz telling you in
words or in substance that Netscape was the major
distribution vehicle for the Java/JFC threat to
Microsoft?

A       No.

Q       Did you believe in July of 1997 that
Java/JFC was a major threat to Microsoft as
Mr. Maritz writes here?
A It was a significant issue for his
group in terms of how ISVs would choose to focus
their development in the future.

Q Did you believe in July of 1997 that
Java/JFC was a major threat to Microsoft?

A In the form that it existed as of that
day, maybe not. But if we looked at how it might be
evolved in the future, we did think of it as
something that competed with us for the attention of
ISVs in terms of whether or not they would take
advantage of the advanced features of Windows.
Q Now, in a prior answer you said you didn't understand how the browser was a distribution vehicle. Does this refresh your recollection that at least within Microsoft in July of 1997 Netscape was viewed as the major distribution vehicle for Java?

A Not for Java. And in my view, the browser wasn't a key distribution channel. Maritz may or may not have agreed with that. But you can always ship the runtime with the applications.

Q Mr. Maritz here says, "Netscape is the major distribution vehicle."

Now, it's clear to you, is it not, sir, that he means the major distribution vehicle for Java and Java Foundation Classes?

A He doesn't mean for Java.
Q Well, sir, he says --
A I told you many times about the use of the word "Java." And I'm not sure you heard me.
Q When people use the word "Java," they don't mean just Java.
A So when Mr. Maritz here used the word "Java," in this e-mail that you say you don't recall receiving, you're telling me that he meant something other than just Java?
A He -- I bet he meant some runtime APIs, not Java.
Q Okay.
Q Let's assume that you're right, let's assume that when he talks about Java he means Java runtime APIs. Would you then agree that what he is saying here is that Netscape is the major distribution vehicle for Java runtime APIs and Java Foundation Classes?
A That appears to be what he's saying in this e-mail.
Q. Let me ask you to look at a document that has been marked as Government Exhibit 256. This is an e-mail to you from Tod Nielsen dated August 25, 1997, with copies to Brad Chase.

(The document referred to was marked as Government Exhibit 374 for identification and is attached hereto.)

Q. BY MR. BOIES: Did you receive this e-mail, sir?

A. I don't remember receiving it. But I don't have any reason to doubt that I did.

Q. Let me ask you to look at the seventh paragraph down. That's the third paragraph from the bottom, the last sentence. That says, quote, "So, we are just proactively trying to put obstacles in Sun's path and get anyone that wants to write in Java to use J/Direct and target Windows directly," close quote.

Do you see that, sir?

A. Uh-huh.

Q. Do you recall being told in or about August of 1997 that Microsoft was trying to put obstacles in Sun's path and get anyone that wants to
write in Java to use J/Direct and target Windows directly?

A No.

Q Do you know why Microsoft was trying to put, quote, "obstacles in Sun's path," close quote?

A I don’t know what that means.

Q Do you know why Microsoft was trying to get anyone that wants to write in Java to use J/Direct?

A Yes.

Q Why was that?

A Because J/Direct allows you to make calls that show off unique innovations in Windows and make -- therefore, make Windows more attractive.
Q  What is J/Direct?
A  J/Direct is a way of allowing Java
language code to call native OS functionality. It's
a fairly clever thing that we have done. And others
now use that term to refer to it when they let their
OS functionality show through as well.

Q Why was J/Direct developed by Microsoft?
A To make it easy for people who choose the Java language to call the unique runtime features in various operating systems including Windows.
Q Why do you want people to write in J/Direct as opposed to Java?
A They are writing in Java. You only use J/Direct if you write in Java.
Q Well, what Mr. Nielsen says is that Microsoft is trying to get anyone that wants to write in Java to use J/Direct.
A Do you see that?
Q That’s right. And that means writing in Java.
A And why do you want to get anyone who wants to write in Java to use J/Direct?
Q Because that gives them a way of calling unique Windows APIs that allow us to show off the innovative features in Windows.

My question is why you were trying to get program developers, independent programming...
people, to use J/Direct. Why were you trying to get
them to do that?

MR. HEINER: Certainly asked and
answered.

THE WITNESS: Because it allows them to
get at the unique API functionality that's in the
Windows product and show off the innovations that we
do there.

Q BY MR. BOIES: But you didn't have to?
A Tell me some other way.

Q Well, I'm asking you. If you tell me
that that's what you say is the only way that you
could think of for them to do it, that's your
testimony. I don't get to testify here. If I did,
there would have been a lot of things I would have
said along the way. But since I don't get to
testify, all I get to do is ask you questions.

And my question to you is whether there
was a way, that you were aware of at the time, to let
people see all of what you refer to as the
functionality of Windows without getting people to
write to what you refer to here to use J/Direct if
they wanted to write in Java.

A J/Direct is exactly the work we did to
make it possible and reasonable for people writing in
Java to call the unique Windows APIs.

Have you finished your answer?

A Yes.

Q Okay.

Now, were you aware of other ways of accomplishing the same result that you considered and rejected at the time?

A What time is that?

Q The time that you developed J/Direct.

A We don't know what that time is.

Q Well, you may not know the exact year.

But do you know that when -- were you aware when J/Direct was being developed within Microsoft? Were you aware of it at the time?

A I'm not sure.

Q Did you know it was being developed?

A I'm not sure.

Q Did you have any discussions about the development of J/Direct?

A I was not involved in the design of J/Direct.

Q I'm not asking you whether you were involved in the design of J/Direct. I'm asking you whether you were aware at the time that J/Direct was being developed that it was being developed?
A I'm not sure.
Q Did you ever have any discussions with anyone about the development of J/Direct at or about the time it was being developed?
A I don't think so.
Q At the time that J/Direct was being developed, did you know that people were trying to develop J/Direct?
A It's just a thunk.
Q My question is: Did you know that they were trying to develop this thunk?
A I doubt it.
Q Did you participate at all in any discussions as to what alternatives there were to the development of J/Direct?
A Before it was developed?
Q Let's start with before it was developed.
A No, I don't think so.
Q What about during the time it was being developed?
A I don't think so.
Q How about after it was developed?
A I don't think so.
Q    BY MR. BOIES: Let me show you a
document that has been previously marked as
Government Exhibit 252.
(The document referred to was marked as
Government Exhibit 253 for identification and is
attached hereto.)

Q    BY MR. BOIES: In the middle of the
first page there is a message dated May 14, 1997,
from Ben Slivka to you and others.

Did you receive this e-mail on or about
May 14, 1997?

A     I'm not sure. But I have no reason to
doubt that I did.

Q    When Mr. Slivka writes as he does in
the second paragraph, "This summer we're going to
totally divorce Sun," do you know what he's referring
to?

A I'm not sure.
Q Did you ever ask him what he was
referring to?

A No.
Q In the next to last -- or in the last
sentence, actually, in the last sentence of the
second paragraph, Mr. Slivka writes that "JDK 1.2 has
JFC." And is the JFC there the Java Foundation
Classes that you referred to earlier?

A It's one of the many JFCs.
Q What is one of the many JFCs?
A The one in JDK 1.2.
Q Is the JFC in JDK 1.2 part of what was
described as a major threat to Microsoft?
A I have no idea which JFC that sentence
written by somebody other than me referred to.
Q Well, the sentence written by somebody
other than you was written to you; right, sir?
A It was sent to me.
Q Yes. And it was sent to you by one of
your chief -- one of your top executives; correct, sir?
A In an e-mail.
Q Yes.
And that's a frequent way that your top
executives communicate with you; correct, sir?
A Yes.
Q Now, Mr. Slivka here says that
Microsoft is going to be saying uncomplimentary
things about JDK 1.2 at every opportunity.
Do you see that?
A Where's that?
Q That is, "JDK 1.2 has JFC, which we're
going to be pissing on at every opportunity."
A I don't know if he's referring to
pissing on JFC or pissing on JDK 1.2 nor do I know
what he specifically means by "pissing on."
Q Well, do you know that generally he
means by pissing on he's going to be saying and
Microsoft is going to be saying uncomplimentary
things.
A He might mean that we're going to be
clear that we're not involved with it, that we think
there's a better approach.
Q Well, as you understand it, when
Mr. Slivka says he's going to be pissing on JDK 1.2,
as you seem to interpret it, at every opportunity, do
you interpret that as meaning that Microsoft is going
to be saying uncompromising things about JDK 1.2?
A I told you I don't know whether pissing applies to JFC or JDK.
Q Well, he's going to be pissing on or Microsoft is going to be pissing on either JDK 1.2 or JFC or both according to Mr. Slivka.
Is that at least fair?
A That's appears to be what the sentence says.
Q Yeah. And as the chief executive officer of Microsoft, when you get these kind of e-mails, would it be fair for me to assume that "pissing on" is not some code word that means saying nice things about you, that has the usual meaning that it would in the vernacular?
A I don't know what you mean in this kind of e-mail.
Q The kind of e-mail that is sent to you by executives in the course of your business, Mr. Gates.
A So all e-mails I get? Ben Slivka's not an executive.
Q All the e-mails you get from people telling you that they're going to piss on competitive
products, that's what I'm talking about.

A I don't remember mail like that. It

looks like I got one. But believe me, it's not a
term that's commonly used.

Q But you have no reason to think that he
means it in any way other than the normal meaning of
that term, do you, sir?

A I think it's a term of multiple
meanings. In this case I think it means what you've
suggested it means.