19 Q. Let me ask you to look at a document

20 previously marked as ~~Government Exhibit 400~~ Gov. Trial Ex. 257. The

21 second item here is a message from you to Steve

22 Ballmer, Paul Maritz, Jim Allchin, Christine Turner

23 on the subject of IBM dated October 30, 1997; is that

24 correct?

25 A. It appears to be.

1 (The document referred to was marked
2 by the court reporter as ~~Government Exhibit 400~~ Gov. Trial Ex. 257 for
3 identification and is attached hereto.)
4 Q. BY MR. BOIES: Did you send this
5 message, sir?
6 A. Let me look at it.
7 I don't remember specifically, but this
8 kind of topic was being discussed, so I have no
9 reason to doubt this is a piece of e-mail I wrote.
10 Q. This relates to a conversation you had
11 with Gary Stimac, is that correct?
12 A. Not strictly.
13 Q. Does it relate in part to that?
14 A. Yes.
15 Q. And did Mr. Stimac tell you that he was
16 thinking about taking a job with IBM?
17 A. I think he did.
18 Q. And did he tell you that one of his
19 concerns was whether IBM's relationship with
20 Microsoft would be a problem?
21 A. I see that in the e-mail. I don't
22 remember it specifically.
23 Q. Do you remember people at IBM being
24 concerned about IBM's relationship with Microsoft
25 being a problem?

1 A. No.
2 Q. Do you remember Mr. Stimac telling you
3 that he was concerned about whether IBM's
4 relationship with Microsoft would be a problem either
5 here or -- or at any other time?
6 A. No, I don't remember that.
7 Q. In response to that you say that you
8 told him that "The Java religion coming out of the
9 software group is a big problem." Do you see that?
10 A. Uh-huh.
11 Q. Did you tell Mr. Stimac that?
12 A. I don't remember telling him that.
13 Q. Now, when you talk about the Java
14 religion coming out of the software group, you're
15 talking about IBM's software group; correct, sir?
16 A. I'm not sure.
17 Q. Well, this sentence immediately follows
18 Mr. Stimac purporting to be concerned about whether
19 IBM's relationship with Microsoft would be a problem
20 and immediately precedes a sentence in which you say
21 you told him that IBM refused to big anything related
22 to Backoffice.
23 A. Yeah. That doesn't relate to the IBM
24 software group.
25 Q. But it relates to IBM; correct, sir?

1 A. Yes.
2 Q. This whole paragraph relates to IBM;
3 correct, sir?
4 A. Primarily.
5 Q. So when you say that you told
6 Mr. Stimac that the Java religion coming out of the
7 software group is a big problem, do you really have
8 any doubt that you were talking about IBM's software
9 group?
10 A. Well, there was a lot of joint work
11 between IBM people and Sun's people and other
12 companies, and so it's very hard to draw a line
13 between the IBM software groups and other people's
14 software groups.
15 Q. Does that mean that it is your
16 testimony here under oath that when you refer to the
17 software group in this sentence, you don't know
18 whether you were talking about the IBM software
19 group?
20 A. I'm certainly talking about software
21 groups that IBM is at least a part of.
22 Q. You go on to say that "they continue to
23 use their PCs to distribute things against us."
24 Is the "they" that you are referring to
25 there IBM?

1 A. I think so.
2 Q. And is the "us" there Microsoft?
3 A. I think so.
4 Q. And next sentence says you told
5 Mr. Stimac that "they are dabbing in NCs in a way we
6 don't like."
7 Is the "they" there again IBM?
8 A. Apparently. I don't know what dabbing
9 is.
10 Q. I was going to ask you that.
11 The next paragraph you say, "Overall we
12 will never have the same relationship with IBM that
13 we have with Compaq, Dell and even HP because of
14 their software ambitions. I could deal with this
15 just fine if they weren't such rabid Java backers."
16 Now, when you refer in that sentence to
17 "they" as in "I could deal with this just fine if
18 they weren't such rabid Java backers," you're again
19 talking about IBM; correct?
20 A. Parts of IBM. It's important to
21 distinguish different groups in IBM.
22 Q. And the different groups in IBM would
23 include perhaps, among others, the software group as
24 one and the PC group as another; correct?
25 A. That's right.

1 Q. At the end of that you say that you are
2 willing to take some risk in improving the
3 relationship and you think that steps ought to be
4 taken to approach them, and you end by saying "We
5 should position it as let's do some things that are
6 good for both of us but which require some of the
7 rhetoric to be lowered on both sides. On their side
8 I mean Java and NC."
9 And "their side" you're talking about
10 IBM's side?
11 A. I think so.
12 Q. And what you're saying is that you want
13 a message conveyed to IBM that in order to improve
14 the relationship, you want some of their rhetoric
15 lowered on Java and NC?
16 A. No.
17 Q. No? Did you want IBM to lower their
18 rhetoric on Java?
19 A. I actually explain in this message that
20 I thought the rhetoric was actually hurting IBM
21 itself, independent of Microsoft.
22 Q. Did you think it was hurting Microsoft?
23 A. I wasn't sure. In terms of specifics,
24 I wasn't sure.
25 Q. When you say that you could deal with

1 IBM's relationship just fine if IBM wasn't such rabid
2 Java backers, weren't you saying that you thought
3 that IBM's rabid backing of Java was bad for
4 Microsoft?
5 A. I know at this time we thought some of
6 the claims around Java were just plain false and
7 weren't doing customers any favors by leading them
8 down a belief that certain things were solved that
9 were not solved.
10 Q. My question, Mr. Gates, is in October
11 of 1997, did you believe that what you refer to here
12 as IBM's rabid backing of Java was something that was
13 hurting Microsoft?
14 A. I can't point to any particular hurting
15 that it was doing. We didn't think it was accurate
16 in terms of what technically could be achieved with
17 Java.
18 Q. Let me put the question this way. In
19 or about October of 1997, did you want to stop IBM
20 from being what you refer to here as a rabid Java
21 backer?
22 A. We thought some of the rabidness was
23 hurting IBM as well as the industry as a whole.
24 Q. Did you believe it was hurting
25 Microsoft, or were you just doing this as sort of a

1 public spirited company to try to help IBM from
2 hurting itself?
3 A. I can't point to any particular damage,
4 but we certainly would have preferred if the more
5 extreme statements we didn't think were true, if they
6 weren't pushing those forward.
7 Q. Mr. Gates, let me put it this way. In
8 October of 1997, were you trying to get IBM to reduce
9 its public support for Java?
10 A. I say in here that under some
11 circumstance the rhetoric should be lowered on both
12 sides and that I think that's -- you know, that makes
13 sense in certain circumstances.
14 Q. I don't think you actually say in
15 certain circumstances, do you, sir? You may have
16 meant that, I'm not saying you didn't mean it, I'm
17 just saying those words don't appear here, do they?
18 A. No. It's all about "I am willing to
19 take some risk in improving the relationship and
20 think you should approach them on steps for
21 improvement." It's in that vein that I talk about
22 rhetoric being lowered on both sides.
23 Q. And then you go on to say that you mean
24 on IBM's side they lower the rhetoric on Java and NC;
25 correct?

1 A. The rhetoric.
2 Q. And by rhetoric, you were talking about
3 public rhetoric?
4 A. Definitely public rhetoric.
5 Q. And is it fair to say in October of
6 1997 you were trying to get IBM to reduce its public
7 rhetoric in support of Java?
8 A. I don't know what you mean "trying."
9 talk about a circumstance in which both sides would
10 lower their rhetoric.
11 Q. You were offering to lower your
12 rhetoric if they would lower their rhetoric; is that
13 fair? Isn't that what you say right here?
14 A. In the context -- this is about
15 improving the overall relationship, which is not
16 focused on the rhetoric. It says in the context of
17 that improved relationship, I think both of us should
18 lower our rhetoric.
19 Q. Indeed you say that the improved
20 relationship will "require some of the rhetoric to be
21 lowered on both sides."
22 A. That's a statement about human feelings
23 that if our rhetoric is so high, it will be hard for
24 them to do their side of improving the relationship
25 and vice-versa.