

EXHIBIT 9
RWDNKE 'TGF CE VGF 'XGTUKQP

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELON MUSK, et al.,)
)
 Plaintiffs,)
)
 v.) 4:24-cv-04722-YGR
)
 SAMUEL ALTMAN, et al.,)
)
 Defendants.)
)
)

VIDEOTAPED IN-PERSON AND VIDEOCONFERENCE DEPOSITION
UPON ORAL EXAMINATION OF
SATYA NADELLA

Taken at 401 Union Street, Suite 3300
Seattle, Washington

*** TRANSCRIPT DEEMED HIGHLY CONFIDENTIAL
ATTORNEYS' EYES ONLY ***

DATE TAKEN: SEPTEMBER 24, 2025

REPORTED BY: BARBARA CASTROW, RMR, CRR, CCR

WA CCR #2395

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<p style="text-align: right;">10</p> <p>1 the question before you --</p> <p>2 A. Sure.</p> <p>3 Q. -- respond. Thank you.</p> <p>4 Did you speak with anyone, apart from legal</p> <p>5 counsel, about the substance of this deposition?</p> <p>6 A. No.</p> <p>7 Q. Did you review any documents with your legal</p> <p>8 counsel?</p> <p>9 A. I just read one of my letters to the CMA that I</p> <p>10 had written. That's the only thing that I read.</p> <p>11 MR. JURATA: And just for the record,</p> <p>12 Mr. Nadella read that in conjunction with Topic 8 of the</p> <p>13 30(b)(6) corporation -- of the 30(b)(6) deposition which</p> <p>14 was served on Microsoft Corporation.</p> <p>15 And, Mr. Nadella, other than questions</p> <p>16 regarding what you did to prepare to talk about the</p> <p>17 events from November 17th to November 22nd, 2023, please</p> <p>18 do not reveal any conversations with your lawyers that</p> <p>19 you did to prepare for this deposition.</p> <p>20 THE WITNESS: Okay.</p> <p>21 Q. (By Ms. Schubert) Did you also review the</p> <p>22 exhibits that were attached to that letter?</p> <p>23 A. I did not.</p> <p>24 Q. Okay. And that's the only document that you</p> <p>25 reviewed in preparation for both the 30(b)(6) deposition</p>	<p style="text-align: right;">12</p> <p>1 joined in 2011 and was very much a part of the scaling</p> <p>2 of it.</p> <p>3 Q. Would it be fair to say that you led Microsoft</p> <p>4 into its cloud computing era?</p> <p>5 A. Yeah, that would be fair to say.</p> <p>6 Q. What were your goals in building the Azure</p> <p>7 business?</p> <p>8 A. Our goal with Azure business was, we were one</p> <p>9 of the leading providers of server -- in the server era.</p> <p>10 Yeah, we went from client server to cloud as -- as the</p> <p>11 paradigm shifted and the platform shifted.</p> <p>12 And so our primary goal was to make sure that</p> <p>13 we shifted with essentially what was the expectation of</p> <p>14 our customers, that, you know, going from everyone who</p> <p>15 was buying servers who were now looking to buy cloud,</p> <p>16 and so we needed to make that transition.</p> <p>17 And the other goal of course we had, Amazon and</p> <p>18 AWS that had started the cloud business had sort of</p> <p>19 taken a leadership position, so we had a competitive</p> <p>20 challenge because we were starting later. And our goal</p> <p>21 was to be competitive versus Amazon and also, you know,</p> <p>22 make sure that there's a path for our customers.</p> <p>23 Q. How would you position Microsoft to be</p> <p>24 competitive with Amazon in the cloud space?</p> <p>25 A. We're a solid number two today in the</p>
<p style="text-align: right;">11</p> <p>1 and also your personal deposition?</p> <p>2 A. Correct.</p> <p>3 Q. Did that review of the document help you</p> <p>4 remember things related to the events of the dates</p> <p>5 described?</p> <p>6 A. Nothing more than the general sort of sense I</p> <p>7 have of the facts and everything else. So it is just a</p> <p>8 way for me to make sure that what I wrote again was just</p> <p>9 fresh.</p> <p>10 Q. Understood.</p> <p>11 You joined Microsoft in 1992; is that right?</p> <p>12 A. That is correct.</p> <p>13 Q. And is it fair to say you've held several roles</p> <p>14 at the company?</p> <p>15 A. Yes, that is correct.</p> <p>16 Q. And just before you became CEO, you led</p> <p>17 Microsoft's cloud and enterprise group?</p> <p>18 A. That is correct.</p> <p>19 Q. Azure is Microsoft's cloud computing platform;</p> <p>20 is that correct?</p> <p>21 A. That is correct.</p> <p>22 Q. And that launched in 2010?</p> <p>23 A. I'm thinking about -- that is correct.</p> <p>24 Q. Did you lead that effort?</p> <p>25 A. I was not there for the initial launch, but I</p>	<p style="text-align: right;">13</p> <p>1 infrastructure of cloud. Cloud has many elements to it,</p> <p>2 and one of them is the infrastructure, which is the</p> <p>3 largest segment, and Amazon is number one and we are</p> <p>4 number two.</p> <p>5 Q. Let me ask this a different way. What goals</p> <p>6 did you set to make yourself competitive with Amazon?</p> <p>7 A. The goals primarily were just that, which is,</p> <p>8 be competitive. You know, the way I think about</p> <p>9 competitiveness is, are you relevant in the customer</p> <p>10 choice set, where the customers will be able to choose</p> <p>11 Microsoft because of the value we offer was as</p> <p>12 competition, and that's the primary goal and market</p> <p>13 share and revenue share, and those are the types of</p> <p>14 things that we track.</p> <p>15 Q. Do you believe you're in a position to still</p> <p>16 outpace Amazon in this space?</p> <p>17 MR. JURATA: Objection to form.</p> <p>18 A. We have now a lot of competition. There's</p> <p>19 Amazon. There's a number three strong player as well,</p> <p>20 with Alphabet and Google and GCP, Oracle. So we have,</p> <p>21 you know -- and there's Chinese competitors worldwide.</p> <p>22 And so there's -- it's a pretty competitive marketplace.</p> <p>23 We feel good about our position. We feel every</p> <p>24 day we innovate and compete, but, you know, it's not</p> <p>25 competition free, if that's the question.</p>

14

1 Q. (By Ms. Schubert) Sure.

2 Fast-forwarding to when you become CEO, I would

3 like to focus on your senior leadership team.

4 A. Sure.

5 Q. Who is Kevin Scott?

6 A. He's our CTO.

7 Q. And how closely do you work with Mr. Scott?

8 A. Close enough. I mean, I have a significant

9 number of direct reports, but, yeah, he's a key member

10 of the leadership team.

11 Q. What responsibilities do you entrust him with?

12 A. He leads Microsoft Research. That's his

13 primary operational role. And then when it comes to

14 companywide technical strategy, he has an advisory role.

15 Q. And just so the record is clear, what do you

16 mean when you say "CTO"?

17 A. He's -- the title is chief technical officer.

18 Q. Thank you.

19 A. And as I said, his primary responsibility is

20 leading Microsoft Research and a couple of incubation

21 products.

22 Q. And by "research," would that include AI

23 research?

24 A. AI research is one part of it, yeah.

25 Q. What does the office of the CTO do to advance

15

1 your strategic goals for Microsoft?

2 A. We have a couple of things we do there, which

3 is, we coordinate technical work across groups, and we

4 also have some incubation efforts that are done out of

5 the office of the CTO. And as I said, Microsoft

6 Research and its direction is also led out of the office

7 of the CTO.

8 Q. When you say Microsoft's research direction, do

9 you see that as being a business function?

10 A. Microsoft Research was formed as one of the,

11 you know, best known and last known research labs in a

12 corporation, more in the style of Xerox PARC or Bell

13 Labs.

14 So they have a lot of academic freedom. They

15 are not obligated to directly work on our products.

16 They publish, and that's their core ethos of the

17 research lab. And so that's what --that research

18 agenda.

19 So it's not like the research in what is

20 today's, whether it's X.AI or OpenAI, because that's a

21 lot more directed towards commercialization and

22 products, whereas Microsoft Research is more old style,

23 Xerox PARC, and Bell Labs like.

24 Q. Okay. Who is Amy Hood?

25 A. She's our CFO.

16

1 Q. Chief financial officer?

2 A. Yes.

3 Q. What responsibilities do you look to her to

4 perform?

5 A. She's key, as a CFO, on all financial

6 decisions, strategic finance decisions, capital

7 allocation.

8 Q. Who is Brad Smith?

9 A. He's our president and general counsel.

10 Q. And what responsibilities do you look to Brad

11 to handle?

12 A. Many different aspects, primarily doing --

13 dealing with all of our government relations, obviously

14 heads the legal department. He also leads all of our

15 nonprofit work, and -- philanthropies work, rather, and

16 he even leads currently our education segment, which is

17 our products and services offered to education.

18 Q. Who else do you regularly rely on to employ

19 your duties as CFO?

20 A. I have an operational team that is functionally

21 organized, for the most part. I do have some CEOs of

22 divisions, and so I rely, based on the function and the

23 business area, on a variety of people who are part of my

24 leadership team, and beyond obviously.

25 Q. Okay. When you became CEO 11 years ago, you

17

1 had a vision for the company; is that right?

2 A. Yeah, sure.

3 Q. What -- what was that vision? What were your

4 goals?

5 A. My goal primarily, having grown up in Microsoft

6 throughout most of my professional career, was to ensure

7 that we pursued what is core part of I believe our

8 identity.

9 Microsoft was created or started in 1975 as a

10 company that creates software so that others could

11 create more software. And that meant a lot. That's

12 what attracted me to come to the company in '92.

13 And so when in 2014 I became CEO, I talk about

14 it today as, you know, what is a refounding moment

15 because I was essentially taking over from founders.

16 And my focus was to rediscover what that mission was.

17 And we describe it as empowering people in

18 organizations all over the planet through software, and

19 that's what I wanted to ground ourselves. Of course,

20 technology shifted, but the core mission basically is

21 the same that we had when we first created our first

22 product in '75.

23 Q. At the time that you became CEO, Microsoft was

24 starting to try to compete with Amazon and cloud

25 computing space; is that accurate?

<p style="text-align: right;">18</p> <p>1 A. Oh, yeah.</p> <p>2 Q. And you've already testified, Amazon</p> <p>3 effectively dominated that cloud market in 2014 to 2015?</p> <p>4 A. Yeah. They were number one buyer, large</p> <p>5 margin.</p> <p>6 Q. When you became CEO, was Microsoft at all</p> <p>7 involved in machine learning and AI?</p> <p>8 A. Yeah. Microsoft has been working on AI. I</p> <p>9 think, in fact, going back to Microsoft Research, it's</p> <p>10 probably the first group we created, was a speech group</p> <p>11 back in 1995. And so, yes, ever since, Microsoft has</p> <p>12 always been involved in machine learning and AI</p> <p>13 research.</p> <p>14 Q. What did you know personally about AI when you</p> <p>15 became CEO?</p> <p>16 A. I managed, through the various groups I led, a</p> <p>17 lot of different AI research groups. I led even our</p> <p>18 search effort in Bing and advertising, and that was all</p> <p>19 applied machine learning.</p> <p>20 Q. Uh-huh.</p> <p>21 A. And so over the years, I've had the opportunity</p> <p>22 to work with lots of AI engineers and AI researchers and</p> <p>23 Microsoft Research.</p> <p>24 Q. AI was a pretty small field in 2015; is that</p> <p>25 right?</p>	<p style="text-align: right;">20</p> <p>1 A. That is correct.</p> <p>2 Q. What do you mean by "AI transformation"?</p> <p>3 A. If you think about sort of any business,</p> <p>4 fundamentally, they use digital technology to drive up</p> <p>5 productivity and better outcomes, whether it's customer</p> <p>6 service, whether it's sales, whether it's finance or</p> <p>7 what have you.</p> <p>8 And so the ability to use technology as an</p> <p>9 input to transform a business outcome is essentially</p> <p>10 what we are in the business of. And we did that with</p> <p>11 cloud as a means to business transformation. We are now</p> <p>12 using cloud and AI as a means to business</p> <p>13 transformation.</p> <p>14 Q. When would you say that you realized AI was, in</p> <p>15 fact, the future of Microsoft?</p> <p>16 MR. JURATA: Objection; form.</p> <p>17 A. I've -- as I stated earlier, I've always</p> <p>18 believed AI to be a very important area, and we've</p> <p>19 always invested in it. So, therefore, it's been a</p> <p>20 continuous piece.</p> <p>21 I would say my interest in AI, in particular,</p> <p>22 with natural language, because Microsoft being an office</p> <p>23 productivity company, we deal with a lot of text, so I</p> <p>24 would say we had a particular interest in natural</p> <p>25 language.</p>
<p style="text-align: right;">19</p> <p>1 MR. JURATA: Objection to form.</p> <p>2 A. You know, AI was always an important field for</p> <p>3 us. I think that what has lately happened, in terms of</p> <p>4 some of the breakthroughs in AI, of course, they've</p> <p>5 created a much more front-and-center profile.</p> <p>6 But I would say always AI, whether it's speech</p> <p>7 or vision or text, were very important pieces of what</p> <p>8 products we built. They were not as mainstream or as</p> <p>9 popular as they are today, but it is an important area.</p> <p>10 Q. (By Ms. Schubert) Did Microsoft have many</p> <p>11 people in 2015 who were specialized in machine learning?</p> <p>12 A. A substantial investment. I would say we</p> <p>13 were -- I mean, Google was by far the dominant player,</p> <p>14 especially after they acquired Google DeepMind. But,</p> <p>15 yeah, we were one of the labs and the research</p> <p>16 organizations that were definitely also investing in</p> <p>17 space.</p> <p>18 Q. Was there a time when you felt Microsoft should</p> <p>19 pursue AI more aggressively?</p> <p>20 A. I've always felt that throughout, and we did,</p> <p>21 you know, whether it was in Bing or whether it was in</p> <p>22 Azure or whether it was across all of our different</p> <p>23 product groups, yeah.</p> <p>24 Q. And today, your stated vision for the company</p> <p>25 includes AI transformation; is that right?</p>	<p style="text-align: right;">21</p> <p>1 And so, you know, vision is important. But we</p> <p>2 are not in robotics. We are not in autonomy. Speech is</p> <p>3 important. But we were not a major player in phones.</p> <p>4 So I would say text is one of the things that we were</p> <p>5 focused a lot more on.</p> <p>6 Q. (By Ms. Schubert) As of today, you have got</p> <p>7 the company deeply on AI; is that right?</p> <p>8 A. Absolutely. I mean, AI -- at this point I</p> <p>9 think, for any company of our sort of scale and as a</p> <p>10 platform company, you have to be completely leaned into</p> <p>11 what the new paradigm is and the new platform is, and</p> <p>12 today it's AI.</p> <p>13 Q. You all have invested heavily in AI</p> <p>14 infrastructure?</p> <p>15 A. Yes, we have.</p> <p>16 Q. And AI software development?</p> <p>17 A. Yeah.</p> <p>18 Q. And large language models as well?</p> <p>19 A. Yes.</p> <p>20 Q. Looking back to 2015, Microsoft already had a</p> <p>21 decent amount of cloud infrastructure; is that right?</p> <p>22 A. Yes, we did.</p> <p>23 Q. And even back in 2015, AI development was</p> <p>24 dependent on those cloud computing resources, as far as</p> <p>25 you know?</p>

<p style="text-align: right;">22</p> <p>1 A. Yes. I mean, cloud was very important.</p> <p>2 Obviously, we had by then, 2015, recognized deep neural</p> <p>3 networks, the use of GPUs in particular to drive</p> <p>4 breakthroughs in AI through neural networks. But I</p> <p>5 would say, in 2015, it was not clear about what people</p> <p>6 describe as scaling loss today.</p> <p>7 Q. When did you decide you wanted to position</p> <p>8 Azure as a platform for AI development specifically?</p> <p>9 A. Throughout. You know, AI was just really much</p> <p>10 part and parcel. I mean, we would call it maybe more</p> <p>11 machine learning. I think Azure ML was a service that</p> <p>12 we've had, as far as I can tell, for the longest time,</p> <p>13 be it -- you know, we had -- and so, yeah, so we always</p> <p>14 thought of AI and applied machine learning or machine</p> <p>15 learning as a core thing that people do to build</p> <p>16 applications.</p> <p>17 Q. In marketing Azure specifically, was it fair to</p> <p>18 say you wanted to show that amazing things could be done</p> <p>19 on your platform as different from other platforms?</p> <p>20 A. Yeah. That was always the goal.</p> <p>21 Q. Ideally, you would like for the top AI</p> <p>22 researchers in the field to make breakthroughs using</p> <p>23 Azure; is that right?</p> <p>24 A. Yeah, that's right. As a platform company,</p> <p>25 just, you know, we always wanted to make sure that</p>	<p style="text-align: right;">24</p> <p>1 A. I probably knew him a little. I met him maybe</p> <p>2 around that time frame for the first time. And there</p> <p>3 were people at Microsoft who knew him, but I probably</p> <p>4 met him, you know, for the first time just after I</p> <p>5 became CEO.</p> <p>6 Q. Okay. Were you concerned about Google's lead</p> <p>7 at this time?</p> <p>8 A. I mean, competitively, yes, in the sense that</p> <p>9 we wanted to make sure that we also were, you know,</p> <p>10 doing AI work and were competitive. But at the same</p> <p>11 time, I've always approached competition with an angle</p> <p>12 of what it is that Microsoft uniquely can do, given our</p> <p>13 position, our customers, our segments in the market that</p> <p>14 we participate in. Was it just -- you know, thinking of</p> <p>15 competition, you know, just because someone else has</p> <p>16 something.</p> <p>17 Q. Sure.</p> <p>18 Were you tracking DeepMind's progress back</p> <p>19 then?</p> <p>20 A. Yes. At that time I think we had lots of</p> <p>21 different products, especially around, let's call it</p> <p>22 speech and language translation. One of the first</p> <p>23 products that, you know, we launched during sort of my</p> <p>24 CEO tenure was Skype translate. And in that relation in</p> <p>25 particular, I was tracking Google's, you know, products</p>
<p style="text-align: right;">23</p> <p>1 developers of all forms, AI developers included, were</p> <p>2 always building on our platform. That's kind of core to</p> <p>3 our Microsoft DNA.</p> <p>4 Q. You just mentioned that Google was -- I believe</p> <p>5 you said by far the dominant player in machine learning</p> <p>6 around 2015?</p> <p>7 A. I would say so, yeah.</p> <p>8 Q. And you mentioned they had acquired DeepMind?</p> <p>9 A. That's correct.</p> <p>10 Q. Did you understand DeepMind to be making a lot</p> <p>11 of progress in that field of machine learning?</p> <p>12 A. I -- I now can't recall specifically what state</p> <p>13 DeepMind's breakthroughs were, but, yeah, I mean,</p> <p>14 DeepMind was well known, even in that time frame, for --</p> <p>15 and Google had DeepMind, had Google Brain. They had</p> <p>16 many, many different efforts they were publishing.</p> <p>17 They were -- I would say, you know, back in the</p> <p>18 day, Microsoft Research was probably leading, and I</p> <p>19 think, starting in 2010 and onwards, I think Google took</p> <p>20 on a leading position.</p> <p>21 Q. And DeepMind was led by Demis Hassabis; is that</p> <p>22 right?</p> <p>23 A. That's right.</p> <p>24 Q. Did you know him personally in the 2015 time</p> <p>25 period?</p>	<p style="text-align: right;">25</p> <p>1 around language translation.</p> <p>2 Q. Why were you tracking DeepMind's progress?</p> <p>3 A. Just because of the breakthroughs that this</p> <p>4 particular regime of AI around deep neural networks were</p> <p>5 showing real promise of making breakthroughs in fields</p> <p>6 like language translation that had not been seen before.</p> <p>7 And so that's why we were waiting to see how we could</p> <p>8 also participate and make sure that we have those</p> <p>9 breakthroughs.</p> <p>10 Q. Were you looking actively for research talent</p> <p>11 to assist Microsoft with those breakthroughs in 2015?</p> <p>12 A. Absolutely. I mean, we were -- organically,</p> <p>13 you know, at Microsoft, I've always believed in two</p> <p>14 things. One is, you organically keep building both in</p> <p>15 terms of talent and capability and products, and also</p> <p>16 partner broadly as a platform company.</p> <p>17 One of the principles of -- as platform company</p> <p>18 we've had is, we want to create more value about the</p> <p>19 platform in order for us to be a successful platform.</p> <p>20 That's another one of those Microsoft principles that</p> <p>21 we've had.</p> <p>22 And so, therefore, you always are looking for</p> <p>23 others who are AI companies, AI researchers who will use</p> <p>24 any layer of our platform as they see fit.</p> <p>25 Q. Was it difficult to recruit AI researchers at</p>

<p style="text-align: right;">26</p> <p>1 the right caliber in 2015?</p> <p>2 A. We had competition. I mean, Microsoft has over</p> <p>3 the years had, you know, good brand, good ability to</p> <p>4 attract talent, retain talent. But we also had many</p> <p>5 competitors, whether it was -- by then, I think I'm sure</p> <p>6 Meta had also -- and Facebook at that time had also</p> <p>7 emerged as someone who was very focused on AI. And</p> <p>8 so -- and I'm sure Amazon was competing in the same</p> <p>9 space.</p> <p>10 So we had competition, but we were always</p> <p>11 through our own unique brand and even sort of our value</p> <p>12 proposition. Like, Microsoft Research, having the</p> <p>13 academic freedom, was always a helpful thing for us to</p> <p>14 be able to get good talent.</p> <p>15 Q. What else were you doing to accelerate</p> <p>16 Microsoft's progress in the field?</p> <p>17 A. I mean, I think I've sort of talked about all</p> <p>18 the things we were doing, which is, we were doing our</p> <p>19 own research work. We were doing our own applied</p> <p>20 product work. We were building the platforms for others</p> <p>21 to build on our platform. And so that's kind of how --</p> <p>22 that was the comprehensive nature in which we were going</p> <p>23 about it.</p> <p>24 Q. Did you feel that your progress was moving more</p> <p>25 slowly than you had liked?</p>	<p style="text-align: right;">28</p> <p>1 And -- and so I think we were trying to connect</p> <p>2 up some app -- like, just again, going back to us being</p> <p>3 a platform company that's always ensure -- you know,</p> <p>4 trying to make sure that AI can build on our platform.</p> <p>5 I think that's probably one of the dialogues I had, and</p> <p>6 that is mostly I think in email.</p> <p>7 Q. Okay. Do you know why Elon was invited to the</p> <p>8 2014 CEO summit?</p> <p>9 A. I think because he -- you know, at that time</p> <p>10 I'm assuming he was CEO of Tesla and -- and, I mean, as</p> <p>11 a founder, CEO of a variety of companies, he was</p> <p>12 invited.</p> <p>13 Q. He was already famous at that point for his</p> <p>14 cutting-edge technology companies?</p> <p>15 MR. CULLERTON: Object to form.</p> <p>16 A. Yeah, I mean, Elon, you know, over the years</p> <p>17 has grown pretty nonlinearly in his profile. So I don't</p> <p>18 specifically know. But, I mean, he was already a CEO of</p> <p>19 a substantive company by then.</p> <p>20 Q. (By Ms. Schubert) In 2015, did Microsoft have</p> <p>21 relationships with any of Musk's companies?</p> <p>22 A. Oh, I'm sure we did. I mean -- I mean, over</p> <p>23 the years, Elon has always sent emails on, you know, our</p> <p>24 products, whether it's on Windows or on Teams and what</p> <p>25 have you, and I think I've always, you know, paid a lot</p>
<p style="text-align: right;">27</p> <p>1 A. I mean, always as a CEO of a company, I feel my</p> <p>2 job is to sort of be dissatisfied with the rate of</p> <p>3 progress at all times. And so yes would be the answer,</p> <p>4 which is both in the absolute sense, which is, can we</p> <p>5 build products that are more capable in any particular</p> <p>6 domain, and also, you know, vis-a-vis competition.</p> <p>7 There were others achieving things that we</p> <p>8 looked at and said, hey, that's great, and so how can we</p> <p>9 make sure we are competitive with it.</p> <p>10 Q. When did you first meet Elon Musk?</p> <p>11 A. I think I may have met Elon first time -- I can</p> <p>12 definitely say I met him first when I first became CEO,</p> <p>13 and he had come to our CEO summit. And I met him there.</p> <p>14 I may have met him prior to that when I was even leading</p> <p>15 our cloud, but I definitely met him at one of our</p> <p>16 events.</p> <p>17 Q. When is the first time you recall having a</p> <p>18 substantive conversation with Mr. Musk?</p> <p>19 A. I don't know if I've had deep substantive</p> <p>20 conversations with him, but it's mostly brief</p> <p>21 interludes, if you will.</p> <p>22 I think there was, perhaps related to this</p> <p>23 topic, I think he had reached out. This is in the very</p> <p>24 beginning phases of OpenAI when they wanted some Azure</p> <p>25 credits.</p>	<p style="text-align: right;">29</p> <p>1 of attention to his product feedback. He's a person of</p> <p>2 high standards on technology, and so, yes.</p> <p>3 Q. Do you recall which of his companies Microsoft</p> <p>4 had specific relationships with in 2015?</p> <p>5 A. I don't have the specifics, but I would assume</p> <p>6 that there is some use of Microsoft technology across</p> <p>7 all his companies. When I say "all," I'm not, you know,</p> <p>8 particularly sure what all the companies he has, but,</p> <p>9 you know, I think Tesla or SpaceX would be two examples</p> <p>10 of it.</p> <p>11 Q. Do you recall if you had a relationship with</p> <p>12 Neuralink?</p> <p>13 A. I have a personal investment in Neuralink</p> <p>14 through some kind of an investment vehicle, but that's</p> <p>15 not something that I ever talk to Elon or it's just</p> <p>16 through some financial advisor who, you know, basically</p> <p>17 allocated some of my capital to it.</p> <p>18 Q. Are you invested in any other of Elon Musk's</p> <p>19 companies?</p> <p>20 A. Not that I know of directly. I mean, you know,</p> <p>21 I'm -- I don't know whether any of the funds I have in</p> <p>22 public markets has, you know, his public company</p> <p>23 holdings, but I'm not tracking that individually.</p> <p>24 Q. Okay. In the 2015 time period, would you have</p> <p>25 described your relationship with Mr. Musk as</p>

30

1 professional or personal or both?

2 A. Professional.

3 Q. About how often were you communicating in your

4 early years as CEO with Mr. Musk?

5 A. You know, maybe once or twice a year, I would

6 say, at most. It's not -- there was no rhythm to it, if

7 I could say so.

8 Q. Sure.

9 Around 2015, you became aware of Mr. Musk's

10 concerns about AI. Do you recall that?

11 MR. JURATA: Objection to form.

12 A. I don't -- I mean, I personally didn't focus

13 that much on Elon's concerns about AI because at some

14 level mostly, at least my study of Elon, has always been

15 about, you know, his philosophy of engineering, you

16 know, being a fan of how he has approached how he likes

17 to build.

18 So I've never thought about -- you know, I

19 mean, Elon is a pretty idiosyncratic guy in the sense he

20 has a lot of opinions on lots of things, but what I have

21 found to be most inspiring is how he goes about building

22 what he does.

23 So I mostly focus my efforts on studying that,

24 versus his wide-ranging opinions on a lot of topics.

25 Q. (By Ms. Schubert) Fair enough.

31

1 Did you -- do you recall if you read his open

2 letter with Stephen Hawking, warning about the dangers

3 of AI?

4 A. I haven't, actually.

5 Q. Did you know Sam Altman back in 2015?

6 A. Yes, I did know Sam Altman. Because I had met

7 Sam Altman maybe back in the late 2000s when I was

8 running Bing, when he had founded I forget the name of

9 his first company.

10 So I was introduced to him, and that was the

11 context in which I met him first. And then there was a

12 massive gap because I lost track of him.

13 Q. When did you next reconnect with him?

14 A. Maybe when he was at Y Combinator.

15 Q. And how did you reconnect?

16 A. It could have been I'm thinking when he became

17 CEO of Y Combinator relating to just his Y Combinator

18 portfolio companies and so on.

19 Q. Did you develop a professional relationship

20 with him in connection with his role at Y Combinator?

21 A. Like with any other CEO seed stage, I've always

22 been, you know, for us, as a platform provider, it's

23 pretty important to have professional relationships with

24 people who are investing in emerging companies, and

25 Y Combinator was obviously a marquee player in that.

32

1 Q. How often would you say you were communicating

2 with Sam Altman before the start of OpenAI?

3 A. Again, no rhythm to it. And it would have been

4 an email or I may have run into him at an event or what

5 have you.

6 Q. In 2015, do you recall Sam Altman reached out

7 to you, asking you to sign a letter that he was writing

8 with Elon Musk addressed to the U.S. Government?

9 A. I don't recall.

10 Q. Okay. I will show you what we'll mark as

11 Exhibit 1, which is Bates-stamped OpenAI Musk 16768.

12 (Exhibit No. 1 marked.)

13 Q. (By Ms. Schubert) These are in reverse order

14 so you could read the bottom half first and then the top

15 half follows. Just let me know when you're done.

16 A. Got it.

17 Q. Okay. So I'll direct you to the bottom email

18 on Page 16769, which is from Sam Altman to you, dated

19 March 29th of 2015.

20 Do you see that?

21 A. Yes, I do.

22 Q. Does this refresh your recollection about Sam

23 Altman reaching out to you to join a letter to the U.S.

24 Government with Elon Musk?

25 A. I mean, I see it, obviously this exchange. But

33

1 I don't really recall this at all.

2 Q. Okay. Do you see where Sam describes AI as the

3 biggest risk to the continued existence of humanity?

4 MR. JURATA: Objection to form. The

5 document speaks for itself.

6 A. Yeah.

7 MS. SCHUBERT: I'm simply asking if he sees

8 that.

9 A. Yeah, I see it.

10 Q. (By Ms. Schubert) Okay. In -- from this

11 email, did you understand Altman and Elon to be

12 concerned about AI safety?

13 A. Yeah, I mean, the words speak for themselves.

14 And I think my own -- I've always thought about safety

15 and quality as important considerations that need to

16 just be part of the engineering process. I mean, it is

17 true for any software.

18 So I think I definitely don't fall into the

19 camp of AI safety as somehow any bigger issue than we

20 have in general with a lot of software products that are

21 not safe.

22 Q. And looking to the very front of the document,

23 top email, on the page ending in 768, on Thursday,

24 April 16th, 2015, do you see your reply?

25 A. This is the 5:57 p.m.?

<p style="text-align: right;">34</p> <p>1 Q. Yes.</p> <p>2 A. Yes.</p> <p>3 Q. You expressed here that it was a premature call</p> <p>4 for regulation?</p> <p>5 A. That is correct.</p> <p>6 Q. Did you believe at this time, in April of 2015,</p> <p>7 that Microsoft could have benefitted from more AI</p> <p>8 research?</p> <p>9 A. That's I think what I wrote here, is primarily</p> <p>10 saying, this is a research problem, not a problem of</p> <p>11 regulatory policy, and so thinking of what research</p> <p>12 needs to be done, whether it's in the federal labs or</p> <p>13 government or private sector.</p> <p>14 Q. And then you write: Issue of human safety and</p> <p>15 the control problem will become real issues.</p> <p>16 Do you see that?</p> <p>17 A. Yes, I do.</p> <p>18 Q. When did you think AI safety or human safety</p> <p>19 would become a real issue?</p> <p>20 A. In AI research and in computer science, there's</p> <p>21 always been this what I describe or what I think of as</p> <p>22 the theoretical risk of AI takeoff or self-improvement,</p> <p>23 and so that's always been there in the literature of AI.</p> <p>24 And so people have talked about it over the</p> <p>25 decades at different times as a real safety issue. And</p>	<p style="text-align: right;">36</p> <p>1 MS. SCHUBERT: And then we can also pull as</p> <p>2 Exhibit 3 the document Bates-stamped 2024 Musk 011225.</p> <p>3 (Exhibit No. 3 marked.)</p> <p>4 Q. (By Ms. Schubert) Let me know when you've had</p> <p>5 a chance to glance at those. No need to read in great</p> <p>6 detail the second document.</p> <p>7 MR. JURATA: Mr. Nadella, you should feel</p> <p>8 free to take whatever time you need to familiarize</p> <p>9 yourself with documents today.</p> <p>10 Q. (By Ms. Schubert) Absolutely.</p> <p>11 A. Okay. This is the same document twice.</p> <p>12 Q. Oh, there are two copies there by accident.</p> <p>13 I'll take back one of those out of your way. Thank you.</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Do you recall sending this email on</p> <p>16 December 12th of 2015 to folks at Microsoft about the</p> <p>17 foundation of OpenAI?</p> <p>18 A. I see it now, but I don't recall it.</p> <p>19 Q. In this email, you include a link to OpenAI's</p> <p>20 launch announcement.</p> <p>21 Do you see that?</p> <p>22 A. Yes, I do.</p> <p>23 Q. And right above that link, do you see where it</p> <p>24 says: OpenAI is a nonprofit artificial intelligence</p> <p>25 group?</p>
<p style="text-align: right;">35</p> <p>1 so I felt back in 2015, as I even feel today, that it's</p> <p>2 more important for us not to worry about some</p> <p>3 eventuality, but to deal with the here and now, what are</p> <p>4 we doing to advance the researcher on safety and also</p> <p>5 making sure that the models that we deploy today are</p> <p>6 going through all the safety practices that I think</p> <p>7 are -- you know, things that are available to us.</p> <p>8 Q. Okay. After this email, do you recall Sam</p> <p>9 Altman reaching out to you again about the topic of AI?</p> <p>10 A. Again, I think I -- what I recall again is the</p> <p>11 same time that Elon and Sam were doing more of the games</p> <p>12 and reinforcement learning, and I think that's sort of</p> <p>13 the first time at least I had even heard of OpenAI and</p> <p>14 what they were doing, and I think that's where the Azure</p> <p>15 credits came about.</p> <p>16 Q. Do you recall when you truly did first learn</p> <p>17 about OpenAI?</p> <p>18 A. As I said, I think the substantial piece is</p> <p>19 when they were doing reinforcement learning research,</p> <p>20 and we were engaged. That was the most concrete thing</p> <p>21 that I remember.</p> <p>22 Q. Okay. I'll show you another document, which</p> <p>23 we'll label Exhibit 2. And it's Bates-stamped MSFT Musk</p> <p>24 044294.</p> <p>25 (Exhibit No. 2 marked.)</p>	<p style="text-align: right;">37</p> <p>1 A. I think that seems to be the -- pasted from the</p> <p>2 link, yeah.</p> <p>3 Q. In your email in reference to that link, you</p> <p>4 ask if Microsoft got called to participate. Was that a</p> <p>5 reference to participation in OpenAI's launch?</p> <p>6 MR. JURATA: Object to form.</p> <p>7 A. I think I am inferring that this is running on</p> <p>8 AWS when they initially launched, or their API, if they</p> <p>9 launched an API. I can't tell.</p> <p>10 So my point is, you know, the bindings, which</p> <p>11 is API bindings is how the reference is to AWS, and I</p> <p>12 was asking, hey, were we in the consideration set.</p> <p>13 Q. (By Ms. Schubert) Why did you want to know if</p> <p>14 Microsoft was in the consideration set for participating</p> <p>15 in the launch of OpenAI?</p> <p>16 A. It goes --</p> <p>17 MR. JURATA: Objection to form.</p> <p>18 A. It goes back to the comments I made earlier,</p> <p>19 which is, as a platform company and with Azure, it was</p> <p>20 important for us to be, you know, competitive and</p> <p>21 attractive to any developer, any company building any</p> <p>22 product, and obviously we were competing with AWS. So</p> <p>23 that's the reason why I asked.</p> <p>24 Q. (By Ms. Schubert) And you sent this to Harry</p> <p>25 Shum.</p>

<p>38</p> <p>1 Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. What was his role at the time?</p> <p>4 A. Harry Shum at that time was the person leading</p> <p>5 Microsoft Research, I think, at that time. I forget now</p> <p>6 exactly what his role there was. But Harry Shum was</p> <p>7 leading our Microsoft Research.</p> <p>8 Q. Why did you send this to him specifically?</p> <p>9 A. So he kind of, prior to Kevin Scott, was kind</p> <p>10 of like the CTO role. I mean, it's not called CTO, but</p> <p>11 he was head of Microsoft Research. And Joseph Sirosh is</p> <p>12 the other person. He was leading Azure ML service.</p> <p>13 Q. Okay. Just so I'm clear on your testimony, was</p> <p>14 it your understanding that OAI -- OpenAI, or OAI, I will</p> <p>15 refer to it for brevity, was potentially developing its</p> <p>16 AI research using AWS's platform?</p> <p>17 A. Yeah. From this mail, at least it seems like I</p> <p>18 was asking the question that -- this particular launch</p> <p>19 seems to be on AWS, and I was asking, is it something</p> <p>20 that we were called on.</p> <p>21 And I know, through the history of OpenAI, it</p> <p>22 also looks like they used AWS. They definitely used</p> <p>23 Google. That much, I know. So, yeah, they thought</p> <p>24 about different platforms for different times.</p> <p>25 Q. Did you have a concern at this time that AWS</p>	<p>40</p> <p>1 you might have skimmed this document before sending the</p> <p>2 link?</p> <p>3 A. I don't recall.</p> <p>4 Q. Okay. Let's take a look at the linked article,</p> <p>5 which is marked Exhibit 3.</p> <p>6 Do you see at the top, in very tiny font, that</p> <p>7 this is a December 11th, 2015, announcement titled:</p> <p>8 Introducing OpenAI?</p> <p>9 A. I see it. I see it.</p> <p>10 Q. And then if you look down beneath the graphic,</p> <p>11 if you could just read closely that first paragraph if</p> <p>12 you haven't yet.</p> <p>13 A. I see -- I read it.</p> <p>14 Q. Okay. Do you see that OpenAI here describes</p> <p>15 their goal as creating AI in a way likely to benefit</p> <p>16 humanity, unconstrained by the need to generate a</p> <p>17 financial return?</p> <p>18 A. I see it.</p> <p>19 Q. And if we go down to the bottom of the second</p> <p>20 page, you see the header that says: OpenAI?</p> <p>21 A. I see it.</p> <p>22 Q. And then in the very last paragraph is where</p> <p>23 AWS is mentioned, right?</p> <p>24 A. In the last paragraph, you say?</p> <p>25 Q. Yes. Under the OpenAI header. It starts:</p>
<p>39</p> <p>1 might have access to OpenAI's research in the AI space?</p> <p>2 A. This one is more -- again, as a platform</p> <p>3 company, it's not about access to anything other than,</p> <p>4 are they using our platform to build what they are</p> <p>5 building.</p> <p>6 Q. Sure.</p> <p>7 Also in your email you write: I wonder how</p> <p>8 they plan to open?</p> <p>9 What did you mean by "open"?</p> <p>10 A. I -- I guess I was asking whether they want the</p> <p>11 APIs everywhere or they had a deal with AWS.</p> <p>12 Q. Okay. Is it safe to say that you have read the</p> <p>13 link -- what's been posted in the LinkedIn, your email,</p> <p>14 before sending this email?</p> <p>15 MR. JURATA: Object to form.</p> <p>16 A. I probably would have not. I mean, at some</p> <p>17 level, if I look at my skimming habits of news, I may</p> <p>18 have read the headline. And I don't think that a lot of</p> <p>19 my at least news diet is about trying to just synthesize</p> <p>20 at a high level what may be the content of it and then</p> <p>21 try and get to the gist of what I care about, which is</p> <p>22 in this case, here's a company that's being launched.</p> <p>23 Is this company going to look at Azure as a platform.</p> <p>24 That was more my most important thing.</p> <p>25 Q. (By Ms. Schubert) So is your testimony that</p>	<p>41</p> <p>1 Sam, Greg, Elon, Reid Hoffman, Jessica Livingston?</p> <p>2 A. Yes, I see it.</p> <p>3 Q. And it continued that AWS are donating to</p> <p>4 support OpenAI?</p> <p>5 A. I see it.</p> <p>6 Q. And your email mentions AWS, the involvement of</p> <p>7 AWS, right?</p> <p>8 A. I do.</p> <p>9 Q. So that would have been from this potentially</p> <p>10 last paragraph of the document?</p> <p>11 MR. CULLERTON: Object to form.</p> <p>12 MR. JURATA: And before the witness answers,</p> <p>13 can we get a stipulation that an objection for one party</p> <p>14 serves as an objection for both parties?</p> <p>15 MS. SCHUBERT: Sure.</p> <p>16 MR. CULLERTON: Thanks for that, Jay. I'm</p> <p>17 sure the court reporter will also be grateful.</p> <p>18 A. I'm sorry. Can I get the question again? What</p> <p>19 was the --</p> <p>20 Q. (By Ms. Schubert) Of course, yes.</p> <p>21 Is -- AWS is first mentioned in this article in</p> <p>22 the last paragraph of the document?</p> <p>23 A. Right.</p> <p>24 Q. Is that right?</p> <p>25 A. Right. Correct.</p>

<p style="text-align: right;">42</p> <p>1 Q. And do you have reason to believe that you 2 would have gotten information about AWS contributing to 3 OpenAI's launch from some other place, apart from this 4 last paragraph in the document?</p> <p>5 A. Probably not, yeah. I mean, I'm assuming that 6 that's kind of where I must have looked at the initial 7 list, or it must -- you know, of people who are backing 8 the launch. And of all those names in there, the only 9 name that we would have cared about would have been AWS 10 since we were a platform competitor of AWS.</p> <p>11 Q. Also listed here right above this paragraph are 12 Sam Altman and Elon Musk as OpenAI's cochair.</p> <p>13 Do you see that?</p> <p>14 A. I don't see the titles.</p> <p>15 Q. It's in the paragraph directly above AWS in the 16 very last sentence: OpenAI's cochair are Sam Altman --</p> <p>17 A. Oh, yeah, I see it.</p> <p>18 Q. -- and Elon Musk.</p> <p>19 And you knew both of them, right?</p> <p>20 A. Yes.</p> <p>21 Q. And did you also know Reid Hoffman in 2015?</p> <p>22 A. Yes, I did.</p> <p>23 Q. Would any of those names have been of interest 24 to you in reading this?</p> <p>25 A. I mean, I knew Vishal. I may have known by</p>	<p style="text-align: right;">44</p> <p>1 Q. (By Ms. Schubert) Would you say that that was 2 one of the purposes of this company, to address AI 3 safety?</p> <p>4 MR. JURATA: Object to form.</p> <p>5 A. I think -- yeah, I think the mission that 6 OpenAI, as I've always understood it, has been about 7 creating technology that -- I think they talk about it 8 as benefitting humanity and doing it safely.</p> <p>9 And, in fact, you know, it's pretty compatible 10 with -- when we talk about empowering people and 11 organizations all over the planet to achieve more as our 12 mission.</p> <p>13 I have always internalized it as democratizing 14 technology, and doing it safely is sort of, in some 15 sense, the social permission, and any organization rests 16 on that.</p> <p>17 Q. (By Ms. Schubert) And did you also understand 18 from this announcement that this was a nonprofit 19 organization?</p> <p>20 A. Yes, I did.</p> <p>21 Q. And it's clear from that -- is it clear to you 22 that OpenAI did not have shareholders?</p> <p>23 A. Yeah, I did. Yeah.</p> <p>24 Q. And so was it also clear to you that, instead 25 of profits, OpenAI's duty was to its stated mission?</p>
<p style="text-align: right;">43</p> <p>1 then Yoshua Bengio as well. But, yeah, I mean, all 2 these are big names and people I knew and respected, 3 yeah.</p> <p>4 Q. And then if you go back up to the middle of the 5 page, do you see the header that says: Looking forward?</p> <p>6 A. Yes.</p> <p>7 Q. If you could just give that paragraph a read, 8 and let me know when you are done.</p> <p>9 A. I see.</p> <p>10 Q. Do you see the very last clause where it says: 11 It is equally hard to imagine how much it could damage 12 society if built or used incorrectly in reference to 13 human level AI?</p> <p>14 A. I see it.</p> <p>15 Q. This was just a few months after Altman and 16 Musk asked you to join that open letter on AI safety; is 17 that right?</p> <p>18 A. I -- I have to verify the dates, but I will 19 take your word for that.</p> <p>20 Q. And do you see this says "related to AI safety" 21 in the paragraph titled: Looking forward?</p> <p>22 MR. CULLERTON: Object to form.</p> <p>23 MR. JURATA: Object --</p> <p>24 A. Yeah, as written, I think, yeah, it states that 25 AI safety is important.</p>	<p style="text-align: right;">45</p> <p>1 MR. CULLERTON: Object to form.</p> <p>2 A. Yeah. I mean, their mission -- the way the 3 OpenAI evolved is, they started as a nonprofit, and then 4 over time, they did create a for-profit entity in order 5 to, in fact, make progress on their mission because they 6 realized that financially it was not possible to just 7 raise donations, and because it was going to become much 8 more compute-intensive and so on. And so I think that's 9 the revolution as -- as a -- as a nonprofit.</p> <p>10 Q. (By Ms. Schubert) Sure.</p> <p>11 Focusing just on this early launch time period 12 of 2015 to 2016, it was clear to you that this was a 13 nonprofit organization; is that right?</p> <p>14 A. Yeah.</p> <p>15 Q. And also in this article, in the very last 16 paragraph, there's a statement of who donated to support 17 OpenAI up to \$1 billion in total; is that right?</p> <p>18 A. I read it, yeah.</p> <p>19 Q. And you understood that -- and listed that you 20 knew many of the people and entities supporting that?</p> <p>21 A. Yes.</p> <p>22 MR. JURATA: Objection; misstates his prior 23 testimony.</p> <p>24 Q. (By Ms. Schubert) Is that a fair 25 characterization?</p>

<p>54</p> <p>1 recall supporting any other contributions to a nonprofit</p> <p>2 at this great of an expected loss?</p> <p>3 MR. CULLERTON: Object to form.</p> <p>4 A. It's a pretty specific question. I don't</p> <p>5 have -- I'm sure we contribute compute. We have an</p> <p>6 entire program of contributing products and services at</p> <p>7 massive discounts to nonprofits. And so -- and then we</p> <p>8 even plow the revenue in the margins. We have an entire</p> <p>9 program there, so we do a lot of it.</p> <p>10 Q. (By Ms. Schubert) How do you balance those</p> <p>11 contributions with your fiduciary duty to Microsoft</p> <p>12 shareholders to ensure profitable return?</p> <p>13 A. You know, it's -- even in -- as a for-profit</p> <p>14 company, we always believe that we earn the permission</p> <p>15 to operate one community and one country at a time by</p> <p>16 ensuring that we are meeting the broader needs of that</p> <p>17 community and country.</p> <p>18 And so whether it's in Seattle area or whether</p> <p>19 it's in Jakarta, if all we think of is just the profit,</p> <p>20 but not think of the broader impact, the far technology</p> <p>21 and underserved communities around, you know, long term</p> <p>22 that's not great for our shareholders because our</p> <p>23 license to operate would not be there.</p> <p>24 Q. So there are limits to the amount of those</p> <p>25 types of contributions Microsoft can make?</p>	<p>56</p> <p>1 to it, but you can make those calls.</p> <p>2 Q. Okay. If you could flip to the next page where</p> <p>3 the title says, "Next steps." And feel free to review</p> <p>4 as much of it as you like. I will focus on the bullet,</p> <p>5 starting Partnership Momentum, about halfway down the</p> <p>6 page.</p> <p>7 A. I have read it.</p> <p>8 Q. Okay. Under the bullet titled Partnership</p> <p>9 Momentum, do you see where it says: On</p> <p>10 OpenAI.com-sponsor listing in place of AWS?</p> <p>11 A. I see it.</p> <p>12 Q. Do you understand here -- what do you</p> <p>13 understand that to mean?</p> <p>14 A. I'm assuming this is the same thing that we</p> <p>15 talked about earlier in the mail you showed where they</p> <p>16 were running on AWS and this would be about them</p> <p>17 switching over from AWS to Azure.</p> <p>18 Q. Such that Microsoft would be listed as a</p> <p>19 sponsor in place of AWS?</p> <p>20 A. That is correct.</p> <p>21 Q. At this time did you see OpenAI as a</p> <p>22 high-profile AI research lab?</p> <p>23 A. Yeah. I mean, with the people involved and --</p> <p>24 yeah, they were -- yeah, there was -- I mean, I don't</p> <p>25 think the profile of OpenAI today is way different than</p>
<p>55</p> <p>1 A. At the end of the day, we are a for-profit</p> <p>2 company, and so we have to, to your point about our</p> <p>3 fiduciary responsibilities, to make the case to our</p> <p>4 shareholders that the absolute maximizing of profit is</p> <p>5 not the only way to go about it, that we have to be</p> <p>6 mindful that sometimes supporting nonprofits is</p> <p>7 important, discounting to certain segments that can't</p> <p>8 pay retail price is important because that's I think the</p> <p>9 way we maintain permission to operate.</p> <p>10 Q. Did you believe you could make the case to your</p> <p>11 shareholders that a \$15 million loss served the</p> <p>12 fiduciary interest of Microsoft?</p> <p>13 A. This one would have been more around marketing.</p> <p>14 The consideration here would have been -- you know,</p> <p>15 platforms are formed by lead -- leading developers and</p> <p>16 leading research organizations using your platform. It</p> <p>17 would be the same thing as a well-known university</p> <p>18 research organization using Microsoft to advance</p> <p>19 research.</p> <p>20 So I would have thought about it more in those</p> <p>21 realms, which is, you know, a branded university</p> <p>22 research organization with OpenAI used it, yet we</p> <p>23 made -- you know, we were losing money on an NPV basis,</p> <p>24 but overall, by association, it created marketing</p> <p>25 benefits. That's a reasonable call. There are limits</p>	<p>57</p> <p>1 what it was then, but, you know, it had great</p> <p>2 researchers.</p> <p>3 Q. Who were the people involved that you believed</p> <p>4 made OpenAI a high-profile AI research lab?</p> <p>5 A. I mean, primarily Ilya, at least my...</p> <p>6 I have always thought of OpenAI as, you know,</p> <p>7 obviously Elon and Sam and all of those people are</p> <p>8 high-profile people but they're not researchers. And so</p> <p>9 the only person of high caliber there who had a great</p> <p>10 reputation, of real seminal breakthroughs, was Ilya</p> <p>11 Sutskever.</p> <p>12 Q. Did Elon and Sam contribute to your belief that</p> <p>13 OpenAI was a high-profile organization?</p> <p>14 A. Their association with it meant a lot. I mean,</p> <p>15 in the sense that, you know, they were great at picking</p> <p>16 great talent.</p> <p>17 Q. You've mentioned -- oh, you can put that</p> <p>18 document aside. And you've mentioned a few times</p> <p>19 discussing OpenAI in the gaming context; isn't that</p> <p>20 right?</p> <p>21 A. Yeah. They used gaming as environments for</p> <p>22 their research and reinforcement learning.</p> <p>23 Q. Do you recall Elon Musk reaching out to you in</p> <p>24 around June 2017 about supporting OpenAI's gaming</p> <p>25 efforts?</p>

<p>58</p> <p>1 A. I don't recall.</p> <p>2 Q. Do you recall OpenAI's involvement with a video</p> <p>3 game entitled Dota?</p> <p>4 A. As I said, I think that's one of the first</p> <p>5 things I think of when I think about their sort of work</p> <p>6 on reinforcement learning.</p> <p>7 Q. The Dota game specifically?</p> <p>8 A. Yeah.</p> <p>9 Q. What do you understand that video game to be?</p> <p>10 A. I'm not a gamer. And I think it's a Steam</p> <p>11 game, if I'm not mistaken.</p> <p>12 Q. Do you recall that OpenAI was working on a bot</p> <p>13 that could beat a human at Dota?</p> <p>14 A. That's right. Yeah, that makes sense.</p> <p>15 Q. And that would show that AI could beat humans;</p> <p>16 is that right?</p> <p>17 A. It's sort of a --</p> <p>18 MR. CULLERTON: Object to form. Sorry.</p> <p>19 Sorry. Object to form.</p> <p>20 A. I mean, one of the things that -- that's why</p> <p>21 gaming environments being closed words were a great sort</p> <p>22 of, you know, environment to do reinforcement learning.</p> <p>23 Right?</p> <p>24 The objective function is clear. The reward</p> <p>25 function is clear. And so that's sort of what -- by</p>	<p>60</p> <p>1 email written by you to -- actually -- sorry. Strike</p> <p>2 that.</p> <p>3 Do you see, copied on this email, Elon Musk,</p> <p>4 Sam Altman, Greg Brockman, Ilya Sutskever, and Sam</p> <p>5 Teller?</p> <p>6 A. Yes.</p> <p>7 Q. Did you know each of those individuals?</p> <p>8 A. I don't recall Sam Teller, but I know everyone</p> <p>9 else.</p> <p>10 Q. Okay. And do you see the email dated Friday,</p> <p>11 August 11th, 2017, at 8:43 p.m. from Elon Musk on the</p> <p>12 page ending in 669?</p> <p>13 A. 8:43?</p> <p>14 Q. Correct.</p> <p>15 A. Yeah, I do.</p> <p>16 Q. Elon writes: Indeed, much appreciated. Will</p> <p>17 make sure people know about Microsoft's help.</p> <p>18 A. Yes.</p> <p>19 Q. Does that refresh your recollection that</p> <p>20 Microsoft supported OpenAI by offering compute for the</p> <p>21 Dota game?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Did Microsoft get attention for its role in the</p> <p>24 Dota effort, if you recall?</p> <p>25 A. I don't recall. But that would have been the</p>
<p>59</p> <p>1 then I think -- I forget now when and what time frame</p> <p>2 some of the breakthroughs on AlphaGo and so on happened,</p> <p>3 but, you know, Demis was a game developer. There's a</p> <p>4 long history of AI developers who came out of using</p> <p>5 games in environments, building AI bots in games, so</p> <p>6 it's sort of a -- it's a given.</p> <p>7 Q. (By Ms. Schubert) Do you recall that the Dota</p> <p>8 project required a lot of compute?</p> <p>9 A. I would imagine. Right? Because they had to</p> <p>10 both, you know, have compute infrastructure to run the</p> <p>11 game and then to run AI in the game.</p> <p>12 Q. I will move to what we'll mark as Exhibit 5,</p> <p>13 2024 Musk 669.</p> <p>14 And while we're waiting on the document, do you</p> <p>15 recall that OpenAI's bot actually did win Dota?</p> <p>16 A. I don't recall.</p> <p>17 Q. Okay.</p> <p>18 (Exhibit No. 5 marked.)</p> <p>19 Q. (By Ms. Schubert) Let me know when you have</p> <p>20 reviewed this.</p> <p>21 A. I have. Oh, maybe there's a second page. Yep.</p> <p>22 Q. Does this refresh your recollection that</p> <p>23 OpenAI's bot won Dota?</p> <p>24 A. Yeah. I congratulated them, yeah, so I...</p> <p>25 Q. And on this email, do you see that there's an</p>	<p>61</p> <p>1 intent, is to get some platform PR for that OpenAI's</p> <p>2 Dota to -- or sort of feat was achieved on Azure.</p> <p>3 Q. Microsoft didn't profit from that Dota win, did</p> <p>4 it?</p> <p>5 A. Not by the Dota win. But as I go back again,</p> <p>6 as a platform company for us, when someone achieves</p> <p>7 success on your platform, that's pretty important for</p> <p>8 us. And someone says they were able to make a great</p> <p>9 product or win a competition and -- you know, it's</p> <p>10 always a helpful thing.</p> <p>11 Q. Okay. Do you recall whether you wanted to</p> <p>12 reengage with another OpenAI deal for Microsoft right</p> <p>13 after the Dota win?</p> <p>14 A. My -- I don't recall clearly. I'm sure you</p> <p>15 will give me some documents. But I think the next phase</p> <p>16 was the one that I think we passed on. And so this was</p> <p>17 the phase -- you know, first they were on AWS. We then</p> <p>18 got them to switch by giving them discounted compute.</p> <p>19 They achieved this. They had the next ask. We passed.</p> <p>20 They went to Google. And so that's kind of how it kept</p> <p>21 lobbying.</p> <p>22 Q. Do you recall why you passed in this next phase</p> <p>23 after the Dota win?</p> <p>24 A. I mean, at some level for me, this goes back a</p> <p>25 little bit to the comment I think I made earlier is, you</p>

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team?

A. Yes, I have seen that.

Q. Noting that: I know we have been on this road before?

A. Yes.

Q. Then if you could just read the next email up from Jason Zander, dated August 25th. It spans 156 to 157 of the document.

A. I have read Jason's email. Do you want me to read more or...?

Q. You read his email dated August 25th?

A. Yes.

Q. Okay. Then I will direct you to the next email in the chain, August 29th, in which he writes: Update.

A. Yeah, I have read that mail.

Q. In these two emails, what is Jason Zander analyzing at a high level?

MR. JURATA: Object to form.

A. Yeah, this is again consistent with the previous testimony, which is, I think we were trying to -- I mean, obviously they wanted the next phase of compute, and we were trying to understand from Jason and team and trying to grapple with the need for more compute and essentially the GM or the NPV analysis and the cost-benefit piece. And fundamentally, that's the

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struggle in the mails.

Q. (By Ms. Schubert) By "GM," do you mean gross margin?

A. Gross margin, yeah.

Q. In his August 29th email, do you see where Jason Zander writes that: The deal would cost us \$150 million negative loss?

A. Yeah.

Q. And he calls that a non-starter.

Do you see that?

A. I see that.

Q. Did you agree that \$150 million loss was a non-starter for Microsoft at this time?

A. Yeah. I think at this entire thing -- and that's where I think we passed on this, and then they went to Google, because we didn't see the marketing benefits to be sufficient enough for us to justify the type of investment we were being asked to make.

Q. This discussion is about Microsoft's business goals, right?

A. Yes, they are.

Q. And is it fair to say that these numbers are past the point of giving back to the community in the way that one of your donations might?

A. You know, we may have even given to other

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organizations and so on even larger sums. I think in this context, you know, each one of these things is a decision you make independently. And I think our overall idea was that just donating to OpenAI, given their research angle, was not something that made sense to us at that time.

Q. Okay. Then if you go to the next page of this document with the Bates stamp 155, do you see the email from Brett Tanzer on January 10th of 2018, which is several months after Jason Zander's email?

A. I see it.

Q. If you could just read that email which spans back on to 156 as well.

MR. JURATA: Ms. Schubert, while Mr. Nadella is reading that, I'm going to designate this transcript as highly confidential attorneys' eyes only.

MS. SCHUBERT: What's the basis for that designation?

MR. JURATA: We're getting into testimony regarding Microsoft's internal decision-making processes.

MS. SCHUBERT: Okay. Assuming that, by the end, you still think that designation is appropriate for the full transcript, we're happy to look at it or maybe that certain portions we'd ask you to designate as --

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MR. JURATA: I'm going to designate the entire transcript.

MS. SCHUBERT: Okay.

MR. JURATA: At some point afterwards, we will go through it to see if portions of it could be downgraded.

MS. SCHUBERT: Okay.

MR. JURATA: But we will initially designate the entire transcript as highly confidential, attorneys' eyes only, unless we get to forward-looking business strategy, at which point I may make that designation as well.

MS. SCHUBERT: Okay. Understood. We'll reserve our rights.

A. Okay. I have read this mail.

Q. (By Ms. Schubert) Okay. Do you notice, at the beginning of the email, Brett Tanzer describes that you are nearing [REDACTED]?

A. Yes, I do.

Q. And then he indicates that he will be advising OpenAI that Microsoft will not [REDACTED] right?

A. Yes, I do.

Q. You respond on the top of Page 155, on January 10th. If you could just read your response.

<p style="text-align: right;">90</p> <p>1 to what the name "OpenAI" meant?</p> <p>2 MR. CULLERTON: Object to form. At what</p> <p>3 time?</p> <p>4 A. I think that the -- I've always thought that</p> <p>5 their intent was to be about open source and open access</p> <p>6 and just be more of a democratizing force in AI versus</p> <p>7 what Google represented at that time as a big tech</p> <p>8 company that is vertically integrated with all of the --</p> <p>9 the secrets and closed source.</p> <p>10 Q. (By Ms. Schubert) In this email, looking back</p> <p>11 in the next sentence, Kevin Scott writes: That would be</p> <p>12 good competitive insurance.</p> <p>13 What do you understand by that phrase reading</p> <p>14 this email?</p> <p>15 A. It's -- it's the point I was making about, you</p> <p>16 know, I think all of us at this point and to date</p> <p>17 continue to think that Google has got a lot of</p> <p>18 capability and a lot of talent and a lot of -- you know,</p> <p>19 a lot of ways so that they can essentially go game, set,</p> <p>20 match. And so that will always be the concern for all</p> <p>21 of us who are competing with Google.</p> <p>22 Q. Why would open source technology make it more</p> <p>23 appealing for Microsoft to fund -- did you agree with</p> <p>24 his statement that it might be worth funding if the</p> <p>25 technology was open source?</p>	<p style="text-align: right;">92</p> <p>1 And so, yes, I think we would always sort of --</p> <p>2 I always say that, whenever possible, contribute to open</p> <p>3 source and thereby earn the right to benefit from open</p> <p>4 source.</p> <p>5 And then sometimes it doesn't make economic</p> <p>6 sense to participate in open source and you have to do</p> <p>7 closed source, and that's a different set of analytics.</p> <p>8 Q. (By Ms. Schubert) In the last two lines of</p> <p>9 this email, Kevin writes: I wonder if the big OpenAI</p> <p>10 donors are aware of these plans? Ideologically, I can't</p> <p>11 imagine that they funded an open effort to concentrate</p> <p>12 ML talent so they could then go build a closed</p> <p>13 for-profit thing on its back.</p> <p>14 Do you see that?</p> <p>15 A. I see that.</p> <p>16 Q. Who were the big OpenAI donors, to your</p> <p>17 knowledge, at this time of March 2018?</p> <p>18 A. I -- I mean, I think, in one of the previous --</p> <p>19 in the launch email, you had the list of the donors.</p> <p>20 Q. Was that still your understanding of the</p> <p>21 primary donors in March of 2018?</p> <p>22 A. I -- I didn't keep specific track on who were</p> <p>23 all additional people, but broadly I knew that obviously</p> <p>24 Elon was associated, Sam was associated, Reid Hoffman</p> <p>25 was associated.</p>
<p style="text-align: right;">91</p> <p>1 A. Yeah, I mean, to us -- to some degree, as a</p> <p>2 platform company that was not trying to vertically</p> <p>3 integrate everything, and as we were watching Google</p> <p>4 vertically integrate everything, having more access to</p> <p>5 models, to AI systems, was always going to be a better</p> <p>6 structural world for us.</p> <p>7 Q. Is it better if you have access that is access</p> <p>8 to public research than access through private</p> <p>9 licensing?</p> <p>10 A. I mean, from Microsoft's standpoint, we want to</p> <p>11 be competitive, and there are two ways for us to be</p> <p>12 competitive. One is, if there is a lot of open source,</p> <p>13 you know, and that open source runs well on Azure and we</p> <p>14 can use that open source in our products, that's one</p> <p>15 way, or for us to have equal and functionality that</p> <p>16 Google has that we have access to.</p> <p>17 Q. If OpenAI's technology was open source, did you</p> <p>18 understand whether Microsoft would have access no matter</p> <p>19 how much or how little it donated to OpenAI?</p> <p>20 MR. CULLERTON: Objection; calls for</p> <p>21 speculation.</p> <p>22 A. If it is truly open source and the license was</p> <p>23 unrestricted, then yes. But, you know, that was --</p> <p>24 yeah, I mean, we love open source. In fact, we're the</p> <p>25 largest contributor to open source, including Linux.</p>	<p style="text-align: right;">93</p> <p>1 Q. And Kevin notes that the funders of OpenAI</p> <p>2 expected its technology would be open source and not for</p> <p>3 profit.</p> <p>4 Did you agree with that statement -- do you</p> <p>5 agree with that statement, that the funders expected</p> <p>6 that its technology would be open source and not for</p> <p>7 profit?</p> <p>8 MR. JURATA: Object to form;</p> <p>9 mischaracterizes what the document says.</p> <p>10 A. I didn't -- like, I think the challenge, as you</p> <p>11 can see with all the previous email exchanges, is that</p> <p>12 this was becoming pretty capital-intensive and</p> <p>13 compute-intensive.</p> <p>14 And at least our 2019 deal came about when the</p> <p>15 OpenAI nonprofit, to further their mission, you know,</p> <p>16 recognized the need to create a subsidiary that they</p> <p>17 controlled, which was a commercial entity. That, I</p> <p>18 think, was the foundational piece that allowed us to</p> <p>19 even do our deal.</p> <p>20 Q. (By Ms. Schubert) Kevin expresses a concern</p> <p>21 that the big funders might have an ideological issue</p> <p>22 with their contributions being used to build a</p> <p>23 for-profit.</p> <p>24 Did you share that concern?</p> <p>25 MR. JURATA: Object; form. Mischaracterizes</p>

<p>94</p> <p>1 the document.</p> <p>2 MS. SCHUBERT: Counsel, we don't need the</p> <p>3 tone.</p> <p>4 A. I -- I don't know -- you know, I can't speak</p> <p>5 for Kevin and what he's saying here. But I thought -- I</p> <p>6 think that the nonprofit board of OpenAI gets to make</p> <p>7 the decision on what's the best way for them to realize</p> <p>8 their mission.</p> <p>9 And so, therefore, they, you know, always my</p> <p>10 expectation is, hey, if you really need to raise lots of</p> <p>11 money in order to build a lot of compute, then you need</p> <p>12 to create some vehicle which is a for-profit vehicle.</p> <p>13 And so, to me, it screams very logical reasoning in</p> <p>14 terms of what they were doing.</p> <p>15 Q. (By Ms. Schubert) Do you recall ever relaying</p> <p>16 Kevin's big questions to Sam Altman?</p> <p>17 A. I don't recall.</p> <p>18 Q. Do you recall ever expressing the concerns laid</p> <p>19 out here to Sam Altman?</p> <p>20 MR. CULLERTON: Object to form.</p> <p>21 MR. JURATA: Object to form.</p> <p>22 A. I don't recall.</p> <p>23 Q. (By Ms. Schubert) In March of 2018, did you</p> <p>24 enter into any deals with OpenAI, to your recollection?</p> <p>25 A. March of 2018? I don't -- I think our big deal</p>	<p>96</p> <p>1 Q. Correct.</p> <p>2 A. Yes.</p> <p>3 Q. When?</p> <p>4 A. I don't recall. I think Bill Gates was still</p> <p>5 on our board when we did the 2019 deal, and so therefore</p> <p>6 I'm sure in that context would have been the first time</p> <p>7 maybe when we discussed.</p> <p>8 Q. Do you recall what his opinion on OpenAI was in</p> <p>9 those early discussions?</p> <p>10 A. It was a very divided opinion. I think the big</p> <p>11 debate was, you know, for us, whether we should -- this</p> <p>12 is more in the context of 2019. Until 2019, it was</p> <p>13 just, you know, we were a platform provider and, you</p> <p>14 know, we did what we did.</p> <p>15 And then when we made our first big investment</p> <p>16 after they had created the capped profit entity to</p> <p>17 further their mission and all of that, that was a big</p> <p>18 decision for us because we were going to put a lot of</p> <p>19 capital in, which was going to be very risky. And also,</p> <p>20 as I said, massive opportunity costs by concentrating</p> <p>21 all of our compute resource on this partnership.</p> <p>22 So the fundamental debate internally was why do</p> <p>23 this versus just fund ourselves and fund our own</p> <p>24 research teams that would have loved to have the same</p> <p>25 compute. And so that debate was the debate probably we</p>
<p>95</p> <p>1 was in 2019, if I'm not mistaken.</p> <p>2 Q. Are you aware of whether anyone visited</p> <p>3 OpenAI's offices after these email exchanges?</p> <p>4 A. I don't recall.</p> <p>5 MR. CULLERTON: (Inaudible.)</p> <p>6 THE COURT REPORTER: I'm sorry. Did you</p> <p>7 object?</p> <p>8 MR. CULLERTON: I did object. Vague as to</p> <p>9 time period, but...</p> <p>10 MS. SCHUBERT: Offer these emails.</p> <p>11 Q. (By Ms. Schubert) Did you become aware that</p> <p>12 Kevin Scott visited OpenAI's offices in 2018?</p> <p>13 A. I don't recall.</p> <p>14 Q. Do you recall Bill Gates ever visiting OpenAI's</p> <p>15 offices?</p> <p>16 A. I don't recall.</p> <p>17 Q. Did you know where OpenAI's offices were housed</p> <p>18 in 2018?</p> <p>19 A. I actually don't.</p> <p>20 Q. I'm going to show you what we'll mark as</p> <p>21 Exhibit 8, with Bates stamp MSFT Musk 01290.</p> <p>22 Okay. Strike that, please.</p> <p>23 Do you recall ever discussing OpenAI with Bill</p> <p>24 Gates?</p> <p>25 A. Discussing OpenAI with Bill Gates?</p>	<p>97</p> <p>1 had. And Bill was a much more stronger voice on wanting</p> <p>2 us to just do our own.</p> <p>3 Q. Do you recall, in late 2018 or before the 2019</p> <p>4 deal, discussing OpenAI with Kevin Scott?</p> <p>5 A. You know, in the mails, you know, through the</p> <p>6 various stages of partnering with OpenAI, Kevin was</p> <p>7 obviously involved in all of those phases.</p> <p>8 Q. Do you recall, before the 2019 deal, whether</p> <p>9 Kevin Scott was a proponent of investing in OpenAI?</p> <p>10 A. Yeah. In 2019, Kevin was definitely in favor</p> <p>11 of investing in OpenAI.</p> <p>12 Q. Do you remember if he articulated to you why he</p> <p>13 was in favor of investing in OpenAI in 2019?</p> <p>14 A. Yeah, I mean, I don't know if there's a</p> <p>15 specific document -- if there is, I'm sure you will show</p> <p>16 it to me. But between Kevin and me, the conclusion we</p> <p>17 came to was that, given the change in research</p> <p>18 direction -- when I say "research direction," they were</p> <p>19 getting more focused on transformers, these GPT class of</p> <p>20 models -- this idea that we can make progress in text in</p> <p>21 natural language, all of that appealed a lot more to me</p> <p>22 and Kevin, and I relied on his technical judgment on</p> <p>23 that as well.</p> <p>24 And so that's what led me to really the</p> <p>25 decision to invest in 2019.</p>

<p style="text-align: right;">98</p> <p>1 Q. Do you recall if Kevin had viewed the GPT 2 models himself before the deal in 2019? 3 A. Viewed? Sorry? 4 Q. Had he gotten a demonstration of any sort of 5 the GPT models, if you recall? 6 A. I don't recall specifically, but I'm sure, you 7 know, we were tracking the various models, and he may 8 have had some demos of what they were working on. 9 MS. SCHUBERT: I would like to now mark 10 Exhibit 8 with a document Bates-stamped MSFT Musk 0993. 11 (Exhibit No. 8 marked.) 12 A. Got it. I have read it. 13 Q. (By Ms. Schubert) Okay. In this email, do you 14 see that Kevin Scott explains he spent four hours with 15 Sam and a couple members of the OpenAI team? 16 A. I read it, yeah. 17 Q. And he references Project Duvall. Do you 18 recall what Project Duvall is? 19 A. Yeah, yeah. It's not a lost memory. It's -- I 20 think it was our -- some kind of a hardware -- it was 21 our AI training system project. 22 Q. Whose project? 23 A. Microsoft's. 24 Q. And in this email, Kevin Scott reports that 25 there will be a new board for OpenAI.</p>	<p style="text-align: right;">100</p> <p>1 So, yes, we had to get comfortable with essentially 2 investing in this entity in 2019. 3 Q. What was the entity, as you understood it, in 4 2019? 5 A. So it's a -- it's a nonprofit company -- board 6 that controls OpenAI, and OpenAI has a capped profit 7 entity. And the capped profit entity can have 8 investors, and those investors have return rights, but 9 they are very long-term oriented. And so, yes, that's 10 kind of what the basic structure is. 11 Q. In No. 3 in Kevin's Scott's email, the very 12 last sentence says: If they ever get to 500 B, for 13 billion, in returns, the balance over that goes directly 14 to the 501(c)(3). 15 A. That's right. 16 Q. Back in 2018, did you expect OpenAI to make 17 over 500 billion in returns? 18 A. Yeah. I mean, in 2018 or 2019, you know, we 19 were not -- we were taking a much more strategic view 20 that this is -- this is a research organization, a 21 nonprofit organization with a research arm that had come 22 up with this novel way to generate profits that were 23 capped, and that this is not going to be a traditional 24 type of investment, that, as long as we were patient, we 25 could get benefits of just learning.</p>
<p style="text-align: right;">99</p> <p>1 Do you see that? 2 A. I see that. 3 Q. And he states that Reid Hoffman is joining it. 4 Do you remember Reid Hoffman joining the OpenAI board? 5 A. Yeah, I remember that. 6 Q. In 2018, what was Reid Hoffman's role with or 7 connection to Microsoft? 8 A. He was on our board. 9 Q. Do you know how he came to be -- do you know 10 how he came to join the OpenAI board? 11 A. I don't know. But I'm assuming he was one of 12 the donors to OpenAI. 13 Q. Did you speak with him about joining the OpenAI 14 board? 15 A. I did not. 16 Q. In terms of the new corporate structure, Kevin 17 notes that returns will be capped. 18 Did you understand the new structure to be a 19 capped for-profit structure? 20 A. Yeah. For sure, by the time we did the 2019 21 deal, that was when we had to get comfortable with all 22 the constructs of this new capped profit entity that was 23 controlled by a nonprofit and what it meant, because 24 there is no such thing as a traditional shareholder 25 right. So you kind of had these, whatever, the TRAs.</p>	<p style="text-align: right;">101</p> <p>1 And so that's why we constructed the 2 partnership to have all these elements. It was not 3 about just the return on the -- on the investment, but 4 it had IP. It had revenue share. It had use of Azure. 5 And then that allowed us to fund them with the compute 6 they needed. 7 Q. Okay. Who, if you recall, came up with the 8 500 billion figure noted here? 9 A. I have no idea. I'm assuming he's recalling or 10 he's sort of talking about something that he learned 11 from OpenAI, I'm assuming. 12 Q. It's okay. I won't ask you to assume. 13 In 2018, how long would you have expected it to 14 take OpenAI to get to 500 billion in returns? 15 A. In 2018? 16 Q. Correct. 17 A. I don't know whether I really seriously thought 18 about it in 2018. But what I can tell you what we 19 thought about it when we put our billion dollars in 2019 20 is that it just felt so far-fetched that there would be 21 a return. 22 So that's why I felt most of the investment was 23 made, and that's why there was robust debate even in our 24 board about, you know, is this, you know, crazy for us 25 to be taking this kind of risk and not doing it on our</p>

<p style="text-align: right;">102</p> <p>1 own.</p> <p>2 And so, yes, I don't think we expected any of</p> <p>3 the things that obviously OpenAI has achieved now to be</p> <p>4 achievable, quite frankly, in the time frame that we're</p> <p>5 now talking about.</p> <p>6 Q. He also mentions in Paragraph 3 monetizing</p> <p>7 OpenAI IP.</p> <p>8 What do you understand monetizing OpenAI IP to</p> <p>9 mean?</p> <p>10 A. Can I read it again?</p> <p>11 Q. Of course.</p> <p>12 A. In Paragraph 3?</p> <p>13 Q. Yes. It's about the third sentence, the Fund</p> <p>14 LLC.</p> <p>15 A. I think this is the point about creating this</p> <p>16 entity that is some form of a for-profit entity that can</p> <p>17 then license the IP, monetize the IP.</p> <p>18 Q. What does it mean to monetize IP?</p> <p>19 A. To be able to sell it and recognize revenue out</p> <p>20 of it in order to, obviously, further their mission. I</p> <p>21 mean, that's sort of the logic, was, they realized that,</p> <p>22 in order for them to continue to fund their research and</p> <p>23 compete against Google, they needed to generate revenue.</p> <p>24 In order to generate revenue, they needed a for-profit</p> <p>25 entity and raise capital.</p>	<p style="text-align: right;">104</p> <p>1 Q. Did you ever tell OpenAI that they needed to</p> <p>2 restructure in order for Microsoft to invest?</p> <p>3 A. No.</p> <p>4 Q. Did you suggest any conditions to OpenAI on</p> <p>5 which Microsoft would reinvest in 2019?</p> <p>6 MR. CULLERTON: Object to form.</p> <p>7 A. I don't think we went and made suggestions. I</p> <p>8 think they came to us in different times with different</p> <p>9 constructs of what a deal could look like.</p> <p>10 Q. (By Ms. Schubert) Under the new structure with</p> <p>11 the capped profits, did you learn whether OpenAI's past</p> <p>12 donors would have their donations converted into some</p> <p>13 sort of stake in the new for-profit entity?</p> <p>14 A. I am not technically sort of in the detail of</p> <p>15 exactly what converted and what didn't convert.</p> <p>16 Actually, I'm not really -- I don't understand exactly</p> <p>17 what happened mechanically there as to who donated in</p> <p>18 what form and in what donations got converted into this</p> <p>19 for profit. Was it a second raise or was it the first</p> <p>20 one? I don't know.</p> <p>21 Q. Did Kevin Scott ever reiterate his concern to</p> <p>22 you -- strike that.</p> <p>23 Did Kevin Scott ever raise to you again his</p> <p>24 note that OpenAI was building a for-profit on the</p> <p>25 nonprofit's back?</p>
<p style="text-align: right;">103</p> <p>1 Q. Under No. 4, Kevin Scott writes: In fact, they</p> <p>2 are so interested in working with us that Sam is asking</p> <p>3 whether they can invest capital to help us go faster.</p> <p>4 Did you know why OpenAI was so interested in</p> <p>5 working with Microsoft?</p> <p>6 A. I think that this is in reference to this</p> <p>7 Project Duvall, which was the AI system we were building</p> <p>8 at that time. And so I think the dialogue that Kevin</p> <p>9 would have had with them is whether they should use</p> <p>10 Duvall and we should accelerate Duvall.</p> <p>11 Q. Did you know whether at this time OpenAI had</p> <p>12 approached any of the other cloud providers with an</p> <p>13 offer to invest in their new structure?</p> <p>14 A. I think so. It was generally accepted, because</p> <p>15 after all, you know, they were constantly moving between</p> <p>16 AWS to Azure to GCP. They had relationships with all</p> <p>17 the hyperscale cloud providers. And so, therefore, I'm</p> <p>18 sure -- I mean, I was always fully expecting them to get</p> <p>19 the best partner and the best deal.</p> <p>20 Q. Did Sam Altman discuss the possibility of this</p> <p>21 restructuring with you before it happened?</p> <p>22 A. No. He did not discuss, you know, what they</p> <p>23 were doing to restructure, but at some point in 2019,</p> <p>24 when we did the deal, that's when I think we all had to</p> <p>25 sort of educate ourselves on what this entity was.</p>	<p style="text-align: right;">105</p> <p>1 MR. JURATA: Objection to form;</p> <p>2 mischaracterizes the document.</p> <p>3 A. I don't recall any conversations with Kevin or</p> <p>4 in general at Microsoft, because the way to me is, it is</p> <p>5 more the responsibility of the OpenAI board to do what</p> <p>6 is obviously in the interest of their mission.</p> <p>7 And so it is pretty opaque to me and us on</p> <p>8 their restructuring and creating entities. So we only</p> <p>9 started working with them on our investment in 2019</p> <p>10 based on the structure they created.</p> <p>11 Q. (By Ms. Schubert) When did you decide that</p> <p>12 Microsoft should move ahead with the investment in</p> <p>13 OpenAI in 2019?</p> <p>14 A. You are asking for a date or...?</p> <p>15 Q. An approximation, if you have one.</p> <p>16 A. I don't. But I'm sure that there are documents</p> <p>17 on -- on it. But I don't have the date. But it was in</p> <p>18 2019.</p> <p>19 Q. Do you recall there being a specific moment</p> <p>20 that you thought it was the right decision?</p> <p>21 A. Yeah. I mean, we had a board because this is a</p> <p>22 board-approved investment.</p> <p>23 Q. Who led the negotiations of the 2019 deal from</p> <p>24 the Microsoft side?</p> <p>25 A. I think -- I mean, there were several players</p>

<p style="text-align: right;">118</p> <p>1 data from GitHub. And we were going to use it in GitHub 2 Copilot. 3 And of course, you know, people debated whether 4 that was something that Microsoft should allow. But as 5 I said, in all these partnerships over, you know, the 6 duration of the partnership, you have to show 7 flexibility to ensure that there's a win-win in the 8 spirit of things. 9 Q. Do you recall whether Microsoft had a share of 10 revenue that would come from Codex? 11 A. Yeah, we had an overall construct. Now, I 12 specifically, yeah, this is in 2021, so I think in 2019, 13 we had the same construct that anything that we had rev 14 shares back to them on certain things, they had rev 15 shares back to us on certain things. So yes. 16 Q. When you were considering this 2019 investment 17 in OpenAI, what assets did you know the nonprofit 18 organization to have? 19 A. The -- the simple sort of framework I have -- 20 had is, nonprofit controls is the only, you know, entity 21 that has no cap. Right? So ultimately everybody else 22 has capped returns and even the for-profit, nonprofit 23 has uncapped and is the controller. Like everybody else 24 has no votes and nothing. They just have investment 25 rights, I guess.</p>	<p style="text-align: right;">120</p> <p>1 reinvest. 2 Q. (By Ms. Schubert) And in 2019, before the 3 restructuring, did you understand whether OpenAI owned 4 that asset of its IP? 5 MR. CULLERTON: Object to form. 6 A. I mean, yes, it is an open -- and it remained 7 even an OpenAI asset even after. Right? So the 8 nonprofit controls the for-profit. 9 Q. (By Ms. Schubert) Okay. I will show you a 10 document that we'll mark Exhibit 10, with the Bates 11 stamp MSFT Musk 83907. 12 (Exhibit No. 10 marked.) 13 Q. (By Ms. Schubert) This is entitled: Microsoft 14 memo to board of directors, dated June of 2019, 15 regarding the investment in OpenAI's LP. 16 It is a lengthy document. For right now, I 17 only intend to ask you about the charts that are on 18 Page 192 or Bates stamp 83910. Of course, you may read 19 as much as you would like. 20 A. I'm sorry. The Page 192 and the -- just the 21 pictures? 22 Q. Yes. 23 A. Okay. 24 Q. Here. 25 A. Yeah. And you want me to just focus on the</p>
<p style="text-align: right;">119</p> <p>1 And so the asset they have is pretty much all 2 of OpenAI, with a set of investors with capped profits. 3 Q. Before the restructuring in 2019, what did 4 you -- what assets did you understand the nonprofit to 5 have? 6 A. Before they created the for-profit entity? 7 Q. Exactly. I can ask it a different way as well. 8 A. Yes, please. 9 Q. Did you view OpenAI's IP as an asset? 10 MR. CULLERTON: Object to form. 11 A. OpenAI's IP is an asset that needs constant 12 nourishment. It's a -- it's an asset that depreciates 13 in value if you don't invest in its upkeep in a 14 significant way. Right? 15 I mean, that's kind of the fundamental 16 challenge in here, is, it's not an asset if you can't 17 invest tomorrow more significantly than you did 18 yesterday. And that's the foundational challenge. 19 Right? This is not like creating -- one fixed cost 20 creates a product, and after that, it just keeps 21 generating revenue. 22 This entire thing is pretty capital-intensive. 23 It's optics-intensive, to keep the researchers and what 24 have you. And so, yes, it's an asset at a point in 25 time, but it's only good if you can continue to</p>	<p style="text-align: right;">121</p> <p>1 pictures? 2 Q. Read that, yes. 3 MR. JURATA: But as Ms. Schubert told you, 4 Mr. Nadella, if you need to review other parts of the 5 document, you should feel free to do so. 6 A. Got it. 7 Q. (By Ms. Schubert) Okay. Looking at this 8 chart, at the bottom half of the page, on the left-hand 9 side, there's a column titled: Limited partner 10 category. 11 And the first row beneath that, it says: Open 12 NP. 13 Do you see that? 14 A. Yes. 15 Q. Do you understand open NP to be open not for 16 profit? 17 A. That's right. 18 Q. OpenAI not for profit? 19 A. Uh-huh. 20 Q. And there's an asterisk with a footnote that 21 says: Note, this contribution was in the form of assets 22 regarding the \$50 million contribution made by open NP. 23 A. Yes. 24 Q. Do you see that? 25 A. I see that.</p>

<p style="text-align: right;">122</p> <p>1 Q. Did you know what those assets were?</p> <p>2 A. I'm assuming it's that -- you know, the IP</p> <p>3 that's the starting point to all of this, and that's the</p> <p>4 reason why they have the return multiple -- the existing</p> <p>5 investors and open NP have, you know, the return</p> <p>6 multiple of 100 X.</p> <p>7 Q. Did you also consider OpenAI's employees to be</p> <p>8 an asset to OpenAI, the nonprofit?</p> <p>9 A. Yeah. I mean, I think in some sense, you know,</p> <p>10 the way I have always thought about employees -- I don't</p> <p>11 know whether in this construct it's the same thing or</p> <p>12 not, but, yeah, I mean, you need the employees in order</p> <p>13 to keep your asset healthy.</p> <p>14 Q. Okay. Have OpenAI employees played a role in</p> <p>15 helping Microsoft develop commercial products?</p> <p>16 A. Open --</p> <p>17 MR. JURATA: Object to form.</p> <p>18 A. You asked about OpenAI employees.</p> <p>19 Q. (By Ms. Schubert) Yes. Have OpenAI employees</p> <p>20 played a role in helping Microsoft develop commercial</p> <p>21 products?</p> <p>22 A. I mean, OpenAI work for OpenAI, and they are</p> <p>23 developing OpenAI IP. And then we, as a partner, work</p> <p>24 with them as a partner company to build our products.</p> <p>25 So that's the partnership. Right? So they are doing</p>	<p style="text-align: right;">124</p> <p>1 Q. -- are you aware that there were 20 Microsoft</p> <p>2 employees allotted to work at OpenAI alongside OpenAI</p> <p>3 employees?</p> <p>4 A. Yes. So we had a system of an embedded</p> <p>5 engineer that is where Microsoft employees -- because,</p> <p>6 as part of our IP partnership, right, it's one thing to</p> <p>7 get cold, but it's also about the know-how.</p> <p>8 And so in order to ensure that there's</p> <p>9 knowledge transfer and that know-how, we have embedded</p> <p>10 engineers, and these embedded engineers -- you know, the</p> <p>11 program has gone through multiple changes over time and</p> <p>12 adjusted it. We're also working on real projects for</p> <p>13 OpenAI because that's the best way to learn.</p> <p>14 Q. In the course of that embedded relationship,</p> <p>15 did OpenAI employees assist Microsoft employees in</p> <p>16 learning how to develop Microsoft products?</p> <p>17 A. They -- they would have assisted in mostly</p> <p>18 learning about OpenAI IP, which then these engineers</p> <p>19 would know how to parlay into Microsoft products.</p> <p>20 Q. So they could better incorporate OpenAI's IP --</p> <p>21 A. Correct.</p> <p>22 Q. -- into Microsoft products?</p> <p>23 A. That's right.</p> <p>24 Q. And looking at it today, would you say that</p> <p>25 Microsoft has yet benefitted financially from products</p>
<p style="text-align: right;">123</p> <p>1 what is in the interest of OpenAI and the contractual</p> <p>2 obligations OpenAI has.</p> <p>3 Q. So certainly, OpenAI employees have played a</p> <p>4 role in Microsoft developing the products that use</p> <p>5 OpenAI's IP?</p> <p>6 MR. JURATA: Object to form;</p> <p>7 mischaracterizes prior testimony.</p> <p>8 A. I think OpenAI's employees are building OpenAI</p> <p>9 IP that we then get to use, and then we have rights to</p> <p>10 that IP. So that's what I was characterizing, because I</p> <p>11 just want to be clear that OpenAI employees are not</p> <p>12 working on Microsoft products. OpenAI employees are</p> <p>13 working on OpenAI products that we use to build</p> <p>14 Microsoft products.</p> <p>15 Q. (By Ms. Schubert) I do understand that, and</p> <p>16 thank you for the clarification.</p> <p>17 I don't mean to suggest that OpenAI employees</p> <p>18 are building Microsoft products, but rather, is it</p> <p>19 accurate that there were 20 Microsoft employees working</p> <p>20 at OpenAI embedded at the organization for a period of</p> <p>21 time?</p> <p>22 A. Oh, so that's a -- that's different. This is</p> <p>23 Microsoft employees.</p> <p>24 Q. I have a new question, which is --</p> <p>25 A. Oh, okay.</p>	<p style="text-align: right;">125</p> <p>1 created with OpenAI's IP?</p> <p>2 A. Very much so. I mean, I think one of the</p> <p>3 reasons why this partnership has been successful is</p> <p>4 that -- is that we have been able to build successful</p> <p>5 products.</p> <p>6 OpenAI, obviously, has built successful</p> <p>7 products. And we were able to sustain our investments</p> <p>8 while at the same time being flexible of our OpenAI as</p> <p>9 they have grown, you know, in their own product set to</p> <p>10 be able to do what they need to do.</p> <p>11 Q. Can you also say today that Microsoft has</p> <p>12 benefitted financially from your partnership with</p> <p>13 OpenAI?</p> <p>14 A. I mean, our entire -- we -- we were the biggest</p> <p>15 invest. I think, even to date, we are the biggest</p> <p>16 investor in OpenAI, as far as capital in. And as I</p> <p>17 said, from our vantage point or if you put yourself in</p> <p>18 our shoes, we took a massive risk of concentrating our</p> <p>19 scarce resource, compute, and putting real money into an</p> <p>20 entity that was unproven. And, yes, it has worked well</p> <p>21 for us, but it has worked super well for OpenAI.</p> <p>22 Q. Before entering into the 2019 deal, did</p> <p>23 Microsoft do due diligence on OpenAI?</p> <p>24 A. I'm sure, you know, our corporate team and what</p> <p>25 have you would have done due diligence.</p>

<p style="text-align: right;">126</p> <p>1 Q. Have you reviewed OpenAI's certificate of 2 incorporation?</p> <p>3 A. I have not personally.</p> <p>4 Q. Have you reviewed OpenAI's bylaws?</p> <p>5 A. I have not personally.</p> <p>6 Q. Have you reviewed OpenAI's charter?</p> <p>7 A. I haven't.</p> <p>8 Q. Okay. I would like to just show you those 9 documents. So I'm going to mark as Exhibit 11 a 10 document ending in MSFT Musk 36519. And I will also 11 mark and hand you Exhibit 12, MSFT Musk 36394. 12 (Exhibit Nos. 11-12 marked.)</p> <p>13 Q. (By Ms. Schubert) We'll tackle the shorter 14 document first, which is actually marked Exhibit 12. 15 And I'm only going to ask you about the first OpenAI 16 charter, but take your time with the document as you 17 wish.</p> <p>18 MR. JURATA: Just to confirm, Ms. Schubert, 19 you're going -- you want to ask him questions about a 20 document that he's testified he hasn't seen before?</p> <p>21 MS. SCHUBERT: Correct.</p> <p>22 MR. JURATA: Okay.</p> <p>23 A. Okay.</p> <p>24 Q. (By Ms. Schubert) In reading the mission 25 stated under the section called OpenAI Charter, do you</p>	<p style="text-align: right;">128</p> <p>1 corporation shall ever inure to the benefit of any 2 director, officer or member thereof or to the benefit of 3 any private person?</p> <p>4 A. I see that.</p> <p>5 Q. Were you aware that OpenAI's cofounders agreed 6 that none of OpenAI's income or assets should benefit 7 any private person?</p> <p>8 MR. CULLERTON: Objection to the form.</p> <p>9 A. I was not aware of any -- I mean, I knew that 10 they were a nonprofit, and that was the extent, and so 11 they were subject to all the nonprofit obligations. And 12 so that's sort of how I thought about it. And -- and as 13 I said, the nonprofit board created a for-profit or 14 capped profit entity, which is what allowed us to 15 participate without investments.</p> <p>16 Q. (By Ms. Schubert) Did you view that as a 17 workaround?</p> <p>18 MR. JURATA: Object to form.</p> <p>19 A. Not as a workaround. I think, first of all, 20 that's a question for the nonprofit board, because I 21 think fundamentally our understanding in all of the 22 discussion we had even today is that, in order for them 23 to pursue their mission, they needed a mechanism to 24 raise capital. And in order to raise capital beyond 25 just donations and when the numbers became big, they</p>
<p style="text-align: right;">127</p> <p>1 view this as consistent with what you understand 2 OpenAI's mission to be?</p> <p>3 A. Yeah, I do.</p> <p>4 Q. And then looking at the other document, which 5 is Exhibit 11, this is quite lengthy. I'm going to 6 focus on the page ending in 539, which is the 7 Certificate of Incorporation. So if you can turn to the 8 page with 539 in the Bates stamp.</p> <p>9 A. Yeah.</p> <p>10 Q. It's just a one-pager, so if you want to let me 11 know when you have read that, please.</p> <p>12 A. Okay.</p> <p>13 Q. I will direct you to the language in the 14 paragraph starting "Third" about halfway down. Do you 15 see where it says: The resulting technology will 16 benefit the public, and the corporation will seek to 17 open source technology for the public benefit when 18 applicable. The corporation is not organized for the 19 private gain of any person.</p> <p>20 A. I read it.</p> <p>21 Q. Do you see that?</p> <p>22 A. Yeah.</p> <p>23 Q. And in looking down at the section starting 24 with "Fifth," do you see the second sentence where it 25 starts: No part of the net income or assets of this</p>	<p style="text-align: right;">129</p> <p>1 needed to create a mechanism that allowed.</p> <p>2 And from what I understand is, a for-profit 3 having a nonprofit -- a nonprofit having a capped profit 4 or a for-profit company in which they are investors is a 5 structure that is used in many places, and so that's 6 kind of what I think they did.</p> <p>7 Q. (By Ms. Schubert) They transferred their 8 OpenAI's assets to the for-profit entity before the 2019 9 deal; is that right?</p> <p>10 MR. JURATA: Object to form.</p> <p>11 A. They didn't just transfer. They still have a 12 lot of the returns from this for-profit entity going 13 back to the nonprofit's benefit. If I think about even 14 what we just or at least contemplating doing with the 15 MOU in 2025, at some level I'm proud that Microsoft 16 somehow has contributed to the two largest nonprofits in 17 the world, right, the Gates Foundation and the OpenAI 18 nonprofit, because if it all goes through at their 19 current valuations, this is going to be one -- if not 20 the largest, the second largest nonprofit in the world.</p> <p>21 Q. (By Ms. Schubert) OpenAI's assets have 22 benefitted private corporations at this point, right?</p> <p>23 MR. CULLERTON: Object to the form.</p> <p>24 MR. JURATA: Yeah.</p> <p>25 A. The OpenAI's assets were contributed to a</p>

<p style="text-align: right;">226</p> <p>1 know, type of thing. But other than that, I don't think 2 I engaged much on that.</p> <p>3 Q. Okay. You mentioned that either you or Sam, 4 more likely Sam, came up with the idea from Microsoft to 5 hire him and others from OpenAI?</p> <p>6 A. Yeah. I mean, the basic construct was what's 7 the best way to continue pushing forward. What we were 8 already working on was to, quote/unquote, have 9 Microsoft, now as the partner, also have the same, you 10 know, talent that was there on OpenAI site come partner 11 with OpenAI. So I was trying to put it together in 12 haste, and so that was the idea.</p> <p>13 Q. Did you think that hiring OpenAI's punitively 14 departing employees would be competitive with OpenAI?</p> <p>15 A. Yeah. So this is -- you know, it's a good 16 principle question to me, but I felt that that was the 17 only way I could support OpenAI, because the worst 18 outcome would have been all these people leave and they 19 go to our competition. Whereas here, I am partnered 20 with OpenAI, and I wanted to put the partnership back 21 with the talent instead of why everybody deserting 22 OpenAI.</p> <p>23 So it was not -- in a world of bad choices, 24 that was definitely not my preferred thing. My 25 preferred thing is that actually the OpenAI, under</p>	<p style="text-align: right;">228</p> <p>1 a number of times when you reach out to Mr. D'Angelo, at 2 least three or four times; is that right?</p> <p>3 A. That is correct.</p> <p>4 Q. Do you know approximately how many times you 5 reached out to Mr. D'Angelo between Friday and Sunday of 6 that weekend?</p> <p>7 A. Yeah. I don't have the detail, but all the 8 texts I saw are in the binder. I'm happy to look at 9 those.</p> <p>10 Q. No, that's okay.</p> <p>11 A. Yeah.</p> <p>12 Q. Is that the -- to your best knowledge, the 13 complete universe of outreach that you had with 14 Mr. D'Angelo?</p> <p>15 A. Yeah. Yeah. So it was mostly trying to get 16 hold of -- like, I mean, just to get a status. And I 17 think they were all trying to have conversations as a 18 board as to what to do. And so, yes.</p> <p>19 Q. Why did you continue to reach out to 20 Mr. D'Angelo?</p> <p>21 A. Just to understand, why are they sticking with 22 Mira. Mira herself is saying that she wants the board 23 to resign, or are they actually engaging in the 24 conversation to bring Sam back? Is that what they were 25 going to do? So just to understand, like, what their</p>
<p style="text-align: right;">227</p> <p>1 either the new CEO, can stabilize. That would have been 2 fine. I come in on Friday night.</p> <p>3 If everybody, other than two or three people 4 leaving, Mira was in control, and the board had 5 explained to their employees there was no petition, it 6 would have been a very different world.</p> <p>7 Q. Okay. Moving back to your statement, which is 8 Exhibit 22, I will direct you to Paragraph 40. You 9 start Paragraph 40 by saying: By Saturday morning, the 10 nonprofit board seemed to have a change of heart and 11 were asking Mr. Altman to return. I had a brief call 12 with Mr. Altman, Ms. Murati, and Mr. D'Angelo around 13 10 a.m.</p> <p>14 Do you recall how you learned that the board 15 had seemed to have a change of heart?</p> <p>16 A. It's a little sketchy at this point exactly 17 what was happening, but obviously they were in dialogue 18 with Sam.</p> <p>19 Q. Uh-huh.</p> <p>20 A. And I'm assuming this is -- by then the 21 petition must have come out or was in the works or it 22 was -- Mira herself I think probably texted me, saying 23 that she had lost confidence in the board. So I knew 24 something was wrong by Saturday morning.</p> <p>25 Q. Okay. And then in this section, you enumerate</p>	<p style="text-align: right;">229</p> <p>1 plan was.</p> <p>2 Q. You were also pressuring him to move quickly, 3 right?</p> <p>4 A. Yeah, because I wanted come Monday morning to 5 be able to have some answers, as I said, for our 6 customers and the markets.</p> <p>7 Q. Were you concerned about market open on Monday 8 with this still unresolved?</p> <p>9 A. Yeah. I mean, I had to do something by Monday 10 morning. And so that's definitely what was on my mind.</p> <p>11 Q. At this time, were you advocating to Adam 12 D'Angelo what you thought should specifically happen to 13 resolve the situation at OpenAI?</p> <p>14 A. Not -- you know, at some level, they were not 15 really sort of soliciting my input on what should 16 happen. But what I was mostly stressing on is pick a 17 path and then advocate for that path, get on the front 18 foot with the path, communicate with your own employees.</p> <p>19 And so that was the main thing that I was 20 trying to communicate, because by the -- sort of the end 21 of the weekend, it was real chaos, right, because even 22 the interim CEO didn't want to be a CEO.</p> <p>23 Q. Did you reach out to Helen Toner over the 24 weekend?</p> <p>25 A. I think so. I think I tried to text both Tasha</p>

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and Helen, and I don't think they responded back, if I -- if my memory serves me right. And maybe I had the wrong numbers or whatever, but I think I tried to reach out to them, but...

Q. Why did you try to reach out to them?

A. Just to, again, make sure that, if they needed to communicate something, your point about not consistently candid or what have you. Right? I was just trying to just again --

Q. Right.

A. -- mostly be available to them if they thought that it's worth talking to me.

Q. Were you also in contact with -- who else from OpenAI were you in contact with on Saturday, to the best of your recollection?

A. I think on Saturday, I don't think I was in contact with anybody else than the people we talked about.

Q. You were in contact with Sam Altman on Saturday?

A. Yeah.

Q. What was discussed with him at that point, if you recall?

A. I think, you know, it went through the entire weekend if I recall moments where he thought, yep, it's

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going to just happen where he's going to be reinstated or he's going to come back. There was this famous photograph of him reentering the OpenAI buildings. It was just high drama of all that kind.

Q. And at some point you learned that OpenAI was considering a new board; is that right?

A. That's right. That's right.

Q. Did you support that?

A. Yeah, I mean, I think that it was mostly expanding if I remember right. I think the idea was to add a bunch of new board members, just as a way to bring a good set of new voices and sterilize.

That -- that -- that was -- I forget right now whether they wanted to remove board members or mostly add board members, but I thought the thing was, hey, let's have ten board members because I think they had come down to two or three independent board members since the idea was to add board members.

Q. Looking at Paragraph 41 of your statement at the bottom of Page 13 of the statement, Mr. D'Angelo responded to say that they were looking into some board candidates, I responded, urging him to move forward quickly and suggested some obvious names which I knew Mr. Altman had already floated. And then you list some of those individuals. When had Sam Altman floated those

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names?

A. I think there was a thread, if I'm not mistaken, with Brett, Adam, and me, in which, you know, Sam was giving names. We were giving names. At one point Kevin Scott, I don't know, I forget, it was multiple threads where people were throwing out a bunch of names for ultimately recognizing that the only people who could decide on all of this was the board members of OpenAI.

Q. Why was Sam Altman's list of names your starting point for sharing with Mr. D'Angelo?

MR. CULLERTON: Object to form.

A. It was not as much Sam Altman. Even Sam was trying to pick names that were not just Sam's people, but fundamentally people that could help the board. I think that was the spirit of it.

Like, the way I thought about it was, I was not taking Sam's list and forwarding, hey, these are names you should consider if you want a board that has a couple of different voices that interests can be represented. I think [REDACTED] because I think he was an investor in OpenAI.

Anyway, so that was the idea, is to just get some good professional board members. Like Brett Taylor was another example. I think Brett was someone they

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were talking to that is the OpenAI board independently.

Q. Sam knew all the people on the list you provided, right?

MR. JURATA: Objection; form.

Q. (By Ms. Schubert) Did Sam express to you that he knew everybody on the list provided?

A. I -- I don't know, but, you know, Sam obviously is a pretty well connected guy, and at least from all these Silicon Valley folks, so I would assume he knew most of these names, yeah.

Q. Did he express concern about having new board members that he didn't know at OpenAI?

A. I don't -- at least I didn't talk to him about that.

Q. Okay. In Paragraph 42, you mention that competitors were raiding talent from OpenAI.

How did you know about talent raids?

A. Just, you know, from, you know, talking to Kevin. I think the call -- I think I know for a fact that Greg himself shared -- this is Brockman -- that Sergey reached out to him. So I think that, you know, there were people running around, calling everybody.

Q. And were you concerned that loss of talent could hurt OpenAI's ability to perform?

A. Yeah.

<p style="text-align: right;">234</p> <p>1 Q. And then that, of course, could impact</p> <p>2 profitization?</p> <p>3 A. That's right.</p> <p>4 Q. Did it occur to you that the nonprofit was</p> <p>5 taking their time for a reason?</p> <p>6 A. Yeah. I mean, I had no issues with the</p> <p>7 nonprofit doing whatever they needed -- I mean, the</p> <p>8 board obviously doing whatever is in the interest of</p> <p>9 OpenAI.</p> <p>10 I think the most important thing for -- I would</p> <p>11 imagine even for them is the company exist Monday</p> <p>12 morning unless they decided that, you know, we want to</p> <p>13 shut it down.</p> <p>14 So that's kind of -- I just wanted mostly them</p> <p>15 to be clear, what is it that they're trying to do. And</p> <p>16 if you want to retain your employees, then you need to</p> <p>17 figure out how to earn their trust back by having either</p> <p>18 a CEO or advocating for a CEO being in the front lines</p> <p>19 of it.</p> <p>20 And so, I mean, at the end of the day, as I</p> <p>21 said earlier, I was going to, no matter what, support</p> <p>22 OpenAI with whomever the CEO was and whatever state it</p> <p>23 was going to be.</p> <p>24 I was mostly trying to get clarity on, come</p> <p>25 Monday morning, what do you want me to say? Because I</p>	<p style="text-align: right;">236</p> <p>1 on what they wanted to do.</p> <p>2 Q. Do you remember who you communicated that</p> <p>3 10 a.m. Sunday morning deadline to?</p> <p>4 A. Adam, must be.</p> <p>5 Q. Okay. We know that the board did not resolve</p> <p>6 the situation by 10 a.m. on Sunday, right?</p> <p>7 A. Yeah.</p> <p>8 Q. I would like to show you what we'll mark as</p> <p>9 Exhibit 24.</p> <p>10 THE COURT REPORTER: Can we go off the</p> <p>11 record, please?</p> <p>12 MS. SCHUBERT: Sure.</p> <p>13 THE VIDEOGRAPHER: The time is 4:11 p.m. We</p> <p>14 are going off the record.</p> <p>15 (Recess was taken from 4:11 p.m. to</p> <p>16 4:25 p.m.)</p> <p>17 THE VIDEOGRAPHER: The time is 4:25 p.m.</p> <p>18 We're back on the record.</p> <p>19 Q. (By Ms. Schubert) Mr. Nadella, I'm handing to</p> <p>20 you what we'll mark as Exhibit 24 with Bates stamp</p> <p>21 OpenAI Musk 27413.</p> <p>22 (Exhibit No. 24 marked.)</p> <p>23 Q. (By Ms. Schubert) This is the text chain that</p> <p>24 is between you and Sam Altman. I'm going to ask about</p> <p>25 the bottom of it, but you're welcome of course to read</p>
<p style="text-align: right;">235</p> <p>1 think Emmett Shear was also the guy who they introduced</p> <p>2 on Sunday night as the next CEO. And so I issued a</p> <p>3 statement even there and said, great, we'll support</p> <p>4 Emmett Shear.</p> <p>5 Q. But OpenAI didn't have that same Wall Street</p> <p>6 Monday morning ticker clock, did it?</p> <p>7 A. It's not -- as I said, it's not -- you know,</p> <p>8 Wall Street I think is just a -- it's not the biggest</p> <p>9 issue. It's not even for me. It's the customers.</p> <p>10 Right?</p> <p>11 So the point is, there were customers calling.</p> <p>12 And in fact, even during the weekend, people were moving</p> <p>13 off of Open- -- in fact, OpenAI endpoint to Azure OpenAI</p> <p>14 endpoint.</p> <p>15 So it was all about really ensuring that the</p> <p>16 customers who were running businesses that are using</p> <p>17 these APIs, if they felt like all this was just all</p> <p>18 going to disappear, they would just, like, they would</p> <p>19 have to move or we have to be truthful. Like, we can't</p> <p>20 say if some material impact was going to happen. So I</p> <p>21 think that that was more of my concern.</p> <p>22 Q. And there came a time when you tried to give a</p> <p>23 deadline to the OpenAI board of 10 a.m. on Sunday</p> <p>24 morning. Do you recall that?</p> <p>25 A. Maybe. Just so that I could get some clarity</p>	<p style="text-align: right;">237</p> <p>1 the whole thing.</p> <p>2 A. Okay.</p> <p>3 Q. Okay. You see this message you sent towards</p> <p>4 the bottom that is in the morning of November 19th,</p> <p>5 which is a Sunday at this point?</p> <p>6 A. Yep.</p> <p>7 Q. What is the new subsidiary that you're</p> <p>8 referencing?</p> <p>9 A. I think that this is when we were trying to</p> <p>10 figure out if we were going to stand up essentially a</p> <p>11 new AI lab, what's the best way to get that set up</p> <p>12 because I think one of the challenges we were trying</p> <p>13 to -- because I think it was becoming abundantly clear</p> <p>14 that is not just to hire Sam and Greg and five people.</p> <p>15 It is like a mass exodus of folks.</p> <p>16 So I think at that point, we were trying to</p> <p>17 figure out what's the way to create what structure, and</p> <p>18 so I think we were, quite frankly, just trashing around</p> <p>19 and trying to come up with a solution.</p> <p>20 Q. Sure. And this says: We would have the new</p> <p>21 subsidiary opened on Monday. We did all the legal work</p> <p>22 today.</p> <p>23 So this plan was sort of well in the works as</p> <p>24 you've described?</p> <p>25 MR. JURATA: Objection to form;</p>

<p style="text-align: right;">238</p> <p>1 mischaracterizes testimony.</p> <p>2 MR. CULLERTON: Object to form.</p> <p>3 MR. JURATA: And the document.</p> <p>4 A. Yeah, the only thing I'd say is, when you said</p> <p>5 well on the works, I think we were trying to react over</p> <p>6 the weekend and create something so that on Monday</p> <p>7 morning, if a bunch of employees had to leave, they left</p> <p>8 to a company that was, you know, part of at least</p> <p>9 Microsoft.</p> <p>10 Q. (By Ms. Schubert) Did you make an agreement to</p> <p>11 match the salaries of any employees leaving OpenAI?</p> <p>12 A. Yeah. So I think that that was the other thing</p> <p>13 that we were trying to figure out is what's the</p> <p>14 continuity, what do we do about all their equity. There</p> <p>15 is unrest there, so those are all things we were trying</p> <p>16 to deal with.</p> <p>17 I mean, essentially what was happening was</p> <p>18 competition was coming and saying, hey, we'll take your</p> <p>19 unvested equity and we'll match it and hire you. So the</p> <p>20 way I said it is, like, let's just take what the</p> <p>21 competition is doing and just sort of use that and match</p> <p>22 it.</p> <p>23 Q. And did Microsoft do calculations about what</p> <p>24 that would cost?</p> <p>25 A. Yeah, I think this is where I'm sure you have</p>	<p style="text-align: right;">240</p> <p>1 one above it for context.</p> <p>2 She asks: And where does that stand because</p> <p>3 you have invested, is it 13 billion?</p> <p>4 A. Yeah.</p> <p>5 MR. JURATA: And, Mr. Nadella, don't feel</p> <p>6 limited to just that paragraph above that for context.</p> <p>7 THE WITNESS: Yeah.</p> <p>8 A. Yeah.</p> <p>9 Q. (By Ms. Schubert) You say: This thing it's</p> <p>10 not hands off, right, we are in there, we are below</p> <p>11 them, above them, around them.</p> <p>12 As of November 21st, how exactly were you</p> <p>13 below, above, and around OpenAI?</p> <p>14 A. Yeah. So what I was trying -- you know, if you</p> <p>15 sort of take that and the previous paragraph, again,</p> <p>16 going back to my main concern was, how do I, you know,</p> <p>17 talk to my customers, saying, like, we got it, in the</p> <p>18 sense that we know how to have continuity of service</p> <p>19 and, quite frankly, continuity of innovation, because</p> <p>20 that was the key message that any customer would need to</p> <p>21 hear, and we needed to have that.</p> <p>22 And we have this. Right? Which is the cloud</p> <p>23 infrastructure is all Azure. We -- you know, so all of</p> <p>24 OpenAI runs on Azure, you know. And the good news here</p> <p>25 was, we have Azure OpenAI, which was sort of where we</p>
<p style="text-align: right;">239</p> <p>1 documents on all of that. I think there was a lot of</p> <p>2 work being done in parallel on what would that cost and</p> <p>3 what would that all mean, yes.</p> <p>4 Q. And does the figure of about 25 billion to</p> <p>5 acquire the OpenAI employee vehicle sound right to you?</p> <p>6 A. I don't have it in front of me, but it does</p> <p>7 sound kind of about right.</p> <p>8 Q. Okay. And now we'll move to what we'll mark as</p> <p>9 Exhibit 25, which is 2024 Musk 13912.</p> <p>10 Do you recall giving an interview with Kara</p> <p>11 Swisher on November 21st of 2023?</p> <p>12 A. Yeah. Vaguely.</p> <p>13 (Exhibit No. 25 marked.)</p> <p>14 Q. (By Ms. Schubert) I'm going to hand you what I</p> <p>15 understand to be a transcript of that interview. And</p> <p>16 I'll direct you to the bottom of the Bates stamp that</p> <p>17 ends in 914.</p> <p>18 Starting about in the middle of the page, you</p> <p>19 say: All through the weekend I quite frankly didn't</p> <p>20 engage with the OpenAI board.</p> <p>21 And then I'll direct you to the last paragraph</p> <p>22 as well.</p> <p>23 A. You want me to read the -- all through the</p> <p>24 weekend thing or just the last paragraph?</p> <p>25 Q. The very last paragraph, but you may need the</p>	<p style="text-align: right;">241</p> <p>1 have the full IP. We stand up the endpoints. It was</p> <p>2 not even -- not a single engineer from OpenAI is</p> <p>3 involved in that. So we had that full control.</p> <p>4 And then we do all the kernel and the inference</p> <p>5 optimization, and we have the know-how. We build</p> <p>6 applications on top. We have the tooling around it. So</p> <p>7 the main point I was trying to use in this interview as</p> <p>8 a mechanism is to reassure our customers that, you know,</p> <p>9 come Monday morning, you know, we will be there one way</p> <p>10 or the other with OpenAI and whatever happens to have</p> <p>11 the service continue and the innovation continue.</p> <p>12 Q. Were you informing the public that you were</p> <p>13 still in control of this situation?</p> <p>14 A. Yeah. And mainly to say -- because I think the</p> <p>15 media -- and quite honestly, the amount of media</p> <p>16 attention to this particular event was unprecedented.</p> <p>17 It stunned me as well how much interest there was on</p> <p>18 what was happening.</p> <p>19 And so that's why I felt it was more important</p> <p>20 for us -- and our calls from our customers were also,</p> <p>21 you know, pretty frantic, and so we just wanted to make</p> <p>22 sure we communicated correctly.</p> <p>23 Q. Just to be clear that this was November 21st,</p> <p>24 which was actually a Tuesday in the timeline to orient</p> <p>25 you, does that impact your view of what message you were</p>

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1 MS. SCHUBERT: Object to form; outside of
2 the scope.
3 A. I'm not familiar with any of the litigations
4 there.
5 Q. (By Mr. Jurata) Okay. And I'm not asking you
6 about the details of the litigation. Are you just aware
7 that there was litigation between --
8 MS. SCHUBERT: Asked and answered. Sorry.
9 Q. (By Mr. Jurata) -- Mr. Musk and OpenAI and
10 Mr. Altman?
11 MS. SCHUBERT: Asked and answered.
12 A. I'm not.
13 Q. (By Mr. Jurata) Okay. That's fine.
14 Between the time of OpenAI's founding and
15 today, in any of your communications with Mr. Altman,
16 did he ever indicate that there was an agreement between
17 OpenAI and Mr. Musk that would prevent Microsoft's
18 investment and strategic partnership with OpenAI?
19 MS. SCHUBERT: Object to form.
20 A. No.
21 Q. (By Mr. Jurata) Okay. And in any of your
22 discussions with Mr. Altman, did he communicate to you
23 that there was any type of agreement between him
24 personally and Mr. Musk that would prevent Microsoft's
25 strategic partnership with the OpenAI for-profit

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1 subsidiary?
2 A. No.
3 MS. SCHUBERT: Object to form.
4 Q. (By Mr. Jurata) In any of your discussions
5 with Mr. Altman, did he indicate to you that there were
6 any restrictions associated with financial contributions
7 that Mr. Musk had made to the not-for-profit?
8 A. No.
9 Q. In any of your discussions with Mr. Altman, did
10 he represent that there were any commitments amongst the
11 founders as to what the concept of "open" meant in the
12 name OpenAI?
13 MS. SCHUBERT: Object to form.
14 A. I don't recall any conversations on -- on any
15 of that. If anything, I think the explanation, which
16 also again made sense to me, is the reason after a
17 certain threshold for safety reasons, the OpenAI board
18 decided to close source OpenAI models, and I think that
19 that's the stance that they have taken, and as I said,
20 they have now come back to doing some of the open source
21 models. But I understand, again, that it's much more
22 mission aligned for them to do what they are doing.
23 Q. (By Mr. Jurata) Thank you.
24 And in any of your discussions with Mr. Altman,
25 did he indicate that there were any commitments amongst

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1 the founders as to whether or not to open source
2 OpenAI's technology?
3 MS. SCHUBERT: Object to form.
4 A. Not that I'm aware of.
5 Q. (By Mr. Jurata) Have you spoken with anyone at
6 OpenAI, other than Mr. Altman, concerning Microsoft's
7 strategic partnership with OpenAI's for-profit
8 subsidiary?
9 A. Say that again, sir.
10 Q. Yeah, that was a bad question.
11 Excluding the weekend of November 2023, which I
12 believe we're referring to as the blip, is there anyone
13 else at OpenAI who you would talk about concerning
14 Microsoft's strategic partnership with the for-profit
15 subsidiary?
16 MS. SCHUBERT: Object to form.
17 A. No. I think the principal person that I've
18 talked to is Sam.
19 Q. (By Mr. Jurata) I believe you also testified
20 earlier today, Mr. Nadella, that you've had some
21 conversations with Mr. Musk?
22 A. Yeah, I'm definitely in touch with Elon, yeah.
23 Q. And between the time of OpenAI's founding to
24 today, approximately how often do you communicate with
25 Mr. Musk?

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1 A. Yeah. It's pretty infrequent. And since the
2 OpenAI founding, maybe five or six times in different
3 contexts but never actually about -- other than the
4 first phase in what the 2016 when we were doing the
5 Dota 2 competition and Azure credits, all my
6 conversations with Elon are about gaming or about
7 Windows or about SpaceX and Tesla and Teams usage, or
8 lately it's all about X.AI.
9 Q. In any of those discussions, did Mr. Musk
10 communicate to you that there was any agreement between
11 OpenAI and Mr. Musk that would prevent Microsoft's
12 strategic partnership with the for-profit subsidiary?
13 MS. SCHUBERT: Object to form.
14 A. I have not heard anything from Elon about that.
15 Q. (By Mr. Jurata) In any of your discussions
16 with Mr. Musk, did he communicate to you that there was
17 any agreement between Mr. Altman personally and Mr. Musk
18 that would prevent Microsoft's strategic partnership
19 with the for-profit subsidiary?
20 MS. SCHUBERT: Object to form.
21 A. No.
22 Q. (By Mr. Jurata) In any of your discussions
23 with Mr. Musk, did he communicate to you that there were
24 any restrictions associated with financial contributions
25 he may have made to the not-for-profit?