ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

B E T W E E N :

THE CATALYST CAPITAL GROUP INC.

Plaintiff/
Moving Party

- and -

BRANDON MOYSE and WEST FACE CAPITAL INC.

Defendants/
Responding Parties

MOTION RECORD OF THE DEFENDANT/RESPONDING PARTY,
BRANDON MOYSE
Motions to Extend Time for Leave to Appeal and Leave to Appeal
Returnable January 21, 2016

January 18, 2016

Paliare Roland Rosenberg Rothstein LLP
155 Wellington Street West, 35th Floor
Toronto ON M5V 3H1
Tel: 416.646.4300
Fax: 416.646.4301

Robert A. Centa (LSUC# 44298M)
Tel: 416.646.4314
robert.centa@paliareroland.com
Kristian Borg-Olivier (LSUC# 53041R)
Tel: 416.646.7490
kris.borg-olivier@paliareroland.com
Denise Cooney (LSUC# 64358R)
Tel: 416.646.74908
denise.cooney@paliareroland.com

Lawyers for the Defendant/Respondent,
Brandon Moyse

TO: **Lax O'Sullivan Scott Lisus LLP**
Barristers and Solicitors
145 King Street West
Suite 1920
Toronto, ON M5H 1J8
Tel: 416.598.1744
Fax: 416.598.3730

Rocco Di Pucchio
Tel: 416.598.2268

Lauren Epstein
Tel: 416.645.5078

Lawyers for the Plaintiff/Moving Party,
The Catalyst Capital Group Inc.

AND TO: **Davies Ward Phillips & Vineberg LLP**
Barristers and Solicitors
155 Wellington Street West
40th Floor
Toronto, ON M5V 3J7
Tel: 416.863.0900
Fax: 416.863.0871

Matthew Milne-Smith
Tel: 416.863.5595

Andrew Carlson
Tel: 416.367.7437

Lawyers for the Defendant/Respondent
West Face Capital Inc.

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1   Court File No. CV-14-507120

2

3   ONTARIO

4   SUPERIOR COURT OF JUSTICE

5

6   B E T W E E N:

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8

9   THE CATALYST CAPITAL GROUP INC.

10   Plaintiff

11   - and -

12   BRANDON MOYSE and WEST FACE CAPITAL INC.

13   Defendant

14

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18   _____

19   --- This is the Cross-Examination of MARTIN MUSTERS, on

20   his affidavits sworn February 15, April 30, and May 13,

21   2015, taken at the offices of Davies Ward Phillips &

22   Vineberg LLP, 40th Floor, 155 Wellington Street West,

23   Toronto, Ontario, on the 19th day of May, 2015.

24   _____

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 1  A P P E A R A N C E S:

 2

 3  Andrew Winton, Esq.            for the Plaintiff.

 4

 5  Kristian Borg-Olivier, Esq.    for the Defendant

 6                                 Brandon Moyse

 7

 8  Matthew Milne-Smith, Esq.      for the Defendant

 9   & Andrew Carlson, Esq.        West Face Capital

10                                 Inc.

11

12          REPORTED BY:  Terry Wood, RPR, CSR

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 1               INDEX OF EXHIBITS

 2  NUMBER/DESCRIPTION                    PAGE NO.

 3  None.

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 1  --- Upon commencing at 2:05 p.m.

 2

 3            MARTIN MUSTERS, SWORN;

 4            CROSS-EXAMINATION BY MR. BORG-OLIVIER:

 5   1      Q.   Good afternoon, Mr. Musters.

 6          A.   Hi.

 7   2      Q.   You have sworn four affidavits in

 8  this proceeding, I believe.  And I can just walk you

 9  through them just to make sure that we have them all.

10          A.   Sure.

11   3      Q.   There was one dated June 26, 2014,

12  which is attached as Exhibit A to your February 15,

13  2015, affidavit in your -- in Catalyst's motion record.

14          A.   Yes.

15   4      Q.   Then the second one is that

16  February 15, 2015, affidavit?

17          A.   Uhm-hmm.

18   5      Q.   And, subsequently, you put in an

19  April 30, 2015, affidavit?

20          A.   Yes.

21   6      Q.   And, most recently, just last week,

22  there was a short affidavit dated May 13th, 2015?

23          A.   Yes.

24   7      Q.   You understand, I take it,

25  Mr. Musters, that the purpose of these affidavits is
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1 that they be used in a pending court proceeding?

2   A.   Correct.

3   8   Q.   That they will be reviewed by a

4 judge perhaps along with the transcript of your

5 cross-examinations?

6   A.   I understand.

7   9   Q.   And you understand, I take it,

8 that, among other things, on its most recent motion,

9 Catalyst is seeking a contempt order against Mr. Moyse?

10   A.   I wasn't aware, but ...

11   10   Q.   Okay. So I take it you are not

12 aware, then, that among the relief that Catalyst is

13 seeking is an order that Mr. Moyse be sent to jail?

14 That's not something you are aware of?

15   A.   I was not aware of that.

16   11   Q.   Okay. On the February 15, 2015,

17 affidavit, at tab F -- and I don't think it's necessary

18 that you turn this up unless you or your counsel would

19 like to -- you signed an acknowledgment of expert's

20 duty form. You're familiar with that form?

21   A.   For sure.

22   12   Q.   And I imagine you have signed it in

23 a number of different proceedings?

24   A.   Correct.

25   13   Q.   Even though this acknowledgment

Page 7

1 form was not attached to all four of your affidavits, I

2 take it that this acknowledgment governs all your

3 affidavits and this cross-examination?

4   A.   Absolutely.

5   14   Q.   I don't propose to go to your CV

6 and talk about your experience, but I noted in your

7 cross-examination transcript from last summer your

8 evidence that you had been involved throughout your

9 career in something like 1200 or 1300 of these sorts of

10 forensic cases. Is that about right?

11   A.   We -- as a company, we do 3 to 400

12 cases a year, so, yes.

13   15   Q.   And that number probably has gone

14 up since last summer?

15   A.   Yes.

16   16   Q.   And what you said at the time, and

17 I take it it remains true, is that probably half of

18 those cases would generally fall into this type of

19 litigation, namely, civil litigation involving some

20 sort of forensic analysis of computers?

21   A.   Hmm, just to clarify, probably a

22 little more slanted towards criminal investigations as

23 opposed to civil litigation, but both, I mean, equally

24 involving investigation, if I could use that word.

25   17   Q.   Sure. In the acknowledgment of

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1 expert's duty, you sign and you acknowledge that it's

2 your duty to provide opinion evidence that's fair,

3 objective, and nonpartisan, and I take it you

4 understand what those terms mean?

5   A.   I understand what those terms mean.

6   18   Q.   And you agree that means making an

7 effort to see both sides of the situation that you are

8 analyzing?

9   A.   Absolutely.

10   19   Q.   And when the facts point in a

11 particular direction, to state that the facts are in

12 that direction even though they may be contrary to, in

13 this case, the position of Catalyst?

14   A.   I'm -- I just -- sorry, I missed

15 the last part of your question, but if the -- if my

16 answer is I acknowledge that I'm fair and impartial

17 regardless of where the facts -- sorry, regardless of

18 whose side I'm working on -- I do work for the Crown, I

19 do work for defence counsel -- I understand very

20 clearly the need to be -- to give fact-based evidence

21 and to help the Court understand what I would consider

22 sometimes difficult concepts from a Court's

23 perspective. I mean no disrespect to the Court by

24 saying that.

25   20   Q.   I think the lawyers would have

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1 equivalent difficulty, I'd have to say. But I think

2 the point here is just that, when the facts point in a

3 direction different from the position of the party that

4 retained you, it's not your duty to hide those facts or

5 run from those facts; you acknowledge them and they

6 form a part of your opinion?

7   A.   Absolutely.

8   21   Q.   A couple of additional propositions

9 that I will put to you which don't arise out of the

10 acknowledgment of expert's duty but may be

11 noncontroversial. I take it you'd agreed with me,

12 Mr. Musters, that it is important when preparing an

13 affidavit to be clear and precise in the language of

14 your affidavits?

15   A.   I agree with that.

16   22   Q.   And, in part, that's because the

17 Court will review these affidavits and will need to

18 understand what it is that you are saying?

19   A.   Clearly.

20   23   Q.   And the Court may rely on your

21 affidavit evidence to reach a finding, including, in

22 this case, for example, to send somebody to jail?

23   A.   I've certainly been involved in

24 many situations where -- on the criminal side, you

25 could imagine --

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 1   24        Q.   Exactly.
 2             A.   -- that's exactly the case.
 3   25        Q.   And it's important as well in
 4   arriving at your conclusions or your findings to be
 5   careful and thorough?
 6             A.   Absolutely.
 7   26        Q.   And not to reach conclusions rashly
 8   or without due care?
 9             A.   I agree.
10   27        Q.   And, finally, this is language that
11   I found in a brochure online advertising a talk that
12   you were giving, and it said that you strive to let the
13   evidence tell the story, and I take it that continues
14   to be something that governs your approach to these
15   kinds of cases?
16             A.   Absolutely.
17   28        Q.   Can we turn up, please, the
18   February 15, 2015, affidavit, which is at page 23 of
19   the Catalyst motion record.  That's tab 2.
20             A.   Yes.
21   29        Q.   So you had previously, as you note
22   in paragraph 4, been retained by Lax O'Sullivan in
23   connection with this matter?
24             A.   Yes.
25   30        Q.   And, initially, as you note in
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 1   paragraph 4, among the tasks that you were asked to
 2   conduct was a forensic analysis of the desktop computer
 3   that had been used by Mr. Moyse?
 4             A.   Yes.
 5   31        Q.   And in or around this time of
 6   mid-February, 2015, or I presume in the weeks leading
 7   up to it, you were contacted again by Lax to conduct
 8   different and further analysis and perhaps prepare
 9   another affidavit?
10             A.   Hmm ...
11   32        Q.   And I should be clear.  I'm not
12   getting into any technical question of when you were
13   retained or anything like that.  The point is just
14   that, as the matter developed, you were asked to review
15   some further information and provide further opinion
16   evidence?
17             A.   I'm -- forgive me, I'm just trying
18   to go through the steps.  Clearly, I was retained by
19   Lax; yes, I imaged a computer that belonged to Brandon
20   Moyse when -- not trying to be evasive at all.  I just
21   don't recall the specific --
22   33        Q.   Okay.
23             A.   Andrew and I have had communication
24   with respect to things, so I can't give you a date off
25   the top of my head.
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 1   34        Q.   That's fine.  Maybe I can place it
 2   in time this way.  You will recall that, prior to you
 3   swearing this affidavit, you were provided a copy of a
 4   draft ISS report?
 5             A.   Let me just think.  Yes, yes.  Yes,
 6   yes.  Yes, yes, yeah.
 7   35        Q.   Let me put it this way.  Why don't
 8   we go to paragraph 9 of your affidavit so there is no
 9   mystery in all this, because it's not meant to be
10   difficult.
11             A.   Yes, yes.
12   36        Q.   So at paragraph 9, you note that:
13                  "This affidavit concerns information
14                  set out in paragraphs 44 to 48 the draft
15                  ISS report."
16                  Do you see that?
17             A.   Yes.
18   37        Q.   Okay.  So in leading up to your
19   swearing of this affidavit, at paragraph 5, you note
20   that you reviewed the order of Justice Firestone and
21   the order Justice Lederer.  Do you see that?
22             A.   Yes.
23   38        Q.   And you recall doing that?
24             A.   Yes.
25   39        Q.   Paragraph 6, you make mention of
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 1   the document review protocol, the DRP.
 2             A.   Yes.
 3   40        Q.   That's something that you reviewed
 4   as well?
 5             A.   Yes.
 6   41        Q.   And, finally, at paragraph 7, you
 7   note the draft ISS report dated February 1, 2015.  And
 8   you recall reviewing that?
 9             A.   Yes.  And, just for the record,
10   forgive me.  I didn't realize we were looking at
11   February 15th affidavit as opposed to the one in June.
12   42        Q.   Understood.
13             A.   So, yes.
14   43        Q.   Okay.  So was there anything else
15   besides the documents that you have set out here that
16   you reviewed in preparation of this affidavit?
17             A.   Not that I can recall at this time.
18   44        Q.   And I take it you were taking
19   instructions in regards to this affidavit from
20   Mr. Winton or one of his colleagues?
21             A.   Well, I remember the ISS was
22   Mr. Neijenhuis -- Brendon.  Let's call him "Brendon".
23   45        Q.   Well, "Brendon" might not be the
24   best one since we've got Brandon Moyse, so why don't we
25   just call it the ISS.
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 1              A.    The ISS, yes.  So I recall a few
 2   conversations with the ISS as well.
 3    46          Q.    Okay.  But in terms of where your
 4   instructions were coming from, I take it those
 5   continued to come from Lax O'Sullivan?  In other words,
 6   it wasn't the ISS who contacted you and said,
 7   Mr. Musters, we need you to prepare another affidavit?
 8              A.    No.
 9    47          Q.    That was Lax?
10              A.    That was Lax.
11    48          Q.    Okay.  And I'd like you to tell me,
12   if you would, what your instructions were.  What were
13   you asked to do in this portion of your retainer?
14              A.    Okay.  Let me reflect on that for a
15   minute.
16    49          Q.    Please do.
17              A.    Sorry, I'm just trying to be
18   thoughtful in the response.
19    50          Q.    No rush at all.
20              A.    I'm going by recollection, so my
21   recollection was that the draft ISS report included a
22   mention by -- is it DEA?
23              MR. WINTON:  DEI.
24              THE WITNESS:  DEI.  So we will call them
25   DEI?
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 1              BY MR. BORG-OLIVIER:
 2    51          Q.    Yes.
 3              A.    Included a mention of a program
 4   called Secure Delete, and if I recall, my instructions
 5   were what information can I give with respect to this
 6   program; and can I tell how the program works; and if
 7   anyone deleted documents using that program or how the
 8   program works or how it relates to the deletion of
 9   documents.
10    52          Q.    Okay.  At paragraph 11 of your
11   affidavit, you talk about downloading the Advanced
12   System Optimizer 3 software and installing it on your
13   personal computer.  I will refer to that as the ASO
14   software, okay?
15              A.    Sure.
16    53          Q.    I take it this is the first time
17   that you had occasion to use the ASO software?
18              A.    That is correct.
19    54          Q.    So at paragraph 12 and at
20   paragraph 13 -- and you are obviously welcome to read
21   those paragraphs -- when you make reference to your own
22   experience using the software and using the Secure
23   Delete feature, you are talking specifically about the
24   investigations you did in connection with this retainer
25   and not any sort of experience that you had coming into
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 1   the retainer?
 2              A.    Your statement is correct with
 3   respect to the ASO program.
 4    55          Q.    Yes.  I understand you are
 5   obviously bringing to bear your various forensic skills
 6   and experience, and I'm not suggesting that wasn't the
 7   case.
 8              A.    Right.
 9    56          Q.    And you mentioned what your
10   instructions were and, I take it, from looking at
11   paragraphs 12 and 13, that one aspect of your inquiry
12   was looking into the fact that there was a Secure
13   Delete folder found on Mr. Moyse's computer?
14              A.    That was mentioned in the ISS
15   report/D ...
16    57          Q.    DEI?
17              A.    -- DEI.
18    58          Q.    Right.
19              A.    DEI had mentioned that, which the
20   ISS had mentioned in his report.
21    59          Q.    Right.  And among the things that
22   you were seeking to determine and that you report on
23   here at paragraphs 12 and 13 is the issue of how the
24   Secure Delete folder can end up on a user's computer,
25   correct?
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 1              A.    Not only how but when and under
 2   what circumstances.
 3    60          Q.    Right.  I think the when was
 4   covered in the ISS report, correct?  It noted the time?
 5              A.    It did note a date and time, yes.
 6    61          Q.    Correct.  So what you were
 7   particularly tasked with, looking at these paragraphs,
 8   is how?  How and under what circumstances does a Secure
 9   Delete folder end up on someone's computer?
10              A.    I want to broaden that just
11   slightly in terms of -- you are correct, but I want to
12   broaden that slightly to not disclude -- that's a poor
13   choice of words.  To not --
14    62          Q.    Exclude?
15              A.    -- exclude -- thank you.  To not
16   exclude the when, because there has been an issue with
17   respect to last access dates and times, and so the
18   question in my mind as an investigator would be does
19   that date get updated, how does that date get updated,
20   and does the creation modified and last access dates
21   represent or tell us anything or not -- again, this is
22   an investigation in terms of how this program works --
23   with respect to at what points do these dates get
24   updated, created, and so on.
25    63          Q.    Okay.  I appreciate all that, but
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 1   now read paragraphs 12 and 13, if you would.
 2              A.    Yes.
 3   64          Q.    And, again, my question for you is
 4   one of the critical things that you were investigating
 5   and reporting on here was how/under what circumstances
 6   does a Secure Delete folder end up on a user's
 7   computer?
 8              A.    Correct.
 9   65          Q.    That was one of the focuses of your
10   inquiry?
11              A.    That was one of the focuses, yes.
12   66          Q.    Okay.  And in paragraphs 12 and 13,
13   you were reporting on your findings in that regard?
14              A.    Correct.
15   67          Q.    And the reason this was important
16   is because the ISS had identified that Secure Delete on
17   Mr. Moyse's computer and everybody was wondering what
18   implications could be drawn from that fact?
19              A.    I can't speak to everyone, but,
20   yes, I wanted to understand what implications could be
21   drawn from that fact, yes.
22   68          Q.    Okay.  And in paragraph 12, you
23   refer to your own experience, but you would agree with
24   me that you don't set out here in a step-by-step basis
25   what it was that you did to draw the conclusions that
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 1   you report on in these paragraphs, correct?
 2              A.    I didn't set out in a step-by-step
 3   basis in this affidavit, no.
 4   69          Q.    Okay.  But the conclusion that you
 5   reach at the end of paragraph 12 is that a Secure
 6   Delete folder is only created -- and I will quote this:
 7                   "Only created when a user runs the
 8                   Secure Delete feature to delete a file
 9                   or folder from his computer."
10                   That was the conclusion that you
11   reached, correct?
12              A.    Can you just show me that in
13   which -- where you are reading.
14   70          Q.    Sure.  I'm reading from the last
15   sentence in paragraph 12.
16              A.    Yes.
17   71          Q.    And at paragraph 13, you say, based
18   on your experience using the software:
19                   "There is no other explanation as to
20                   why a Secure Delete folder would be
21                   created on Moyse's personal computer on
22                   that date."
23                   Other than, as you say at the first part
24   of the paragraph, that someone using that computer
25   deleted one or more files or folders beginning at
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 1   8:09 p.m.  That was the conclusion that you drew?
 2              A.    That is correct.
 3   72          Q.    And the conclusion at paragraph 13,
 4   I take it, with respect to Mr. Moyse's actions follows
 5   naturally from the conclusion at paragraph 12?  In
 6   other words, if a Secure Delete folder only appears
 7   when a user uses the program to delete a file or
 8   folder, then the presence of such a folder on
 9   Mr. Moyse's computer can only mean that he used the
10   software to delete files or folders.  Is that a fair
11   reading?
12              A.    Can you -- forgive me, can you
13   repeat it.
14   73          Q.    Sure.
15              A.    Because there's one little piece in
16   there that I didn't know if I wanted to comment on.
17   74          Q.    So at paragraph 12 --
18              A.    Yeah.
19   75          Q.    -- we have got a conclusion that
20   the folder is only created when Secure Delete is used
21   to delete files and folders?
22              A.    Correct.
23   76          Q.    Paragraph 13, we've got a
24   conclusion that someone using Mr. Moyse's computer
25   deleted files and folders?
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 1              A.    Correct.
 2   77          Q.    And I'm saying that the conclusion
 3   at paragraph 13 flows naturally from the conclusion at
 4   paragraph 12?
 5              A.    Correct.
 6   78          Q.    Okay.  And my question for you,
 7   Mr. Musters, is do you stand by, sitting here today,
 8   the conclusion in the last line of paragraph 12,
 9   namely, that a Secure Delete folder is only created
10   when a user runs the Secure Delete feature to delete a
11   file or folder from his computer?
12              A.    The answer is no.
13   79          Q.    Okay.
14              A.    With clarification.
15   80          Q.    Okay.  Let's start with the "no".
16              A.    Okay.
17   81          Q.    Tell me how you would like to
18   correct your evidence in this regard.
19              A.    The Secure Delete folder is created
20   when the program is launched.  More specifically, the
21   Secure Delete -- the ASO -- sorry.  Can I start over
22   again?
23   82          Q.    Yes.
24              A.    Secure Delete is a subprogram
25   within ASO, and when the Secure Delete program is
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1 launched, the Secure Delete program -- sorry -- the
2 Secure Delete folder is created. Should the user
3 choose at that moment to not run, as in not run files
4 or folders or not run anything else, the folder --
5 Secure Delete folder will still exist.
6   83   Q.   Okay.
7   A.   So the correction that I would like
8 to make for the record is that launching the -- that
9 the existence of the Secure Delete folder means that
10 the program was -- the Secure Delete program was
11 launched, but it doesn't yet speak to whether or not
12 files or folders were deleted.
13   84   Q.   Okay. And can I ask you,
14 Mr. Musters, how you came to this realization that your
15 initial conclusion was incorrect?
16   A.   I read Mr. Lo's affidavit, and I --
17 forgive me, the date, but his --
18   85   Q.   Yes. It's April 2nd, 2015, I
19 believe.
20   MR. WINTON: Let me show it to you and
21 see if that's the one.
22   BY MR. BORG-OLIVIER:
23   86   Q.   Yes.
24   A.   Do you mind if I take a quick look?
25   87   Q.   Please do.

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1   A.   Yes. So I did some more
2 investigation, or, to answer your question
3 specifically, after reviewing the affidavit of Mr. Lo,
4 which is dated April 2nd.
5   88   Q.   Okay. And I take it, upon reading
6 Mr. Lo's affidavit, you didn't simply accept his
7 evidence as gospel; you actually went and tried to
8 replicate the analysis that he had done?
9   A.   Well, correct, and I agree with you
10 that the way that items 12 and 13 read in my affidavit
11 sworn February 15th draws a conclusion that isn't
12 exactly correct. I made an assumption which I didn't
13 document here, which, basically, the assumption was if
14 you go to run a program, you are going to use it. So,
15 therein, I didn't -- I drew that inference in my mind
16 and, hence, that's why you see number 12 and 13 the way
17 they are written, but Mr. Lo -- how do I put it? --
18 brought some clarity to that, if that makes sense to
19 you.
20   89   Q.   Okay. And on April 30th, you swore
21 a supplementary affidavit in response to Mr. Lo's
22 affidavit of April 2nd.
23   A.   Correct.
24   90   Q.   Do you recall that?
25   A.   I do. I'd like to see the content,

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1 but, yes, I do recall.
2   91   Q.   Sure.
3   A.   Yes.
4   92   Q.   And as I read your April 30th
5 affidavit, nowhere in there do you advise the Court
6 that your conclusion in paragraph 12 was incorrect or
7 had been revisited in light of Mr. Lo's affidavit of
8 April 2nd. Am I reading that correctly or am I
9 missing something?
10   A.   I would like to state that, based
11 on my experience, that it was not my intention to
12 mislead the Court. Based on my experience, someone
13 running the Secure Delete program would run it for a
14 purpose, and, hence, my conclusion -- my conclusion
15 stands.
16   You are asking if I -- if I should have
17 clarified that. Technically, yes, but at the same
18 time, it didn't change my opinion of the facts. I'll
19 agree with you that 12 and 13 wasn't worded as well as
20 I should have.
21   93   Q.   Well, it's -- let's be fair. It's
22 not about whether they are worded as well as it should
23 have. That statement at paragraph 12, you have
24 conceded to me, I think, today, is incorrect. In other
25 words, that folder is not only created when a user runs

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1 the feature to delete a file or folder? That was
2 incorrect?
3   A.   As stated, that is incorrect.
4   94   Q.   Okay. And you understood that the
5 Court would be referring to your affidavit and Mr. Lo's
6 affidavit and all the other evidence in the case to
7 determine, among other things, whether Mr. Moyse had
8 acted in ways that constituted contempt of the
9 Firestone order. You understood that, right?
10   A.   Clearly.
11   95   Q.   And, again, I think you have told
12 me that you don't understand the consequences or the
13 relief being sought, but the Court was relying on that,
14 among other things, to determine whether Mr. Moyse
15 should be jailed for his contempt. That was the
16 conclusion that was going to be drawn on the basis of
17 these affidavits, potentially?
18   MR. WINTON: I don't think that's a fair
19 question given the questions previously asked and the
20 answers previously given about the consequences.
21   BY MR. BORG-OLIVIER:
22   96   Q.   Okay. You understood that the
23 issue of the creation of the Secure Delete folder and
24 the consequences to be drawn from that would be a
25 critical part of the Court's analysis in deciding the

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1 contempt motion against Mr. Moyse, did you not?
2   A.   Clearly, but if you are asking me
3 is it my professional opinion that Mr. Moyse deleted
4 something --
5 97   Q.   That's not -- if that was my
6 question, I would ask you that question.
7   A.   Okay.
8 98   Q.   My question is you understood, did
9 you not, that the question of how the Secure Delete
10 folder was created and what implications could be drawn
11 from that was going to be a critical part of the
12 Court's analysis in determining whether Mr. Moyse had
13 engaged in contempt?
14   A.   Clearly, yes, to your answer, but
15 the conclusion in -- the conclusion that we have drawn
16 is not incorrect.
17 99   Q.   Well --
18   A.   In my opinion.
19 100   Q.   Okay. So sitting here today, if I
20 put the following proposition to you, would you agree
21 with me or disagree with me? You should, in responding
22 to Mr. Lo's affidavit, have noted for the Court that
23 the conclusion you had drawn with respect to the
24 creation of the Secure Delete folder was wrong.
25   A.   I'm just going to read my

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1 affidavit, my supplementary affidavit --
2 101   Q.   Please.
3   A.   -- to see if I --
4 102   Q.   Sure.
5   A.   Would you allow me the --
6 103   Q.   I absolutely would.
7   A.   Okay.
8   I'm going to say that -- well, if you
9 re-ask the question. Forgive me. I have just read
10 some material, and I would like to --
11 104   Q.   Sure. I'll be rephrasing my
12 question, I guess.
13   A.   Okay.
14 105   Q.   But the question that I'm asking is
15 was it not incumbent on you as an objective, fair, and
16 impartial expert to advise the Court -- after reading
17 Mr. Lo's affidavit and realizing that he was correct,
18 to advise the Court that your conclusion with respect
19 to the creation of the Secure Delete feature in
20 paragraph 12 of your affidavit was incorrect?
21   A.   My responding affidavit sworn
22 April 30th dealt with the issue of whether or not
23 Secure Delete was used to delete files, folders, or
24 other data from the hard drive, so I'm going to answer
25 and say I believe that my responding affidavit did

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1 indeed clarify what you are seeking me to clarify.
2 106   Q.   Point to that paragraph or sentence
3 in which you made that clarification.
4   A.   When we talk about paragraph 6, 7,
5 8, 9, 10, 11, 12, and so on, they are all talking about
6 how the Secure Delete program works, and if I recall --
7 one second. I'm looking for a specific line. Hold on.
8   I thought in my February -- sorry, my
9 April 30th affidavit that I had made a reference to
10 when the Secure Delete folder was created. It's either
11 not here or I can't put my finger on it at this moment.
12 107   Q.   Okay. I can tell you I haven't
13 found it either.
14   A.   Okay.
15 108   Q.   If you or your counsel find it
16 after the fact, perhaps you can point it out to me.
17   A.   I will -- believe me, I thought I
18 had put a reference in here to say this is when this
19 folder was created.
20 109   Q.   Okay. Let's go back to your
21 February 15 affidavit, if you don't mind.
22   A.   Okay.
23 110   Q.   So read paragraph 16 to yourself,
24 if you would.
25   A.   Yes.

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1 111   Q.   Okay. And in paragraph 16,
2 you've -- and I'm not going to call it a -- maybe it's
3 unfair to call it a conclusion, but you provide the
4 opinion that, in a case like this, it's your experience
5 that deletion of data in such circumstances is done to
6 hide evidence that a person took confidential
7 information from a former employer and communicated it
8 to their new employer, right? That's the -- what would
9 you like to call that, your opinion or your conclusion?
10   A.   Let's call it an opinion.
11 112   Q.   Okay. And the basis of that
12 opinion, if I read the beginning of paragraph 16, is
13 the fact that you had encountered evidence that:
14   "Someone used a Secure Delete tool to
15   delete data."
16   Correct?
17   A.   It is my -- yes, correct.
18 113   Q.   And the evidence that you say you
19 had that someone used a Secure Delete tool to delete
20 data is the evidence at paragraphs 12 and 13 that the
21 creation of a Secure Delete folder can only be evidence
22 of deletion of data, correct?
23   A.   If you're in -- okay. Sorry, I was
24 going to say something, but I'm correcting myself.
25   It is my belief, my opinion, based on

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1 what I see, that the Secure Delete program was not only
2 launched but run, and that's the distinguish -- that's
3 the -- that's the distinguishing part that we're making
4 here.
5   So in number 13, I say -- I agree with
6 you -- I have already stated on the record I agree with
7 you -- that simply launching the program creates a
8 Secure Delete folder, but what I'm really saying is
9 that it is my belief, based on what I know, based on
10 what I have seen, and based on what I have read, that
11 the Secure Delete program was indeed run.
12 114   Q.   Okay.
13   A.   So based on that, I draw that
14 conclusion in number 16.
15 115   Q.   Okay. And at paragraph 16, you
16 refer to evidence that someone used a Secure Delete
17 tool to delete that. I'm reading that correctly, am I
18 not?
19   A.   Correct. And if you're --
20 116   Q.   Sorry. Let me ask the question.
21   A.   Sure.
22 117   Q.   Here, you are not talking about
23 your feelings or your intuition; you're referring to
24 evidence?
25   A.   Uhm-hmm.

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1 118   Q.   And to the extent that you had
2 evidence, you would have set it out in this report?
3 Correct?
4   A.   I'm sorry, if I had evidence, I
5 would have set it out --
6 119   Q.   Any evidence that you say you are
7 relying on --
8   A.   Yes.
9 120   Q.   -- that someone used a Secure
10 Delete tool to delete data --
11   A.   Yes.
12 121   Q.   -- I take it is set out in this
13 report?
14   A.   Yes.
15 122   Q.   Okay. And, in particular, at
16 paragraphs 12 and 13, because that's where we are
17 talking about the use of the Secure Delete program,
18 correct?
19   A.   Yes. Now, for the record, I do not
20 have nor have I had access to the image. I'm just
21 saying, for the record. So you are asking me to form
22 my opinion based on what I know.
23 123   Q.   Right. But stick with me here.
24 Any evidence that you had --
25   A.   Yes.

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1 124   Q.   -- that you were relying on to draw
2 the conclusion or the opinion that you have at
3 paragraph 16 is set out in this report?
4   A.   Yes.
5 125   Q.   Okay. And at paragraph 13, which
6 is where you conclude that somebody used Mr. Moyse's
7 computer to delete files, you say:
8   "Based on my experience using the
9   software, there is no other explanation
10   as to why a Secure Delete folder would
11   be created on Moyse's personal computer
12   on that date."
13   So that is the evidence that you are
14 relying on to conclude that the Secure Delete folder --
15 that the Secure Delete program was used to delete files
16 and folders, isn't it? If there was any other
17 evidence, you would tell us what it was?
18   A.   Correct, and let me just clarify.
19 So the evidence I have before me is that the -- I know
20 how the program works, because I analyzed the program,
21 and I know that it was launched, and, yes, I drew the
22 conclusion from that and stand by the conclusion from
23 that, that it was run to delete files and folders. I
24 stand by that.
25   I don't have the image, so you are ·

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1 asking me my opinion based on what I know. My
2 experience tells me that we don't buy a program, launch
3 a program, and then choose not to use the program
4 because we are bored. So my experience draws me to
5 number 16 based on the evidence I have before me.
6 126   Q.   Okay. So let me be clear, then.
7 So your evidence -- and we'll put this before the
8 Court -- your evidence is that, in your experience,
9 when people buy products that have a suite of different
10 software programs, it simply does not happen that one
11 might click on the component programs to see what they
12 are without then running them. Is that your evidence?
13   A.   My evidence is that the Secure
14 Delete program within the ASO suite is not easy to
15 find. It's not on the first page. You have to go
16 through a few series of options to get there. And one,
17 in my opinion, would intend to launch the program for a
18 purpose. That would be my evidence.
19 127   Q.   Okay.
20   A.   I don't initiate the program Word
21 if I don't intend to type a document.
22 128   Q.   Okay. And if somebody opens -- or
23 purchases Microsoft Office for the first time, it's
24 beyond the bounds of possibility that somebody might,
25 for example, click on Excel to see what an Excel

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1 spreadsheet looks like and then not use it? That
2 doesn't happen?
3   A.   I'm not suggesting that that
4 doesn't happen.
5   129   Q.   Okay. Let me suggest to you -- and
6 you can agree or disagree -- other facts that might be
7 relevant to the question of whether Mr. Moyse was
8 attempting to hide evidence, okay?
9   A.   Uhm-hmm.
10   130   Q.   The fact that the ASO software
11 remained on Mr. Moyse's computer when he turned it over
12 for forensic inspection, I would suggest that that
13 could lead one to infer that he was not attempting to
14 hide or cover his tracks. Do you agree or disagree?
15   A.   I'm not sure that I can agree or
16 disagree with that statement.
17   131   Q.   Okay. Well, now, to be clear,
18 because you've referred to your experience and -- as
19 you are very well entitled to do. That's I think part
20 of your role in all this. I'm just -- I'm asking you
21 to give me your view on it.
22   In your view, it's neither -- it's not
23 relevant one way or the other that Mr. Moyse took no
24 steps to delete the software from his computer prior to
25 handing it over?

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1   A.   I'm saying that that question in
2 isolation doesn't answer the broader question: Why did
3 he buy the software; why did he buy the reg cleaning
4 program, that registry cleaner program, separate from
5 the ASO program; why did he launch it; what was in his
6 intention when he launched it? I mean, clearly,
7 Mr. Moyse is the one that should really speak to those
8 issues, but from my investigative perspective, it seems
9 highly unusual that one would purchase, install, and
10 run a Secure Delete program, if I understand the facts
11 correctly, just prior to turning it over to an ISS.
12   132   Q.   Okay. That's fine. That's all
13 evidence that's in your affidavit.
14   A.   I understand that.
15   133   Q.   Okay. That's not what I'm asking
16 you now.
17   A.   Okay. Sorry.
18   134   Q.   What I'm asking you is take your
19 experience --
20   A.   Yes.
21   135   Q.   -- and your investigative
22 analytical ability --
23   A.   Sure.
24   136   Q.   -- and consider the fact that you
25 concluded or given the opinion that Mr. Moyse was

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1 trying to hide evidence and cover his tracks.
2   A.   Sure.
3   137   Q.   Is that a fair thing? Okay.
4   A.   Yes.
5   138   Q.   And I'm saying the fact that he
6 made apparently no effort to remove the software from
7 his computer, the ASO/Secure Delete software from his
8 computer, prior to handing it over, do you view that as
9 a relevant fact as to --
10   A.   It's a fact to be considered, sure.
11   139   Q.   Okay. And which way would it cut?
12   A.   Well, we can explore many options.
13 Am I allowed to explore many options with you?
14   MR. WINTON: Well, I don't think that's
15 helpful.
16   MR. BORG-OLIVIER: I can ask as
17 open-ended a question as -- what's wrong with that?
18   MR. WINTON: No, you can't. I think
19 your question was which way would it cut.
20   MR. BORG-OLIVIER: Yes.
21   MR. WINTON: And if he is going to
22 speculate -- are you inviting him to speculate as to
23 which way it cuts or are you asking him his opinion as
24 to which way --
25   MR. BORG-OLIVIER: I'm inviting him to

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1 speculate as to which way it cuts. I'm not sure I draw
2 a distinction between speculation and his opinion. My
3 point is much of the opinion evidence that he is giving
4 seems to be based on bringing his experience to bear to
5 facts like this, and I'm providing other facts from the
6 record that haven't made their way into his affidavit
7 and asking for his view on whether they affect his
8 analysis or not, and, if not, why not.
9   MR. WINTON: Okay. Well, that's the
10 question, then, that he should answer.
11   BY MR. BORG-OLIVIER:
12   140   Q.   Okay.
13   A.   Sorry, you've both been talking
14 so -- if you could ask the question --
15   141   Q.   Sure.
16   A.   -- I would be --
17   142   Q.   So the fact that the ASO software
18 was apparently not deleted from Mr. Moyse's computer
19 prior to him turning it over for forensic analysis,
20 does that bear on your analysis of whether Mr. Moyse
21 was likely seeking to hide evidence or cover his
22 tracks?
23   A.   It bears on my opinion. There are
24 a number of factors to consider. Again, I haven't seen
25 the image, but according to the ISS report, there was

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1   an e-mail indicating the purchase of the software.
2   143   Q.   We will get to that one.
3   A.   Okay. So ...
4   144   Q.   Let me --
5   A.   Sorry.
6   145   Q.   Why don't I just phrase it this
7   way. Isn't it fair to say that somebody who is trying
8   to cover his tracks would, at a minimum, in a situation
9   like this, have sought to delete the software from his
10   computer? Isn't that a fair statement?
11   A.   In light of some other facts, I'm
12   not sure that that's a fair statement, although I am
13   not arguing with you that he would have been better off
14   to delete it. I agree with that statement.
15   146   Q.   What other facts are you referring
16   to when you say "in light of some other facts"?
17   A.   Well, when I read Mr. Lo's
18   affidavit describing the registry keys inside the
19   registry, I can tell you that those registry keys are
20   only created on the initiation of the program, same as
21   a Secure Delete folder gets created on the initiation
22   of the program.
23   In a theoretical sense -- and I'm being
24   theoretical -- had someone launched the program like I
25   did in my affidavit, I would then see that I ran the

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1   program and I would then see that I deleted, in my
2   affidavit, four files and -- on this date and so
3   many -- so many bytes of data were deleted.
4   If I -- again, hypothetically, because I
5   don't know the exact facts of what happened on that
6   evening. If I were to see that, I would go, oh, darn,
7   I need to make that go away, and I do know that there
8   is an article on the Internet that shows you how to
9   make that go away. So did or did not Mr. Moyse go to
10   the Internet and search that article so that he could
11   then, as I described in my affidavit, make those
12   registry keys go away? We can speculate about that or
13   not. I'm just saying Mr. Moyse may or may not have
14   felt comfortable that he had done all he needed to do
15   to make the history go away, on the assumption that he
16   ran it.
17   So there's a number of different factors
18   to consider, not only the e-mail that was in his inbox,
19   not only the fact that he purchased and installed the
20   software, not only that he ran the software, that he
21   may or may not have used it to delete files and
22   folders, and that he may or may not have then tried to
23   make that history log go away. So you can ask me my
24   opinion in terms of what I believe, but at the end of
25   the day, we're not going to know.

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1   147   Q.   Let's talk about the e-mail.
2   A.   Okay.
3   148   Q.   So the ISS reports on e-mails, I
4   think it was. I think it was two e-mails confirming
5   the purchase of the software that we can --
6   A.   One for ASO and one for a registry
7   cleaner.
8   149   Q.   Correct. And is it not fair to
9   conclude, Mr. Musters, that somebody looking to cover
10   his tracks and hide evidence would, at a minimum, have
11   deleted those e-mails out of his inbox? Would you not
12   expect that?
13   A.   I would like to say that in every
14   investigation -- and I'm drawing upon my experience
15   more so from a criminal perspective; I do a lot of
16   criminal work, both for the Crown and the defence -- is
17   that somewhere, somehow, someone makes a mistake. So
18   that is ultimately how -- if we were all perfect, we
19   would all commit the perfect crime, and we wouldn't be
20   caught.
21   Now, again, I'm being theoretical, but
22   I'm just saying whether Mr. Moyse -- should he have
23   deleted his e-mail if he was trying to cover his
24   tracks? Yes. Was he thinking that way? I have no
25   idea.

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1   150   Q.   Okay. But so I hear you conceding
2   the point I think that somebody looking to cover his
3   tracks would not have wanted, for example, to have
4   those two e-mails remain in his inbox?
5   A.   Or should have.
6   151   Q.   Right.
7   A.   Sure.
8   152   Q.   And would not have wanted the
9   software to remain in his computer?
10   A.   Again, we are being speculative,
11   but assuming that he had intentions to delete things,
12   he -- I'm going by recollection -- he said -- Mr. Moyse
13   said in one of his affidavits that he wanted to delete
14   his Internet history, which he felt wasn't relevant,
15   because there may be some things that he thought were
16   not relevant -- these are his words and I'm
17   paraphrasing.
18   153   Q.   Yes, I understand.
19   A.   That he wanted to make go away. So
20   again, we're speculating in terms of what his
21   intentions were. He said he wanted to clean his web
22   history. I addressed that in one of my affidavits as
23   well, and we can talk about that.
24   So should he have? If he is trying to
25   hide things, sure, absolutely, I can see that.

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1                    MR. BORG-OLIVIER:  Okay.
2                    -- RECESS AT 2:52 --
3                    -- RESUMING AT 3:00 --
4               BY MR. BORG-OLIVIER:
5      154         Q.   Mr. Musters, I'm going to ask you
6   to turn up tab 2 of Catalyst's supplementary motion
7   record dated May 1, 2015, and that tab is your
8   supplementary affidavit sworn April 30, 2015.
9               A.   Yup.
10     155         Q.   At paragraph 2 of this affidavit,
11  you note that you reviewed the affidavits of Mr. Moyse
12  and Mr. Lo?
13              A.   Yes.
14     156         Q.   And you note that this affidavit is
15  sworn in reply to those affidavits?
16              A.   Yes.
17     157         Q.   Were you given any particular
18  instructions in preparation of this affidavit or was it
19  simply a matter of give us your reply evidence in
20  regards to the affidavits of Lo and Moyse?
21              A.   If you give me a moment.
22              I was asked if I had any comments more
23  specifically with respect to Mr. Lo's affidavit.
24     158         Q.   Yes.
25              A.   And if I had any explanation as to
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1   how a file may have been deleted yet not show as being
2   deleted.  So, in order words, to address the issue of
3   the -- in Mr. Lo's words, the logs in the registry.
4      159         Q.   And the conclusion that you draw or
5   the opinion that you provide is I think headlined on
6   page 2 of your affidavit, which is that the Secure
7   Delete history is stored in the registry and can be
8   deleted?
9               A.   It can be deleted, yes.
10     160         Q.   Okay.  And --
11              A.   I was going to use the words can be
12  manipulated to show that nothing had been run, but,
13  sure.
14     161         Q.   Fair enough.  But the conclusion,
15  anyway, is that you say the fact of there being no log
16  showing wiping activity is not dispositive because
17  Secure Delete can be reset?
18              A.   Yes.  That's a good word.  Thank
19  you.
20     162         Q.   It's your word from paragraph 8.
21  Can I take you to paragraph 8.
22              A.   Yes.
23     163         Q.   So, there, you refer to a simple
24  Internet search on how to delete the remnant files of
25  ASO from a computer's registry.  Is this a search that
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1   you did?
2               A.   Yes.
3      164         Q.   Okay.  Can you tell me what search
4   terms you used?
5               A.   I don't recall specifically at this
6   moment.  I can guess, but that's not a definitive
7   answer.
8      165         Q.   Don't guess.  And you haven't
9   provided here the website address, either, of the
10  publicly available information that you referred to.  I
11  take it when you refer to publicly available
12  information, you are suggesting that your simple
13  Internet search turned up a website?
14              A.   It did.
15     166         Q.   Okay.  And you haven't provided us
16  with a copy of what the information says?
17              A.   Okay.
18     167         Q.   Correct?
19              A.   I do recall -- I do recall
20  recording that.
21     168         Q.   Can I ask why you didn't include
22  that with your affidavit?
23              A.   Oversight on my part.
24              BY MR. BORG-OLIVIER:
25     169         Q.   Can I get an undertaking, Counsel,
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1   to get the search terms that were used or search term
2   that was used as well as the results of that search and
3   a copy of the publicly available information referred
4   to by Mr. Musters at paragraph 8?
5   U/A          MR. WINTON:  I will take that under
6   advisement.
7               BY MR. BORG-OLIVIER:
8      170         Q.   And I take it, Mr. Musters, that
9   the publicly available information that you are
10  referring to provided advice on removal of the entire
11  program of ASO and not simply of the remnant files?
12              A.   That's not correct.  It provided
13  step-by-step instructions on how to -- we'll use the
14  word "reset"; it's a good word -- to reset the Secure
15  Delete logs.
16     171         Q.   Okay.  And if someone wanted to
17  completely cover their tracks and remove any evidence
18  of having attempted to delete anything, you'd agree
19  with me that the prudent thing to do would be to remove
20  not just evidence of wiping but evidence of the program
21  ever having been on the computer?
22              A.   I'm not sure I agree with that, and
23  I would like to explain my reason, if I may.
24     172         Q.   Sure.
25              A.   On the assumption that someone ran
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1 Secure Delete, and on the assumption that someone then
2 looked at the log and it showed that certain things had
3 been deleted, again, I can't speak to the mind of
4 Mr. Moyse, but I would think it might be good enough to
5 show the system summary -- and I'm looking at the
6 system summary on page 3 -- to show no wiping has been
7 performed and then go I'm good.
8 173   Q.   The ISS obviously thought the
9 presence of the Secure Delete folder was a relevant and
10 important fact?
11 R/F   MR. WINTON: He's not going to give
12 evidence about what the ISS thought.
13   BY MR. BORG-OLIVIER:
14 174   Q.   Okay. The ISS included in its
15 report the fact that the Secure Delete folder was found
16 on Mr. Moyse's computer?
17   A.   That's correct.
18 175   Q.   And Catalyst brought a motion for
19 contempt based on the presence of the Secure Delete
20 folder?
21   A.   I -- you're -- I don't know.
22 176   Q.   Okay. But your evidence is that
23 somebody trying to cover their tracks would not
24 necessarily look to delete the entire software program;
25 they would simply try to reset the registry? That's

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1 your view on this?
2   A.   Well, if I saw this summary -- and
3 I know that the reporter here can't see that, but
4 there's a picture towards the bottom or as part of --
5   MR. WINTON: It's on page 289 of our --
6   THE WITNESS: Page 289.
7   MR. WINTON: -- responding record.
8   THE WITNESS: And if I saw last wiped,
9 items wiped, space recovered, items wiped, nothing
10 done, I may feel confidence that I have dodged the
11 bullet on the assumption that I had previously wiped
12 something, so I may not take additional steps to do
13 anything.
14   BY MR. BORG-OLIVIER:
15 177   Q.   Okay. But I'm not asking you now
16 for a conclusion that supports Catalyst's position; I'm
17 asking for your view, objectively --
18   A.   Yes.
19 178   Q.   -- on somebody looking to cover
20 their tracks. Is it your informed opinion that
21 somebody would more likely seek to remove evidence of
22 the wiping versus removing any evidence of the software
23 having been there?
24   A.   That's a difficult question to
25 answer at a technical level, and I'd like to explain

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1 why.
2   Uninstalling a program doesn't always
3 remove all of the registry entries, and it doesn't
4 always remove things that are forensically recoverable,
5 i.e., deleting a program or file still keeps the master
6 file table entry and it shows it as a deleted entry.
7 So showing the program installed and not being run may
8 be better than trying to uninstall it and hiding it
9 forensically. So I'm just saying both of them have
10 merit; I'm not saying one has more merit than the
11 other. That's what I'm trying to say.
12   MR. BORG-OLIVIER: Mr. Winton, I would
13 ask, if at all possible, that we get your position on
14 the questions that you have taken under advisement, and
15 if you agree to answer them, that we get the
16 information in time to allow further cross-examination
17 before the 22nd, which is the last day on which
18 examinations will take place, because I expect -- I
19 think this is important information.
20   I think that the reference to the search
21 and publicly available information, without including
22 that in the affidavit -- I hear Mr. Musters that was an
23 oversight -- I think that's information on which I'm
24 more than entitled to question, and if you will be
25 undertaking to provide that to us, then I would like it

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1 in a timely fashion so that we can schedule a follow-up
2 cross-examination on those points, because I -- I think
3 there are questions that I would want to ask based on
4 that.
5   MR. WINTON: I hear you. I am not
6 disagreeing with you.
7   BY MR. BORG-OLIVIER:
8 179   Q.   Okay. Can we go to paragraph 20,
9 please.
10   A.   Uhm-hmm.
11 180   Q.   And at paragraph 20, here, you
12 reach a conclusion or you say:
13   "The most likely conclusion to draw
14   from Mr. Moyse's conduct of June and
15   July, 2014, is that he did, in fact, use
16   Secure Delete to permanently delete
17   files from his computer."
18   Correct? That was the conclusion you
19 reached?
20   A.   That's my conclusion.
21 181   Q.   And that conclusion is based on
22 four separate facts that you have set out in the
23 following subparagraphs?
24   A.   Correct.
25 182   Q.   Can I take you to (b) first.

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1              A.   Uhm-hmm.
2    183       Q.   So, here, you refer to Moyse's
3    admitted conduct of investigating how to clean his
4    registry, and you say:
5                   "That displays a level of IT
6                   sophistication that exceeds that of the
7                   ordinary user."
8                   And can I ask you to expand on that and
9    explain to me what it is you say about his conduct that
10   displays a level of IT sophistication exceeding that of
11   the ordinary user, because that is not clear to me as I
12   read that.
13             A.   Okay.  My first response to that
14   would be if I were to ask a hundred people to define in
15   computer terms what a registry is, I'm not sure that
16   many people would be able to answer that question.  So
17   the fact that he is looking at registry cleaners, has
18   purchased a registry cleaner, shows that he understands
19   something about registries and what is contained in
20   them and what he doesn't want, theoretically, someone
21   to see.
22   184       Q.   Okay.  Anything else?
23             A.   I'm not saying that -- I'm saying
24   that the average user doesn't know what's in the
25   registry and what the registry is and what it contains.
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1    185       Q.   Okay.  Can we turn up Mr. Moyse's
2    affidavit, which is at tab 1 of the responding motion
3    record of Moyse dated April 6.
4              A.   Sure.
5    186       Q.   And can you point me to where you
6    say Mr. Moyse is engaging in this admitted conduct that
7    you refer to here.  And I think it's around
8    paragraph 42, if I'm reading the correct part of it,
9    but I want to make sure that -- I want to be fair to
10   you and give you the opportunity to point me to what it
11   is you are relying on for this particular statement.
12             A.   In paragraph 41, just prior, he
13   talks about deleting his browsing history from his
14   computer; he talks about searching the Internet for the
15   recently deleted material, which is in 42, which you
16   know; he -- in paragraph 59, he talks about wiping his
17   BlackBerry.
18             I'm going by recollection, and I stand
19   to be corrected if I'm wrong, and please do so, but my
20   recollection is that in his -- in Mr. Moyse's first
21   affidavit, he said he didn't take anything, and then
22   later there was disclosure that there was a number of
23   files that were indeed on his computer.
24   187       Q.   Okay.  Let me stop you there for a
25   second.
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1              A.   Yes.
2    188       Q.   Because I think we are going a bit
3    far afield.  What we are talking about here is what you
4    have referred to in your affidavit as his admitted
5    conduct of investigating how to clean his registry.
6    That was the reference there.  There's nothing about
7    wiping a BlackBerry, there's nothing about files
8    remaining on his computer.  And to be fair to you,
9    paragraph 43 refers to him purchasing registry-cleaning
10   products, so I don't want you to miss that paragraph.
11             A.   So, I mean, it was more of a
12   generic statement that I made, but, yes, 43
13   specifically talks about the ASO software.
14   189       Q.   Okay.  So let's now break down
15   paragraph 42.  Let's start there.
16             A.   Okay.
17   190       Q.   So you'll agree with me that
18   Mr. Moyse's evidence is that, as you have pointed out,
19   he was doing Internet searches on how to ensure a
20   complete deletion of his Internet browsing history?
21             A.   Correct.
22   191       Q.   And he notes that many websites
23   said that cleaning the registry following the deletion
24   of the Internet history would accomplish this, correct?
25             A.   He notes that, yes.
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1    192       Q.   He notes that.  He notes that the
2    websites -- he is reporting on what the websites say?
3              A.   Correct.
4    193       Q.   Okay.  So there's no --
5              MR. WINTON:  I just want to make it
6    clear.  Mr. Musters' agreeing with what the affidavit
7    says does not necessarily mean Mr. Musters is affirming
8    Mr. Moyse's evidence.
9              MR. BORG-OLIVIER:  Completely.  I
10   understand that.
11             MR. WINTON:  Good.
12             THE WITNESS:  Okay.
13             BY MR. BORG-OLIVIER:
14   194       Q.   There's no suggestion here, I put
15   it to you, Mr. Musters, that Mr. Moyse even knew what a
16   registry was before doing these Internet searches,
17   correct?  There is no suggestion of that in his
18   affidavit?
19             A.   I'm on the fence on that one,
20   because how did he know to look for the registry, but,
21   on the other hand, if he is searching the registry,
22   sure.
23   195       Q.   There's nothing here that says he
24   was searching a registry, it says he was searching for
25   how to delete his Internet history, right?
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1   A.   One second. I then did some
2   further -- I'm reading paragraph 43:
3   "I then did some further online
4   research for registry cleaning
5   products."
6   So he would -- Mr. Moyse would infer,
7   based on his affidavit, that he is getting up to speed
8   on what a registry is through these searches, based
9   on --
10 196   Q.   That's how I read it as well.
11   A.   Sure.
12 197   Q.   And the conclusion that he drew or
13 the steps that he took with respect to deleting his
14 Internet browsing history through cleaning the
15 registry, you have said in your affidavit of
16 April 30th, at paragraph 4, that it makes no sense,
17 because a computer's registry does not store
18 information concerning a user's web browsing history,
19 right?
20   A.   That is correct.
21 198   Q.   That's your evidence?
22   A.   Yes.
23 199   Q.   So quite contrary to the position
24 that Mr. Moyse was more sophisticated than the average
25 user, in fact, it seems that he is utterly

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1   unsophisticated, is he not, in terms of doing some
2   basic Internet research; gleaning information that
3   turns out to be completely incorrect? Isn't that the
4   mark of someone unsophisticated?
5   A.   I would certainly say that it -- I
6   know he's a smart guy based on his -- based on his
7   education and where he went to school and so on and so
8   forth, so I think we can all agree -- I have never met
9   Mr. Moyse, just for the record. So I think we can
10 agree he's a smart guy and he's doing some research to
11 try and figure things out in his mind. So we can
12 certainly agree on that. Did he get the registry wrong
13 or did he believe information incorrectly on the
14 Internet? Sure. Not everything on the Internet is
15 correct.
16 200   Q.   Right.
17   A.   But I believe he shows a level of
18 sophistication on one hand, and on the other hand, I'll
19 also agree with you that he shows a level of lack of
20 knowledge in certain areas as well.
21 201   Q.   Okay. But you didn't make mention
22 of that in your affidavit?
23   A.   That is correct.
24 202   Q.   Okay. And going back to what the
25 sophistication is, when I asked you what you meant by

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1   that, you suggested that if you ask a hundred people to
2   define what the registry is, most couldn't answer. Do
3   you see any evidence in here that suggests that, before
4   doing that Internet research, Mr. Moyse knew what the
5   registry was?
6   MR. WINTON: I'm just ...
7   MR. BORG-OLIVIER: Counsel, he is
8   drawing a conclusion --
9   MR. WINTON: No, I think you have asked
10 that question, just in a different way, so I feel it's
11 the same question being asked twice. That's why I'm
12 hesitating to let the witness answer.
13   MR. BORG-OLIVIER: Is that a refusal?
14 R/F   MR. WINTON: Yes.
15   BY MR. BORG-OLIVIER:
16 203   Q.   It is. Okay.
17   Let's go to paragraph C, which is
18 another of the facts that you say leads you to the
19 conclusion --
20   A.   Sorry.
21   MR. WINTON: I'm just pointing him in
22 the right spot.
23   BY MR. BORG-OLIVIER:
24 204   Q.   Yes. So paragraph (c) is another
25 of the facts, as you describe them, that leads you to

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1   the conclusion with respect to Mr. Moyse's conduct.
2   A.   Yes.
3   205   Q.   Do you see that?
4   A.   Yes, I do.
5   206   Q.   Okay. And this is with respect to
6   Mr. Moyse wiping his BlackBerry smart phone?
7   A.   Uhm-hmm.
8   207   Q.   And you say that he thereby
9   permanently destroyed evidence of his phone and data
10 usage. Do you see that?
11   A.   Yes.
12 208   Q.   And I take it phone and data usage
13 does not include e-mail, correct?
14   A.   By wiping his BlackBerry, his --
15 let me -- okay, let me -- no, not incorrect, not
16 correct. Let me explain.
17   Had he had his work e-mail synced to his
18 BlackBerry, simply wiping his BlackBerry would not
19 affect any data as it related to the Cat Capital --
20 209   Q.   Catalyst.
21   A.   Sorry, Cat Catalyst (sic) e-mail.
22 210   Q.   Right.
23   A.   Had he had a personal e-mail
24 account on there, he would have no data from his
25 personal e-mail; it would have been wiped off. Any SMS

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1 message, call histories. There's other applications
2 more prevalent on an iPhone than on a BlackBerry, but
3 there's various chat programs available.
4 211   Q.   Okay.
5   A.   And so on.
6 212   Q.   Again, we're going a bit far
7 afield.
8   A.   Sorry.
9 213   Q.   I'm simply trying to be clear that
10 what I asked you was that the e-mail is not -- and,
11 again, I'm not trying to be tricky. At page 71 of your
12 earlier transcript from last year, you were asked about
13 Mr. Moyse's e-mail, and I think, quite fairly, you
14 acknowledged that Catalyst would likely still have
15 access to Brandon's work e-mails. And the point I was
16 trying to make is this appears to carefully exclude
17 e-mail from what you say was permanently destroyed, and
18 I want to make sure I'm reading that correctly.
19   Your counsel may have a point to make
20 here.
21   MR. WINTON: No, that's fine. I just
22 wasn't sure where you were going with that.
23   MR. BORG-OLIVIER: I'm trying to be very
24 fair in noting that e-mails -- there doesn't seem to be
25 an allegation here that the wiping of the BlackBerry

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1 destroyed evidence of e-mail usage, because I thought
2 that point was covered last year.
3   MR. WINTON: That's right.
4   MR. BORG-OLIVIER: But if I'm
5 misreading -- I don't know exactly what the term "data"
6 means.
7   MR. WINTON: Okay. And I think he has
8 answered that question now, has he not? He
9 acknowledged the same thing about the e-mails.
10   MR. BORG-OLIVIER: Okay.
11   MR. WINTON: And then he explained what
12 "data" could refer to, but it was a host of things, and
13 then you cut him off by saying we are going far afield.
14   MR. BORG-OLIVIER: Because my question
15 was about e-mail.
16   MR. WINTON: Okay. But now you are
17 saying you want to know what "data" means.
18   MR. BORG-OLIVIER: I wanted to know if
19 "data" means e-mail.
20   MR. WINTON: Okay. Why don't we ask
21 that.
22   BY MR. BORG-OLIVIER:
23 214   Q.   Okay. "Data", I take it, does not
24 mean e-mail usage? That's a different category of
25 things?

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1   A.   I'm just going to -- in terms of --
2 data is e-mail, but if I understand your question
3 correctly to be is wiping the BlackBerry going to
4 prevent -- I'm going to use "Cat" so I don't get it
5 wrong -- prevent Cat from accessing any e-mail, the
6 answer is no.
7 215   Q.   Okay.
8   A.   If that's the question.
9 216   Q.   That's not precisely my question.
10 You have made allegations here about facts that you say
11 support the conclusion that you have reached.
12   A.   Yes.
13 217   Q.   I'm entitled to test you on those
14 facts.
15   A.   Sure, sure.
16 218   Q.   And I just want to make sure that
17 I'm understanding clearly what it is that you have said
18 here.
19   A.   There are other --
20 219   Q.   That's the reason I'm asking this
21 question.
22   A.   There are other points of data --
23 let's call them SMS messages, BBM messages, other chat
24 programs that may or may not have been installed on the
25 BlackBerry -- there are other pieces of information on

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1 the BlackBerry besides e-mail that I would refer to as
2 data that were erased as a result of wiping the
3 BlackBerry.
4 220   Q.   I understand all that.
5   A.   Okay.
6 221   Q.   Thank you. With respect to the
7 phone usage, who was the phone provider on that
8 BlackBerry?
9   A.   I don't know. I don't know who
10 the -- I don't recall.
11   MR. WINTON: Go off the record for one
12 second.
13   MR. BORG-OLIVIER: Sure.
14   -- OFF THE RECORD --
15   BY MR. BORG-OLIVIER:
16 222   Q.   So, Mr. Musters, your counsel was
17 kind enough to show me some information from the report
18 that you had prepared for Mr. Riley that seems to
19 indicate that the BlackBerry was on the Rogers network,
20 and I take it you have no reason to dispute that if you
21 don't specifically remember it?
22   A.   I have no reason to dispute it. I
23 don't specifically recall that at this moment.
24 223   Q.   Okay. Do you know whether Catalyst
25 paid the bills in connection with that BlackBerry?

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 1              A.   I do not know.
 2   224    Q.   Okay.
 3              A.   I can only assume yes, but I do not
 4   know.
 5   225    Q.   Okay.  Do you know whether Catalyst
 6   received copies of the bills?
 7              A.   I do not know.
 8   226    Q.   Do you know whether the bills that
 9   were prepared monthly included records of phone calls
10   made and received?
11              A.   And, again, I don't know.
12   227    Q.   Did you make any inquiries with
13   Catalyst or otherwise about those questions?
14              A.   No.
15   228    Q.   Okay.  Your conclusion here, as I
16   read it, is quite unequivocal, right?  You note that
17   Mr. Moyse, by wiping the BlackBerry, permanently
18   destroyed evidence of his phone usage?
19              A.   Evidence of his phone and data
20   usage, yes.
21   229    Q.   Okay.  I take it to the extent that
22   the monthly bills included those sorts of records, in
23   fact, that evidence wouldn't be destroyed?
24              A.   The monthly bills -- I'm sure that
25   you can get a record from Rogers with respect to the
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 1   You said phone and data usage.  I'm focussing on the
 2   phone.
 3              A.   Well, okay.  Phone usage.  If
 4   you're referring -- I mean, we can define the term any
 5   way you like.  If you are referring to phone usage as
 6   simply calls in and out.
 7   236    Q.   It's your terminology.  I'm trying
 8   to understand, you're referring -- you've said here --
 9              A.   Well --
10   237    Q.   Let me put the question to you.
11              A.   Okay.
12   238    Q.   You have said here that, by wiping
13   the BlackBerry smart phone, Mr. Moyse had thereby
14   permanently destroyed evidence of his phone usage, and
15   I'm trying to explore what you mean by "evidence of his
16   phone usage", and I've suggested to you that might mean
17   whom he called, who called him, and duration of calls,
18   and I'm asking if there is anything else that would
19   fall under that category of evidence of phone usage.
20              A.   All right.  May I be permitted to
21   answer the question what did you mean, Marty, by phone
22   and data usage?
23   239    Q.   I'm not interested in data usage at
24   the moment, I'm interested in phone usage.  That's the
25   question I'm asking about.
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 1   fact that I called you or you called me, that there was
 2   a call.  I'm sure you can get that information, yes.
 3   230    Q.   Okay.  And when you say in
 4   subparagraph (c) "evidence of his phone usage", I take
 5   it what you are referring to is, for example, whom he
 6   called?
 7              A.   Well, the Rogers bills would have
 8   phone numbers.
 9   231    Q.   Right.
10              A.   Those phone numbers may not be
11   readily translatable to a person, in other words,
12   905-123-4567, Cat may not know who that is, they may be
13   able to do a reverse phone look-up, they may or may not
14   know who that is registered to, and so on.
15   232    Q.   Okay.  It may be evidence, you are
16   referring to, of who called Mr. Moyse?
17              A.   It may be.
18   233    Q.   Evidence of the duration of calls?
19              A.   Correct.
20   234    Q.   Anything else that I'm missing in
21   terms of what you refer to as evidence of his phone
22   usage?
23              A.   Well, when I referred to phone
24   usage, I was also referring to SMS and BBMs and --
25   235    Q.   Okay.  Well, that's data usage.
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 1              A.   Yes, I understand, and, believe me,
 2   I'm simply trying to -- I'm not being argumentative in
 3   any way, shape, or form; I'm simply trying to
 4   understand.
 5              I used the term "phone and data" in one
 6   piece.  I didn't separate it out in my mind when I
 7   wrote those three words.  And the reason that I don't
 8   is because you can take -- what's a good one?
 9              There are chat programs on an iPhone,
10   predominantly, that either go through Wi-Fi or they go
11   through cellular data.  So when I say "phone and data",
12   I'm referring to the collective use of the phone.  I,
13   in my mind, when I wrote those words, did not break it
14   out in terms of phone is calls and data is SMS.  So if
15   you are asking what I meant, I meant the collective use
16   of the phone.
17   240    Q.   Okay.  We have talked about this.
18   You understand that the Court will be looking at this
19   and will rely on what's in your affidavit?
20              A.   Absolutely.
21   241    Q.   Okay.  And you understand -- and
22   the reason I'm asking these questions is because
23   somebody might look at that and think that "phone
24   usage" refers to usage of the telephone.  You
25   understand that?
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1   A.   I -- I do now. I --
2 242   Q.   Okay. So let's clear this up.
3   A.   Sure.
4 243   Q.   When you say that by wiping the
5 smart phone Mr. Moyse permanently destroyed evidence of
6 his phone and data usage, I take it, then, if I'm
7 hearing you correctly, that you are not suggesting that
8 evidence of Mr. Moyse's use of the telephone has been
9 permanently destroyed. Because those records likely
10 exist through, for example, the monthly bills.
11   A.   Correct, yes. I fully acknowledge
12 that those records exist through the monthly bill.
13 What I was saying was that there is data -- as a
14 forensic investigator, there is a ton of data on the
15 phone, the collective smart phone, which are now like
16 computers, that can be valuable to any investigation.
17 244   Q.   Last week, as you probably know,
18 Kevin Lo was cross-examined.
19   A.   I'm aware.
20 245   Q.   Okay. And Mr. Lo raised something
21 for the first time on re-examination, which I assured
22 your counsel I would give you the opportunity to
23 respond to.
24   A.   Okay.
25 246   Q.   Because it was not something that

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1 had shown up. Because of the pace at which the
2 duelling affidavits came in on the eve of Mr. Lo's
3 cross-examination, I think that's the way things ended
4 up shaking out.
5   The evidence as, I understood it -- and
6 if I'm not capturing this correctly, I will ask
7 Mr. Winton to jump in or Mr. Milne-Smith. I understood
8 Mr. Lo to say the following, and I apologize if it
9 sounds like I'm testifying on the record. I'm just
10 trying to capture what it was that he said.
11   As you know, there was this question
12 raised on his affidavit and yours about the use of the
13 registry editor?
14   A.   Uhm-hmm.
15 247   Q.   You know that. And Mr. Lo, upon
16 seeing your reply affidavit, conceded that he had been
17 incorrect about the last time accessed information in
18 the sense that the fact that the computer reflected
19 that registry editor had been last accessed in 2009 did
20 not necessarily mean that, in fact, it had been last
21 accessed in 2009. Do you recall that issue?
22   A.   Yes.
23 248   Q.   Okay. And I understand from
24 Mr. Lo's evidence that, after reviewing your reply
25 affidavit, he then looked into something called the

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1 link files. Is that a term you are familiar with?
2   A.   I'm familiar with the term "link
3 files".
4 249   Q.   And what Mr. Lo stated was that
5 he -- in reviewing the link files on Mr. Moyse's
6 computer, he saw evidence of use of programs dating
7 back to 2012 but no evidence of registry editor having
8 been run at any time.
9   A.   Okay.
10 250   Q.   And I'm opening the floor to you to
11 respond or react, if you would like to, to that
12 evidence from Mr. Lo.
13   A.   Yes, I would like to.
14   I can emphatically state that running
15 reg edit, running the reg edit program, creates -- on a
16 Windows 7 computer -- which is what we are talking
17 about -- leaves no evidence that it was run. And what
18 I mean by that -- or let me -- sorry, not what I mean
19 by that, but let me clarify. I submitted an affidavit
20 on -- April the 30th?
21 251   Q.   Yes.
22   A.   Yes. And during the course of that
23 affidavit on April the 30th, I ran the registry edit
24 program on April 29th, as you will see. And I took a
25 forensic image of my forensics computer and found no

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1 evidence that regedit.exe had been initiated or run
2 even though I had made changes to the registry itself.
3 So the registry edit program changes files, but we are
4 talking about the program itself. So the last accessed
5 date on regedit.exe was still its original date. There
6 were no link files for reg edit, so there was no
7 visible evidence that reg edit was run, even though I
8 can assure everyone here that I ran it on the 29th, as
9 evidenced by my affidavit.
10 252   Q.   Okay. And can I ask --
11   A.   So --
12 253   Q.   Sorry. Go ahead.
13   A.   So for Mr. Lo to say I saw no
14 evidence that it was run, although correct, is
15 meaningless, because there would be no evidence that it
16 was run, had it been run.
17 254   Q.   And did you actually go and search
18 the link files on your computer?
19   A.   Yes.
20 255   Q.   Okay. And when did you do that?
21   A.   I did that after I saw Mr. Lo's
22 affidavit with respect to that. So I had taken a
23 forensic image on April the 30th of my forensics
24 computer.
25 256   Q.   Can you tell me precisely when it

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1 was that you searched for the link files on your

2 computer?

3   A.   Can you tell me the date of

4 Mr. Lo's affidavit? When -- the date that he was

5 cross-examined?

6   MR. WINTON: That's what I think. I was

7 just going to say I think he means cross-examination,

8 not affidavit.

9   THE WITNESS: The cross -- sorry, sorry.

10 The date he was cross-examined on this.

11   MR. BORG-OLIVIER: Mr. Lo was

12 cross-examined --

13   MR. WINTON: Thursday.

14   MR. BORG-OLIVIER: Last Thursday, the

15 14th.

16   MR. WINTON: 14th.

17   THE WITNESS: It would have been the

18 evening of the 14th.

19   MR. WINTON: Counsel, just to make sure

20 there is no misunderstanding, as I understand what

21 Mr. Musters was saying, the search on the link files

22 was run on an image of his computer that was made on

23 the 30th, which will record the April 29th activity.

24   MR. BORG-OLIVIER: I understand.

25   MR. WINTON: If there was anything to

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1 record.

2   MR. BORG-OLIVIER: Yes.

3   MR. WINTON: Okay.

4   MR. BORG-OLIVIER: Can we go off. I may

5 just have one or two more questions, but I'm just about

6 done. I just want to speak to Mr. Milne-Smith for a

7 second.

8   -- RECESS AT 3:38 --

9   -- RESUMING AT 3:42 --

10   MR. BORG-OLIVIER: So subject to

11 whatever answers come back on what I think was only one

12 under advisement.

13   MR. WINTON: Technically two. You asked

14 for the search terms and then you asked for the

15 results.

16   MR. BORG-OLIVIER: Correct. Those are

17 my questions. Thank you, Mr. Musters.

18   CROSS-EXAMINATION BY MR. MILNE-SMITH:

19 257   Q.   Mr. Musters, I just have questions

20 in two areas.

21   With respect to cloud storage services,

22 you are familiar with what I am speaking about there?

23   A.   Yes, I am.

24 258   Q.   So these are programs like Dropbox

25 or box.com?

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1   A.   Yes.

2 259   Q.   Okay. So I take it we would be in

3 agreement that one reason why a person might use a

4 service of that nature is to sync or transfer documents

5 between a home and an office computer?

6   A.   That's one usage, certainly.

7 260   Q.   And another possible usage is for

8 more than one person to share access to a document?

9   A.   Correct.

10 261   Q.   And you have no way of knowing why

11 Mr. Moyse was using Dropbox at Catalyst?

12   You seem to be --

13   A.   I'm -- I'm always trying to be

14 reflective of the answer so that I can give you the

15 best thoughtful response.

16   I am not -- I'm just going to repeat

17 your question to make sure I still have it accurately

18 in my head. Your question was did I know for what

19 purpose Mr. Moyse was using Dropbox? Is that -- or

20 please clarify if I didn't get it right.

21 262   Q.   Essentially, yes. Maybe I can help

22 you if I can put it another way. Would you agree with

23 me it's entirely possible that Mr. Moyse was using

24 Dropbox to, for example, share information with

25 individuals at a Catalyst portfolio company?

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1   A.   It's possible, yes.

2 263   Q.   Mr. Musters, in your June 24, 2014,

3 affidavit, you described a pattern of access to certain

4 files that you consider to be consistent with copying

5 data to cloud services?

6   A.   Correct.

7 264   Q.   And you drew that conclusion, as I

8 understood it, based on, at least in part, on metadata

9 time stamps for access?

10   A.   Correct.

11 265   Q.   And you'll recall that you admitted

12 in cross-examination that you didn't, in fact, know

13 whether that metadata time stamp was generated by the

14 opening or the closing of the file?

15   A.   Yes.

16 266   Q.   Okay. And so if the metadata time

17 stamp was based on opening a file, it tells you nothing

18 about how long the file was open, correct?

19   A.   That's a correct statement, but to

20 clarify, my recollection is that there were numerous

21 documents -- see, I'm referring to the link files, and

22 there was a pattern of access -- I'm gathering the

23 metadata from the link files, so the usage is

24 consistent with the metadata on the -- on the link

25 files that I'm looking at is consistent with a copy

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1   function or something like that, if I recall.
2   267   Q.   Why don't we look at -- I think
3   this is Exhibit F to your affidavit.
4   MR. WINTON: I will have to pull that
5   out of the archives.
6   MR. BORG-OLIVIER: This is from the
7   original motion record.
8   MR. WINTON: Yes.
9   -- OFF THE RECORD --
10   BY MR. MILNE-SMITH:
11   268   Q.   So just for the record, I
12   apologize, I believe I mistakenly referred to June 24.
13   It's June 26, 2014, affidavit, tab F.
14   A.   Okay.
15   269   Q.   So, Mr. Musters, I've actually done
16   my homework, and we'll see if you agree with me. My
17   understanding -- tell me if you disagree or if you just
18   have no knowledge -- is that these metadata time stamps
19   are created in a Windows 7 environment by the accessing
20   of a file and would not reflect when the file was
21   closed. Do you agree?
22   A.   You're making the assumption that
23   the file was open, so I'm disagreeing with your first
24   premise.
25   270   Q.   Wouldn't agree that, if a file was

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1   opened, it would not show in the metadata when it was
2   closed?
3   A.   In that very narrow view, yes, but
4   we need to talk about Windows 7 and last access dates
5   in a slightly different way. We have seen or previous
6   evidence has shown us that if you launch the reg edit
7   program, and clearly that program was opened and
8   closed, it didn't update the last access date in time.
9   So this last -- so the last visited date
10   and time is coming from a link file that is associated
11   with these records. So having said -- so because the
12   link file is created, it creates a record in the master
13   file table, and it creates a creation date, last access
14   date, last modified date of that link file, so these
15   files were last visited or accessed, may have been
16   opened, may not have been opened, may have been copied,
17   may not have been copied, but when I see three files
18   with the exact same 83909 -- I'm looking at the first
19   three entries -- that, to me, doesn't say I opened it
20   and I closed it all within the same millisecond,
21   83909 -- all within the same second, I'm sorry -- that
22   tells me that some other function was performed on
23   that -- on those three files, a copy, as an example.
24   271   Q.   Or an opening?
25   A.   I can't -- I -- no. Not an

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1   opening. As in you can't open three files and close
2   three files in the same second.
3   272   Q.   But, Mr. Musters, this is the point
4   we just established. It doesn't -- it wouldn't say
5   anything about closing it, would it? So I don't know
6   why you are talking about opening and closing, because
7   the closing wouldn't show up. Correct?
8   A.   The closing wouldn't show up, I
9   agree with you, but I'm also not agreeing with the
10   first premise: That the file was opened.
11   273   Q.   Let's put this a different way.
12   These records are equally consistent with copying the
13   files or just opening them. In other words, you can't
14   tell which it is just from these files.
15   A.   If I go to -- it says record
16   number 285, on the left. It's, I don't know, eight
17   down or something. I haven't counted.
18   274   Q.   Yes.
19   A.   And I look at 84343, and I look at
20   the next entry, 84343, and I count one, two, three,
21   four, five, six.
22   275   Q.   Yes.
23   A.   My experience tells me that someone
24   didn't open six files at the same time and leave them
25   open and close them at some time in the future. That,

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1   to me, screams I copied them.
2   276   Q.   You are not aware that someone
3   could highlight six files at the same time and open
4   them all at once?
5   A.   That is more likely to happen on a
6   MacIntosh computer.
7   277   Q.   Okay. But it's possible on a
8   Windows computer? You just said it's more likely on a
9   Windows, so by implication, you are saying it's
10   possible on a Windows computer.
11   MR. WINTON: Just to get it straight, he
12   said it's more --
13   MR. MILNE-SMITH: More likely.
14   MR. WINTON: On a Mac.
15   MR. MILNE-SMITH: Yes.
16   MR. WINTON: Mac. You said Windows.
17   BY MR. MILNE-SMITH:
18   278   Q.   So that means it's possible on a
19   Windows.
20   A.   I'm -- I'm actually trying to think
21   of how I would do it in a Windows operating system.
22   All right. Let me correct the record.
23   I'm not aware of how to open six Word documents in a
24   Windows operating system at the same time.
25   279   Q.   Okay. Mr. Musters, you'd agree

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1 with me that, in your previous cross-examination, you

2 relied on the fact that it was improbable for someone

3 to open and close -- make a decision and close it

4 within seconds?

5   A.   I agree with that statement.

6 280   . Q.   Okay. But you'd agree with me now

7 that you were mistaken when you relied on any evidence

8 of closing a file within seconds, because you simply

9 don't have any evidence of that, correct?

10   A.   Your entire --

11   MR. WINTON: I just don't think it's

12 fair to call him mistaken. We don't know the question

13 that was asked of him.

14   MR. MILNE-SMITH: Okay. Let's read it.

15 Could you go to -- do you have your copy of the

16 transcript?

17   MR. WINTON: I don't think we do.

18   MR. MILNE-SMITH: Okay. I'm just going

19 to read it into the record, then.

20   So I'm at page 52, question 161. I'm

21 afraid it's going to go on for a while, because we've

22 got some back-and-forth between counsel, but I don't

23 see any other way to do this.

24   MR. BORG-OLIVIER: If it helps to

25 follow. What's the last page from which you're going

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1 to be reading?

2   MR. MILNE-SMITH: Question 161, I'm

3 going to start, and it's going to go through to

4 question 162. So it's page 52 to 54.

5   MR. WINTON: Mr. Borg-Olivier has been

6 so kind as to share his copy with us. Perhaps he can

7 read it and then you can ask your question without

8 having to read it all into the record.

9   BY MR. MILNE-SMITH:

10 281   Q.   All right. So please read

11 questions 161 through 162.

12   A.   Okay.

13 282   Q.   So, Mr. Musters, you'd agree with

14 me that --

15   MR. WINTON: Sorry.

16   MR. MILNE-SMITH: Sorry. Mr. Winton?

17   MR. WINTON: Yes. This is also in

18 reference to some evidence that was given in

19 Mr. Moyse's affidavit, as I recall. I'm just -- before

20 he answers any questions, I want to review Mr. Moyse's

21 affidavit and see if I am going to insist that that be

22 put to the witness at the same time.

23   MR. MILNE-SMITH: Go ahead.

24   MR. WINTON: Yes. This copy is marked

25 up. I don't want to show it to the witness. I

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1 understand it is sensitive.

2   But Mr. Moyse's affidavit sworn

3 July 7th, 2014, at paragraph 55, I think provides the

4 context of what Mr. Musters is being asked to respond

5 to at his cross-examination. I think it's only fair to

6 put that paragraph to him as well. I'm happy for you

7 to look at it if you agree or disagree before it is

8 shown to him, but I just want to put in the record I

9 think there was a certain situation that was being put

10 to him that might explain it, and I don't think you

11 have captured it exactly as it was put to him there or

12 that doesn't have the right context without having

13 reference to Mr. Moyse's affidavit.

14   MR. MILNE-SMITH: Okay. Well, I have

15 gone through the transcript. I don't see any reference

16 to this passage in the lead-up to these answers, but

17 I'm happy to read this into the record.

18   Paragraph 55 of Mr. Moyse's affidavit

19 dated July 7, 2014, reads as follows. And he is

20 speaking specifically in reference to the so-called

21 telecom files, so this isn't with respect to all four

22 categories of documents; this is with respect

23 specifically to the telecom files.

24   MR. WINTON: Which are the files that

25 are attached at tab F of Mr. Musters' affidavit.

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1   MR. MILNE-SMITH: Right.

2   MR. WINTON: Which is why it refers only

3 to that section.

4   BY MR. MILNE-SMITH:

5 283   Q.   It says:

6   "I admit that I accessed the files in

7   question. Contrary to Mr. Riley's bald

8   assertion that I did so for a nefarious

9   purpose, I accessed the files as part of

10   my duties at Catalyst. In fact, I was

11   specifically assigned to work on Wind

12   Mobile by Mr. Dialba. I accessed the

13   files in question because I was working

14   on a chart to include in an investment

15   memo. As there are hundreds of files

16   related to Wind Mobile in Catalyst's

17   system, I had to open a number of files

18   and quickly scan them to determine if

19   they contained the information I was

20   looking for. I did not have to read the

21   entirety of all the documents I

22   accessed. While I accessed the files

23   between 8:39 p.m. and 9:03 p.m., e-mail

24   records show that I was still at work.

25   Attached to Exhibit J is an e-mail

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1   exchange between myself and my
2   girlfriend dated May 13, 2014, in which
3   I tell her that I will not be home until
4   10:15. I was also working amongst other
5   employees and not trying to
6   surreptitiously read or transfer files.
7   One of those employees still in the
8   office was Lorne Creighton (who was also
9   working on Wind Mobile). I did not
10   transfer any of the files to my Box,
11   Dropbox, or any other personal account,
12   nor have I provided any of the
13   information to West Face."
14   So having done that, my question to you,
15 sir, going back to questions 161 and 162 of your
16 August 1, 2014, transcript, which you have had an
17 opportunity to review, isn't it true that, in your
18 response to question 161, you've relied specifically on
19 the improbability of opening, looking at, making some
20 sort of decision, and closing a file, and opening the
21 next one within a matter of five seconds? You
22 specifically refer to that, correct?
23   A.   You are talking about 161 and 162?
24   284   Q.   161. Look at the bottom of page 53
25 and the top of page 54.

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1   A.   So I'm reading from this transcript
2   out of 161:
3   "So if you asked me logically for
4   something that's five minutes apart, I
5   totally agree with you. If you ask me
6   for something that is six seconds apart,
7   five seconds apart, I disagree with you.
8   So I can't see how someone -- I'm
9   looking at -- for the very first
10   entry -- someone can open up an Excel
11   spreadsheet, open it, look at it, make
12   some sort of decision, close it, and
13   have the next one open in five seconds
14   later."
15   So I stand by that statement.
16   285   Q.   But isn't it true, sir, that you
17 have no way of knowing when they closed it?
18   A.   I'm making that assumption based on
19 when they opened the next one. In other words, can you
20 review three documents in a second?
21   286   Q.   So you are saying just because they
22 open another file means they must have closed the
23 previous one?
24   A.   I'm not saying that. I'm saying
25 that this -- what I see is consistent with someone

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1   copying a file or set of files in groups. That's what
2   I see.
3   287   Q.   But, sir, you have no basis to
4   conclude that they closed the file, right? You have no
5   evidence?
6   A.   I'm also not suggesting they have
7   opened the file -- I'm not saying that they did or they
8   didn't open the file. It looks consistent with
9   copying, not opening.
10   288   Q.   It's just as consistent with
11 opening or copying?
12   A.   I disagree.
13   289   Q.   Okay. Would you agree with me that
14 your testimony depended on or assumed that, if
15 Mr. Moyse had opened the file, he also had to close it,
16 based on the evidence you had?
17   A.   If he opened it, I'm -- I fully
18 agree that he would have closed it, yes.
19   290   Q.   No, but within the five-second
20 window you referred to. You thought the evidence
21 supported that?
22   A.   If I recall, I was asked a
23 hypothetical question.
24   291   Q.   Yes.
25   A.   I don't believe he opened any of

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1   these files. If you are asking me to look at this
2   piece of paper and make a determination, my experience
3   tells me this is a pattern consistent with copying, not
4   opening. Now, is it possible he opened the file? Yes.
5   Is it logical or makes sense? No.
6   292   Q.   And, sir, when you go to
7   paragraph -- to question 162, you didn't understand at
8   the time that you gave that answer when Microsoft
9   updates the access time?
10   A.   This -- so specifically, we're
11 talking -- correct, to your question. At the time,
12 yes.
13   293   Q.   Okay. But you'd agree with me now
14 that it only updates it when the file is opened or
15 copied, not when it's closed?
16   A.   We have to be -- we have to be very
17 careful when we talk Windows 7, when we talk about
18 updating the last access time, because Windows, by
19 simply opening -- taking a theoretical example, we open
20 a Word document, we close a Word document, and we make
21 no changes, the last access time is not going to get
22 updated. Okay? If we open a picture, view a picture,
23 and close the picture, the last access time is not
24 going to get updated on a Windows 7 operating system.
25   So the reason that the last access time

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1 gets updated is if the master file table entry gets
2 updated for some other reason.
3   For example, if I open a document, I
4 make a change to that document, and I close that
5 document, Windows 7 will update the last modified date
6 and time. Since it's updating the master file table
7 entry anyway, it will also update the last access time.
8   My point is this: If it's only going to
9 update the last access time, it doesn't, by default, in
10 a Windows 7 operating system.
11   So here, we are talking about link
12 files. These are the link files that reference these
13 documents, and the link file was created as a result of
14 accessing these documents -- and "access" is an
15 interesting word -- and because there was an entry
16 created in the master file table, it created all of the
17 information as it related to that link file. And,
18 hence, that's why we get the last access date.
19   I will go back to my -- so I agree with
20 you that, if a document is opened and a link file is
21 created, then the last access date would get updated on
22 the link file, not the document.
23 294   Q.   Right. And that's what we're
24 talking about here, the link files?
25   A.   And that's what we are talking

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1 about, the link files.
2 295   Q.   So when you open a file, the link
3 file's last access date would reflect that moment that
4 you opened it?
5   A.   If we are talking about a link
6 file.
7 296   Q.   Yes. Which is what is in
8 Exhibit F, correct?
9   A.   Which is what is in Exhibit F.
10 297   Q.   Okay.
11   A.   However, this -- what I'm looking
12 at at Exhibit F is consistent with the copying of
13 documents, not the opening of documents. Is it
14 theoretically possible he opened these documents? Yes,
15 but highly unlikely. That's my evidence.
16 298   Q.   If Mr. Moyse had gone through and
17 opened these call them 25 documents at the times
18 indicated and then done nothing else other than close
19 them, you would have this exact same record?
20   A.   I'm running through a scenario in
21 my head, so give me one second to just ... I'm not
22 sure that's true.
23 299   Q.   Mr. Musters, you understand you are
24 here to give objective evidence to help the Court?
25   A.   Yes, absolutely, absolutely.

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1 300   Q.   I'm going to give you one more try
2 here, because we've already got Mr. Burt-Gerrans'
3 evidence on this, and the Court will have to decide
4 between your respective evidence.
5   I don't know exactly how many files
6 there are. Let's say there are 25 files here in
7 Exhibit F.
8   A.   Sure.
9 301   Q.   If Mr. Moyse had done nothing more
10 than open these 25 files on the time and date stamps
11 indicated and then subsequently closed them, you would
12 have the exact same record here as what appears?
13   A.   If you are asking me for a
14 theoretical answer, the answer is yes; however, that is
15 a highly unlikely situation based on what I'm looking
16 at.
17 302   Q.   Okay. And that's based on your
18 assessment of the motivations and profiling of people
19 who engage in corporate malfeasance?
20   A.   It's simply based on what I'm
21 looking at in terms of the times, which are, in some
22 cases, three documents, same second; five documents,
23 same second; eight documents, same second. That's what
24 I'm basing it on.
25   MR. MILNE-SMITH: Okay. Thank you.

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1 Those are my questions.
2   MR. WINTON: I just have one brief
3 question in re-exam.
4   RE-EXAMINATION BY MR. WINTON:
5 303   Q.   Mr. Musters, you recall that
6 Mr. Borg-Olivier gave you an opportunity to provide
7 your evidence regarding Mr. Lo's suggestion that the
8 absence of link files was somehow relevant to whether
9 or not Mr. Moyse had run the reg edit application?
10   A.   I recall that, yes.
11 304   Q.   In your experience as a forensic
12 examiner, investigator, how widely known is it
13 regarding the fact, as you put it, that using reg edit
14 would not create link files?
15   A.   Link files -- there's link files
16 and shortcuts, and oftentimes, terminology, we cross
17 the two, but I can define a link file as a file which
18 is a link to another document, and there are rules
19 around when link files get created: Predominantly when
20 we're bridging -- bridging is the wrong word -- when we
21 are transferring data from one type of file type to
22 another. A simple example is burning files to a CD or
23 a USB drive. We're going to create link files as a
24 result of that activity. Running a program does not
25 create a link file.

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1   Now, I wasn't here when Mr. Lo gave his
2   testimony. If he meant creating a shortcut in the
3   list, the Windows 7 list, commonly referred to as the
4   most recently used activity list, that would,
5   terminology, be a shortcut: Potentially a link file
6   created to show that it had been run. Mr. Lo should
7   have known that running the reg edit program does not
8   create a link or a shortcut or any reference to the
9   most recently used list on a Windows 7 operating
10   system.
11   How common is that? I would assume that
12   any forensic investigator would know that.
13   MR. WINTON: I have no further
14   questions.
15   --- Whereupon the cross-examination concluded at
16   4:12 p.m.
17
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1   REPORTER'S CERTIFICATE
2   I, TERRY WOOD, RPR, CSR, Certified
3   Shorthand Reporter, certify;
4   That the foregoing proceedings were
5   taken before me at the time and place therein set
6   forth, at which time the witness was put under oath by
7   me;
8   That the testimony of the witness and
9   all objections made at the time of the examination were
10   recorded stenographically by me and were thereafter
11   transcribed;
12   That the foregoing is a true and correct
13   transcript of my shorthand notes so taken.
14
15   Dated this 25th day of May, 2015.
16
17   *Terry Wood*
     _____
18   NEESONS
19   PER: TERRY WOOD, RPR, CSR
20   CERTIFIED COURT REPORTER
21
22
23
24
25

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TAB 2

ANDREW WINTON
Direct: 416 644 5342
awinton@counsel-toronto.com
File No: 13094

**LAX
O'SULLIVAN
SCOTT
LISUS**

LAX O'SULLIVAN SCOTT LISUS LLP
Suite 2750, 145 King Street West
Toronto ON M5H 1J8 Canada
Tel: 416 598 1744 Fax: 416 598 3730

Via Email

May 21, 2015

Matthew Milne-Smith & Andrew Carlson
Davies Ward Phillips and Vineberg LLP
Suite 400, 155 Wellington Street West
Toronto ON M5V 3J7

Robert A. Centa & Kris Borg-Olivier
Paliare Roland Rosenberg Rothstein LLP
155 Wellington St. West, 35th Floor
Toronto, ON M5V 3H1

Dear Counsel:

**Re: The Catalyst Capital Group Inc. v. Brandon Moyse et al.
        Court File No. CV-14-507120**

One question (#161) was taken under advisement at Mr. Musters' cross-examination. In response to that question:

- Mr. Musters cannot recall or re-create the search terms used which led to the publicly available information referred to in paragraph 8 of his April 30, 2015 affidavit; and

- Enclosed please find the publicly available information to which Mr. Musters was referring.

In addition to these documents, Mr. Musters also notes that the publicly available information is available on YouTube at https://www.youtube.com/watch?v=PyjjADzw6z0 and https://www.youtube.com/watch?v=lpmdMdu4L7M.

Mr. Musters wishes to correct an error in his testimony. At question 162, Mr. Musters stated that it was incorrect the information he was referring to provided advice as on the removal of the entire ASO program and not simply removal of the remnant files. Upon reviewing the publicly available information, Mr. Musters notes that the information includes advice on the removal of the entire ASO program and his answer to question 162 was incorrect.

Mr. Musters will not re-attend for further cross-examination. None of the other witnesses are re-attending following answers to undertakings or under advisements and we see no reason to proceed any differently with Mr. Musters.

Yours truly,

Andrew Winton

c. Rocco DiPucchio

How to add, modify, or delete registry subkeys and values by using a .reg file

Support for Windows XP has ended

Microsoft ended support for Windows XP on April 8, 2014. This change has affected your software updates and security options.
Learn what this means for you and how to stay protected.

Support for Windows Server 2003 will end on July 14, 2015

Microsoft will end support for Windows Server 2003 on July 14, 2015. This change will affect your software updates and security options.
Learn what this means for you and how to stay protected.

Article ID: 310516 · View products that this article applies to.

This article was previously published under Q310516

Summary

Important This section, method, or task contains steps that tell you how to modify the registry. However, serious problems might occur if you modify the registry incorrectly. Therefore, make sure that you follow these steps carefully. For added protection, back up the registry before you modify it. Then, you can restore the registry if a problem occurs. For more information about how to back up and restore the registry, click the following article number to view the article in the Microsoft Knowledge Base:

322756 (https://support.microsoft.com/kb/322756/) How to back up and restore the registry in Windows

This step-by-step article describes how to add, modify, or delete registry subkeys and values by using a Registration Entries (.reg) file. Regedit.exe uses .reg files to import and export registry subkeys and values. You can use these .reg files to remotely distribute registry changes to several Windows-based computers. When you run a .reg file, the file contents merge into the local registry. Therefore, you must distribute .reg files with caution.

Syntax of .Reg Files

A .reg file has the following syntax:

RegistryEditorVersion
Blank line
[RegistryPath1]
"DataItemName1"="DataType1:DataValue1"
DataItemName2"="DataType2:DataValue2"
Blank line
[RegistryPath2]
"DataItemName3"="DataType3:DataValue3"

where:

RegistryEditorVersion is either "Windows Registry Editor Version 5.00" for Windows 2000, Windows XP, and Windows Server 2003, or "REGEDIT4" for Windows 98 and Windows NT 4.0. The "REGEDIT4" header also works on Windows 2000-based, Windows XP-based, and Windows Server 2003-based computers.

Blank line is a blank line. This identifies the start of a new registry path. Each key or subkey is a new registry path. If you have several keys in your .reg file, blank lines can help you to examine and to troubleshoot the contents.

RegistryPathx is the path of the subkey that holds the first value you are importing. Enclose the path in square brackets, and separate each level of the hierarchy by a backslash. For example:

[
HKEY_LOCAL_MACHINE\SOFTWARE\Policies\Microsoft\Windows\System
]

A .reg file can contain several registry paths. If the bottom of the hierarchy in the path statement does not exist in the registry, a new subkey is created. The contents of the registry files are sent to the registry in the order you enter them. Therefore, if you want to create a new subkey with another subkey below it, you must enter the lines in the correct order.

DataItemNamex is the name of the data item that you want to import. If a data item in your file does not exist in the registry, the .reg file adds it (with the value of the data item). If a data item does exist, the value in your .reg file overwrites the existing value. Quotation marks enclose the name of the data item. An equal sign (=) immediately follows the name of the data item.

DataTypex is the data type for the registry value and immediately follows the equal sign. For all the data types other than REG_SZ (a string value), a colon immediately

follows the data type. If the data type is REG_SZ , do not include the data type value or colon. In this case, Regedit.exe assumes REG_SZ for the data type. The following table lists the typical registry data types:

Data Type	DataType in .reg
REG_BINARY	hexadecimal
REG_DWORD	dword
REG_EXPAND_SZ	hexadecimal(2)
REG_MULTI_SZ	hexadecimal(7)

For more information about registry data types, click the following article number to view the article in the Microsoft Knowledge Base:

256986 (https://support.microsoft.com/kb/256986/) Description of the Microsoft Windows registry

DataValuex immediately follows the colon (or the equal sign with REG_SZ) and must be in the appropriate format (for example, string or hexadecimal). Use hexadecimal format for binary data items.

Note You can enter several data item lines for the same registry path.

Note the registry file should contain a blank line at the bottom of the file.

Adding Registry Subkeys or Adding and Changing Registry Values

To add a registry subkey or add or change a registry value, make the appropriate changes in the registry, and then export the appropriate subkey or subkeys. Exported registry subkeys are automatically saved as .reg files. To make changes to the registry and export your changes to a .reg file, follow these steps:

1. Click **Start**, click **Run**, type **regedit** in the **Open** box, and then click **OK**.
2. Locate and then click the subkey that holds the registry item or items that you want to change.
3. Click **File**, and then click **Export**.

   This step backs up the subkey before you make any changes. You can import this file back into the registry later if your changes cause a problem.
4. In the **File name** box, type a file name to use to save the .reg file with the original registry items, and then click **Save**.

   Note Use a file name that reminds you of the contents, such as a reference to the name of the subkey.
5. In the right pane, add or modify the registry items you want.
6. Repeat steps 3 and 4 to export the subkey again, but use a different file name for the .reg file. You can use this .reg file to make your registry changes on another computer.
7. Test your changes on the local computer. If they cause a problem, double-click the file that holds the backup of the original registry data to return the registry to its original state. If the changes work as expected, you can distribute the .reg you created in step 6 to other computers by using the methods in the "Distributing Registry Changes" section of this article.

Deleting Registry Keys and Values

To delete a registry key with a .reg file, put a hyphen (-) in front of the *RegistryPath* in the .reg file. For example, to delete the **Test** subkey from the following registry key:
HKEY_LOCAL_MACHINE\Software

put a hyphen in front of the following registry key in the .reg file:
HKEY_LOCAL_MACHINE\Software\Test

The following example has a .reg file that can perform this task.

```
[
-HKEY_LOCAL_MACHINE\Software\Test
]
```

To delete a registry value with a .reg file, put a hyphen (-) after the equals sign following the *DataItemName* in the .reg file. For example, to delete the **TestValue** registry value from the following registry key:
HKEY_LOCAL_MACHINE\Software\Test

put a hyphen after the "TestValue"= in the .reg file. The following example has a .reg file that can perform this task.
HKEY_LOCAL_MACHINE\Software\Test

```
"TestValue"=-
```

To create the .reg file, use Regedit.exe to export the registry key that you want to delete, and then use Notepad to edit the .reg file and insert the hyphen.

Renaming Registry Keys and Values

To rename a key or value, delete the key or value, and then create a new key or value with the new name.

Distributing Registry Changes

You can send a .reg file to users in an e-mail message, put a .reg file on a network share and direct users to the network share to run it, or you can add a command to the users' logon scripts to automatically import the .reg file when they log on. When users run the .reg file, they receive the following messages:

   Registry Editor
   Are you sure you want to add the information in *path of .reg file* to the registry?

If the user clicks **Yes**, the user receives the following message:

   Registry Editor
   Information in path of .reg file has been successfully entered into the registry.

Regedit.exe supports a **/s** command-line switch to not display these messages. For example, to silently run the .reg file (with the /s switch) from a login script batch file, use the following syntax:
regedit.exe /s *path of .reg file*

You can also use Group Policy or System Policy to distribute registry changes across your network. For additional information, visit the following Microsoft Web site:
http://msdn2.microsoft.com/en-us/library/ms954395.aspx (http://msdn2.microsoft.com/en-us/library/ms954395.aspx)

Note If the changes work, you can send the registration file to the appropriate users on the network.

Properties

Article ID: 310516 - Last Review: September 30, 2013 - Revision: 11.0

Applies to

- Windows 7 Enterprise
- Windows 7 Professional
- Windows 7 Home Basic
- Windows 7 Home Premium
- Windows 7 Starter
- Windows 7 Ultimate
- Windows Server 2008 R2 Enterprise
- Windows Server 2008 R2 Datacenter
- Windows Server 2008 R2 for Itanium-Based Systems
- Windows Server 2008 R2 Foundation
- Windows Server 2008 R2 Standard
- Microsoft Windows Server 2003, Enterprise x64 Edition
- Microsoft Windows Server 2003, Datacenter Edition (32-bit x86)
- Microsoft Windows Server 2003, Enterprise Edition (32-bit x86)
- Microsoft Windows Server 2003, Standard Edition (32-bit x86)
- Microsoft Windows Server 2003, Web Edition
- Microsoft Windows XP Home Edition
- Microsoft Windows XP Professional
- Microsoft Windows XP Professional x64 Edition
- Microsoft Windows XP Media Center Edition 2005 Update Rollup 2
- Microsoft Windows XP Tablet PC Edition
- Microsoft Windows 2000 Advanced Server
- Microsoft Windows 2000 Professional Edition
- Microsoft Windows 2000 Server
- Microsoft Windows NT Server 4.0 Standard Edition
- Microsoft Windows NT Workstation 4.0 Developer Edition
- Microsoft Windows Small Business Server 2003 Premium Edition
- Microsoft Windows Small Business Server 2003 Standard Edition
- Windows Server 2008 Datacenter
- Windows Server 2008 Enterprise
- Windows Server 2008 for Itanium-Based Systems
- Windows Server 2008 Foundation
- Windows Server 2008 R2 for Embedded Systems
- Windows Vista Business
- Windows Vista Enterprise
- Windows Vista Home Basic
- Windows Vista Home Premium
- Windows Vista Starter
- Windows Vista Ultimate
- Windows Server 2008 Datacenter without Hyper-V
- Windows Server 2008 Enterprise without Hyper-V
- Windows Server 2008 R2 Datacenter without Hyper-V
- Windows Server 2008 R2 Enterprise without Hyper-V
- Windows Server 2008 R2 Service Pack 1
- Windows Server 2008 R2 Standard without Hyper-V
- Windows Server 2008 Service Pack 2
- Windows Server 2008 Standard without Hyper-V
- Windows Vista Business 64-bit Edition
- Windows Vista Enterprise 64-bit Edition
- Windows Vista Home Basic 64-bit Edition
- Windows Vista Home Premium 64-bit Edition
- Windows Vista Service Pack 1
- Windows Vista Service Pack 2
- Windows Vista Ultimate 64-bit Edition
- Windows 7 Professional for Embedded Systems
- Windows 7 Service Pack 1
- Windows 7 Ultimate for Embedded Systems

Keywords: kbenv kbhowtomaster KB310516

Give Feedback
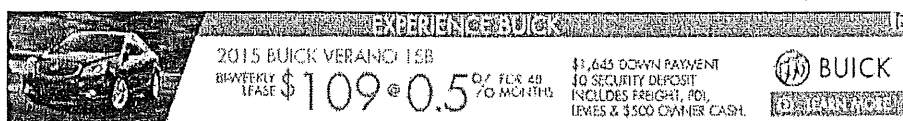
About.com   About Tech   PC Support   ...   Windows Registry

How To Delete Registry Keys in Windows 7

By Tim Fisher
PC Support Expert

SHARE

Confirm Key Delete Message in Windows 7.

Sometimes, as part of a troubleshooting step, or a "registry hack" of some kind, you may need to delete a registry key from the Windows Registry.

Assuming you know the location of the registry key in the Windows 7 Registry, removing it is very easy.

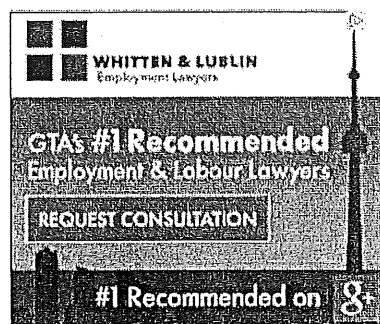However, considering how important the registry is to Windows 7, be sure to follow these instructions exactly!

Follow these easy steps to delete a registry key in the Windows 7 Registry.

Note: Obviously the steps below require working with the Windows Registry. Making changes other than the ones described below could cause serious problems.

Difficulty: Easy

Time Required: Deleting Windows Registry keys in Windows 7 usually takes less than 10 minutes

Here's How:

1. Click on the **Start** button.

2. In the search box, type **regedit** and then press **Enter**. The *Registry Editor* program will open.

3. Using the > icon, navigate through the registry key branches until you reach the subkey (the folder on the left) that you want to delete, or the subkey that contains the value (on the right) you want to delete.

4. Backup the registry key you're about to delete.

   As sure as you probably are that removing this particular key or value will get you the results you're looking for, it's a good idea to create a backup just in case you're wrong and need to restore the information back to the Windows Registry later.

5. If you're deleting the registry subkey, make sure it's selected on the left. If you're deleting a specific registry value, make sure it's selected on the right.

6. With the subkey or value selected, choose **Edit** and then **Delete** from the *Registry Editor* menu.
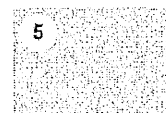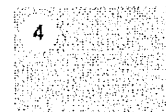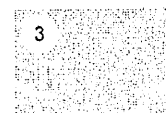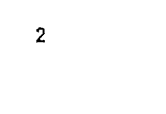
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- PC Support
- Windows 8 Installieren
- Restore My Computer
- PC Backup

7. If you're deleting an entire subkey on the left, you'll be prompted with this *Confirm Key Delete* message:

Are you sure you want to permanently delete this key and all of its subkeys?

If you're deleting one or more individual values on the right, you'll be prompted with this *Confirm Value Delete* message:

Deleting certain registry values could cause system instability. Are you sure you want to permanently delete this value?

8. No matter the confirmation message, click on the **Yes** button to remove the key or value.

   Note: Changes in the Windows 7 Registry are made *immediately*. There are no *Save* or *Undo* options like in many other programs.

9. Close *Registry Editor*.

10. Restart your computer. Depending on the keys or values you removed, you may need to restart to see the changes take effect in Windows 7 or in another program.

11. If deleting the registry key or value didn't do what you expected it to do, you can always restore the registry key using the backup you created in Step 4.

Related Articles

- Here's How To Delete Registry Keys in Windows Vista
- Here's How To Delete Registry Keys in Windows XP
- How To Backup Registry Keys in Windows 7
- How To Backup Registry Keys in Windows Vista
- The Easy Way to Export Your Entire Windows 7 Registry
- Need to Restore a Registry Key in Windows 7? Here's How

More from the Web

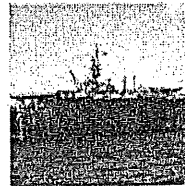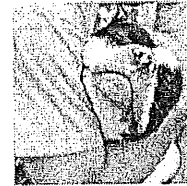**5 Online Jobs That Take Little or No Experience**

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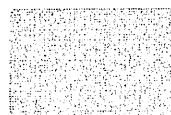
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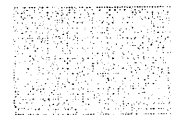
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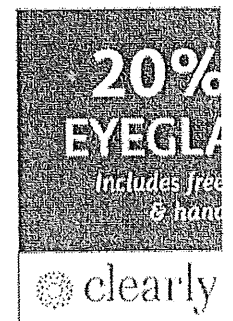
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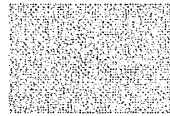
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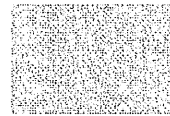
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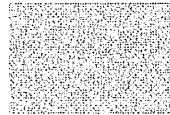
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- How to Remove the Threat
- Delete Threat from Registry
- Threat Category
- How Did My PC Get Infected
- Detecting the Threat

Scan Your PC!

Testimonials

My browser was taking 10 to 15 seconds to load up instead of being instant. Three of the top anti spyware programs insisted all was well. However a few simple instructions from your team and the problem was magically solved.

Nelson S.

Secure Browsing

How to Remove Secure Browsing from Your Computer

To completely purge Secure Browsing from your computer, you need to delete the Windows registry keys and registry values associated with Secure Browsing. These registry keys and values are respectively listed in the Registry Keys and Registry Values sections on this page.

For instructions on deleting the Secure Browsing registry keys and registry values, see the following section How to Remove Secure Browsing from the Windows Registry.

How to Remove Secure Browsing from the Windows Registry^

The Windows registry stores important system information such as system preferences, user settings and installed programs details as well as the information about the applications that are automatically run at start-up. Because of this, spyware, malware and adware often store references to their own files in your Windows registry so that they can automatically launch every time you start up your computer.

To effectively remove Secure Browsing from your Windows registry, you must delete all the registry keys and values associated with Secure Browsing, which are listed in the <u>Registry Keys</u> and <u>Registry Values</u> sections on this page.

IMPORTANT: Because the registry is a core component of your Windows system, it is strongly recommended that you back up the registry before you begin deleting keys and values. For information about backing up the Windows registry, refer to the Registry Editor online help.

To remove the Secure Browsing registry keys and values:

1. On the Windows **Start** menu, click **Run**.
2. In the **Open** box, type *regedit* and click **OK**.
   The **Registry Editor** window opens. This window consists of two panes. The left pane displays folders that represent the registry keys arranged in hierarchical order. The right one lists the registry values of the currently selected registry key.
3. To delete each registry key listed in the **Registry Keys** section, do the following:
   o Locate the key in the left pane of the **Registry Editor** window by sequentially expanding the folders according to the path indicated in the **Registry Keys section**. For example, if the path of a registry key is
   HKEY_LOCAL_MACHINE\software\FolderA\FolderB\KeyName1
   sequentially expand the HKEY_LOCAL_MACHINE, software, FolderA and FolderB folders.
   o Select the key name indicated at the end of the path (**KeyName1** in the example above).
   o Right-click the key name and select **Delete** on the menu.
   o Click **Yes** in the **Confirm Key Delete** dialog box.
4. To delete each registry value listed in the Registry Values section, do the following:
   o Display the value in the right pane of the **Registry Editor** window by sequentially expanding the folders in the left pane according to the path indicated in the **Registry Values** section and selecting the specified key name. For example, if the path of a registry value is
   HKEY_LOCAL_MACHINE\software\FolderA\FolderB\KeyName2,valueC=
   sequentially expand the HKEY_LOCAL_MACHINE, software, FolderA and FolderB folders and select the **KeyName2** key to display the valueC value in the right pane.
   o In the right pane, select the value name indicated after a comma at the end of the path (**valueC** in the example above).
   o Right-click the value name and select **Delete** on the menu.
   o Click Yes in the Confirm Value Delete dialog box.

Registry Keys
HKEY_LOCAL_MACHINE\SOFTWARE\Microsoft\Windows\CurrentVersion\Uninstall\Secure Browsing
HKEY_LOCAL_MACHINE\SOFTWARE\Microsoft\Windows\CurrentVersion\Uninstall\Secure Browsing
<u>Scan your Windows Registry for Secure Browsing</u>

Secure Browsing Categorized as:^

Trojan

A trojan is a program that is disguised as legitimate software but is designed to carry out some harmful actions on the infected computer.

Unlike viruses and worms, trojans don't replicate but they can be just as destructive.

These days trojans are very common. Trojans are divided into a number different categories based on their function or type of damage.

Be Aware of the Following Trojan Threats:

Cussifide, Evolution, Startpage.BW!downloader, Lme, Nookl.

Downloader

A type of trojan. The primary purpose of downloaders is to install malicious code on a user's computer. However, they can enable other malicious uses. For example, they can be used to continually download new versions of malicious code, adware, or "pornware." They are also used frequently used to exploit the vulnerabilities of Internet Explorer.

Downloaders are typically written in script languages such as VBS or JavaScript.

Be Aware of the Following Downloader Threats:

SillyDl.AHL, Small.dge, GenDropper.Sample, Wintrim, Qoologic.at.

How Did My PC Get Infected with Secure Browsing?^

The following are the most likely reasons why your computer got infected with Secure Browsing:

- Your operating system and Web browser's security settings are too lax.
- You are not following safe Internet surfing and PC practices.

Downloading and Installing Freeware or Shareware

Small-charge or free software applications may come bundled with spyware, adware, or programs like Secure Browsing. Sometimes adware is attached to free software to enable the developers to cover the overhead involved in created the software. Spyware frequently piggybacks on free software into your computer to damage it and steal valuable private information.

Using Peer-to-Peer Software

The use of peer-to-peer (P2P) programs or other applications using a shared network exposes your system to the risk of unwittingly downloading infected files, including malicious programs like Secure Browsing.

Visiting Questionable Web Sites

When you visit sites with dubious or objectionable content, trojans-including Secure Browsing, spyware and adware, may well be automatically downloaded and installed onto your computer.

Detecting Secure Browsing^

The following symptoms signal that your computer is very likely to be infected with Secure Browsing:

PC is working very slowly

Secure Browsing can seriously slow down your computer. If your PC takes a lot longer than normal to restart or your Internet connection is extremely slow, your computer may well be infected with Secure Browsing.

New desktop shortcuts have appeared or the home page has changed

Secure Browsing can tamper with your Internet settings or redirect your default home page to unwanted web sites. Secure Browsing may even add new shortcuts to your PC desktop.

Annoying popups keep appearing on your PC

Secure Browsing may swamp your computer with pestering popup ads, even when you're not connected to the Internet, while secretly tracking your browsing habits and gathering your personal information.

E-mails that you didn't write are being sent from your mailbox

Secure Browsing may gain complete control of your mailbox to generate and send e-mail with virus attachments, e-mail hoaxes, spam and other types of unsolicited e-mail to other people.

Download Exterminate It!
TOP10 AlertsTop 100 Alerts

1. SearchPage
2. MyWebSearch
3. BaiduSearchBar
4. SearchProtect
5. SweetIM
6. StartMenuInternet
7. TidyNetwork
8. Baidu (BDSearch)
9. bProtector
10. SmartBar

LATEST 10 FilesLatest Files

1. Win.exe
2. textlinks@lplay.com
3. aabar.dll

4. Incredibar.com
5. ftdownloader2@ftdownloader.com.xpi
6. chrome-extension_ielefkgbofdpglioecfjcbikholflklb_0.localstorage
7. MSupdate.exe
8. CatWSPrx.dll
9. http_www.istartsurf.com_0.localstorage-journal
10. http_www.istartsurf.com_0.localstorage

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Remove & Uninstall Advanced System Optimizer 3.1.648.8773 Completely from Windows

Do you have trouble in completely uninstalling Advanced System Optimizer 3.1.648.8773 from your system? Are you searching for an effective solution to thoroughly get rid of it off your PC? Don't worry! You have come to the right place and you will be able to uninstall Advanced System Optimizer 3.1.648.8773 without any difficulty.

Problems You may Encounter when Uninstalling Advanced System Optimizer 3.1.648.8773

* Advanced System Optimizer 3.1.648.8773 does not work as good as you thought.

* You can not uninstall Advanced System Optimizer 3.1.648.8773 with Add or Remove Programs in Control Panel.

* You keep receiving error messages when you are uninstalling Advanced System Optimizer 3.1.648.8773.

* Advanced System Optimizer 3.1.648.8773 is still running in the background even after you uninstalled it.

* You can still find the folders and files of Advanced System Optimizer 3.1.648.8773 after the uninstallation.

There may be many other problems computer users run into when uninstalling Advanced System Optimizer 3.1.648.8773. As a matter of fact, those issues are caused by improper uninstallation of the program. Also, if the program is corrupted or damaged, users may not be able to uninstall it. Here, you will learn how to correctly and completely remove Advanced System Optimizer 3.1.648.8773.

Recommended Solution:

### Download Automatic Advanced System Optimizer 3.1.648.8773 Uninstall Tool

(100% Tested Virus $ Spyware Free)

Manually Uninstall Advanced System Optimizer 3.1.648.8773 via Add or Remove Programs

As it's known to most of computer users, the most common way to uninstall a program is via Add or Remove Programs.

1.Exit Advanced System Optimizer 3.1.648.8773 and end all of its processes before uninstalling it.

Tips: if you can not exit the program, you can run your PC in Safe Mode. Restart your PC and keep pressing F8 key before your Windows loads. Select Safe Mode with Networking and hit Enter key.
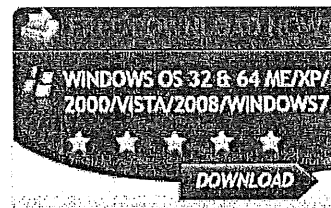
Testimonials

You guys are life saver! I searched for a long time and tried many methods to uninstall my software that stuck in my computer. And then I came to your site and found your uninstall steps could really uninstall my software completely!! Thank you a lot!
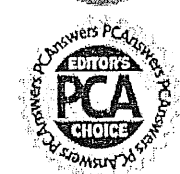
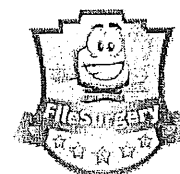----*Amelia W, US*

I can't uninstall my program in Add/ Remove Program. Without your detailed uninstall tutorial, I can't remove my program so easily. Thank you!
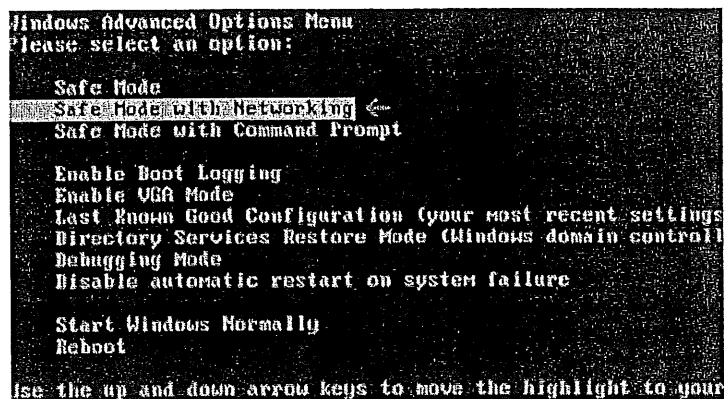
----*Eddie L, CA*

Thank you so much for your guide about uninstalling Norton. Otherwise, I can't install other antivirus. It's very easy for me to understand your uninstall steps. Once again, thank you so much!
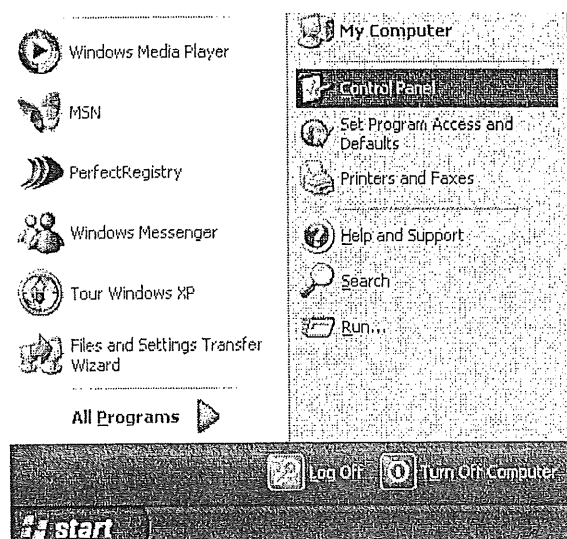
----*Karl B, UK*

Awards

Windows Advanced Options Menu
Please select an option:

Safe Mode
Safe Mode with Networking
Safe Mode with Command Prompt

Enable Boot Logging
Enable VGA Mode
Last Known Good Configuration (your most recent settings
Directory Services Restore Mode (Windows domain controll
Debugging Mode
Disable automatic restart on system failure

Start Windows Normally
Reboot

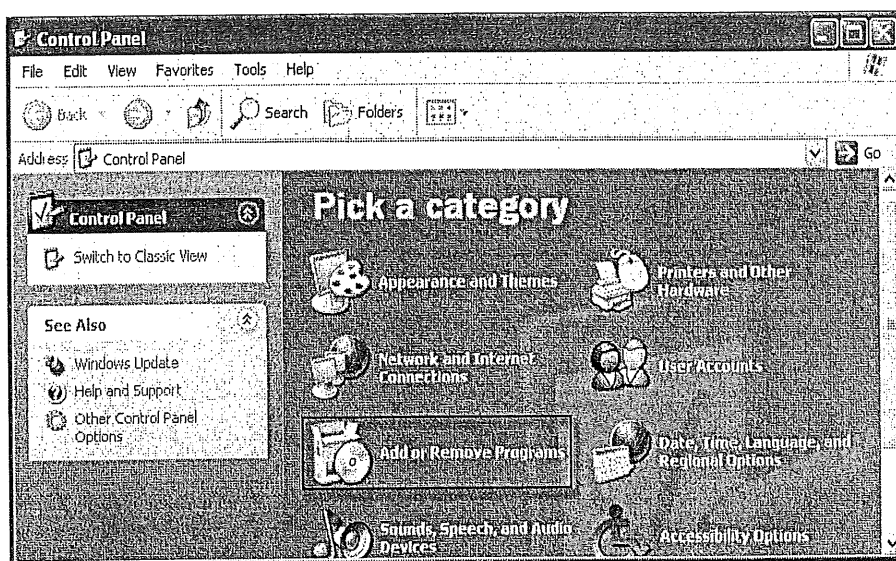Use the up and down arrow keys to move the highlight to your

2.Click Start menu and then select Control Panel.

3.Find and click Add/ Remove Programs.

4.Find Advanced System Optimizer 3.1.648.8773 in the list and click Remove button to initiate the uninstallation.

Video of How to Uninstall Advanced System Optimizer 3.1.648.8773 via Add or Remove Programs:

Manually Uninstall Advanced System Optimizer 3.1.648.8773 with Its Own Uninstaller

If you do not want to use Control Panel to uninstall Advanced System Optimizer 3.1.648.8773, you can also uninstall it with its own uninstaller.

1.Go to the desktop and find the icon of Advanced System Optimizer 3.1.648.8773.

2.Right click its icon and click Properties.
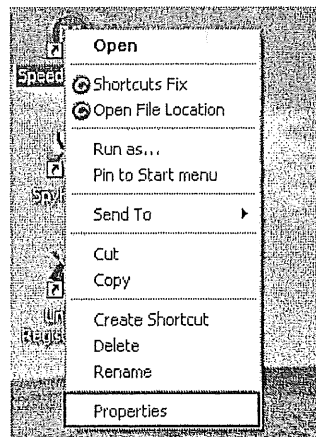
3.Click Find Target option.
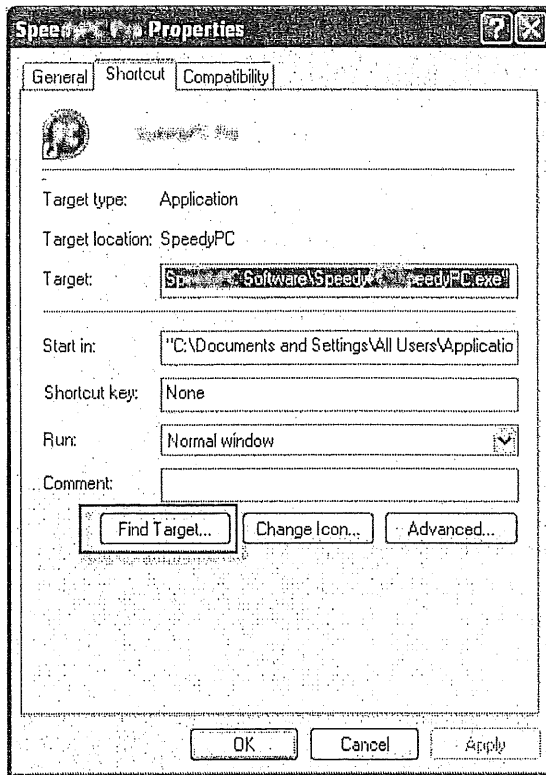
4.Find and run unins000.exe or uninstall.exe in its installation folder.

5.Follow its uninstall dialog and click "Yes" to uninstall it.

6.Reboot your machine after the uninstallation.

Both of the above uninstallation methods are the most common methods for people to uninstall Advanced System Optimizer 3.1.648.8773. Yet, they only allow you to uninstall small programs with few files and are not able to completely remove stubborn software like Advanced System Optimizer 3.1.648.8773. So, the possibility is that many invalid registry files and program files are left in your system and hard disk. If you leave them in your system, your system registry will be stuffed with useless entries and system becomes unstable and slow. In such situation, you need to manually delete those entries and files left in the registry and the system.

Manually Delete the Remanent Files of Advanced System Optimizer 3.1.648.8773

No matter you use Add or Remove Programs or its uninstaller to uninstall the software, it's necessary for you to get rid of the hidden files and components to ensure a 100% complete uninstallation.

1. Delete invalid registry entries

* Click **Start** and **Run**
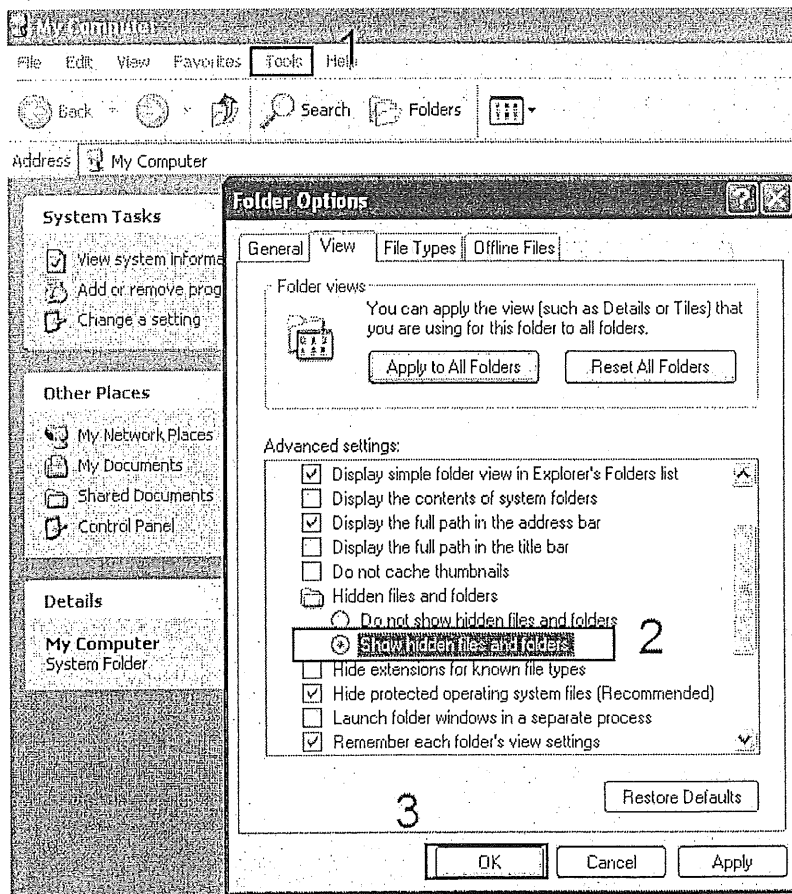* Type in **regedit** in the dialog and click OK
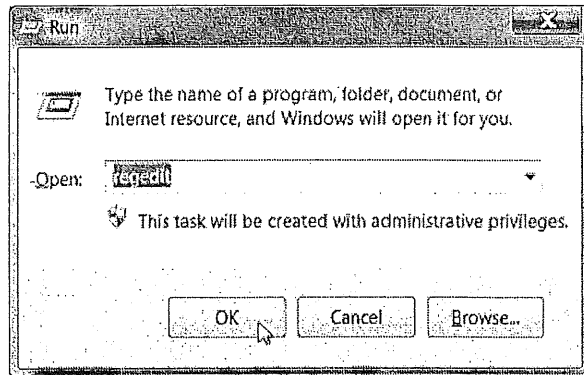
* Find and delete registry entries of the program, such as in
HKEY_CURRENT_USER\Software\Advanced System Optimizer
3.1.648.8773 and HKEY_LOCAL_MACHINE\SOFTWARE\Advanced System
Optimizer 3.1.648.8773

2. Delete associated files and folders

First you need to show all hidden files in your computer.

* Open My Computer and select Folder Options.

* Find and delete files of the program, such as in C:\Program
Files\Advanced System Optimizer 3.1.648.8773, C:\Documents and
Settings\user name\Application Data\Advanced System Optimizer
3.1.648.8773 and C:\Document and Settings\All Users\Application
Data\Advanced System Optimizer 3.1.648.8773

Some programs may have other files in other locations. Therefore, manually editing

registry could be very time-consuming and risky. Please know that Windows registry is the most important central base of your computer. So, you should be extremely careful when deleting entries there. Otherwise, your system will be crashed.

A Better Way to Automatically Uninstall Advanced System Optimizer 3.1.648.8773

Since most of computer users are not comfortable in manually removing Advanced System Optimizer 3.1.648.8773, it's really advisable for them to resort to the automatic method that is a powerful third-party uninstaller. A powerful third-party uninstaller can

* *Uninstall all kinds of software safer and faster.*
* *Uninstall half-installed or uninstalled software.*
* *Handle those stubborn software that Add/ Remove Programs cannot.*
* *Detect and remove all associated files and components of the software.*
* *Tidy the registry and improve system performance.*
* *Save your hassle to uninstall the software.*

Step 1: Click and Download Automatic Advanced System Optimizer 3.1.648.8773 Uninstaller

Step 2: Install and launch the Uninstaller on the PC

Step 3: Select Advanced System Optimizer 3.1.648.8773 and **click Uninstall button** to uninstall.

Download Automatic Advanced System Optimizer 3.1.648.8773 Uninstaller Now!

(100% Tested Virus $ Spyware Free)

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Divisional Court File No.: 648/15

Court File No.: CV-14-507120

THE CATALYST CAPITAL GROUP INC.
Plaintiff/Moving Party

-and-

BRANDON MOYSE et al.
Defendants/Responding Parties

ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD OF THE
DEFENDANT/RESPONDENT, BRANDON MOYSE

Paliare Roland Rosenberg Rothstein LLP
155 Wellington Street West, 35th Floor
Toronto ON M5V 3H1
Tel: 416.646.4300
Fax: 416.646.4301
Robert A. Centa (LSUC# 44298M)
Tel: 416.646.4314
robert.centa@paliareroland.com
Kristian Borg-Olivier (LSUC# 53041R)
Tel: 416.646.7490
kris.borg-olivier@paliareroland.com
Denise Cooney (LSUC# 64358R)
Tel: 416.646.74908
denise.cooney@paliareroland.com

Lawyers for the Defendant/Responding Party,
Brandon Moyse

Doc 1707761 v1