

Page 221

1 HURLEY, CHAD

15:50:14 2 MR. BASKIN: Q. Would you expect that you

15:50:16 3 would remember that?

15:50:18 4 A Like I said, you know, I may recall some --

15:50:21 5 some of those examples. I can't think of a specific

15:50:27 6 one. I...

15:50:32 7 Q In the course of your -- for the last year or

15:50:36 8 are two, do you recall seeing e-mails where you were

15:50:38 9 so advised of that, that there were serial uploads of

15:50:44 10 entire movies onto the YouTube website?

15:50:47 11 MR. SCHAPIRO: You can answer to the extent

15:50:48 12 that you exclude any work that we had preparing for

15:50:54 13 this deposition.

15:50:56 14 THE WITNESS: No, I can't remember.

15:51:01 15 MR. BASKIN: Q. Do you think those were

15:51:02 16 among the e-mails that were lost?

15:51:06 17 A There may have been some, you know. You

15:51:09 18 know, if it happened within the last year, probably

15:51:12 19 not.

15:51:15 20 Q Now, I think you told us earlier that you

15:51:36 21 were aware or you had heard that Google Video was

15:51:43 22 sweeping for copyrighted materials when they were a

15:51:47 23 direct competitor of yours.

15:51:48 24 MR. SCHAPIRO: Objection; mischaracterizes

15:51:49 25 his prior testimony.

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Page 222

1 HURLEY, CHAD

15:51:51 2 THE WITNESS: I don't -- I don't know exactly

15:51:52 3 what I said -- remember what I said this morning, the

15:51:55 4 exact wording.

15:51:56 5 MR. BASKIN: Q. Well, what's the truth? I

15:51:58 6 don't care about the exact wording this morning.

15:52:00 7 Were you aware that when they were a direct

15:52:03 8 competitor of yours, Google Video was sweeping for

15:52:09 9 copyright materials?

15:52:10 10 MR. SCHAPIRO: Objection; vague.

15:52:11 11 Aware when? The testimony was that he

15:52:13 12 learned about it afterwards.

15:52:15 13 MR. BASKIN: That's fine.

15:52:16 14 Q Did you learn about that afterwards?

15:52:19 15 A That was something I heard. I'd never seen

15:52:20 16 it. That's just -- I heard about it.

15:52:23 17 Q That is, you heard that at the time when

15:52:28 18 Google Video was competing directly with YouTube, that

15:52:33 19 Google Video was sweeping for copyrighted materials?

15:52:36 20 MR. SCHAPIRO: Objection; vague as to

15:52:39 21 "sweeping."

15:52:40 22 THE WITNESS: Yeah, again, I don't -- I don't

15:52:42 23 remember when and where and who told me that or how I

15:52:46 24 came upon it, but that's just something I heard.

15:52:49 25 MR. BASKIN: Q. But it's fair to say, is it

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Page 223

1 HURLEY, CHAD

15:52:52 2 not, that after Google acquired YouTube, this practice

15:53:00 3 of sweeping for copyright violations was not applied

15:53:05 4 at YouTube; correct?

15:53:07 5 MR. SCHAPIRO: Objection; "sweeping."

15:53:09 6 THE WITNESS: Again, I -- you know, I don't

15:53:12 7 necessarily know what was implemented after the

15:53:15 8 acquisition. You'd have to speak to the teams that

15:53:18 9 were focusing on that.

15:53:19 10 MR. BASKIN: Q. Well, your -- you -- you

15:53:20 11 remained CEO after the acquisition; didn't you?

15:53:23 12 MR. SCHAPIRO: Objection; asked and answered.

15:53:25 13 THE WITNESS: Yes, I was CEO.

15:53:27 14 MR. BASKIN: Q. And do you know whether,

15:53:31 15 after the acquisition, when you were CEO, did a Google

15:53:37 16 Video practice of sweeping for videos not apply at

15:53:41 17 YouTube?

15:53:42 18 MR. SCHAPIRO: Vagueness objection as to

15:53:45 19 "sweeping."

15:53:46 20 THE WITNESS: Again, I can't remember what

15:53:48 21 happened, what was applied.

15:53:49 22 MR. BASKIN: Q. You cannot remember whether

15:53:53 23 YouTube post-acquisition has been sweeping for

15:53:57 24 videos --

15:53:57 25 MR. SCHAPIRO: Same objection.

DAVID FELDMAN WORLDWIDE, INC.
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Page 224

1 HURLEY, CHAD

15:54:00 2 MR. BASKIN: Q. -- for copyright violations?

15:54:03 3 A Yeah, I -- I -- I don't know if we are. I --

15:54:04 4 I doubt we are.

15:54:08 5 Q Now, did you have a discussion with somebody

15:54:13 6 at Google to the effect that Google Video's practice

15:54:22 7 of sweeping for copyright violations would not apply

15:54:29 8 at YouTube?

15:54:31 9 MR. SCHAPIRO: Objection; lacks foundation.

15:54:34 10 MR. BASKIN: Q. Did you have such a

15:54:36 11 discussion with anybody, Mr. Hurley?

15:54:37 12 A I -- I -- I can't remember, but there may

15:54:41 13 have been an e-mail.

15:54:42 14 Q Well, an e-mail or discussion, do you ever

15:54:45 15 remember discussing with somebody at Google, you're

15:54:53 16 acquirer, that the practice of sweeping videos for

15:54:59 17 copyright violations would not apply at YouTube post

15:55:03 18 acquisition?

15:55:04 19 MR. SCHAPIRO: Do you want to define what you

15:55:05 20 mean by "sweeping"?

15:55:08 21 THE WITNESS: Can you define sweeping?

15:55:10 22 MR. BASKIN: I ask the questions, not your

15:55:12 23 counsel.

15:55:12 24 Q What -- what -- are you -- did you have any

15:55:15 25 discussion with anybody at Google that the practice of

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Page 225

1 HURLEY, CHAD

15:55:24 2 sweeping videos to take out copyright violations would

15:55:28 3 not apply at YouTube?

15:55:30 4 MR. SCHAPIRO: Objection; vague as to the

15:55:32 5 term "sweeping."

15:55:34 6 THE WITNESS: Again, can't remember.

15:55:36 7 MR. BASKIN: Q. Do you have a memory problem

15:55:39 8 in your daily life?

15:55:40 9 MR. SCHAPIRO: Objection; don't answer that

15:55:41 10 question.

15:55:43 11 MR. BASKIN: Q. Now, you were shown this

15:56:02 12 morning a document actually prepared by your brother,

15:56:11 13 Hurley -- Brent Hurley Exhibit 14 which showed

15:56:16 14 advertising revenue for ads placed on Watch Pages at

15:56:28 15 YouTube in and around June 2006?

15:56:31 16 MR. SCHAPIRO: Do you want us to pull this

15:56:33 17 out?

15:56:34 18 MR. BASKIN: He's welcome to look at it. I'm

15:56:36 19 not going to ask him any questions about the document.

15:56:38 20 Q I just wanted to know, what -- do you

15:56:38 21 remember that document?

15:56:38 22 MR. SCHAPIRO: Objection to the

15:56:39 23 characterization.

15:56:40 24 THE WITNESS: Well, yeah, it's from this

15:56:41 25 morning.

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Page 226

1 HURLEY, CHAD

15:56:42 2 MR. BASKIN: Okay.

15:56:43 3 Q Now, without regard to the document, were you

15:56:52 4 aware -- strike that.

15:56:53 5 Without regard to the document, I take it you

15:56:55 6 were aware that YouTube's practice prior to the

15:57:00 7 acquisition by Google was to run ads against Watch

15:57:06 8 Pages?

15:57:09 9 A Yeah, I don't know how many Watch Pages, but

15:57:12 10 that's what this document implies.

15:57:14 11 Q But independent of the document, just from

15:57:17 12 your experience as CEO of YouTube, you knew that;

15:57:23 13 didn't you, sir?

15:57:24 14 A Yeah.

15:57:25 15 Q Now, how long prior to the acquisition of

15:57:34 16 YouTube by Google, how long a period of time had

15:57:42 17 YouTube advertised against Watch Pages?

15:57:47 18 A I don't -- I don't know the specific

15:57:49 19 length/time.

15:57:49 20 Q Well, your brother's document purports to

15:57:53 21 cover the time, that is, Hurley -- Brent Hurley 14, of

15:57:57 22 June results, June '06.

15:58:03 23 Do you know how much earlier than June '06 --

15:58:08 24 A I think --

15:58:09 25 Q -- did YouTube engage in the practice of

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Page 227

1 HURLEY, CHAD

15:58:15 2 advertising against Watch Pages?

15:58:17 3 MR. SCHAPIRO: Objection; lacks foundation;

15:58:18 4 mischaracterizes the document.

15:58:20 5 THE WITNESS: Again, I can't recall the

15:58:22 6 specific dates. I can't tell you.

15:58:24 7 MR. BASKIN: Q. Now, you are aware, I take

15:58:29 8 it, that there came a time when the practice of

15:58:34 9 that -- of YouTube's practice of advertising against

15:58:37 10 Watch Pages stopped? Is that right, sir?

15:58:43 11 A Yeah, I believe there's a time.

15:58:44 12 Q And do you recall when the time arose that

15:58:49 13 the practice -- YouTube's practice of advertising

15:58:51 14 against Watch Pages stopped?

15:58:54 15 A Well, I'm not aware of -- or I can't remember

15:58:58 16 the specific date that it changed, no.

15:59:00 17 Q Was it shortly after the acquisition by

15:59:02 18 Google, sir?

15:59:06 19 A I'm not sure.

15:59:09 20 Q Was it in and around January 2007?

15:59:13 21 A I don't know.

15:59:13 22 Q Do you recall why the practice of advertising

15:59:18 23 against Watch Pages stopped at YouTube post

15:59:23 24 acquisition?

15:59:25 25 A Beyond any -- any privileged information, I

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Page 228

1 HURLEY, CHAD

15:59:28 2 mean, there's a -- you know, business reasons why.
15:59:30 3 You know, obviously we wanted to show our business
15:59:33 4 partners that we're serious about concentrating on
15:59:36 5 their content, selling their pages, maximizing value
15:59:40 6 for them participating in our -- on our system. We
15:59:43 7 wanted to focus the sales force on that.

15:59:45 8 . Also, just generally, we -- we didn't want to
15:59:47 9 disrupt the user's experience on the site. We wanted
15:59:50 10 to limit the amount of ads, and unless you would join
15:59:53 11 our partner program and not opt into having ads show
15:59:56 12 up against your -- your videos, we didn't want to
15:59:57 13 randomly just put videos against someone's family trip
16:00:00 14 to the beach.

16:00:03 15 Q Do I take from this last answer that you
16:00:05 16 actually have a memory of discussing with somebody
16:00:08 17 that these are the reasons for ceasing advertisements
16:00:13 18 in its Watch Pages?

16:00:14 19 A No, I don't remember specific discussions. I
16:00:17 20 remember this was potentially some of the reasons why
16:00:20 21 we were thinking about it.

16:00:23 22 Q Well, do you know why, in fact, you stopped,
16:00:28 23 why YouTube stopped practice of advertising its Watch
16:00:31 24 Pages?

16:00:31 25 A You know, some of those reasons are what I

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Page 229

1 HURLEY, CHAD

16:00:34 2 just stated. That's what I remember.

16:00:36 3 Q Do you know whether it was an instruction

16:00:41 4 from counsel to stop?

16:00:43 5 MR. SCHAPIRO: Objection; I -- I instruct you

16:00:47 6 not to answer.

16:00:58 7 MR. BASKIN: Q. Well, without regard to what

16:01:00 8 was said to you, do you recall having discussions with

16:01:08 9 counsel on that topic --

16:01:10 10 MR. SCHAPIRO: Object.

16:01:11 11 MR. BASKIN: Q. -- of whether -- of whether

16:01:12 12 ads should be placed against Watch Pages?

16:01:15 13 MR. SCHAPIRO: Objection; instruction not to

16:01:53 14 answer.

16:01:53 15 MR. BASKIN: Q. Who was YouTube's counsel,

16:01:55 16 by the way, external counsel on copyright issues post

16:01:58 17 acquisition? Still Wilson Sonsini?

16:02:03 18 A I'm not sure. It may have been. I don't

16:02:05 19 know.

16:02:35 20 MR. BASKIN: Now, could you hand me this

16:02:45 21 document.

16:03:23 22 Let's mark as Hurley Exhibit --

16:03:30 23 MR. WILKENS: 20.

16:03:32 24 MR. BASKIN: -- 20, the document in my hand,

16:03:35 25 and then we'll hand it to Mr. Hurley.

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Page 230

1 HURLEY, CHAD
16:03:47 2 (Document marked Hurley, C., Exhibit 20
16:03:48 3 for identification.)
16:03:48 4 THE WITNESS: Thanks.
16:04:04 5 THE VIDEOGRAPHER: You lost your microphone,
16:04:06 6 sir.
16:04:07 7 MR. BASKIN: Oh.
16:04:23 8 MR. SCHAPIRO: Do you -- I have a copy.
16:04:26 9 MR. WILLEN: I got something different.
16:04:28 10 MR. SCHAPIRO: I think you handed the back of
16:04:29 11 it, the earlier exhibit.
16:04:30 12 THE WITNESS: Oh, that was the earlier one.
16:04:32 13 MR. SCHAPIRO: Yeah.
16:04:32 14 THE WITNESS: That one had just been sitting
16:04:34 15 there.
16:04:34 16 MR. SCHAPIRO: Oh, I don't know. Maybe that
16:04:36 17 was just on the table. Sorry. You got it?
16:04:41 18 MR. BASKIN: Q. Sir, do you recall seeing
16:04:44 19 Hurley Exhibit 20 prior to today?
16:04:47 20 MR. SCHAPIRO: Other than in preparation for
16:04:48 21 this deposition.
16:04:52 22 THE WITNESS: No, I don't recall.
16:04:53 23 MR. BASKIN: Q. I take it, though, it's fair
16:04:56 24 to say that you are the head -- the Chad Hurley to
16:05:01 25 whom this was sent? .

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Page 231

1 HURLEY, CHAD

16:05:02 2 A It looks like that's the case.

16:05:03 3 Q Now, do you recall this subject matter of

16:05:09 4 this, of -- of Hurley Exhibit 20?

16:05:17 5 A No, not specifically, no.

16:05:18 6 Q Well, do you recall removing that paragraph

16:05:28 7 that begins with "A" for answer from YouTube's

16:05:35 8 policies in and around December 2005?

16:05:39 9 A I -- I don't know what happened in response

16:05:40 10 to this e-mail.

16:05:41 11 Q Do you know whether, in fact, up until that

16:05:48 12 point, you had a review process primarily focused on

16:05:58 13 removing adult content or obvious copyright violations

16:06:04 14 and then you ceased that review process on or after

16:06:09 15 December 2005?

16:06:12 16 A I don't remember the specific time frame, but

16:06:15 17 I think at one point we -- we tried to do something

16:06:18 18 like this, but obviously it -- it continued to change

16:06:24 19 as we tried to strike the appropriate balance, and...

16:06:27 20 Q And by continuing to change, you mean you

16:06:29 21 ceased your review process insofar as it pertained to

16:06:34 22 copyright -- obvious copyright violations in and

16:06:37 23 around December 2005; is that right, Mr. Hurley?

16:06:40 24 A I'm assuming so. I don't know what happened

16:06:42 25 in response to this.

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Page 232

1 HURLEY, CHAD

16:06:43 2 Q Was this roughly the same time that you

16:06:47 3 stopped practice at YouTube of community flagging for

16:06:51 4 copyright violations?

16:06:55 5 A It may have been. I don't -- I don't know

16:06:57 6 what time that happened.

16:07:02 7 Q Because you are the person who ordered that

16:07:04 8 practice be stopped, right, internally; correct?

16:07:09 9 A Yeah, I believe we -- we discussed it.

16:07:11 10 Q And then you -- I think we saw it this

16:07:14 11 morning -- didn't you issue the instruction to stop

16:07:17 12 community flagging?

16:07:20 13 A Yeah, I think I recall it from earlier today.

16:07:26 14 Q Do you recall other practices that had been

16:07:28 15 engaged in at Yoohoo -- at Ya -- at You -- YouTube in

16:07:37 16 connection with copyright compliance that stopped in

16:07:42 17 and around -- strike that.

16:07:44 18 Do you recall other practices that had been

16:07:47 19 engaged in by YouTube, insofar as copyright compliance

16:07:53 20 was concerned, that changed prior to the acquisition

16:08:00 21 by Google?

16:08:00 22 MR. SCHAPIRO: Objection; vague and assumes

16:08:05 23 facts not in evidence.

16:08:07 24 MR. BASKIN: Okay. Well, let me be a little

16:08:10 25 more concrete.

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Page 233

1 HURLEY, CHAD

16:08:10 2 Q You stopped screening -- strike -- strike

16:08:13 3 that.

16:08:13 4 You stopped -- stopped flagging, correct,

16:08:16 5 sir?

16:08:16 6 A Flagging?

16:08:18 7 Q For -- community flagging for copyright

16:08:20 8 violations. You stopped that in the fourth quarter of

16:08:23 9 2005, right, Mr. Hurley?

16:08:25 10 A Again, I don't remember the date, but

16:08:29 11 potentially, yes.

16:08:30 12 Q And then in and around December 2005, at

16:08:35 13 least it's Ms. Gillette's instruction, that this

16:08:38 14 paragraph that references the review process primarily

16:08:45 15 focused on removing adult content or obvious copyright

16:08:50 16 violations, that that also stopped --

16:08:50 17 MR. SCHAPIRO: Objection --

16:08:55 18 MR. BASKIN: Q. -- right, Mr. Hurley?

16:08:56 19 MR. SCHAPIRO: -- mischaracterizes the text

16:08:58 20 of the document.

16:08:59 21 THE WITNESS: Again, in response to this

16:09:01 22 e-mail, I don't know what was -- what had taken place.

16:09:05 23 Like I stated this morning, we were making

16:09:08 24 mistakes. Our community was making mistakes based on

16:09:12 25 their perceived kind of, I guess, definition of

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Page 234

1 HURLEY, CHAD

16:09:15 2 professional content on the site, that we didn't know
16:09:18 3 if it was up there with authorization or not.

16:09:21 4 MR. BASKIN: Q. So, therefore, is your
16:09:24 5 testimony that you now remember stopping the practice
16:09:27 6 of focusing on removing obvious copyright violations
16:09:34 7 from your website?

16:09:36 8 A Well, like I keep saying, I -- I don't
16:09:39 9 remember this specific e-mail. I don't remember the
16:09:41 10 action that was taken because of this. We had -- you
16:09:44 11 know, we have changed our policies over time, but...

16:09:49 12 Q Now, that led, then, to my question of
16:10:06 13 whether there were other practices you recall directed
16:10:13 14 to the issue of copyright compliance that YouTube
16:10:18 15 stopped prior to the acquisition by Google.

16:10:21 16 MR. SCHAPIRO: Objection to the premise
16:10:23 17 embedded in the question.

16:10:26 18 THE WITNESS: Again, I don't -- I don't know
16:10:28 19 what you're specifically referring to.

16:10:31 20 MR. BASKIN: Q. Was it your instruction that
16:10:53 21 YouTube should communicate to its users a canned
16:11:00 22 response regarding their need not to violate
16:11:06 23 copyrights?

16:11:07 24 A We're always trying to educate our -- our
16:11:10 25 users.

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Page 235

1 HURLEY, CHAD

16:11:11 2 Q Well, did you instruct your team that YouTube

16:11:15 3 should use a canned response when a user inquires

16:11:22 4 about its copyright obligations?

16:11:25 5 A I don't remember if I used those specific

16:11:27 6 terms, but, again, if we want to educate our

16:11:29 7 community.

16:11:31 8 Q What about the use of a can response? You

16:11:39 9 don't remember that phrase?

16:11:41 10 A I can't recall that specific remark, no.

16:11:42 11 Q Assuming that you communicated to your

16:11:55 12 YouTube team that all you should do is provide a can

16:12:04 13 response that users should own all copyrights to the

16:12:10 14 material they upload, what meaning does "can response"

16:12:18 15 have for you in that context?

16:12:20 16 MR. SCHAPIRO: Objection; calls for

16:12:21 17 speculation; incomplete hypothetical.

16:12:22 18 THE WITNESS: Yeah, well --

16:12:28 19 MR. BASKIN: Q. Well, do you know the

16:12:29 20 meaning of the word "can response" -- words "can

16:12:32 21 response"?

16:12:33 22 A They can have many different meanings.

16:12:38 23 Q Well, let's -- give me this document. Sorry.

16:13:18 24 I think you're right.

16:13:19 25 MR. WILKENS: Yeah.

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Page 236

1 HURLEY, CHAD

16:13:34 2 MR. BASKIN: Why don't we mark as Hurley

16:13:36 3 Exhibit 21 a document in my hand, and I will hand out

16:13:38 4 copies to other counsel. I'm sorry.

16:13:48 5 You got it?

16:13:50 6 THE WITNESS: Thank you.

16:13:50 7 (Document marked Hurley, C., Exhibit 21

16:13:51 8 for identification.)

16:14:17 9 MR. BASKIN: Q. Have you seen Exhibit 21

16:14:24 10 prior to today, Mr. Hurley?

16:14:30 11 A I don't recall it, no.

16:14:31 12 Q Well, without regard to the exhibit,

16:14:33 13 recalling the particular exhibit, do you recall in

16:14:40 14 communicating to the YouTube team, in your capacity as

16:14:44 15 CEO in and around September 25th, 2005, that "We

16:14:53 16 should communicate the canned response that you should

16:14:57 17 own all copyrights to the material you upload"?

16:15:01 18 Do you remember using --

16:15:03 19 MR. SCHAPIRO: Objection; misstates the text

16:15:05 20 and omits part of the text.

16:15:08 21 MR. BASKIN: Q. Do you remember

16:15:09 22 communicating that, Mr. Hurley?

16:15:11 23 A I don't remember, but it -- it looks like

16:15:12 24 I -- I had.

16:15:14 25 Q And read in the context of the e-mail you, in

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Page 237

1 HURLEY, CHAD

16:15:17 2 fact, sent, what did you mean by "canned

16:15:22 3 response," Mr. Hurley?

16:15:23 4 A Well, I -- I don't know. Like I said, I

16:15:24 5 don't know if -- if we responded to this guy. I don't

16:15:29 6 know if he -- he owned the rights to this clip. I

16:15:32 7 mean, that's what we were trying to communicate to

16:15:34 8 him.

16:15:34 9 I think, obviously to make things efficient,

16:15:39 10 you can't construct -- or you know, construct

16:15:42 11 individual e-mails to -- to keep up with questions. I

16:15:45 12 mean, a canned response is just trying to create a

16:15:47 13 more efficient process so we can educate more people.

16:15:51 14 Q And that's your understanding of what you

16:15:53 15 meant by "canned response"?

16:15:56 16 A I mean, typically, that's how you try to

16:15:58 17 respond to people's questions online.

16:16:00 18 Q Now, on the YouTube website, have there

16:16:15 19 always been a portion of the website that is private?

16:16:23 20 A In terms of -- of -- well, what portion are

16:16:26 21 you talking about?

16:16:27 22 Q Well, are there can -- strike that.

16:16:30 23 Can individuals upload videos to -- not for

16:16:43 24 public dissemination, but for simply private viewing?

16:16:47 25 A Yeah, we have that functionality.

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Page 238

1 HURLEY, CHAD

16:16:49 2 Q And has that functionality existed from the

16:16:52 3 start of YouTube?

16:16:56 4 A I'm trying to remember. I don't know if it

16:16:58 5 existed from the beginning, but it's something that

16:17:00 6 we've had for a while.

16:17:01 7 Q And does it exist today?

16:17:04 8 A Yeah, I believe so.

16:17:05 9 Q Now, if someone wants to upload videos

16:17:17 10 privately to this private part of the YouTube website,

16:17:23 11 can they upload anything they want?

16:17:28 12 A Well, assuming they, you know, follow our --

16:17:32 13 our terms of use, they can upload a clip typically

16:17:39 14 under ten minutes in range.

16:17:40 15 Q Is the ten-minute range limitation applied to

16:17:43 16 private videos?

16:17:46 17 A I believe so, yes.

16:17:47 18 Q And can individuals upload serially entire

16:17:53 19 movies to their private video?

16:17:57 20 A Again, that's against our terms of use, but

16:18:00 21 someone could possibly do it.

16:18:01 22 Q Now, assuming a content owner was intent on

16:18:14 23 preserving its intellectual property and wanted to

16:18:18 24 issue a takedown notice to YouTube, am I correct that'

16:18:25 25 a content owner has zero access to private videos?

DAVID FELDMAN WORLDWIDE, INC.
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Page 239

1

HURLEY, CHAD

16:18:35 2 A I don't know technically the capabilities
16:18:37 3 that we've enabled for the private videos. I mean,
16:18:40 4 obviously those private videos are limited to a set of
16:18:43 5 people, so you can't share them broadly, and we also
16:18:47 6 now, you know, as we continue to improve the -- the
16:18:50 7 content tools that we can provide, we have audio and
16:18:53 8 video fingerprinting, which I think may scan those
16:18:57 9 videos, even though a content owner can't see them.

16:19:01 10 Q Well, with -- in -- let's go back to 2005.

16:19:09 11 Was there any way for any content owner to
16:19:14 12 protect its intellectual property with respect to
16:19:18 13 materials uploaded to private videos?

16:19:24 14 A I'm trying to think. You know, as our tool
16:19:26 15 has -- tools have changed, I -- I -- I don't -- I
16:19:30 16 don't believe there was, other than, you know, we're
16:19:32 17 talking about some of the manual review that we've --
16:19:36 18 we've -- we've changed. I think that was things that
16:19:38 19 we were doing.

16:19:39 20 Q So just so I'm sure I understand your answer,
16:19:42 21 I take it your answer is that in 2005, there was no
16:19:48 22 way for any content owner to protect its intellectual
16:19:52 23 property with respect to materials uploaded to private
16:19:56 24 videos --

16:19:56 25 MR. SCHAPIRO: Objection --

DAVID FELDMAN WORLDWIDE, INC.
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Page 240

1 HURLEY, CHAD

16:19:57 2 MR. BASKIN: Q. -- is that correct?

16:20:00 3 MR. SCHAPIRO: -- misstates the testimony;

16:20:01 4 lacks foundation.

16:20:02 5 THE WITNESS: Yeah, that's not what I said.

16:20:03 6 I just said I -- I -- it -- I -- I don't know. I

16:20:06 7 don't remember.

16:20:07 8 MR. BASKIN: Q. What about with respect to

16:20:11 9 2006?

16:20:13 10 A I don't know. Again, as -- as the tools have

16:20:16 11 evolved, I -- I don't know the -- you know, for, you

16:20:19 12 know, private videos, if partners have the ability

16:20:23 13 beyond some of the -- the audio and video

16:20:25 14 fingerprinting that we have today to -- to see them.

16:20:30 15 Q In 2006 -- strike that.

16:20:36 16 What about in 2007? Could an individual --

16:20:42 17 can a content owner who's not a partner with you, not

16:20:52 18 a partner with YouTube -- could a content owner

16:20:57 19 protect its intellectual property that was uploaded to

16:21:00 20 private videos?

16:21:02 21 MR. SCHAPIRO: Objection; vague; lacks

16:21:04 22 foundation.

16:21:04 23 THE WITNESS: Yeah, can -- can you define

16:21:06 24 "partner"?

16:21:08 25 MR. BASKIN: Well, yeah, sure.

DAVID FELDMAN WORLDWIDE, INC.
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Page 241

1 HURLEY, CHAD

16:21:09 2 Q Let me phrase it this way: Assume that a
16:21:15 3 content owner refuse -- has declined to enter into a
16:21:19 4 license agreement with YouTube. Was there any way
16:21:24 5 that content owner could protect its intellectual
16:21:28 6 property that was uploaded to private video -- to the
16:21:31 7 private part of YouTube?

16:21:33 8 A Again, I don't -- I don't know in any case
16:21:37 9 what the abilities were around private videos. I
16:21:40 10 know, you know, just as a, you know, practical matter,
16:21:44 11 anyone, any partner, if they're in a licensing
16:21:47 12 agreement with us or not, it's our intent to have our
16:21:49 13 tools available to them.

16:21:51 14 Obviously there's probably different levels
16:21:53 15 at which they can have access because there's some
16:21:56 16 level of trust around particular tools that may be
16:21:58 17 more -- more powerful or affect the community more
16:22:02 18 but...

16:22:03 19 Q Well, let's go back again.

16:22:05 20 In 2005, if Viacom declined or did not enter
16:22:12 21 into a license agreement with YouTube, am I correct,
16:22:14 22 sir, that there is no -- was no way for Viacom to
16:22:17 23 access private videos to protect its intellectual
16:22:21 24 property?

16:22:22 25 MR. SCHAPIRO: Objection to the premise

DAVID FELDMAN WORLDWIDE, INC.
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Page 242

1

HURLEY, CHAD

16:22:23 2 embedded in the question.

16:22:25 3 THE WITNESS: Yeah, again, what I was saying,

16:22:32 4 I -- I don't know any partner, you know, a partner at

16:22:33 5 any level, what their abilities were, you know, tied

16:22:35 6 to private videos.

16:22:36 7 MR. BASKIN: Q. That's at any year or just

16:22:38 8 2005?

16:22:38 9 A No, I -- as I was saying, the tools continued

16:22:43 10 to adapt. I -- I don't know how technically it would

16:22:45 11 work for them.

16:22:46 12 Q Am I correct that in 2008, as late as 2008, a

16:22:56 13 content owner has no access to the private videos,

16:23:00 14 unless they sign a license agreement with YouTube?

16:23:03 15 A I'm not aware of that, no. Like I said,

16:23:06 16 we -- we want them to -- you know, a partner, as we

16:23:11 17 define it, is someone that doesn't necessarily need to

16:23:13 18 provide us content or licensing deal.

16:23:15 19 It's, you know, kind of a legal agreement so

16:23:18 20 they can have access to our tools. Obviously, you

16:23:20 21 know, with any piece of technology it's common.

16:23:25 22 Q The question was, as late as 2008, if Viacom

16:23:29 23 declines to enter -- had declined to enter into --

16:23:33 24 with -- a license agreement with you, am I right, sir,

16:23:37 25 that there was no way for Viacom to access the private

DAVID FELDMAN WORLDWIDE, INC.

805 Third Avenue, New York, New York 10022 (212) 705-8585

Page 243

1 HURLEY, CHAD
16:23:42 2 videos to protect its intellectual property rights?
16:23:45 3 MR. SCHAPIRO: Objection; asked and answered.
16:23:47 4 THE WITNESS: Yeah, like I continue to say,
16:23:49 5 any partner at any level, I don't know what their
16:23:52 6 abilities were concerning private videos.
16:23:56 7 MR. BASKIN: Q. Am I also right that
16:23:58 8 individuals who upload videos can switch public videos
16:24:02 9 to private -- and make them private?
16:24:05 10 A Yeah, that's -- that's a functionality that's
16:24:09 11 available.
16:24:09 12 Q Just a press of a button; is that correct?
16:24:11 13 A I -- I think that's what it requires. I
16:24:14 14 don't know if you check a box or click a button,
16:24:17 15 something like that.
16:24:17 16 Q And you mentioned before that there was
16:24:19 17 limited viewership to private videos. When did that
16:24:23 18 start, sir?
16:24:25 19 A I don't know when it exactly started, but
16:24:28 20 that's something that we've had for a while.
16:24:30 21 Q Did you have limited viewership in 2005?
16:24:34 22 A I -- I -- I don't know.
16:24:36 23 Q Did you have limited viewership in 2006?
16:24:39 24 A I can't say for sure. I don't know.
16:24:41 25 Q Did you have limited viewership in 2007?

DAVID FELDMAN WORLDWIDE, INC.
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Page 244

1 HURLEY, CHAD

16:24:44 2 A Again, I -- I don't know the date that we

16:24:47 3 implemented that.

16:24:48 4 Q Now, are there private videos that are --

16:25:01 5 have been viewed thousands or even tens of thousands

16:25:04 6 of times, sir?

16:25:08 7 A Oh, I -- I assume potentially it's a

16:25:10 8 possibility, if it used to be public and they -- they

16:25:13 9 marked it as private. But, you know, I guess it would

16:25:16 10 seem for, you know, a limited group of 25 people to --

16:25:20 11 but there could be. I have lots of great family

16:25:23 12 videos.

16:25:24 13 Q Did you ever, by the way, personally take

16:25:26 14 some public video and mark it private?

16:25:29 15 A Yeah, I may have. I -- like I said, I

16:25:31 16 uploaded family videos, and as the site became more

16:25:34 17 popular, I didn't necessarily want people to see my

16:25:37 18 children running around on the beach.

16:25:40 19 Q Now, am I correct that YouTube has

16:26:58 20 distribution agreements with many other parties to

16:27:06 21 distribute YouTube videos over other medium?

16:27:15 22 A What do you mean by -- by "medium"?

16:27:16 23 Q Well, I think you discussed some of it this

16:27:19 24 morning, but is there a distribution agreement between

16:27:22 25 YouTube and Cingular?

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Page 245

1 HURLEY, CHAD

16:27:27 2 A I believe at one time we probably had a deal

16:27:29 3 with them or a mobile carrier.

16:27:32 4 Q Well, you have one with Verizon today; don't

16:27:35 5 you, sir?

16:27:35 6 A I don't know if that's still the case. We

16:27:37 7 probably do. I don't know.

16:27:38 8 Q You don't know if you have a distribution

16:27:40 9 agreement with Verizon?

16:27:41 10 MR. SCHAPIRO: Objection; asked and answered.

16:27:43 11 THE WITNESS: Again, I -- I don't know. We

16:27:46 12 have lots of partnerships.

16:27:47 13 MR. BASKIN: Q. Do you know if you have a

16:27:49 14 distribution agreement with Vodafone in Europe?

16:27:53 15 A I think we do. That sounds familiar.

16:27:55 16 Q Now, do you -- do you know if you have a

16:27:56 17 dis- -- you told us this morning you have a

16:27:59 18 distribution agreement with iPhone; is that correct?

16:28:00 19 A With Apple, yes.

16:28:01 20 Q And you have a distribution agreement also

16:28:04 21 with Apple TV; is that correct?

16:28:05 22 A Well, again, same company, Apple, yeah.

16:28:07 23 Q And what other distribution agreements come

16:28:09 24 to your mind in addition to the ones I just mentioned?

16:28:13 25 A I don't know. A -- a -- a few different hard

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Page 246

1 HURLEY, CHAD

16:28:15 2 year -- hardware manufacturers, I think. I believe
16:28:19 3 Sony TVs or Panasonic TVs, TiVo, you know, different
16:28:26 4 manufacturers in terms of mobile phones or carriers.
16:28:29 5 It's a lot. That's why I can't remember any
16:28:32 6 specifics. It's just...

16:28:34 7 Q Well, just give me the names of a few of
16:28:37 8 these "a lot" that you have a lot of these
16:28:40 9 distribution agreements.

16:28:40 10 A Well, like I said, Sony, Panasonic, TiVo, and
16:28:46 11 other kind of smaller, I guess, players. I think
16:28:52 12 Roku. That's like the Netflix box. Quite a few.

16:28:58 13 Q Now, in connection with all of these
16:29:01 14 distribution agreements, I take it the agreements are
16:29:09 15 embodied in contracts; are they not?

16:29:12 16 A Yeah, typically.

16:29:12 17 Q And you get paid, that is, by "you," meaning,
16:29:18 18 YouTube gets paid for all of these distribution
16:29:20 19 agreements; do they not?

16:29:23 20 A I don't think so. I don't think --
16:29:24 21 typically, I don't know how the deals -- each
16:29:27 22 individual deal was structured, but typically we just
16:29:30 23 have an API and they sign an agreement to access that
16:29:35 24 API.

16:29:36 25 Q And what is an API?

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Page 247

1 HURLEY, CHAD
16:29:38 2 A It's application, some protocol -- something
16:29:42 3 interface. I -- I don't know.
16:29:42 4 Q So am I to understand that you enter into
16:29:46 5 these distribution agreements with these carriers for
16:29:48 6 free?
16:29:53 7 A For the most part. I mean, maybe in the
16:29:55 8 early deals we -- there may have been some -- some
16:29:58 9 kind of value attached to it, but I can't remember.
16:30:01 10 Q And when you enter into them for free with
16:30:06 11 some of the distributees, is the assumption that
16:30:11 12 you'll share advertising revenue with them for videos
16:30:12 13 displayed over -- over their medium?
16:30:14 14 A Probably sometimes. I don't know of specific
16:30:18 15 agreements, what's in each one with each company.
16:30:21 16 Q Well, I assume in every case you get paid
16:30:24 17 some way, do you not, Mr. Hurley?
16:30:27 18 A I don't know. I -- I don't think in every
16:30:29 19 case, but maybe some of them.
16:30:32 20 Q Well, which distribution agreements are you
16:30:37 21 entering into with some of these large companies
16:30:41 22 without getting paid? Tell us one.
16:30:45 23 A I -- I can't think of one specifically, but I
16:30:47 24 just know in general we -- we have an API together --
16:30:51 25 available, and they have the ability to -- to access

DAVID FELDMAN WORLDWIDE, INC.
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Page 248

1 HURLEY, CHAD

16:30:53 2 that API. I don't know if every time we -- we do a
16:30:56 3 deal whether there's any revenue involved or any kind
16:30:59 4 of sharing of ad revenue.

16:31:00 5 Q You don't know that?

16:31:02 6 A Every time, no.

16:31:05 7

16:31:16 8

16:31:21 9

16:31:23 10

16:31:27 11

16:31:31 12

16:31:33 13

16:31:38 14

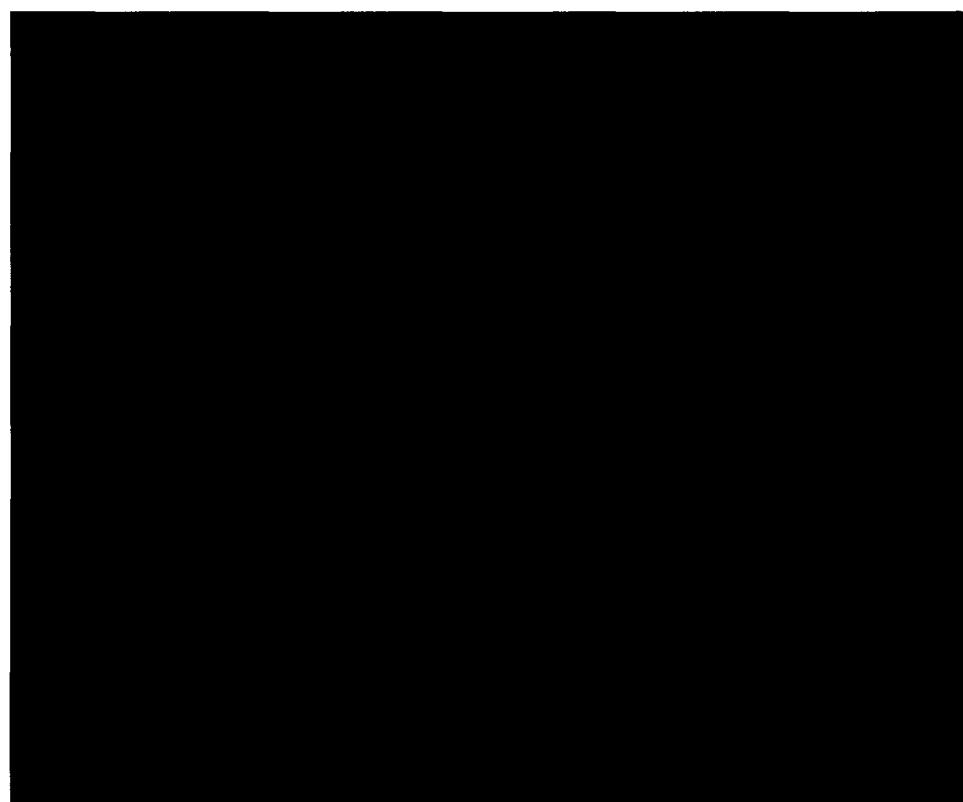
16:31:38 15

16:31:41 16

16:31:42 17

16:31:44 18

16:31:50 19



16:31:51 20 Q Now, what about with Vodafone in Europe? Or
16:31:54 21 is that -- is it just in Europe that you have a deal
16:31:56 22 with Vodafone or is it Vodafone worldwide?

16:31:59 23 A I'm not sure. I don't know if they may be in
16:32:02 24 other countries. I typically associate them with
16:32:05 25 Europe, but...

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Page 249

1 HURLEY, CHAD

16:32:05 2 Q And what is the form of payment in the

16:32:07 3 Vodafone transaction?

16:32:09 4 A That one, I -- I don't know. I haven't seen

16:32:11 5 the -- the deal terms on that or I can't remember

16:32:14 6 them. I don't know what it is.

16:32:15 7 Q Do you think you're distributing your YouTube

16:32:20 8 videos over Vodafone for free?

16:32:24 9 A I couldn't tell you. I don't know.

16:32:32 10 Q Now, did you -- when -- when Google acquired

16:32:55 11 YouTube, did Eric Schmidt tell you that your focus

16:33:07 12 should be to grow playbacks to one billion a day?

16:33:13 13 A I don't know. He may -- he may have told --

16:33:15 14 told us that. He -- you know, when he came by the

16:33:18 15 office and would speak with us, he -- he wanted to

16:33:20 16 make sure that we stayed focus on what was -- what was

16:33:23 17 important.

16:33:24 18 That, you know, continue to grow numbers on

16:33:26 19 all fronts, build a great user experience, you know,

16:33:30 20 bring partners on board and build a great advertising

16:33:34 21 tool. So kind of, you know, he just wanted us to

16:33:36 22 continue momentum.

16:33:37 23 Q Who is -- do you know who David Eun is,

16:33:42 24 E-U-N?

16:33:43 25 A Yeah, I know David. I don't know. I

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Page 250

1 HURLEY, CHAD

16:33:47 2 can't -- I don't know what his current title is. He
16:33:49 3 basically leads partnerships for, I think, YouTube and
16:33:53 4 a few other products at Google. I don't know what it
16:33:56 5 is today.

16:33:57 6 Q And I think you already mentioned before
16:34:00 7 someone named Suzie Reider; who is she?

16:34:03 8 A Yeah, she -- she would lead sales. Again, I
16:34:06 9 don't know her current title or where she reports now,
16:34:08 10 but she's based in San Bruno and typically leads the
16:34:11 11 sales team there.

16:34:12 12 Q So these are both -- strike that.

16:34:17 13 Do -- do these individuals work with you in
16:34:19 14 connection with YouTube?

16:34:27 15 A Yeah, from time to time.

16:34:28 16 Q Now, there's an e-mail, which I have no
16:34:32 17 reason to believe you ever saw, but in which
16:34:34 18 Ms. Reider is communicating to Mr. Eun. I just want
16:34:39 19 to read you a line in the e-mail.

16:34:40 20 MR. SCHAPIRO: Would you mind giving us a
16:34:42 21 Bates number or a --

16:34:43 22 MR. BASKIN: Yeah, I may be able to give you
16:34:45 23 the e-mail itself, if you want it. This is one of
16:34:48 24 the --

16:34:50 25 MR. SCHAPIRO: If we can have it as an

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Page 251

1 HURLEY, CHAD
16:34:52 2 exhibit, that would be great, Stu.
16:34:56 3 MR. BASKIN: I will give you -- to you --
16:34:58 4 well, the Bates number is -- well, let me give you --
16:35:00 5 find -- see if I can find the exhibit.
16:35:01 6 MR. SCHAPIRO: Thank you.
16:35:03 7 MR. BASKIN: I'm not marking it. I just want
16:35:05 8 to reference this, and I just want to get his --
16:35:10 9 MR. SCHAPIRO: Fine.
16:35:11 10 MR. BASKIN: So here it be.
16:35:13 11 MR. SCHAPIRO: So if you're not marking it,
16:35:14 12 is it okay that I read or you read the Bates number
16:35:17 13 into the record, just so we know what it is?
16:35:19 14 MR. BASKIN: Sure.
16:35:20 15 MR. SCHAPIRO: This is G00001-02021241.
16:35:28 16 MR. BASKIN: Now -- I'm sorry.
16:35:30 17 MR. SCHAPIRO: It's all right.
16:35:31 18 It's an e-mail that purports to be from David
16:35:34 19 Eun to Suzie Reider, September 14th, 2007.
16:35:39 20 MR. BASKIN: Q. And in the third full
16:35:41 21 paragraph, Mr. Hurley, they make reference -- this
16:35:46 22 e-mail makes reference to you and says, "If you -- we
16:35:48 23 think back to last November," that would be
16:35:52 24 November 2006, that's when the deal closed between
16:35:55 25 YouTube and Google; correct?

DAVID FELDMAN WORLDWIDE, INC.
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Page 252

1 HURLEY, CHAD

16:35:57 2 A Yeah, I -- I -- I think it's around that time

16:35:59 3 frame, yes.

16:36:01 4 Q "You are Chad. Your head is spinning and

16:36:04 5 Eric Schmidt, COO of the most powerful company in the

16:36:08 6 world, tells you your only focus is to grow playbacks

16:36:12 7 to one billion per day --- that's what you do"; do you

16:36:20 8 see that reference in the document?

16:36:23 9 A Yes.

16:36:23 10 Q Do you recall Mr. Schmidt, in fact,

16:36:26 11 instructing you, Chad, that your only focus is to grow

16:36:34 12 playbacks to one billion per day?

16:36:37 13 A You know, I don't remember a specific

16:36:39 14 conversation, but he was definitely confident in our

16:36:44 15 ability to build a great product.

16:36:46 16 Q But do you recall him telling you in the

16:36:49 17 course of building this great product he wanted you to

16:36:53 18 grow playbacks to one billion per day?

16:36:56 19 A I -- I don't know specifically, but

16:36:59 20 definitely growing user base, growing plays was, you

16:37:04 21 know, something we aspired to do.

16:37:06 22 Q Now, did there come a time when Mr. Schmidt's

16:37:10 23 thinking shifted on that and he changed his direction

16:37:12 24 to you guys to YouTube?

16:37:18 25 A I mean, maybe slightly. He -- he's always,

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Page 253

1

HURLEY, CHAD

16:37:19 2 you know, pushing us to create a great product and a
16:37:24 3 great user experience and continue to grow the -- the
16:37:25 4 community. But obviously with what's happened in the
16:37:28 5 economy and, you know, to some extent Google's
16:37:31 6 business, although it's performing quite well, you
16:37:35 7 know, we've -- we've had ideas of advertising as -- as
16:37:39 8 we started this project. He, you know, wanted us
16:37:43 9 to -- to concentrate a little bit more on -- on
16:37:45 10 defining some of those -- what some of those solutions
16:37:47 11 may be.

16:37:50 12 Q Well, let me show you what we'll mark as
16:37:52 13 Exhibit 22, Hurley Exhibit 22.

16:37:53 14 A I'm sorry.

16:38:07 15 (Document marked Hurley, C., Exhibit 22
16:38:08 16 for identification.)

16:38:08 17 THE WITNESS: Thanks.

16:38:28 18 MR. BASKIN: Q. Why don't you read
16:38:30 19 Exhibit 22 for a second, Mr. Hurley.

16:38:32 20 A Yeah, I'm trying to read through it right
16:38:34 21 now.

16:38:50 22 Yes, I read it.

16:38:51 23 Q Can you identify this as an e-mail that, in
16:38:54 24 fact, was sent out by you in and around March 14th,
16:38:58 25 2008?

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Page 254

1 HURLEY, CHAD

16:38:59 2 A Yeah, it looks like an e-mail I sent.

16:39:01 3 Q And it references that "Three weeks ago

16:39:03 4 Eric" -- is that Eric Schmidt?

16:39:07 5 A Yeah, I think that's who I'm referring to.

16:39:08 6 Q "Shifted his thinking on YouTube's focus, so

16:39:13 7 since that time we have been rapidly been redirecting

16:39:17 8 our efforts and resources from user growth to

16:39:20 9 monetization"; do you see that?

16:39:23 10 A Yeah, I see that.

16:39:24 11 Q What happened three weeks prior to

16:39:27 12 March 14th, 2008, whereby Mr. Schmidt communicated to

16:39:32 13 you that his thinking had shifted and that he wanted

16:39:37 14 you to redirect your efforts from user growth to

16:39:41 15 monetization?

16:39:43 16 A Yeah, like I -- I mentioned in my previous

16:39:45 17 answer, that, you know, obviously what was happening

16:39:49 18 in the economy and, to some effect, Google's core

16:39:53 19 business of advertising, they wanted us to make this

16:39:56 20 more of a priority.

16:39:58 21 You know, he didn't want us to -- to redirect

16:40:00 22 all our efforts. I don't -- it doesn't say all our

16:40:03 23 efforts, but focus more on monetization, which we --

16:40:06 24 we started to do.

16:40:07 25 Q And by the time Mr. Schmidt had -- had asked

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Page 255

1 HURLEY, CHAD

16:40:12 2 you to shift your focus this way, had you, in fact,
16:40:20 3 reached one billion views?

16:40:26 4 A I'm -- I'm not sure in terms of dates. We
16:40:30 5 may have.

16:40:30 6 Q And today have you reached one billion views?

16:40:34 7 A Yes.

16:40:35 8 Q Per day?

16:40:38 9 A Yeah, I mean, we -- we've -- we've constantly
16:40:40 10 kind of adjusted, you know, what a view really means,
16:40:44 11 but, yeah, over -- over a billion views, yeah.

16:40:46 12 Q And now, I take it, pursuant to this
16:40:50 13 communication from Mr. Schmidt, you are now going to
16:40:56 14 try to monetize that user base; is that correct?

16:41:01 15 MR. SCHAPIRO: Objection; foundation; assumes
16:41:03 16 facts.

16:41:04 17 THE WITNESS: Yeah, again, like I was saying,
16:41:07 18 I -- I don't think, you know, he was targeting a
16:41:08 19 specific number for us to shift. It was just kind of,
16:41:12 20 you know, strategically kind of looking at the
16:41:16 21 environment and making an intelligent decision, we
16:41:19 22 adjusted.

16:41:20 23 MR. BASKIN: Is it time? Okay.

16:41:22 24 We have to break the tape.

16:41:23 25 THE WITNESS: Okay.

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Page 256

1 HURLEY, CHAD

16:41:24 2 THE VIDEOGRAPHER: This is the end of

16:41:26 3 videotape No. 3 in the continuing deposition of Chad

16:41:28 4 Hurley on April 22nd, 2009.

16:41:32 5 The time is 4:40 p.m.

16:41:34 6 We're off the record.

16:41:36 7 (Recess taken.)

16:53:22 8 THE VIDEOGRAPHER: This is the beginning of

16:53:23 9 videotape No. 4 in the deposition of Chad Hurley on

16:53:27 10 April 22nd, 2009.

16:53:29 11 The time is 4:52 p.m.

16:53:32 12 We're back on the record.

16:53:34 13 MR. BASKIN: Mr. Hurley, I think we're in the

16:53:43 14 final lap.

16:53:47 15 MR. SCHAPIRO: Objection.

16:53:49 16 THE WITNESS: What do you mean by that?

16:53:50 17 MR. SCHAPIRO: Let the record reflect that

16:53:51 18 we're smiling.

16:53:52 19 MR. BASKIN: We're not in the final lap.

16:53:56 20 Q In 2006 -- strike that.

16:54:10 21 In 2006, prior to the acquisition of YouTube

16:54:26 22 by Google, did YouTube engage in discussions with a

16:54:36 23 company called Audible Magic?

16:54:40 24 A It sounds familiar. I don't -- I don't know

16:54:42 25 at what time we -- we did have discussions with them.

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Page 257

1 HURLEY, CHAD

16:54:45 2 Q But you remember you had discussions with
16:54:46 3 them prior to your acquisition by Google; correct?

16:54:50 4 A Probably. Like I said, I can't recall
16:54:53 5 specific discussions or when they happened.

16:54:56 6 Q And for what purpose were you having
16:54:58 7 discussions with Audible Magic?

16:55:02 8 A I think it was concerning their technology,
16:55:06 9 audio fingerprinting.

16:55:07 10 Q And, in particular, was -- were you involved
16:55:22 11 in the discussions with Audible Magic?

16:55:25 12 A I may have been from a high level. I don't
16:55:29 13 know. I don't remember any specific e-mails or
16:55:30 14 discussions about it, though.

16:55:33 15 Q When -- am I correct that there were many
16:55:41 16 vendors who approached YouTube in late 2005 throughout
16:55:48 17 2006 regarding providing audio fingerprinting?

16:55:55 18 A I -- I don't know if they approached us or if
16:55:57 19 we approached them, but -- or how many there even
16:56:02 20 were; but, you know, I think the -- the technical team
16:56:03 21 was trying to evaluate different -- different
16:56:07 22 technologies to see how they worked theirs.

16:56:10 23 Q And that, among the competing vendors, was
16:56:13 24 Audible Magic; correct?

16:56:15 25 A I believe they were one.

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Page 258

1 HURLEY, CHAD

16:56:18 2 Q Was one Gracenote? Does that sound familiar?

16:56:22 3 A Gracenote, that sounds familiar.

16:56:23 4 Q What about Shazam? Is that one?

16:56:26 5 A It sort of sounds familiar, but I don't --

16:56:29 6 I -- I don't remember exactly.

16:56:29 7 Q What about Snocap? Does that sound familiar

16:56:32 8 to you?

16:56:33 9 A Yeah, I think. Yeah, I think that's one

16:56:34 10 company now, Gracenote and Snocap. I don't know if

16:56:38 11 they were separate at the time.

16:56:39 12 Q What about INA? Was that one also?

16:56:42 13 A Yeah, I don't -- I don't know if all at the

16:56:44 14 same time, but I think that's the French one, I

16:56:47 15 believe.

16:56:48 16 Q And the technical team, as you referred to

16:56:53 17 it, was trying to determine which among them provided

16:56:59 18 the best product for your purposes; correct?

16:57:02 19 A I think that was, you know, one of the

16:57:04 20 factors that we were evaluating.

16:57:07 21 Q And at roughly this time -- same time period,

16:57:15 22 was YouTube trying to engage in discussions with

16:57:19 23 different large-scale content providers regarding

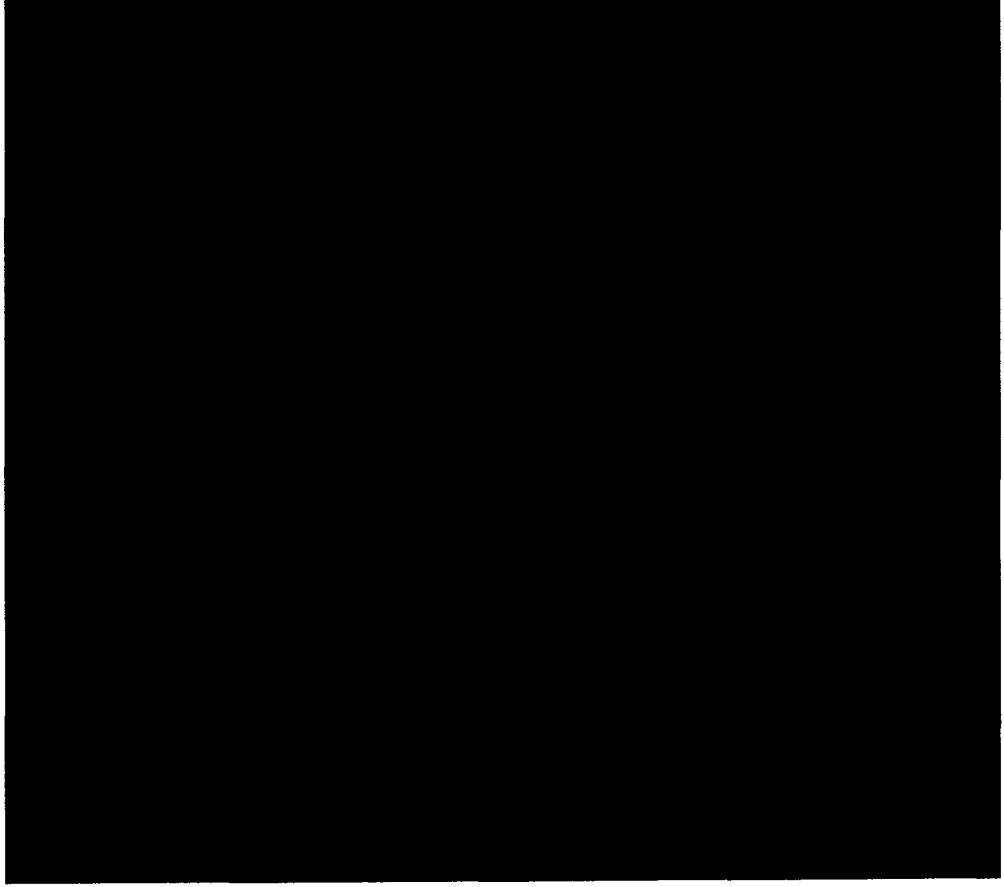
16:57:27 24 you signing licensing agreements between them and

16:57:31 25 YouTube?

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Page 259

1 HURLEY, CHAD
16:57:35 2 A I think we were. I mean, I can't remember
16:57:36 3 the specific ones. I...
16:57:39 4 Q Well, was one that you can remember Warner
16:57:42 5 Music?
16:57:42 6 A Sure. Yeah, we were in discussions with all
16:57:45 7 the labels.
16:57:45 8 Q Was Warner Music actually the first large
16:57:49 9 record company with which you signed a license
16:57:52 10 agreement?
16:57:52 11 A I think they were.
16:57:53 12
16:57:57 13
16:58:01 14
16:58:14 15
16:58:19 16
16:58:20 17
16:58:22 18
16:58:25 19
16:58:28 20
16:58:30 21
16:58:33 22
16:58:37 23
16:58:39 24
16:58:40 25



DAVID FELDMAN WORLDWIDE, INC.
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Page 260

1

HURLEY, CHAD

16:58:41

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16:58:44

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16:58:48

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16:58:53

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16:58:54

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16:59:03

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16:59:04

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16:59:07

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16:59:08

11

Q And how does audio -- what is your

16:59:11

12

understanding how fingerprint technology works or

16:59:15

13

worked at the time? What -- what did it entail?

16:59:17

14

A Well, I'm not -- I'm not an engineer, far

16:59:20

15

from it, but they -- simply just trying to make a --

16:59:24

16

you know, basically a fingerprint that you're trying

16:59:26

17

to match somehow based on the waves or the notes, and

16:59:32

18

that could -- that could be pretty effective in

16:59:34

19

identifying a -- an audio file, audio track.

16:59:42

20

Q And as part of the discussions with these

16:59:48

21

various companies, did you learn what the price would

16:59:59

22

be to enter into a license agreement with one of these

17:00:02

23

fingerprint vendors for them to provide this audio

17:00:06

24

fingerprinting service for you?

17:00:08

25

A I'm sure we did. I mean, again, it's one of

DAVID FELDMAN WORLDWIDE, INC.
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Page 261

1 HURLEY, CHAD

17:00:11 2 the factors, you know, beyond how effective it is,

17:00:14 3 how -- how, you know, effectively it scales, how much

17:00:16 4 it costs. I mean, these are all of the types of

17:00:18 5 things that you look into when you're trying to strike

17:00:21 6 a deal.

17:00:21 7 Q Well, do you know, for example, in the case

17:00:24 8 of Audible Magic, was the cost -- what -- what the

17:00:30 9 approximate cost of a license was gonna be?

17:00:34 10 A I can't -- I can't remember. You know,

17:00:38 11 again, someone on the partnership side tried to strike

17:00:40 12 the deal would know that. Probably Chris Maxcy.

17:00:44 13 Q And does the range of about \$200,000 a year

17:00:49 14 sound about right to you?

17:00:51 15 A I -- I don't know. I can't recall.

17:00:54 16 Q Let me have that one. No, the...

17:01:00 17 Did there come a time when you, in fact --

17:01:03 18 first, this one -- entered into an agreement with

17:01:20 19 Audible -- Audible Magic, as -- as opposed to the

17:01:22 20 other vendors?

17:01:25 21 A I believe, you know, through the process of

17:01:28 22 weighing various factors and, you know, looking at all

17:01:31 23 of the -- looking at all of them, you know, I think we

17:01:34 24 did determine to go with -- with Audible, yeah.

17:01:36 25 Q And did you sign a contract with them in

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Page 262

1 HURLEY, CHAD

17:01:38 2 early October of 2006?

17:01:42 3 A I don't know the exact date.

17:01:44 4 Q Does that sound about right?

17:01:46 5 A I have no idea.

17:01:48 6 Q Well, let me show you what we'll mark as

17:01:52 7 Hurley -- 22; right?

17:01:57 8 A 23.

17:02:04 9 Q And we'll see if this helps you to --

17:02:07 10 A Thank you.

* 17:02:08 11 Q -- determine that the Audible Magic contract

17:02:13 12 was signed in and around October 5th, 2006.

17:02:19 13 (Document marked Hurley, C., Exhibit 23

17:02:21 14 for identification.)

17:02:21 15 THE WITNESS: Yeah, it looks like -- like

17:02:23 16 what the e-mail is saying on that subject --

17:02:25 17 MR. BASKIN: You -- I'm sorry. Strike -- I'm

17:02:28 18 sorry.

17:02:28 19 THE WITNESS: Yeah. From the subject, this

17:02:30 20 looks like what Chris is saying.

17:02:32 21 MR. BASKIN: Q. And one of the recipients of

17:02:33 22 this e-mail was you; right? You're -- you are on the

17:02:35 23 "To" list on this e-mail; correct?

17:02:37 24 A Yep, that's what it looks like.

17:02:38 25 MR. BASKIN: Now, let me show you -- can I

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Page 263

1 HURLEY, CHAD

17:02:46 2 have the term sheet?

17:03:05 3 Let's mark as Exhibit 24 this document, which

17:03:47 4 you're welcome to read, but if you do, we'll be here

17:03:49 5 longer, because I have -- I plan to ask you -- direct

17:03:55 6 your attention to a very small piece of that document,

17:03:57 7 and you're not a recipient of it in any event.

17:04:01 8 So just -- let's mark as Hurley 24.

17:04:01 9 (Document marked Hurley, C., Exhibit 24.

17:04:01 10 for identification.)

17:04:03 11 THE WITNESS: I'll go quickly through it just

17:04:05 12 to get a sense of what it's about.

17:04:07 13 MR. BASKIN: Yeah.

17:04:18 14 THE WITNESS: In -- in which area should I --

17:04:20 15 MR. BASKIN: Q. Let me direct you. I just

17:04:21 16 want to direct -- I'm going to direct you to the price

17:04:23 17 in a second --

17:04:24 18 A Okay.

17:04:24 19 Q -- which is -- you'll find on page -- the

17:04:32 20 Bates stamp ends with 126.

17:04:34 21 A 126. All right.

17:04:56 22 Q Are you -- are you there? Like I said, this

17:04:59 23 is not a document I --

17:05:00 24 A Yeah. I want -- I'm just seeing who sent it

17:05:03 25 and why they sent it. That's all.

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Page 264

1 HURLEY, CHAD

17:05:05 2 Q Okay.

17:05:16 3 A All right.

17:05:16 4 Q And David Estrada, who this was sent to, is

17:05:20 5 he someone who worked for you at YouTube?

17:05:22 6 A Yeah, I think he -- he probably reported to

17:05:25 7 either Chris or Zahavah.

17:05:26 8 Q And then Chris is Chris at YouTube. The

17:05:29 9 other recipient is -- is Chris Maxcy?

17:05:31 10 A Yeah, Chris Maxcy.

17:05:33 11 Q Maxcy?

17:05:34 12 A Yeah.

17:05:34 13 Q And he -- and the only purpose of the

17:05:37 14 document -- I take it you've not seen this document

17:05:39 15 prior to today; is that correct?

17:05:41 16 A Yeah, I don't recall it.

17:05:43 17 Q But the page that I referenced to you before,

17:05:45 18 the one that ends 126, does this help to set forth the

17:05:57 19 approximate cost of this service for the contract that

17:06:00 20 YouTube entered into with Audible Magic?

17:06:03 21 MR. SCHAPIRO: Objection; vague.

17:06:07 22 You want to reword the question?

17:06:10 23 MR. BASKIN: Well, we can go through the

17:06:12 24 whole cause, but -- but in any -- but if you look at

17:06:14 25 the section called "████████" --

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Page 265

1 HURLEY, CHAD
17:06:16 2 A Yes.
17:06:16 3 Q -- and you'll see there's an original term
17:06:18 4 and a couple of extensions, and then various other
17:06:22 5 [REDACTED] that are embodied further down, you're welcome to
17:06:25 6 look at all the [REDACTED], but looking at original term, if
17:06:29 7 we could just stay with that for a second, since that
17:06:31 8 seems to cover the first year 2008, it says on the
17:06:35 9 execution date, "[REDACTED]
17:06:40 10 [REDACTED]"; do you see that?
17:06:43 11 A I see that.
17:06:44 12 Q And does that refresh your recollection
17:06:45 13 that's roughly the -- the upfront cost of this
17:06:50 14 contract seem -- does it ring true to you?
17:06:54 15 MR. SCHAPIRO: Objection; compound.
17:06:58 16 THE WITNESS: Again, I -- I don't remember
17:06:59 17 this -- this, you know, specific -- specific deal, but
17:07:04 18 it looks like this is what the document is stating.
17:07:07 19 MR. BASKIN: Q. And then there was -- and
17:07:17 20 then there's a residual fee of [REDACTED] under
17:07:22 21 certain circumstances you see. That's also part of
17:07:25 22 it, but we -- again, we -- I take it you don't
17:07:27 23 remember the details of that fee?
17:07:29 24 A No.
17:07:30 25 Q Okay. Now, is it your understanding -- by

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Page 266

1

HURLEY, CHAD

17:07:46 2 the way, I take it that you heard good things about
17:07:55 3 the services Audible Magic was -- was providing to
17:07:57 4 YouTube; correct?

17:07:59 5 A Yeah. I'm assuming, yeah, we probably heard
17:08:02 6 great things about all the companies.

17:08:03 7 Q But in particularly the case of Audible
17:08:05 8 Magic, is it -- do you recall that approximately a
17:08:07 9 month after you entered into this contract with
17:08:09 10 them -- by "you" meaning YouTube -- entering into the
17:08:14 11 contract with them, that you actually proposed that
17:08:17 12 Google ought to buy them? Do you remember that?

17:08:21 13 A I may have. You know, we -- we continue to
17:08:27 14 look at ways to, you know, improve our tools and
17:08:31 15 technology. I don't know if at the time we had
17:08:33 16 started trying to develop our own, but, you know, it
17:08:41 17 may have been an idea to pass along.

17:08:44 18 MR. BASKIN: Let me show you what we'll mark
17:08:46 19 as Exhibit 25.

17:08:59 20 (Document marked Hurley, C., Exhibit 25
17:09:00 21 for identification.)

17:09:00 22 THE WITNESS: Thanks.

17:09:59 23 MR. BASKIN: Q. And I take it, again, that
17:10:01 24 Chad Hurley, to whom this was addressed or among whom
17:10:01 25 this was addressed, is you; correct? You got this

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Page 267

1 HURLEY, CHAD
17:10:01 2 e-mail?
17:10:05 3 A Yeah, it looks like I got it.
17:10:06 4 Q And there actually was a prior e-mail
17:10:09 5 reference that you sent out on November 16th, 2006,
17:10:16 6 responding to Peter Chang in which you stated that
17:10:22 7 this could potentially be a very powerful acquisition
17:10:25 8 for Google; correct?
17:10:29 9 A Yeah, it looks like that's what I did, yeah.
17:10:31 10 [REDACTED]
17:11:38 11 [REDACTED]
17:11:47 12 [REDACTED]
17:11:49 13 [REDACTED]
17:11:51 14 MR. SCHAPIRO: Objection; asked and answered.
17:11:53 15 [REDACTED]
17:11:57 16 [REDACTED]
17:11:59 17 [REDACTED]
17:12:02 18 MR. BASKIN: Q. And, in fact, basically all
17:12:09 19 of the media companies that you were talking to in and
17:12:14 20 around October 2006 wanted you to adopt a similar
17:12:19 21 technology to this, a filtering technology; isn't that
17:12:24 22 correct?
17:12:24 23 MR. SCHAPIRO: Objection; lacks foundation.
17:12:29 24 MR. BASKIN: Q. Is that true, sir?
17:12:32 25 A It may have been the case. I --

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Page 268

1 HURLEY, CHAD

17:12:35 2 Q Do you know who Kevin Donahue is?

17:12:37 3 A Yeah, I think he leads partnerships, some

17:12:41 4 partnerships for us. I think he reports to -- to

17:12:44 5 Chris, I think.

17:12:45 6 Q And did he report to you that all of your

17:12:48 7 would-be partners basically want YouTube to agree to

17:12:56 8 certain filtering and copyright protection standards

17:12:58 9 as part of transactions?

17:13:02 10 A It may have been the case. I mean, we make

17:13:04 11 our tools available to them. We want to make our

17:13:07 12 tools available generally to anyone. They don't need

17:13:10 13 to -- to enter into a licensing agreement because of

17:13:13 14 it.

17:13:13 15 Q Okay. We'll get to that.

17:13:15 16 We'll just mark -- let's mark as Exhibit 26,

17:13:21 17 which we'll provide to everyone.

17:13:22 18 (Document marked Hurley, C., Exhibit 26

17:13:26 19 for identification.)

17:13:26 20 THE VIDEOGRAPHER: Counsel, could you slide

17:13:28 21 your microphone up?

17:13:29 22 MR. BASKIN: Yes. Sorry.

17:13:38 23 MR. SCHAPIRO: She's marking it.

17:13:44 24 THE WITNESS: Okay. Let me just read this

17:13:45 25 quickly.

DAVID FELDMAN WORLDWIDE, INC.
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Page 269

1 HURLEY, CHAD

17:13:50 2 MR. BASKIN: Just, again, to speed things

17:13:51 3 along, I'm only going to be referencing the first

17:13:55 4 paragraph with you, so we can try to get everyone to

17:13:57 5 the garage on time.

17:13:58 6 THE WITNESS: Okay. All right.

17:14:56 7 MR. BASKIN: Q. Now, again, this is an

17:14:59 8 e-mail, Exhibit 26, an e-mail, in fact, received by

17:15:03 9 you, correct, sir?

17:15:05 10 A Yeah, that's what it looks like.

17:15:06 11 Q And in the first paragraph, Mr. Donahue is

17:15:09 12 discussing with you some of the wishes of the networks

17:15:13 13 and studios with which you are engaging in discussions

17:15:17 14 at the time; is that correct?

17:15:18 15 A Yeah, it looks like that's what he's

17:15:20 16 discussing here.

17:15:21 17 Q And among the things that they want, I

17:15:26 18 believe, he says, "I believe the business development

17:15:29 19 people would like to do a deal, but you must -- they

17:15:34 20 must satisfy their lawyers and that means that they

17:15:36 21 want YouTube to agree to certain filtering and

17:15:40 22 copyright protection standards"; do you see that?

17:15:43 23 A I see that.

17:15:43 24 Q And was the transaction with Audible Magic,

17:15:46 25 at least in part, intended to provide a filtering

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Page 270

1 HURLEY, CHAD

17:15:52 2 technology that YouTube could use with content

17:15:54 3 partners?

17:15:56 4 A We want to provide it to everyone, but it

17:15:59 5 looks like it's their business development people, you

17:16:01 6 know, wanting us to -- to satisfy their lawyers.

17:16:04 7 They -- they want us to -- to attach it to their deal.

17:16:07 8 It was nothing that we necessarily would ever, you

17:16:10 9 know, want it just attached to a specific deal.

17:16:13 10 Q Okay.

17:16:14 11 A We wanted to have these tools available for

17:16:16 12 everyone.

17:16:17 13 Q Okay. And we'll get back to that again in a

17:16:19 14 second.

17:16:20 15 Now, in fact, let me show you what we will

17:16:26 16 mark as -- I'm not sure we have this. I'm not sure we

17:16:32 17 have this.

17:16:38 18 Okay. Now, during this time period, and also

17:17:12 19 in October of 2006, you were developing a program

17:17:41 20 called CYC or Claim your Content; is that correct?

17:17:45 21 A Yeah, something we developed. I don't know

17:17:49 22 the specific time.

17:17:50 23 Q And CYC had different elements to it; is that

17:17:56 24 correct?

17:17:56 25 MR. SCHAPIRO: Objection; vague.

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Page 271

1 HURLEY, CHAD

17:17:57 2 THE WITNESS: Yeah, in terms of -- what do

17:17:59 3 you mean by "elements"? What "elements"?

17:18:01 4 MR. BASKIN: Q. Well, let me show you what

17:18:03 5 has previously been marked -- yeah.

17:18:33 6 We'll mark this as --

17:18:38 7 A 27.

17:18:38 8 Q -- Exhibit 27.

17:18:42 9 This, again, is not a document that I have

17:18:44 10 any reason to believe you got --

17:18:47 11 A Okay.

17:18:47 12 Q -- but I want to address --

17:18:48 13 MR. SCHAPIRO: But you want to ask him about

17:18:49 14 it.

17:18:50 15 MR. BASKIN: I want to ask -- want to ask you

17:18:51 16 about the content of it.

17:18:58 17 (Document marked Hurley, C., Exhibit 27

17:19:00 18 for identification.)

17:19:00 19 THE WITNESS: Thanks.

17:19:47 20 MR. SCHAPIRO: Do you have another copy of

17:19:49 21 this? And this is which, 27? I'll take a second to

17:19:58 22 read this.

17:20:33 23 MR. BASKIN: Q. Have you had a chance to

17:20:34 24 read it, Mr. Hurley?

17:20:36 25 I take it, have you seen Exhibit 27 prior to

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Page 272

1 HURLEY, CHAD

17:20:38 2 today?

17:20:38 3 A No.

17:20:38 4 Q Now, again, remind us who Mr. Eun is -- or

17:20:44 5 Eun?

17:20:45 6 A Eun, David Eun, again, I don't remember his

17:20:48 7 specific title, but he leads partnerships and other --

17:20:51 8 other products within Google.

17:20:53 9 Q And in the course of this memo, Mr. Eun

17:21:02 10 summarizes some tools available at Google and YouTube,

17:21:11 11 and were there parts of this memo that struck you

17:21:15 12 as -- any part of it that struck you as an inaccurate

17:21:18 13 reflection of what the state of play as of

17:21:22 14 February 2007 at Google and YouTube?

17:21:25 15 A I don't know specifically at that time if --

17:21:27 16 if this is -- was, in fact, true. I -- I wasn't

17:21:31 17 working with these tools.

17:21:32 18 Q Okay. Well, if you look at the tools, he

17:21:36 19 start -- he has two paragraphs at the beginning of the

17:21:43 20 memo. The first one deals with that every potential

17:21:46 21 partner with or without a YouTube deal has -- has

17:21:49 22 access to the automatic takedown tool. This comprises

17:21:54 23 an online console to file DMCA complaints and request

17:22:01 24 takedowns, and then an MD5 hash to proactively take

17:22:09 25 down a new load of previously takedown video file; do

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Page 273

1 HURLEY, CHAD

17:22:14 2 you see that?

17:22:14 3 A Yep.

17:22:14 4 Q And then he describes something called "our

17:22:18 5 CYC tools are now live as well"; do you see that?

17:22:22 6 A I see that.

17:22:23 7 Q And down below he describes what this new CYC

17:22:27 8 system is; do you see that, sir?

17:22:29 9 MR. SCHAPIRO: Objection to the

17:22:29 10 characterization.

17:22:31 11 And, Stu, you're referring to this as a memo.

17:22:36 12 It's an e-mail from David Eun to himself.

17:22:38 13 MR. BASKIN: That's right. That's fair

17:22:38 14 enough.

17:22:38 15 Q That's the way you read it, too; right?

17:22:41 16 Mr. Eun is writing an e-mail to himself; right?

17:22:45 17 A Yeah, it looks like he's making a draft of a

17:22:47 18 potential document, yeah.

17:22:48 19 Q And he says, "The new CYC system has digital

17:22:52 20 hashing on all files"; do you see that?

17:22:54 21 A Where are we?

17:22:56 22 Q The very bottom.

17:22:57 23 A Yes.

17:22:57 24 Q And then it has "Audio fingerprinting system

17:23:00 25 whereby the content partner can send reference

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Page 274

1 HURLEY, CHAD

17:23:07 2 fingerprints to Audible Magic's database, along with a
17:23:11 3 policy decision to license or block each piece of
17:23:14 4 content. Each time a piece of content is uploaded to
17:23:21 5 YouTube, we will check Audible's database and look for
17:23:27 6 a match. If there is a match, the partner's policy
17:23:34 7 kicks in; e.g., license or block"; do you see that?

17:23:37 8 A I see that.

17:23:38 9 Q And then he talks about an advanced text
17:23:41 10 search tool that's also part of the CYC system. Do
17:23:44 11 you see that, sir?

17:23:46 12 A Yeah.

17:23:46 13 Q The very last paragraph.

17:23:47 14 A Yeah, I see that.

17:23:48 15 Q Now, going to the top of the memo that Mr. --
17:23:51 16 or the e-mail that Mr. Eun wrote to himself, he says,
17:23:56 17 as of February 15th, 2007, that "Our CYC tools are now
17:24:03 18 live as well and are only offered to partners who
17:24:07 19 enter into a revenue deal with us"; do you see that?

17:24:10 20 A I see that.

17:24:10 21 Q And is that a correct statement of your
17:24:14 22 policy at YouTube in and around February 15th, 2007?

17:24:19 23 A Again, I -- I -- I don't know. You know,
17:24:24 24 looking at this -- this draft of a document, it seems
17:24:26 25 like he's referring to something -- a new piece of

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Page 275

1 HURLEY, CHAD

17:24:30 2 technology that we've just launched. I mean, it says
17:24:32 3 the new CYC system. I'm assuming this was in some
17:24:36 4 kind of beta. You know, typically, when we were
17:24:41 5 thinking about CYC, this was a tool that -- where you
17:24:44 6 could Claim your Content.

17:24:45 7 You're -- you're not just simply rejecting.

17:24:46 8 You're actually claiming something you want us to
17:24:49 9 place ads against us -- new content, so obviously you
17:24:51 10 need to be in a revenue deal with us.

17:24:53 11 But, you know, I don't believe, you know,
17:24:55 12 as -- as this product, as any product would mature,
17:24:59 13 that you would limit the people that could have access
17:25:01 14 to it. You have to -- you have a limited set of
17:25:03 15 people that helps make it great for everyone.

17:25:05 16 Q Okay. Well, with reference to particularly
17:25:10 17 what Mr. Eun said as of -- in or around February 15th,
17:25:15 18 2007, do you take issue with his statement that "The
17:25:19 19 CYC tools are now live as well and are only offered to
17:25:25 20 partners who enter into a revenue deal with us"?

17:25:27 21 MR. SCHAPIRO: Objection; asked and answered.

17:25:30 22 THE WITNESS: Yeah. As I said, I -- as I
17:25:33 23 explained it in my previous answer.

17:25:36 24 MR. BASKIN: Q. Well, let me put it this
17:25:37 25 way, Mr. Hurley, as of October 2006, when you entered

DAVID FELDMAN WORLDWIDE, INC.
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Page 276

1 HURLEY, CHAD

17:25:44 2 into -- strike that.

17:25:45 3 In October of 2006, when you entered into
17:25:50 4 your license with Audible Magic, can you give us the
17:25:57 5 name of one company to whom YouTube offered filter --
17:26:05 6 fingerprinting technology in the absence of a license
17:26:09 7 agreement with YouTube?

17:26:15 8 A No, I can't. I can't think of a specific, if
17:26:19 9 there was an -- it's assuming there was. I don't
17:26:22 10 know.

17:26:22 11 Q Well, let's go to November then. Let's take
17:26:25 12 it forward.

17:26:26 13 In November of 2006, can you give us the name
17:26:29 14 of one company to whom YouTube offered Audible Magic's
17:26:38 15 fingerprint technology in the absence of that company
17:26:41 16 entering into a license agreement with YouTube?

17:26:44 17 MR. SCHAPIRO: Objection; foundation.

17:26:45 18 THE WITNESS: Again, thinking back to the
17:26:52 19 dates, I -- I can't think of a partic- -- particular
17:26:54 20 example.

17:26:56 21 MR. BASKIN: Let's go to December 2006.

17:26:58 22 Q Can you give us the name of one company in
17:27:01 23 December 2006 to whom YouTube offered Audible Magic's
17:27:08 24 fingerprint technology in the absence of that company
17:27:12 25 entering into a license agreement with YouTube?

DAVID FELDMAN WORLDWIDE, INC.

805 Third Avenue, New York, New York 10022 (212) 705-8585

Page 277

1 HURLEY, CHAD

17:27:15 2 MR. SCHAPIRO: Same objection.

17:27:16 3 THE WITNESS: Well, again, with all of these

17:27:19 4 dates, I mean, if -- if they were a partner or not, or

17:27:21 5 if they had access to the tools or not, I -- I don't

17:27:25 6 know if -- if -- if there were or not deals in place.

17:27:29 7 MR. BASKIN: Q. I take it, with respect to

17:27:31 8 December -- I'm asking you if you can name one such

17:27:34 9 deal. Can you, sir?

17:27:35 10 A I can't.

17:27:36 11 Q What about January 2007? Can you name even

17:27:41 12 one company --

17:27:44 13 MR. SCHAPIRO: Objection; asked and answered.

17:27:46 14 MR. BASKIN: Q. -- to whom you were prepared

17:27:48 15 to offer -- strike that.

17:27:52 16 Can you give us the name of even one company

17:27:54 17 in January 2007 or February 2007 to whom YouTube

17:28:01 18 offered Audible Magic's fingerprint technology in the

17:28:05 19 absence of a license agreement?

17:28:07 20 MR. SCHAPIRO: You can ask for whatever month

17:28:09 21 you want, but he's said he doesn't remember one way or

17:28:13 22 another.

17:28:13 23 MR. BASKIN: Q. January, February, sir, give

17:28:15 24 us the name of one company.

17:28:17 25 A I can't remember.

DAVID FELDMAN WORLDWIDE, INC.
805 Third Avenue, New York, New York 10022 (212) 705-8585

Page 278

1 HURLEY, CHAD

17:28:17 2 Q March?

17:28:18 3 A Like I said, any date, I don't the time frame

17:28:20 4 of when or if we had any deal in place, or...

17:28:24 5 Q When was the first time -- strike that.

17:28:26 6 I take it that with respect to Warner Records

17:28:30 7 you did offer them this technology; did you not?

17:28:34 8 A Well, you know, you know, you're referencing

17:28:37 9 the deal. I -- I'm assuming that -- that it was

17:28:41 10 potentially something that was attached to it.

17:28:43 11 It's -- like I mentioned previously, we were

17:28:45 12 trying to do some unique and creative things in terms

17:28:47 13 of providing maximum choice for a copyright holder.

17:28:50 14 Q And did Warner Records agree to enter into a

17:28:53 15 license agreement with you before you offered them

17:28:55 16 Audible Magic's technology?

17:28:57 17 A I'm not sure. Again, that's assuming that it

17:28:59 18 was part of the terms that they agreed to or part of

17:29:03 19 the deal terms.

17:29:04 20 Q And how about after -- after Warner

17:29:06 21 communications? Was there a second company, record

17:29:08 22 company, with whom you did a deal?

17:29:10 23 A Well, you know, from this e-mail right here,

17:29:12 24 it says UMG. You know, WMG and UMG are live, so...

17:29:17 25 Q UMG is Universal Music; is that correct?

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Page 279

1 HURLEY, CHAD

17:29:20 2 A Yeah.

17:29:20 3 Q And isn't it true, sir, that you offered them

17:29:24 4 Audible Magic technology as well in and around the

17:29:29 5 turn of the year 2007? Isn't that right, sir?

17:29:32 6 A Again, I can't recall.

17:29:33 7 Q And you offered them the Audible Magic

17:29:36 8 technology as part of a license agreement that they

17:29:41 9 entered into with YouTube, correct, sir?

17:29:43 10 A I --

17:29:45 11 MR. SCHAPIRO: Objection; asked and answered.

17:29:46 12 MR. BASKIN: Q. Correct?

17:29:47 13 A I do not know.

17:29:48 14 Q Now, weren't you following these big company

17:29:50 15 deals, Mr. Hurley?

17:29:51 16 A We had lots of deals. We had lots of things

17:29:54 17 going on with the company. That's why I went out to

17:29:56 18 try to hire the best people I could to, again,

17:29:59 19 delegate a lot of this work.

17:30:00 20 Q My question is, were you following these

17:30:02 21 large company deals like Warner and Universal?

17:30:05 22 A Sure.

17:30:05 23 Everything on a high level. I try to, you

17:30:08 24 know, touch base and have meetings with a few

17:30:11 25 individuals. I just can't recall. We -- you know, we

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Page 280

1 HURLEY, CHAD

17:30:14 2 had so much going on in such a short amount of time,

17:30:18 3 it's -- it was a little crazy.

17:30:19 4 Q Do you remember in and around the fall of

17:30:20 5 2006 having discussions with Turner about Turner

17:30:23 6 Communications entering into a license agreement with

17:30:25 7 YouTube?

17:30:27 8 A Yeah. Potentially that -- that could have

17:30:29 9 been the case. I don't remember it specifically.

17:30:30 10 Q You really don't remember that?

17:30:32 11 MR. SCHAPIRO: Objection.

17:30:34 12 MR. BASKIN: Q. You don't remember having

17:30:35 13 discussions with Turner specifically?

17:30:37 14 A We could have. We've been -- you know, like

17:30:42 15 I said, we had lots of partnerships and talked to a

17:30:42 16 lot of people.

17:30:46 17 Q And in and around October 2006 with respect

17:30:48 18 to Turner, were you prepared to offer them audio

17:30:51 19 fingerprinting and metadata searches as part of a

17:30:55 20 license agreement?

17:30:55 21 MR. SCHAPIRO: Objection; assumes

17:30:57 22 conversations.

17:30:57 23 THE WITNESS: Yeah, you know, assuming we did

17:31:00 24 have that conversation or any kind of communication,

17:31:02 25 that it may have been, you know, part of the

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Page 281

1 HURLEY, CHAD

17:31:07 2 discussions. I -- I can't recall.

17:31:08 3 MR. BASKIN: Q. And did Turner, in fact,

17:31:10 4 enter into a license agreement with YouTube as part of

17:31:14 5 those discussions in the fall of 2006?

17:31:16 6 MR. SCHAPIRO: Objection; assumes discussions

17:31:18 7 in the fall of 2006.

17:31:19 8 THE WITNESS: Again, I can't remember. I --

17:31:23 9 I -- I don't believe that we did. I can't recall

17:31:25 10 that.

17:31:25 11 MR. BASKIN: Q. And is it true and fair and

17:31:27 12 accurate to say that after discussions broke down with

17:31:30 13 Turner, you did not offer them the audio

17:31:33 14 fingerprinting in and around the fall of 2006?

17:31:35 15 MR. SCHAPIRO: Objection; foundation.

17:31:36 16 THE WITNESS: Again, I -- I don't remember

17:31:39 17 the discussions that we had and what became of that

17:31:42 18 deal or if we had one.

17:31:43 19 MR. BASKIN: Q. How about Warner? How about

17:31:45 20 Walt Disney Company? Were you familiar with

17:31:47 21 conversations with them in and around January and

17:31:50 22 February of -- strike that.

17:31:52 23 Were you familiar with conversations with

17:31:54 24 Walt Disney Company in and around December 2006?

17:31:58 25 A Again, we -- we very well may have been in

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Page 282

1 HURLEY, CHAD

17:32:00 2 discussions with them. I wouldn't doubt it.

17:32:02 3 Q And as part of those discussions, was -- to

17:32:11 4 your recollection, was YouTube prepared to offer the

17:32:13 5 Walt Disney Company metadata searches, as well as

17:32:23 6 Google shall, on behalf of the Walt Disney Company,

17:32:26 7 pay an audio fingerprint vendor to create an audio

17:32:30 8 fingerprint corresponding to each item of claimed

17:32:33 9 content?

17:32:33 10 MR. SCHAPIRO: Objection; incoherent.

17:32:35 11 MR. BASKIN: Q. Sir, did you offer Walt

17:32:37 12 Disney Company metadata searches and audio

17:32:41 13 fingerprinting as part of a transaction in and around

17:32:44 14 December 2006?

17:32:46 15 A I -- I don't know. Again, I'm -- I wasn't in

17:32:47 16 charge of the -- the deals. I can't recall.

17:32:51 17 Q People were not reporting to you about the

17:32:53 18 discussions with the -- with Walt Disney Company?

17:32:55 19 A Sure. We had lots of discussions, but...

17:32:57 20 Q Do you recall that as part of a transaction,

17:33:01 21 YouTube was prepared to offer them both metadata --

17:33:05 22 metadata searches and fingerprinting technology?

17:33:08 23 MR. SCHAPIRO: Objection; foundation.

17:33:09 24 THE WITNESS: We could have, but then again

17:33:14 25 our goal is to provide these tools to everyone.

DAVID FELDMAN WORLDWIDE, INC.

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Page 283

1 HURLEY, CHAD

17:33:17 2 MR. BASKIN: Q. And when Walt Disney

17:33:19 3 Company -- did Walt Disney Company, in fact, enter

17:33:21 4 into a transaction with YouTube in and around

17:33:23 5 December 2006?

17:33:24 6 A Again, I -- I do not know.

17:33:25 7 Q And is it fair to say, sir, that after they

17:33:27 8 declined to enter into such a transaction with

17:33:30 9 YouTube, that YouTube did not provide to Walt Disney

17:33:34 10 Company either metadata searches or audio

17:33:39 11 fingerprinting --

17:33:39 12 MR. SCHAPIRO: Objection.

17:33:40 13 MR. BASKIN: Q. -- in and around

17:33:43 14 December 2006?

17:33:44 15 MR. SCHAPIRO: Objection; lacks foundation;

17:33:44 16 assumes facts not in evidence.

17:33:46 17 MR. BASKIN: Q. Is that correct, sir?

17:33:47 18 A I mean, I'm assuming that that -- you know,

17:33:49 19 that assumes if, you know, we -- we hadn't reached a

17:33:52 20 deal, but I do not recall.

17:33:53 21 Q What about NBC? Same thing. Did you offer

17:33:57 22 NBC in and around February 2007 the ability to do --

17:34:02 23 to implement approved watermark detection technolog --

17:34:07 24 detection technology to screen all content for

17:34:11 25 potential pirated NBC content on your website?

DAVID FELDMAN WORLDWIDE, INC.
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Page 284

1 HURLEY, CHAD

17:34:16 2 Did you offer them that, sir, in and around

17:34:19 3 February 2007 as part of a license agreement?

17:34:23 4 MR. SCHAPIRO: Compound; objection.

17:34:24 5 Objection to the form.

17:34:25 6 THE WITNESS: Again, I don't recall. We --

17:34:27 7 we listen to our partners, and, you know, things that

17:34:30 8 they suggest, it may come up during deal terms, but

17:34:33 9 we're always looking for great suggestions on how to

17:34:35 10 continue to improve the products.

17:34:37 11 MR. BASKIN: Q. Do you recall offering NBC

17:34:39 12 what I just read to you, sir, in and around

17:34:41 13 February 2007?

17:34:42 14 A I do not.

17:34:42 15 Q Were people reporting to you that you were

17:34:44 16 offering these technologies to NBC in and around

17:34:47 17 February 2007 as part of a license agreement?

17:34:50 18 A I can't recall them mentioning it to me.

17:34:52 19 You'd have to ask them.

17:34:53 20 Q Did you, in fact, enter into a license

17:34:56 21 agreement with NBC in and around February 2007?

17:34:59 22 A We may have. I don't know at what level. I

17:35:04 23 know, you know, they used our site well for -- for

17:35:08 24 marketing reasons and posting clips. I -- I'm

17:35:12 25 relatively confident that was one that was able to

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Page 285

1 HURLEY, CHAD

17:35:14 2 come on board.

17:35:15 3 Q Are you suggesting that you think you might

17:35:17 4 have entered into a techno- -- a license agreement

17:35:18 5 with NBC in and around February 2007?

17:35:21 6 A I don't know if it was part of that deal or

17:35:22 7 if this was a separate one. I don't know.

17:35:24 8 Q And did you, in fact, not end up offering to

17:35:27 9 NBC in and around February 2007 video techno- --

17:35:32 10 fingerprinting technology once they declined to enter

17:35:36 11 into a license agreement with YouTube?

17:35:38 12 MR. SCHAPIRO: Objection; unclear syntax.

17:35:46 13 MR. BASKIN: You can answer a question with

17:35:49 14 unclear syntax.

17:35:49 15 MR. SCHAPIRO: Did you, in fact, not end up

17:35:52 16 offering --

17:35:52 17 THE WITNESS: Yeah.

17:35:52 18 MR. SCHAPIRO: -- once they declined.

17:35:54 19 MR. BASKIN: Okay. Thank you. Let me clear

17:35:55 20 it up.

17:35:56 21 Q Once they declined to enter into a license

17:36:00 22 agreement with you, isn't it true, sir, that you

17:36:03 23 refused to provide NBC with -- with filtering

17:36:07 24 technology -- with fingerprinting technology in and

17:36:08 25 around February 2007?

DAVID FELDMAN WORLDWIDE, INC.
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Page 286

1 HURLEY, CHAD

17:36:10 2 MR. SCHAPIRO: Objection; assumes they

17:36:11 3 declined.

17:36:12 4 THE WITNESS: Yeah, so, assuming they

17:36:14 5 declined and, you know, assuming I would remember this

17:36:17 6 deal, I -- I do not know.

17:36:19 7 MR. BASKIN: Q. Viacom the same thing? Were

17:36:20 8 you prepared to offer Viacom fingerprinting technology

17:36:24 9 in and around December, January, February, of 2006 and

17:36:28 10 2007?

17:36:29 11 A I -- I don't know.

17:36:31 12 Q And once Viacom refused to enter into a

17:36:35 13 license agreement with YouTube, did YouTube offer

17:36:37 14 Viacom fingerprinting technology in -- in and around

17:36:41 15 February 2007?

17:36:42 16 MR. SCHAPIRO: Objection; foundation;

17:36:43 17 compound.

17:36:44 18 THE WITNESS: Again, like all of these

17:36:47 19 examples, I do not know what was in the deal terms.

17:36:51 20 MR. BASKIN: Q. How about EMI Music Group?

17:36:53 21 Are you familiar with that transaction?

17:36:55 22 A You know, I -- I know of the company. You

17:37:00 23 know, the -- I knew we were trying to enter deals with

17:37:02 24 all of the major music labels. Again, I don't know

17:37:05 25 the specific terms, but...

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Page 287

1 HURLEY, CHAD

17:37:06 2 Q Did you enter into a transaction with EMI?

17:37:10 3 A I think we were able to reach agreement with

17:37:11 4 them.

17:37:11 5 Q And as part of that transaction with EMI,

17:37:14 6 they provided you with a license agreement, did they

17:37:16 7 not?

17:37:17 8 A Yeah.

17:37:17 9 Q And as part of the transaction with EMI for a

17:37:20 10 license agreement, you offered them fingerprint

17:37:23 11 technology, did you not, Mr. Hurley?

17:37:25 12 A I don't know.

17:37:26 13 Q Are you familiar with the -- with the

17:37:28 14 transaction with EMI? Did anyone report to you about

17:37:32 15 it, sir?

17:37:33 16 A Again, it would probably go up to Chris

17:37:37 17 Maxcy.

17:37:37 18 Q Were you told, sir, that in connection with

17:37:40 19 EMI's transaction, that YouTube contracted to provide

17:37:48 20 EMI with audio fingerprinting technology that shall

17:37:57 21 be -- shall be 95 percent or greater effective at

17:38:01 22 protecting them from uploads on your website?

17:38:06 23 A Well, considering I don't remember the terms

17:38:07 24 from any of these deals, I'm sure I don't remember

17:38:10 25 that number as well.

DAVID FELDMAN WORLDWIDE, INC.
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Page 288

1

HURLEY, CHAD

17:38:11 2 Q Well, did someone report to you at the time,
17:38:15 3 Mr. Maxcy or anyone involved in these transactions,
17:38:19 4 that EMI was offered fingerprint technology which was
17:38:26 5 going to be 95 percent or greater effective?

17:38:32 6 A He could have mentioned it to me. He could
17:38:34 7 have sent an e-mail. I don't remember.

17:38:37 8 Q Can you give me the name of one company that
17:38:39 9 refused to enter into a license agreement with YouTube
17:38:43 10 to whom you offered the same technology?

17:38:46 11 MR. SCHAPIRO: Objection; form.

17:38:50 12 MR. BASKIN: Q. Just one company, sir.

17:38:53 13 A Well, again, that's assuming that was in the
17:38:55 14 deal that I don't remember. You know, I can't mention
17:38:58 15 what were in other ones. I mean, I don't know.

17:39:02 16 Q When was the first time you believe that
17:39:09 17 Google and YouTube, in fact, offered fingerprint
17:39:12 18 technology to companies in the absence of a license
17:39:15 19 agreement?

17:39:21 20 A I -- I don't -- I don't know.

17:39:22 21 Q Was it into year 2008, sir?

17:39:26 22 A I don't recall.

17:39:27 23 Q Do you know when was the first time you
17:39:29 24 offered Viacom fingerprint technology to protect
17:39:34 25 Viacom's material on YouTube's website?

DAVID FELDMAN WORLDWIDE, INC.
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Page 289

1 HURLEY, CHAD

17:39:37 2 MR. SCHAPIRO: Objection; foundation; assumes

17:39:39 3 facts.

17:39:41 4 MR. BASKIN: Q. Do you know when's the first

17:39:43 5 time?

17:39:43 6 A I don't know the date.

17:39:44 7 Q Was it in 2008, sir?

17:39:46 8 A I don't know.

17:39:46 9 Q Now, do you understand that -- returning to

17:40:34 10 Mr. Eun's memo, is that still in front of you?

17:40:36 11 A Yeah. 27, I believe.

17:40:41 12 Q Were you --

17:40:44 13 MR. SCHAPIRO: Objection to "memo."

17:40:47 14 MR. BASKIN: Strike that.

17:40:49 15 Q Returning to Mr. Eun's e-mail dated

17:40:53 16 February 15th, 2007, Hurley Exhibit 27, were you part

17:40:56 17 of a discussion at YouTube that the new CYC tools,

17:41:04 18 once they became live, would only be offered to

17:41:06 19 partners who enter into a revenue deal with us?

17:41:09 20 MR. SCHAPIRO: Objection; asked and answered.

17:41:11 21 THE WITNESS: Yeah, as I -- as I was saying

17:41:13 22 before, I may have been involved with discussions like

17:41:17 23 that; and, you know, again, I -- you know, point out

17:41:21 24 that this was a new system, and obviously anything in

17:41:24 25 beta you want to release to a limited set of people,

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Page 290

1 HURLEY, CHAD

17:41:26 2 and initially it was set up to claim content, which
17:41:30 3 means that you would place ads against it and earn
17:41:34 4 revenue. So it makes sense that they would have
17:41:36 5 access to it, I mean.

17:41:37 6 MR. BASKIN: Q. Well, who would -- who was
17:41:40 7 empowered to make the decision that the CYC tools
17:41:46 8 would only be offered to partners who enter into a
17:41:49 9 revenue deal with YouTube?

17:41:51 10 MR. SCHAPIRO: Objection; assumes such a
17:41:53 11 decision.

17:41:54 12 MR. BASKIN: Q. Who had the power to make
17:41:55 13 such a decision, Mr. Hurley?

17:41:57 14 A Well, you know, assuming we would make such a
17:42:03 15 decision, you know, it -- it would be a combination
17:42:09 16 of -- of things. It would be the deal team, first of
17:42:15 17 all, looking at it, but also probably, very important,
17:42:17 18 would be the -- the technical side, the engineers, in
17:42:20 19 terms of how the system works and what was
17:42:22 20 technically -- technic -- technically, you know,
17:42:28 21 feasible.

17:42:30 22 Q Did you participate in discussions with
17:42:34 23 Mr. Schmidt that the CYC tools should be confined to
17:42:40 24 people who enter into revenue contracts with you?

17:42:45 25 A I don't recall that.

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Page 291

1 HURLEY, CHAD

17:42:45 2 Q How about with Mr. Brin?

17:42:50 3 A I don't recall. We may have discussed how

17:42:52 4 the system would work.

17:42:53 5 Q What about Mr. Page?

17:42:59 6 A I don't recall. We could have.

17:43:00 7 Q What about Mr. Eun?

17:43:02 8 A Again, for all I know, we could have.

17:43:03 9 Q And did you authorize the policy that said

17:43:10 10 that these contracts -- these audio -- these digital

17:43:14 11 fingerprinting technology would only be available to

17:43:18 12 companies that entered into revenue agreements with

17:43:21 13 YouTube?

17:43:21 14 MR. SCHAPIRO: Objection; lacks foundation;

17:43:24 15 makes an assumption not in evidence.

17:43:26 16 THE WITNESS: Yeah, again, like I explained

17:43:29 17 before, I -- I don't know if we had discussions. You

17:43:33 18 know, the -- the reasons I stated before in terms of a

17:43:36 19 revenue sharing deal, this was claiming content that

17:43:40 20 we were placing ads against. It was a -- a new

17:43:42 21 technology, and I don't know why it was released in

17:43:44 22 this way.

17:43:46 23 MR. BASKIN: Q. Does -- well, let's discuss

17:43:48 24 that for a second.

17:43:51 25 Do you recall whether YouTube ever determined

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Page 292

1 HURLEY, CHAD

17:43:56 2 the cost of applying Audible Magic's finger --
17:44:03 3 fingerprint technology for every content owner who
17:44:07 4 requested it, regardless of whether or not they
17:44:12 5 entered into a license agreement with you?

17:44:14 6 A Potentially we could have. I mean, it's
17:44:17 7 something -- it's a business decision. You're looking
17:44:19 8 at costs and, you know, how could it affect your --
17:44:22 9 your company.

17:44:23 10 Q Well, we looked at the actual contract and
17:44:26 11 the cost parameters of the contract.

17:44:27 12 Did you determine what the cost would be to
17:44:31 13 provide this same technology to everyone who asked for
17:44:34 14 it, even if they wouldn't enter into a license
17:44:38 15 agreement with you?

17:44:38 16 A Did I? I -- I'm pretty sure I didn't do that
17:44:41 17 analysis. Maybe someone on the team did.

17:44:43 18 Q Did you ever ask anyone on the team to do it?

17:44:47 19 A I could have.

17:44:47 20 Q I'm asking did you? I know you could have.

17:44:50 21 Did you?

17:44:51 22 A I don't remember.

17:44:51 23 MR. SCHAPIRO: Objection.

17:44:55 24 MR. BASKIN: Q. Can you tell us, is -- was
17:44:56 25 there any finan- -- was there any financial reason --

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Page 293

1 HURLEY, CHAD

17:45:03 2 strike that.

17:45:03 3 Was cost, in fact, a factor in deciding

17:45:09 4 whether or not to make this digital technology

17:45:12 5 available to all content owners, even if they don't

17:45:17 6 enter into a license agreement with YouTube?

17:45:19 7 A You know, there's a lot of factors that would

17:45:22 8 go into it. That could be one of them. It could be,

17:45:25 9 again, just technically the resources we have to build

17:45:27 10 it, the resources we have, the -- and, yeah, I mean,

17:45:35 11 just -- it could be one of the various factors, of

17:45:37 12 course.

17:45:37 13 Q I know it could have been a factor. I'm

17:45:39 14 asking you if it was.

17:45:40 15 MR. SCHAPIRO: Objection to the form.

17:45:41 16 THE WITNESS: Again, I -- I don't know if it

17:45:44 17 was.

17:45:51 18 MR. BASKIN: Q. When particularly after the

17:45:52 19 acquisition by Google, do you have any idea, sir, what

17:45:56 20 size -- strike that.

17:45:58 21 Once Google acquired YouTube, was there a

17:46:05 22 cost constraint that prevented Google from retaining

17:46:08 23 this technology for use by all content owners who

17:46:11 24 wanted it, even if they don't enter into a license

17:46:14 25 agreement with YouTube?

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Page 294

1 HURLEY, CHAD

17:46:15 2 MR. SCHAPIRO: Objection to the premise built

17:46:17 3 into the question.

17:46:19 4 THE WITNESS: Again, I -- I can't recall.

17:46:20 5 You know, obviously, you know, being acquired may have

17:46:26 6 changed our access to resources, but we were primarily

17:46:29 7 trying to operate as a startup, be lean and mean and

17:46:32 8 make the correct decisions before.

17:46:38 9 MR. BASKIN: Q. When -- can I -- can I have,

17:46:40 10 again, the -- the -- if you could return for a

17:46:43 11 second -- well, let me.

17:47:09 12 Do you know that when YouTube sent videos to

17:47:18 13 Audible Magic to have them check the videos against

17:47:22 14 their database of fingerprints, was there any reason

17:47:28 15 why that check by Audible Magic could not have

17:47:32 16 included other company -- any company's fingerprints

17:47:36 17 that Audible Magic had?

17:47:37 18 MR. SCHAPIRO: Objection.

17:47:43 19 MR. BASKIN: Let me phrase this -- let me --

17:47:44 20 let me -- let me clarify the question.

17:47:46 21 Q Assuming that Viacom's fingerprints were

17:47:48 22 deposited with Audible Magic, was there any cost

17:47:53 23 reason why, when videos were sent to Audible Magic to

17:47:59 24 have them check videos against their database, that

17:48:04 25 they could not check those videos against Viacom's

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Page 295

1 HURLEY, CHAD

17:48:07 2 fingerprints?

17:48:11 3 A I don't recall any -- any cost or technical
17:48:16 4 reasons. I -- I don't know how the system would work,
17:48:18 5 how the -- the files or the fingerprints, whatever was
17:48:21 6 being checked, were working.

17:48:23 7 Q Well, isn't it a fact that once the video was
17:48:29 8 sent to Audible Magic, that Audible Magic could have
17:48:35 9 easily checked it against Viacom's fingerprints at
17:48:38 10 virtually no cost?

17:48:41 11 A Again, I don't know how the system works. I
17:48:43 12 don't know the -- the machine processing power that
17:48:46 13 was required. It would be a technical question in
17:48:49 14 terms of how much it would cost. I don't -- I don't
17:48:51 15 know that.

17:48:51 16 Q And you don't remember ever asking anybody at
17:48:54 17 YouTube to cost that out, I take it, did you, sir?

17:48:58 18 A No, I don't recall that.

17:48:59 19 Q And certainly Mr. Schmidt never suggested to
17:49:01 20 you that YouTube should cost out what -- what it would
17:49:05 21 cost to make Audible Magic available to all content
17:49:09 22 providers, even if they don't enter into a license
17:49:14 23 agreement with YouTube; correct?

17:49:16 24 A Yeah. He -- he may have. We're constantly
17:49:17 25 looking at ways to improve the system.

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Page 296

1 HURLEY, CHAD

17:49:21 2 Q Do you recall him asking you to cost out

17:49:23 3 whether Viacom and other content providers could be

17:49:26 4 included within the Audible Magic license?

17:49:30 5 MR. SCHAPIRO: Objection; asked and answered.

17:49:32 6 THE WITNESS: Yeah. Again, I can't recall,

17:49:34 7 but he -- he could have.

17:49:35 8 MR. BASKIN: Q. How about Mr. Page or

17:49:36 9 Mr. Brin? Did either of them ever suggest to you that

17:49:39 10 maybe you should do that, sir?

17:49:41 11 A They may have.

17:49:41 12 Q Do you recall either of them suggesting to

17:49:44 13 you to cost it out?

17:49:46 14 A No, I don't.

17:49:47 15 Q Now, by the way, were you party to the common

17:50:03 16 conversations between Viacom and Google and YouTube in

17:50:11 17 and around November/December of '06 and

17:50:17 18 January/February '07 on the issue of whether Viacom

17:50:22 19 would award a license to YouTube?

17:50:24 20 A Yeah, I can't -- I can't remember the -- the

17:50:26 21 time frame, but I do remember some meetings in

17:50:29 22 Mountain View.

17:50:30 23 Q Which you were party of -- party to?

17:50:33 24 A I -- I think I attended some of them. I

17:50:36 25 don't know how many there were.

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Page 297

1 HURLEY, CHAD

17:50:37 2 Q Why don't you just tell us what you remember

17:50:42 3 happening at those meetings.

17:50:43 4 A Just general discussions on how we could do a

17:50:46 5 deal. I can't remember the specifics.

17:50:47 6 Q Do you remember why a deal was not done?

17:50:55 7 A I'm assuming it was over price. They were

17:50:58 8 probably asking for a lot of money.

17:51:01 9 Q But beyond that assumption, do you have any

17:51:04 10 actual recollection of while a -- why a deal was not

17:51:06 11 done?

17:51:08 12 A No, I don't.

17:51:08 13 Q Who was in attendance at these meetings with

17:51:11 14 you that you recall from the Google/YouTube side of

17:51:13 15 the equation?

17:51:19 16 A I can't remember who specifically was in the

17:51:21 17 meeting. I remember, I think, Michael -- was it --

17:51:24 18 Michael Wolfe was in one.

17:51:26 19 Q He was a representative of MTV Viacom?

17:51:29 20 A I think, yeah, one of those.

17:51:30 21 Q And who was your representatives at this

17:51:32 22 meeting?

17:51:34 23 A I can't remember specifically. I'm assuming

17:51:37 24 maybe Chris Maxcy was there or David Drummond or --

17:51:41 25 I'm -- I'm not sure, I mean, people leading the

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Page 298

1 HURLEY, CHAD

17:51:44 2 discussions for partnerships. Maybe David Eun. I

17:51:48 3 don't know.

17:51:48 4 Q Are you just speculating now or do you

17:51:51 5 actually have a memory of them being there?

17:51:53 6 A I'm just speculating. I'm just assuming,

17:51:55 7 since they're doing deals for us that this was a

17:51:58 8 meeting that they would attend.

17:52:01 9 MR. BASKIN: And -- let me hand you what

17:52:23 10 we'll mark as Exhibit 28.

17:52:34 11 (Document marked Hurley, C., Exhibit 28

17:52:35 12 for identification.)

17:52:35 13 THE WITNESS: Thanks.

17:52:36 14 MR. BASKIN: Q. Exhibit 28 -- well, read it

17:52:38 15 first, I guess, a little bit. I just have...

17:54:19 16 A Okay.

17:54:26 17 Q Can you identify Exhibit 28 as an e-mail sent

17:54:30 18 from you to Wendy Chang dated in and around

17:54:35 19 November 28, 2006?

17:54:38 20 A Yep, that's what it looks like.

17:54:39 21 Q Do you remember sending this e-mail, sir?

17:54:41 22 A No, I do not.

17:54:42 23 Q Now, the only question I have for you about

17:54:47 24 that e-mail, you'll see down below, it refers to a new

17:54:50 25 proposed model.

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Page 299

1 HURLEY, CHAD

17:54:51 2 A Yes, I see that.

17:54:52 3 Q This was an -- this was in -- in an e-mail

17:54:56 4 that Wendy Chang wrote to -- to you and Chris Maxcy;

17:55:00 5 right?

17:55:01 6 A Yeah, that's what it looks like, yeah.

17:55:03 7 Q And then who is Wendy Chang?

17:55:04 8 A Uh-huh.

17:55:05 9 What's that.

17:55:05 10 Q Who is Wendy Chang?

17:55:08 11 A Wendy Chang used to lead some of the, you

17:55:11 12 know, gathering the numbers, kind of the -- the

17:55:15 13 finances. I don't know if she's still with the

17:55:16 14 company.

17:55:18 15 Q Now, directing your attention to this new

17:55:20 16 proposed model, do you have a recollection why, in

17:55:26 17 connection with expected partner shares in the new

17:55:30 18 model -- MTV you understood to be Viacom; right, sir?

17:55:34 19 A I guess so. It says MTV, but I don't --

17:55:36 20 Q Is MTV a subsidiary of Viacom?

17:55:41 21 A Yeah, but I don't know if it includes all

17:55:44 22 their properties.

17:55:45 23 Q Well, just in connection with MTV alone, do

17:55:48 24 you have a recollection why their partnership share

17:55:50 25 was going to be [REDACTED]?

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Page 300

1 HURLEY, CHAD

17:55:56 2 MR. SCHAPIRO: Objection; foundation.

17:55:59 3 THE WITNESS: I don't know. I'm just

17:56:03 4 assuming maybe they're tough negotiators.

17:56:07 5 MR. BASKIN: Q. You'll agree with me that

17:56:10 6 two times is double one time; right?

17:56:12 7 MR. SCHAPIRO: Objection.

17:56:13 8 MR. BASKIN: You wanted a foundation. I'm

17:56:15 9 giving you a foundation.

17:56:17 10 Q Can you explain to me --

17:56:19 11 A It -- it depends on what you're times --

17:56:22 12 timesing it against.

17:56:23 13 Q Do you know why MTV's share was going to be

17:56:28 14 [REDACTED], while -- while -- [REDACTED]

17:56:31 15 [REDACTED]?

17:56:34 16 A I don't know. Maybe they were bluffing the

17:56:35 17 value of their content.

17:56:38 18 Q Do you recall such a discussion?

17:56:43 19 A I don't recall.

17:56:43 20 Q You think it's possible they were bluffing

17:56:45 21 like the way you bluff?

17:56:47 22 A If they were good negotiators.

17:56:49 23 Q Now, in connection with this, do you recall a

17:56:55 24 discussion with Wendy Chang or with Chris Maxcy, I

17:57:02 25 know I'm getting his name wrong, but we'll fill it in

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Page 301

1 HURLEY, CHAD

17:57:05 2 right --

17:57:06 3 A Yeah.

17:57:06 4 Q -- do you recall a discussion with either of

17:57:08 5 them as to why MTV alone was getting such a large

17:57:12 6 partnership share as part of these -- this new

17:57:16 7 proposed model?

17:57:18 8 A I don't -- I don't recall. We could have had

17:57:19 9 the conversations.

17:57:20 10 Q Was that because the determination was made

17:57:23 11 by YouTube that MTV's content was so valuable?

17:57:27 12 A Again, I -- I -- I can't assume, because I

17:57:30 13 don't know what the discussions were.

17:57:31 14 Q Now, in fact, the partnership shares were

17:57:44 15 going to be fixed based on -- off of global

17:57:49 16 performance of the respected entities; isn't that

17:57:51 17 right, sir?

17:57:52 18 MR. SCHAPIRO: Objection; vague.

17:57:53 19 THE WITNESS: I -- I -- I don't know. I -- I

17:57:55 20 can't recall any kind of.

17:57:58 21 MR. BASKIN: Q. Do you recall any such

17:57:59 22 discussion with them that that's how this matrix was

17:58:01 23 set up?

17:58:03 24 A There very well may be a matrix. I don't

17:58:07 25 know who -- if even it even exists who -- who created

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Page 302

1 HURLEY, CHAD

17:58:11 2 it and if I've seen it.

17:58:13 3 Q Now -- okay.

17:58:42 4 Let's take a -- let's go off the record for

17:58:44 5 two minutes. I may want to figure out a way of

17:58:47 6 maybe -- we'll finish a little early, but I want to be

17:58:53 7 able to collect my thoughts with my colleagues; okay?

17:58:55 8 THE VIDEOGRAPHER: The time is 5:58 p.m.

17:58:57 9 We are off the record.

17:59:01 10 (Recess taken.)

18:14:44 11 THE VIDEOGRAPHER: The time is 6:13 p.m.

18:14:48 12 We are back on the record.

18:14:50 13 MR. BASKIN: Q. Mr. Hurley, I just want to

18:14:57 14 show you a series of documents, just have you

18:15:05 15 identify, first, whether you can -- whether you

18:15:10 16 remember receiving these documents, these e-mails; and

18:15:13 17 if not, identify -- I'll ask you to identify that

18:15:16 18 you -- well, then -- then I'll ask you a follow-up

18:15:18 19 question with respect to each one.

18:15:21 20 A Okay.

18:15:21 21 MR. BASKIN: Exhibit --

18:15:22 22 THE REPORTER: 29.

18:15:24 23 MR. BASKIN: -- 29.

18:15:28 24 (Document marked Hurley, C., Exhibit 29

18:15:35 25 for identification.)

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Page 1

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIDEOTAPED DEPOSITION OF JAWED KARIM
PALO ALTO, CALIFORNIA
TUESDAY, JUNE 9, 2009

JOB NO. 16798

DAVID FELDMAN WORLDWIDE, INC.
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Page 119

1 KARIM, JAWED
14:19:19 2 particular e-mail.
14:19:20 3 BY MR. BASKIN:
14:19:20 4 Q. Well, towards the bottom of Exhibit 29,
14:19:30 5 there's a sentence that begins, "If videos get
14:19:31 6 flooded with porn" -- and then it goes on to talk
14:19:32 7 about -- "we could always approve videos first
14:19:36 8 before they are shown anywhere. That's a one-line
14:19:40 9 code change."
14:19:41 10 Do you see that, sir?
14:19:42 11 A. Uh-huh.
14:19:43 12 Q. Is that the sentence that you're telling us
14:19:46 13 is now a simplification?
14:19:49 14 A. I mean, you know, most changes are not
14:19:53 15 one-line code changes. It's used as an expression
14:19:56 16 to say that something is fairly simple, but it may
14:20:00 17 not be one line.
14:20:01 18 Q. But as I understand it, to make this change
14:20:05 19 would have been -- for someone like you, would have
14:20:08 20 been a very simple thing to undertake; right?
14:20:13 21 MR. INGBER: Objection, vague and
14:20:15 22 ambiguous.
14:20:15 23 THE WITNESS: It would have been a pretty
14:20:17 24 simple change.
14:20:18 25 BY MR. BASKIN:

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Page 120

1

KARIM, JAWED

14:20:18

2

Q. Now, was there a decision made within

14:20:24

3

YouTube in and around April of 2005 not to permit

14:20:31

4

the administrative interface to block videos from

14:20:37

5

going -- from being viewed prior to review?

14:20:42

6

MR. PAGE: Objection, vague and ambiguous.

14:20:47

7

THE WITNESS: Um, so this was discussed

14:20:55

8

before the Web site launched. So actually,

14:20:59

9

everything we discuss at this point is really

14:21:01

10

subject to, you know, changing, and we were

14:21:06

11

considering different possibilities.

14:21:09

12

BY MR. BASKIN:

14:21:09

13

Q. My question is: Was a decision made --

14:21:14

14

when the administrative interface went live, was a

14:21:19

15

decision made not to write the code to permit review

14:21:24

16

of videos by the interface prior to their being

14:21:29

17

displayed to the public?

14:21:31

18

A. Um, I don't know if -- so you're asking me

14:21:39

19

about the initial kind of implementation of the --

14:21:43

20

of this interface?

14:21:45

21

I think it probably varied. I think, you

14:21:49

22

know -- this is before the Web site launched. I

14:21:52

23

think we probably tried out different approaches.

14:21:55

24

So I wouldn't be surprised if we had tried both of

14:21:58

25

those approaches.

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Page 121

1 KARIM, JAWED
14:22:00 2 Q. Well, one possibility was to review videos
14:22:03 3 before they became publicly available; correct?
14:22:05 4 A. That's one of the possibilities.
14:22:07 5 Q. And was that possibility ever adopted by
14:22:10 6 YouTube, to your knowledge?
14:22:11 7 MR. INGBER: Objection, vague.
14:22:13 8 THE WITNESS: I don't remember, but I think
14:22:14 9 it's very possible that we used both approaches.
14:22:17 10 BY MR. BASKIN:
14:22:18 11 Q. When did you use both approaches,
14:22:21 12 Mr. Karim?
14:22:22 13 MR. PAGE: Objection, misstates his prior
14:22:24 14 testimony.
14:22:27 15 MR. INGBER: Same objection.
14:22:28 16 THE WITNESS: I don't remember exactly when
14:22:30 17 but these -- the approaches changed, I'm pretty
14:22:32 18 sure.
14:22:32 19 BY MR. BASKIN:
14:22:32 20 Q. Can you tell us any period of time when the
14:22:37 21 interface was set up to review videos before they
14:22:42 22 became publicly available?
14:22:44 23 A. I don't know the time frame. I think it's
14:23:01 24 very likely that that was the case for some time.
14:23:03 25 Q. What time, sir?

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Page 133

1 KARIM, JAWED
14:35:59 2 Q. When you were involved with the site.
14:36:00 3 A. Until what date?
14:36:01 4 Q. Until you ceased being involved with the
14:36:04 5 site.
14:36:05 6 MR. INGBER: Objection as to "involved."
14:36:06 7 THE WITNESS: Define "involved."
14:36:08 8 MR. INGBER: Vague as to "involved."
14:36:10 9 BY MR. BASKIN:
14:36:11 10 Q. Until -- until the period of time when you
14:36:13 11 were terminated. From your start -- start with the
14:36:16 12 site until when you were terminated from the site,
14:36:21 13 could a YouTube user upload a video and switch it
14:36:27 14 from public to private at his will?
14:36:30 15 A. I'm not certain about the time after I was
14:36:32 16 no longer full-time with the company, after
14:36:36 17 September 2005, but before that I know that users
14:36:38 18 could do that.
14:36:39 19 Q. Now, am I right that if a content provider
14:36:48 20 wanted to search for its content on YouTube, it had
14:36:51 21 no access to what was switched to private videos;
14:36:54 22 correct?
14:36:54 23 MR. INGBER: Objection, vague and
14:36:56 24 ambiguous, calls for speculation.
14:36:57 25 THE WITNESS: What time frame?

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Page 134

1 KARIM, JAWED
14:36:58 2 BY MR. BASKIN:
14:36:59 3 Q. Let's take your -- your past time frame.
14:37:03 4 Up until September 2005, am I correct that
14:37:06 5 a content provider who wanted to search the site for
14:37:11 6 its intellectual property had no access to the
14:37:15 7 private videos?
14:37:16 8 MR. INGBER: Same objections.
14:37:20 9 THE WITNESS: What is the objection?
14:37:21 10 MR. INGBER: Vague and ambiguous, calls for
14:37:29 11 speculation.
14:37:29 12 THE WITNESS: I mean, private videos, you
14:37:33 13 couldn't, you know, have access to if it wasn't
14:37:36 14 being shared with the person who -- if it wasn't
14:37:40 15 shared with you. So you couldn't just find it on
14:37:44 16 the site.
14:37:45 17 BY MR. BASKIN:
14:37:47 18 Q. Now, do you know whether you had private
14:38:19 19 videos on your site that had been reviewed thousands
14:38:23 20 of times by -- by viewers?
14:38:27 21 MR. INGBER: Vague and ambiguous as to the
14:38:29 22 term "your site."
14:38:33 23 BY MR. BASKIN:
14:38:34 24 Q. With respect to the videos that you
14:38:38 25 uploaded, sir, to your private video site on

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Page 1

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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL, INC., COMEDY)
PARTNERS, COUNTRY MUSIC.)
TELEVISION, INC., PARAMOUNT)
PICTURES CORPORATION, and BLACK)
ENTERTAINMENT TELEVISION, LLC,)
Plaintiffs,)
vs.) NO. 07-CV-2103
YOUTUBE, INC., YOUTUBE, LLC,)
and GOOGLE, INC.,)
Defendants.)

THE FOOTBALL ASSOCIATION PREMIER)
LEAGUE LIMITED, BOURNE CO., et al.,)
on behalf of themselves and all)
others similarly situated,)
Plaintiffs,)
vs.) NO. 07-CV-3582
YOUTUBE, INC., YOUTUBE, LLC, and)
GOOGLE, INC.,)
Defendants.)

VIDEOTAPED DEPOSITION OF LARRY PAGE
PALO ALTO, CALIFORNIA
THURSDAY, OCTOBER 1, 2009

JOB NO. 17750

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Page 2

1 OCTOBER 1, 2009
2 12:23 p.m.
3
4 VIDEOTAPED DEPOSITION OF LARRY PAGE,
5 WILSON, SONSINI, GOODRICH & ROSATI, LLP,
6 601 Page Mill Road, Palo Alto, California
7 pursuant to notice, and before me,
8 ANDREA M. IGNACIO HOWARD, CLR, RPR, CRR, CSR
9 License No. 9830.
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Page 3

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

2

3 FOR THE PLAINTIFFS VIACOM INTERNATIONAL, INC.:

4 SHEARMAN & STERLING LLP

5 By: STUART BASKIN, Esq.

6 SEAN T. STRAUSS, Esq.

7 599 Lexington Avenue

8 New York, New York 10022

9 (212) 848-4000 stuart.baskin@shearman.com

10

11 FOR THE LEAD PLAINTIFFS AND PROSPECTIVE CLASS:

12 PROSKAUER ROSE LLP

13 By: BERT H. DEIXLER, Esq.

14 2049 Century Park East, Suite 3200

15 Los Angeles, California 90067-3206

16 (310) 284-5663 bdeixler@proskauer.com

17

18 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and

19 GOOGLE, INC.:

20 MAYER BROWN, LLP

21 By: JOHN MANCINI, Esq.

22 DAVID H. MCGILL, Esq.

23 1675 Broadway

24 New York, New York 10019-5820

25 (212) 506-2312 jmancini@mayerbrown.com

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Page 4

1 A P P E A R A N C E S (Continued.)

2

3

4 ALSO PRESENT: Timothy L. Alger, Deputy General
5 Counsel, Google Inc.

6

7 Catherine Lacavera, Senior
8 Litigation Counsel, Google Inc.

9

10 Armando Carrasco, Videographer.

11

12 ---oo---

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Page 5

1 PAGE, L. - HIGHLY CONFIDENTIAL

2 PALO ALTO, CALIFORNIA

3 THURSDAY, OCTOBER 1, 2009

4 12:23 P.M.

5

12:27:25 6 THE VIDEOGRAPHER: Today's videotaped
12:27:26 7 deposition of Larry Page is taken on October 1st,
12:27:30 8 2009, at Wilson, Sonsini, Goodrich & Rosati,
12:27:35 9 601 South California Avenue, Palo Alto, California.
12:27:37 10 In the matter of Viacom International versus YouTube,
12:27:42 11 Inc., and The Football Association. Case No.
12:27:47 12 07-CV-3582 and 2103, in the court of the Southern
12:27:51 13 District of New York.
12:27:52 14 My name is Armando Carrasco. I represent
12:27:55 15 David Feldman Worldwide, located at 600 Anton
12:27:59 16 Boulevard, Suite 1100, Costa Mesa, California.
12:28:02 17 We are now commencing at 12:23 p.m.
12:28:05 18 Will all present please identify themselves,
12:28:08 19 beginning with the witness.
12:28:09 20 THE WITNESS: Larry Page from Google.
12:28:12 21 MR. MANCINI: John Mancini, Mayer Brown LLP
12:28:16 22 for defendants YouTube and Google.
12:28:20 23 MR. ALGER: Timothy Alger from Google, Inc.
12:28:24 24 MR. MCGILL: David McGill, Mayer Brown, also
12:28:25 25 for defendants.

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Page 6

1 PAGE, L. - HIGHLY CONFIDENTIAL
12:28:25 2 MS. LACAVERA: Catherine Lacavera, Google,
12:28:26 3 Inc.
12:28:26 4 MR. BASKIN: Stuart Baskin of Shearman &
12:28:28 5 Sterling for Viacom.
12:28:29 6 MR. STRAUSS: Sean Strauss of Shearman &
12:28:33 7 Sterling.
12:28:33 8 MR. DEIXLER: Bert Deixler of Proskauer &
12:28:37 9 Rose on behalf of the Class Plaintiffs.
12:28:37 10 THE VIDEOGRAPHER: Thank you.
12:28:37 11 Will -- will the court reporter please swear
12:28:39 12 in the witness.
12:28:39 13 LARRY PAGE,
12:28:39 14 having been sworn as a witness,
12:28:39 15 testified as follows:
12:28:39 16
12:28:53 17 MR. BASKIN: You ready?
12:28:55 18 THE VIDEOGRAPHER: Yes.
12:28:56 19 We're on the record.
12:28:56 20 EXAMINATION BY MR. BASKIN
12:28:56 21 MR. BASKIN: Okay.
12:28:57 22 Q Good afternoon, Mr. Page.
12:28:59 23 A Good afternoon.
12:29:00 24 Q What is your --
12:29:02 25 MR. MANCINI: Stu, may I, just before we

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Page 7

1 PAGE, L. - HIGHLY CONFIDENTIAL
12:29:03 2 begin, just to put on the record, we want to mark the
12:29:06 3 entirety of this transcript "Highly Confidential."
12:29:09 4 As we've agreed, the videotape that's being
12:29:12 5 taken will be kept in -- by one copy only by Viacom
12:29:17 6 counsel under lock and key, and this deposition is
12:29:19 7 obviously pursuant to the Court's April 2nd, 2009,
12:29:22 8 order.
12:29:22 9 And I do want to note for the record the
12:29:26 10 fault, which seems to lie with the court reporting
12:29:31 11 service, that we're starting an hour late.
12:29:34 12 MR. BASKIN: Let's go off the record again
12:29:36 13 for the -- with respect to this sequestering of the --
12:29:39 14 of the transcript --
12:29:39 15 MR. MANCINI: Sure.
12:29:40 16 MR. BASKIN: -- off the tape. Let's just go
12:29:40 17 off the record for a second. I don't think we should
12:29:40 18 do it on the record.
12:29:42 19 THE VIDEOGRAPHER: We're now going off the
12:29:42 20 record.
12:29:43 21 The time is 12:25 p.m.
12:29:48 22 (Discussion off the record.)
12:30:04 23 THE VIDEOGRAPHER: We're now back on the
12:30:49 24 record.
12:30:49 25 The time is 12:26 p.m.

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Page 8

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12:30:52 2 MR. BASKIN: Just to reformat the arrangement

12:30:54 3 and to clarify it, the agreement is that with respect

12:30:59 4 to the videotape, that each of the law firms rep -- on

12:31:04 5 the plaintiffs' side, with respect to both cases, will

12:31:08 6 maintain one copy of the recording, and we will

12:31:11 7 maintain it in a secure place under lock.

12:31:16 8 MR. MANCINI: Agree with the clarification.

12:31:21 9 Okay.

12:31:21 10 MR. BASKIN: Q. And with that, good

12:31:23 11 afternoon, again, Mr. Page.

12:31:25 12 A Good afternoon.

12:31:26 13 Q Have you had -- did you prepare for this

12:31:29 14 deposition?

12:31:32 15 A I had a conversation with my attorneys here.

12:31:35 16 Q And how long did the conversation with your

12:31:38 17 attorneys last?

12:31:41 18 A Couple of hours.

12:31:42 19 Q And by your attorneys, who was in attendance

12:31:46 20 during the course of this conversation?

12:31:48 21 A I think the same group that's assembled here.

12:31:52 22 Q The -- okay. That's sufficient for these

12:31:57 23 purposes.

12:31:57 24 Now, you met with the attorneys -- your

12:31:59 25 attorneys for two hours?

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Page 9

1 PAGE, L. - HIGHLY CONFIDENTIAL
12:32:01 2 A I said a few hours.
12:32:02 3 Q A few hours.
12:32:03 4 You met with them over the course of just one
12:32:06 5 day?
12:32:10 6 A Met with them yesterday, and we were waiting
12:32:12 7 for the proceedings to get started here.
12:32:15 8 Q And during the course of your meeting with
12:32:18 9 them, they showed you documents, I take it?
12:32:21 10 A We examined a number of documents.
12:32:25 11 Q And approximately how many documents were you
12:32:27 12 shown in the course of your preparation, Mr. Page?
12:32:36 13 A I mean, I don't recall exactly, but I would
12:32:39 14 guess it's hard for me to estimate, but I would say
12:32:48 15 under ten. Something in that range.
12:32:50 16 Q And apart from the ten documents or the under
12:32:56 17 ten documents you were shown, you've been shown non
12:32:59 18 other -- no other documents in connection with your
12:33:01 19 preparation today for this deposition?
12:33:05 20 MR. MANCINI: Objection; asked and answered.
12:33:07 21 THE WITNESS: Yeah, I mean, I think I
12:33:09 22 described what -- what we did.
12:33:12 23 MR. BASKIN: Q. Now, did any of those ten
12:33:13 24 documents, since there are so few of them, did any of
12:33:16 25 them refresh your recollection regarding some aspect

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Page 10

1 PAGE, L. - HIGHLY CONFIDENTIAL
12:33:20 2 of your testimony?
12:33:24 3 A Sorry. I haven't given any testimony yet;
12:33:28 4 no?
12:33:29 5 Q That's fair enough.
12:33:30 6 Did any of the ten documents refresh your
12:33:32 7 recollection regarding events concerning the
12:33:36 8 relationship between Google and YouTube?
12:33:42 9 A I guess maybe you can rephrase the question.
12:33:44 10 We looked at a number of documents. I don't
12:33:50 11 know. We read through them.
12:33:53 12 Q The question was, did any of those that you
12:33:55 13 read through refresh your recollection regarding what
12:34:01 14 happened back in 2006, 2007, 2008 in the relationship
12:34:07 15 between YouTube and Google?
12:34:11 16 A I guess I'm still confused about the
12:34:13 17 question, because I don't have a photographic memory
12:34:15 18 for every document produced by, you know, a huge
12:34:18 19 number of employees at Google. So I'm sure any
12:34:20 20 document I looked at I didn't photographically
12:34:26 21 remember it.
12:34:29 22 Q Okay. Now, what is your current title at
12:34:34 23 Google?
12:34:35 24 A I'm president of products and cofounder.
12:34:38 25 Q And would I be correct in believing that you

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Page 11

1 PAGE, L. - HIGHLY CONFIDENTIAL
12:34:42 2 and Eric Schmidt and Sergey Brin are the three most
12:34:47 3 senior executives of Google?
12:34:51 4 A Yes.
12:34:52 5 Q Now, am I also correct that a larger group of
12:34:58 6 senior executives hold regular meetings to discuss
12:35:07 7 strategy and business issues?
12:35:09 8 MR. MANCINI: Objection; vague and ambiguous.
12:35:11 9 THE WITNESS: We have various meetings, no,
12:35:16 10 in a large company.
12:35:18 11 MR. BASKIN: Q. Is there a formal body of --
12:35:20 12 that has a name of senior executives?
12:35:25 13 A Sorry. Which senior executives?
12:35:29 14 Q Well, you and Mr. Brin and Mr. Schmidt, and
12:35:32 15 maybe seven or eight others. Is there a formal body
12:35:37 16 of executives that meet?
12:35:41 17 MR. MANCINI: Objection; vague and ambiguous.
12:35:45 18 THE WITNESS: There's been various groups
12:35:47 19 over time.
12:35:49 20 MR. BASKIN: Q. So, as I recall, there was a
12:35:53 21 name change in -- in connection with -- with some
12:35:57 22 group of senior executives.
12:35:59 23 I'm just trying to determine that, because it
12:36:01 24 will make our questions easier. We can talk --
12:36:05 25 isn't -- there was a group of senior executives,

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Page 12

1 PAGE, L. - HIGHLY CONFIDENTIAL

12:36:07 2 including the three of you and several senior vice

12:36:10 3 presidents, that meet with some regularity; isn't that

12:36:12 4 true?

12:36:13 5 A Yes.

12:36:13 6 Q And what is the name of that group?

12:36:16 7 A Currently, the name of that group is the OC.

12:36:20 8 Q And OC stands for what?

12:36:24 9 A I'm not exactly sure.

12:36:25 10 Q And prior -- and the OC had a name

12:36:28 11 previously -- a different name previously; did it not?

12:36:32 12 A Well, it was a different group before that.

12:36:34 13 Q But I take it that you have always been a

12:36:39 14 member of this group of senior executives; isn't that

12:36:42 15 true?

12:36:43 16 MR. MANCINI: Objection; vague and ambiguous.

12:36:44 17 THE WITNESS: Yeah, I guess, which group do

12:36:47 18 you mean?

12:36:47 19 MR. BASKIN: Q. Well, both the OC and the

12:36:50 20 predecessor to the OC. You were the members of both;

12:36:53 21 were you not?

12:36:56 22 A Like I already said, I think the groups were

12:36:59 23 different. I think that's why the name was changed.

12:37:01 24 Q I understand the groups were different, but

12:37:04 25 my question is, were you a member of both groups?

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