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12:37:07 2 A Well, sorry, I didn't refer to the previous

12:37:10 3 group.

12:37:10 4 Q Mr. Page, the group prior to the name change

12:37:17 5 to OC, were you a member of that group?

12:37:19 6 A Well, I'm still -- you're not naming the

12:37:22 7 group, so.

12:37:23 8 Q Do you remember the name of the group?

12:37:25 9 A I remember there was a group that was

12:37:27 10 previous to that group called EMG, yes.

12:37:33 11 Q EMG; what did that stand for?

12:37:35 12 A I don't know. We usually use the acronym.

12:37:38 13 Q And were you a member of the EMG as well?

12:37:41 14 A Yes.

12:37:41 15 Q Now, the EMG and the OC, how frequently do

12:37:44 16 they meet?

12:37:48 17 MR. MANCINI: So, Stu, I've given you a

12:37:52 18 little bit of latitude here, but I think you recall

12:37:54 19 Judge Stanton specifically himself called out that

12:37:58 20 questions should not be put to this witness about

12:38:01 21 biography, jobs he held, responsibilities then and

12:38:05 22 now, all sorts of things, according to the judge, it

12:38:09 23 be prepared by an affidavit by the executive and

12:38:12 24 others.

12:38:12 25 MR. BASKIN: That's fair enough.

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12:38:13 2 MR. MANCINI: So I just want to move this

12:38:14 3 along, if we could.

12:38:16 4 MR. BASKIN: Q. I take it there are regular

12:38:17 5 scheduled meetings of both the EMG and the OC; is that

12:38:20 6 correct?

12:38:21 7 A Yes.

12:38:22 8 Q And did they occur weekly?

12:38:25 9 A Typically.

12:38:26 10 Q Now, so as not to have to keep you here

12:38:36 11 longer than necessary, I'd like to begin with some

12:38:43 12 areas where I suspect you have no personal knowledge

12:38:46 13 to offer the jury.

12:38:48 14 So, first, have you ever read any of the

12:38:51 15 e-mails that were written by Chad Hurley, Steve Chen,

12:38:58 16 or Jawed Karim, prior to YouTube's acquisition by

12:39:02 17 Google?

12:39:02 18 MR. MANCINI: Objection; lacks foundation,

12:39:03 19 and objection to the reference to a jury.

12:39:08 20 THE WITNESS: I mean, I probably get, you

12:39:09 21 know, thousands of e-mails per day or some huge

12:39:13 22 number. It's pretty hard for me to answer a general

12:39:15 23 question about an e-mail that I might have received.

12:39:17 24 MR. BASKIN: Q. Well, prior to the

12:39:18 25 acquisition of YouTube by Google, were you receiving

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12:39:23 2 e-mails from Mr. Hurley?
12:39:26 3 A I already answered the question.
12:39:29 4 Q Were you receiving e-mails from Mr. Hurley,
12:39:31 5 Mr. Page?
12:39:32 6 A I'd have no way of knowing the answer to
12:39:34 7 that.
12:39:35 8 Q And prior to the acquisition of Google -- of
12:39:40 9 YouTube by Google, were you receiving e-mails from
12:39:42 10 Mr. Chen?
12:39:44 11 MR. MANCINI: Objection; asked and answered.
12:39:45 12 THE WITNESS: Same, same question. Like I
12:39:48 13 said, it's very difficult, you know, if you're
12:39:50 14 receiving large amounts of e-mail, you asking me
12:39:53 15 whether I remember receiving an e-mail many years ago
12:39:56 16 is -- it's not something I'm gonna remember.
12:40:00 17 MR. BASKIN: Q. Do you recall ever receiving
12:40:02 18 e-mails written by Mr. Karim prior to the acquisition
12:40:05 19 of YouTube by Google?
12:40:06 20 MR. MANCINI: Objection; asked and answered.
12:40:09 21 THE WITNESS: Sorry. Mr. Karim is?
12:40:19 22 MR. BASKIN: Q. You recall receiving any
12:40:21 23 e-mails from Mr. Karim?
12:40:23 24 MR. MANCINI: I just want to note, I think
12:40:26 25 the witness's question back to counsel was indicating

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12:40:29 2 a lack of famil- -- familiarity with the individual.

12:40:33 3 MR. BASKIN: Q. You don't know who Jawed

12:40:35 4 Karim is?

12:40:35 5 A The name does not seem familiar, no.

12:40:40 6 Q Do you recall, prior to the acquisition of

12:40:43 7 Google -- of YouTube by Google, ever reading any

12:40:48 8 e-mails by any of those three gentlemen discussing

12:40:54 9 YouTube's copyright compliance procedures?

12:40:57 10 MR. MANCINI: Objection; asked and answered;

12:41:01 11 lacks foundation.

12:41:02 12 THE WITNESS: Yeah, I agree. I feel like

12:41:04 13 you're asking me the same question again.

12:41:05 14 MR. BASKIN: Q. Answer the question,

12:41:07 15 Mr. Page.

12:41:08 16 A I don't recall.

12:41:11 17 Q As you sit here today, do you have any

12:41:13 18 personal knowledge, sir, of YouTube's practices, prior

12:41:19 19 to the acquisition by Google, regarding screening of

12:41:23 20 videos by human review?

12:41:25 21 MR. MANCINI: Objection; lacks foundation;

12:41:27 22 vague and ambiguous.

12:41:28 23 THE WITNESS: Don't recall.

12:41:32 24 MR. BASKIN: Q. Do you have any personal

12:41:35 25 knowledge, sir, of YouTube's practices regarding

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12:41:38 2 filtering videos using search terms?
12:41:41 3 MR. MANCINI: Objection; vague and ambiguous.
12:41:43 4 THE WITNESS: Again, I don't recall.
12:41:45 5 MR. BASKIN: Q. Do you have any personal
12:41:46 6 knowledge, sir, of YouTube's practices regarding using
12:41:52 7 metadata to conduct searches for copyright violated
12:41:55 8 mat- -- for copyright materials?
12:41:57 9 MR. MANCINI: Objection; vague and ambiguous,
12:41:58 10 and calls for a legal conclusion.
12:42:04 11 THE WITNESS: Yeah, I guess I'm a bit
12:42:05 12 confused about the question.
12:42:07 13 Do you want to restate the question?
12:42:08 14 MR. BASKIN: Q. Do you have any knowledge
12:42:10 15 regarding YouTube's practices in using metadata to
12:42:16 16 conduct searches for copyright materials?
12:42:19 17 MR. MANCINI: Same objections.
12:42:21 18 THE WITNESS: Yeah, I guess I don't really
12:42:23 19 understand the question.
12:42:24 20 MR. BASKIN: Q. Do you have any personal
12:42:26 21 knowledge regarding YouTube's practices in using
12:42:32 22 fingerprint technologies in copyright compliance?
12:42:39 23 MR. MANCINI: Objection; vague and ambiguous;
12:42:40 24 calls for a legal conclusion.
12:42:42 25 THE WITNESS: Yeah, and also I'm confused

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12:42:47 2 about the definition of "YouTube."

12:42:49 3 So you're asking previously about YouTube

12:42:52 4 before the acquisition?

12:42:53 5 MR. BASKIN: Correct.

12:42:54 6 THE WITNESS: YouTube is acquired by Google,

12:42:55 7 so you're asking about Google's practices or YouTube's

12:42:59 8 practices?

12:43:00 9 MR. BASKIN: How about YouTube's practices,

12:43:02 10 prior to the acquisition.

12:43:02 11 THE WITNESS: You didn't state that part, so.

12:43:05 12 MR. BASKIN: Sorry?

12:43:05 13 THE WITNESS: You didn't state prior to the

12:43:07 14 acquisition in the question.

12:43:08 15 MR. BASKIN: Okay. We'll do this the hard

12:43:09 16 way, sir.

12:43:10 17 Q Prior to the acquisition of YouTube by

12:43:12 18 Google, were you familiar with YouTube's practices

12:43:14 19 regarding using fingerprint technologies?

12:43:16 20 MR. MANCINI: Objection; vague and ambiguous.

12:43:18 21 THE WITNESS: Again, I don't recall.

12:43:19 22 MR. BASKIN: Q. Prior to the acquisition of

12:43:21 23 YouTube by Google, do you recall if you had any

12:43:25 24 personal knowledge of YouTube's copyright compliance

12:43:27 25 practices?

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12:43:28 2 MR. MANCINI: Objection; vague and ambiguous;
12:43:29 3 calls for a legal conclusion.
12:43:31 4 THE WITNESS: Can you restate that again?
12:43:38 5 MR. BASKIN: Sure.
12:43:39 6 Q Prior to the acquisition of YouTube by
12:43:41 7 Google, do you have any personal knowledge to impart
12:43:45 8 to the jury regarding YouTube's copyright compliance
12:43:48 9 practices?
12:43:49 10 MR. MANCINI: Same objection, and objection
12:43:50 11 to the characterization of a "jury."
12:43:53 12 THE WITNESS: I don't recall.
12:43:54 13 MR. BASKIN: Q. Prior to the acquisition of
12:43:57 14 YouTube by Google, did you ever discuss YouTube's
12:44:01 15 copyright compliance practices with anyone?
12:44:05 16 MR. MANCINI: Objection; calls for a legal
12:44:06 17 conclusion.
12:44:07 18 THE WITNESS: I don't recall.
12:44:10 19 MR. BASKIN: Prior to the acquisition of
12:44:13 20 YouTube by Google, did you personally discuss whether
12:44:18 21 Google should be indemnified by YouTube or its
12:44:22 22 founders for copyright liability?
12:44:24 23 MR. MANCINI: Okay.
12:44:25 24 Objection; vague and ambiguous, and to the
12:44:27 25 extent it seeks communications from counsel, instruct

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12:44:31 2 the client, not the witness, not to respond on the

12:44:33 3 basis of an attorney-client privilege.

12:44:36 4 MR. BASKIN: Q. Prior to the acquisition,

12:44:37 5 did you personally discuss whether Google should be

12:44:40 6 indemnified by YouTube for copyright liability?

12:44:43 7 MR. MANCINI: So same objection and same

12:44:45 8 instruction.

12:44:45 9 If you had any such coun- -- communications

12:44:47 10 with counsel, you should not discuss them.

12:44:50 11 THE WITNESS: I don't recall.

12:44:51 12 MR. BASKIN: Q. Do you recall whether there

12:44:57 13 is, in fact, a copyright liability indemnification in

12:45:01 14 the -- in the merger agreement between YouTube and

12:45:03 15 Google?

12:45:03 16 MR. MANCINI: Objection; lacks foundation.

12:45:08 17 THE WITNESS: I don't recall.

12:45:11 18 MR. BASKIN: Q. Prior to the acquisition of

12:45:16 19 YouTube by Google, did you ever personally discuss

12:45:23 20 with anyone the percentage of views on YouTube that

12:45:28 21 were attributable to premium content?

12:45:31 22 MR. MANCINI: Objection; vague and ambiguous.

12:45:33 23 THE WITNESS: Would you like to define

12:45:36 24 "premium content"?

12:45:38 25 MR. BASKIN: Yes.

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12:45:38 2 Copyrighted content made by professionals.

12:45:41 3 MR. MANCINI: Objection; vague and ambiguous;

12:45:42 4 calls for a legal conclusion.

12:45:43 5 THE WITNESS: Why don't you restate that.

12:45:53 6 MR. BASKIN: Q. Prior to the acquisition of

12:45:55 7 YouTube by Google, did you ever discuss with anyone

12:45:59 8 the percentage of views on YouTube that are

12:46:04 9 attributable to premium content?

12:46:07 10 MR. MANCINI: Same objections.

12:46:08 11 THE WITNESS: I don't recall.

12:46:10 12 MR. BASKIN: Q. Did you participate --

12:46:18 13 strike that.

12:46:18 14 Leading up to the acquisition of YouTube by

12:46:21 15 Google, did you personally participate in the due

12:46:25 16 diligence examination of YouTube conducted by Google

12:46:29 17 employees and investment advisors?

12:46:33 18 MR. MANCINI: Objection; lacks foundation;

12:46:35 19 vague and ambiguous.

12:46:35 20 THE WITNESS: I don't recall.

12:46:46 21 MR. BASKIN: Q. Do you recall if you ever

12:46:51 22 interviewed anyone at YouTube regarding the practices

12:46:54 23 prior to the acquisition by Google?

12:46:55 24 MR. MANCINI: Objection; vague and ambiguous.

12:46:57 25 THE WITNESS: Sorry. What do you mean by

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12:47:00 2 their "practices"?
12:47:01 3 MR. BASKIN: Q. Do you recall ever
12:47:04 4 interviewing or speaking with anyone at YouTube
12:47:08 5 regarding their copyright compliance practices prior
12:47:11 6 to the acquisition of YouTube by Google?
12:47:14 7 MR. MANCINI: Objection; vague and ambiguous;
12:47:15 8 calls for a legal conclusion.
12:47:17 9 THE WITNESS: I don't recall that.
12:47:20 10 MR. BASKIN: Q. Do you recall ever talking
12:47:23 11 to Mr. Hurley regarding YouTube's business practices
12:47:26 12 prior to the acquisition of YouTube by Google?
12:47:30 13 MR. MANCINI: Objection; vague and ambiguous;
12:47:33 14 asked and answered.
12:47:34 15 THE WITNESS: This is a very specific
12:47:38 16 question, so I can't recall.
12:47:39 17 MR. BASKIN: Q. Do you ever recall speaking
12:47:41 18 to Mr. Chen prior to the acquisition of YouTube by
12:47:47 19 Google regarding YouTube's business practices?
12:47:49 20 MR. MANCINI: Objection; vague and ambiguous;
12:47:51 21 asked and answered.
12:47:52 22 THE WITNESS: Yeah, same, same answer.
12:47:58 23 MR. BASKIN: Q. Which is?
12:48:00 24 A I don't recall about -- specifically about
12:48:02 25 business practices.

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12:48:07 2 Q Did you personally review any of the due
12:48:12 3 diligence memoranda or reports prepared by Google's
12:48:18 4 due diligence team?

12:48:19 5 MR. MANCINI: Objection; vague and ambiguous;
12:48:22 6 lacks foundation.

12:48:22 7 THE WITNESS: I don't recall any specific due
12:48:30 8 diligence.

12:48:30 9 MR. BASKIN: Q. Did you -- am I correct that
12:48:40 10 you did not attend the board meeting on October 9th
12:48:44 11 when the Google board approved the acquisition of
12:48:46 12 YouTube?

12:48:47 13 MR. MANCINI: Objection; lacks foundation.

12:48:48 14 THE WITNESS: Do you want to ask me if I
12:48:54 15 attended the October 9th board meeting?

12:48:56 16 MR. BASKIN: Q. Did you attend the board
12:49:00 17 meeting on October 9th when the Google board approved
12:49:02 18 the acquisition of YouTube?

12:49:04 19 MR. MANCINI: Same objections.

12:49:05 20 THE WITNESS: I don't recall that meeting or
12:49:08 21 whether I was present or not.

12:49:09 22 MR. BASKIN: Q. Do you recall whether you
12:49:13 23 reviewed the materials submitted to the board prior to
12:49:21 24 its acquisition -- prior to Google's acquisition of
12:49:25 25 YouTube -- strike that.

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12:49:26 2 Do you recall reviewing the materials
12:49:28 3 submitted to the Google board prior to the vote by
12:49:33 4 Google's board whether to acquire YouTube?
12:49:36 5 MR. MANCINI: Objection; assumes facts; vague
12:49:38 6 and ambiguous.
12:49:38 7 THE WITNESS: Yeah, I don't recall those
12:49:40 8 facts, so would you like to rephrase your question?
12:49:44 9 MR. BASKIN: Q. Do you recall whether you
12:49:47 10 reviewed the board book and board materials submitted
12:49:53 11 to the Google board prior to its vote to acquire
12:49:56 12 YouTube?
12:49:57 13 MR. MANCINI: Same objections.
12:49:59 14 THE WITNESS: So do you want to rephrase your
12:50:07 15 question? It sounded like the same question nearly.
12:50:11 16 MR. BASKIN: Q. Answer the question,
12:50:12 17 Mr. Page.
12:50:14 18 A Would you like to restate it, please, then?
12:50:16 19 Q Do you not understand the question?
12:50:18 20 MR. MANCINI: I think that's what the witness
12:50:20 21 is saying, Mr. Baskin.
12:50:21 22 MR. BASKIN: Q. Mr. Page, did you review the
12:50:23 23 board material presented to the Google board prior to
12:50:25 24 its vote to purchase YouTube?
12:50:28 25 MR. MANCINI: Objection; assumes facts; vague

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12:50:30 2 and ambiguous.
12:50:30 3 THE WITNESS: Yeah, I don't recall the
12:50:32 4 premise of your question.
12:50:38 5 MR. BASKIN: Q. Did you review the materials
12:50:42 6 submitted to the Google board on October 9th?
12:50:43 7 MR. MANCINI: Same objections.
12:50:46 8 THE WITNESS: Did I review -- the question --
12:50:49 9 the materials presented to the board on October 9th;
12:50:52 10 that's the question?
12:50:52 11 I don't recall.
12:50:53 12 MR. BASKIN: Can I have this?
12:51:05 13 Q You were a member of the Google board on or
12:51:06 14 around October 9th, 2006; were you not, sir?
12:51:10 15 A Yes.
12:51:10 16 Q And is it your practice to review board
12:51:12 17 materials submitted to the -- the board?
12:51:17 18 A Sometimes yes, sometimes no.
12:51:18 19 Q And when the Google board is about to
12:51:21 20 undertake an important decision, do you generally
12:51:24 21 review the materials submitted to the board?
12:51:29 22 A Like I said already, sometimes yes, sometimes
12:51:31 23 no.
12:51:31 24 Q Did you consider the acquisition of YouTube
12:51:33 25 by Google to be an important decision, Mr. Page?

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12:51:41 2 A It was a significant acquisition.
12:51:43 3 Q Did you -- is it your practice to review the
12:51:46 4 materials submitted to the Google board in draft?
12:51:50 5 MR. MANCINI: Objection; assumes facts.
12:51:53 6 THE WITNESS: Sorry. Can you make that a
12:51:56 7 little more specific?
12:51:57 8 MR. BASKIN: Q. When materials are being
12:51:59 9 prepared for the Google board, before they are
12:52:03 10 submitted -- before they are submitted to the Google
12:52:05 11 board in final, do you review the drafts?
12:52:08 12 MR. MANCINI: Are you asking him, Mr. Baskin,
12:52:12 13 as a general practice matter, because I do think
12:52:14 14 that's going beyond what Judge Stanton permitted?
12:52:15 15 MR. BASKIN: Q. Do you review them in draft,
12:52:20 16 the materials submitted to the Google board?
12:52:23 17 MR. MANCINI: Same objection.
12:52:29 18 Are you asking as a general practice? Is
12:52:32 19 that the question? Because that's going beyond the
12:52:33 20 Judge's order.
12:52:34 21 MR. BASKIN: John, this will go a lot faster
12:52:38 22 to answer -- I'm going to go to the judge to get more
12:52:41 23 time the way he's behaving, so -- so you should go
12:52:44 24 ahead.
12:52:44 25 Q Is it your normal practice to review in draft

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12:52:47 2 documents that go to the Google board?
12:52:50 3 MR. MANCINI: Same objections.
12:52:54 4 You can answer.
12:52:54 5 THE WITNESS: Not typically.
12:52:56 6 MR. BASKIN: Q. And in the case of the board
12:52:59 7 book submitted to the board in and around October 9th,
12:53:04 8 do you recall if you reviewed that book and draft,
12:53:08 9 sir?
12:53:08 10 MR. MANCINI: Objection; assumes facts; vague
12:53:12 11 and ambiguous.
12:53:12 12 THE WITNESS: I don't recall.
12:53:14 13 MR. BASKIN: Let me hand you what we will
12:53:19 14 mark as page one.
12:53:34 15 (Document marked Page Exhibit 1
12:53:55 16 for identification.)
12:53:55 17 MR. MANCINI: Counsel, while this witness is
12:53:57 18 reviewing this document, I do want to note my
12:53:59 19 continuing objection and just remind you of what Judge
12:54:03 20 Stanton said specifically on the conference held on
12:54:08 21 April 2nd, 2009.
12:54:09 22 Proceed immediately, this is now directed to
12:54:11 23 the plaintiff to what is necessary and only attainable
12:54:14 24 from this witness.
12:54:15 25 I've given you a lot of latitude this

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12:54:17 2 morning.

12:54:17 3 This document is evidence by itself, has been

12:54:19 4 asked of two prior witnesses, including David

12:54:22 5 Drummond. So I'm hoping that you're gonna follow what

12:54:26 6 the judge had asked and ask Mr. Page, one of the most

12:54:30 7 senior executives at Google, what you can only get

12:54:32 8 from him.

12:54:32 9 MR. BASKIN: Q. Mr. Page, have you seen

12:54:34 10 Exhibit 1 prior to today, sir?

12:54:43 11 A Let me -- let me take a chance to look at it.

12:55:31 12 I don't recall seeing it around the time of

12:55:33 13 the acquisition.

12:55:35 14 MR. BASKIN: Q. When do you -- do you recall

12:55:37 15 seeing it at any time?

12:55:41 16 MR. MANCINI: Objection to the extent it

12:55:43 17 seeks communications with counsel. I instruct the

12:55:50 18 witness not to answer.

12:55:51 19 THE WITNESS: I won't answer that.

12:55:52 20 MR. BASKIN: Q. Your only recollection

12:55:54 21 seeing this document is when it was shown to you by

12:55:56 22 counsel?

12:55:57 23 MR. MANCINI: That's impermissible,

12:55:59 24 Counselor, and you know it.

12:55:59 25 MR. BASKIN: It's not.

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12:56:00 2 MR. MANCINI: You're assuming a fact I've
12:56:02 3 instructed him not to answer to and then asking him to
12:56:05 4 answer that question.
12:56:05 5 MR. BASKIN: Q. The -- has anyone -- as you
12:56:09 6 sit here today, sir, do you have any reason to
12:56:12 7 question the accuracy of any information communicated
12:56:16 8 to the Google board in Exhibit 1?
12:56:22 9 MR. MANCINI: Objection; assumes facts to
12:56:24 10 which the witness testified he has no knowledge or
12:56:27 11 recollection.
12:56:28 12 THE WITNESS: Well, this is, you know, like a
12:56:30 13 20-page document or something. Would you like me to
12:56:32 14 take the time to read all of it? I've looked at it
12:56:34 15 for about a minute.
12:56:35 16 MR. BASKIN: Okay.
12:56:36 17 Q Why don't we turn, for example, to page 12 of
12:56:57 18 the document.
12:57:25 19 You have page 12 in front of you?
12:57:27 20 A Yes.
12:57:27 21 Q Do you recognize page 12, sir?
12:57:31 22 MR. MANCINI: Objection; asked and answered.
12:57:32 23 THE WITNESS: You're asking do I recall the
12:57:34 24 document? I don't recall the document.
12:57:35 25 MR. BASKIN: Q. On page 12, you'll see that

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12:57:40 2 First Boston -- strike that.
12:57:43 3 You were aware who was Google's financial
12:57:46 4 advisor in connection with the acquisition of YouTube?
12:57:49 5 A I don't recall.
12:57:51 6 Q You don't recall if it was First Boston?
12:57:54 7 A No.
12:57:54 8 Q You will -- you will note that in -- on
12:57:56 9 page 12 of Exhibit 1, the financial advisor for Google
12:58:04 10 placed a base case valuation of YouTube at
12:58:09 11 \$2.7 billion; do you see that, Mr. Page?
12:58:13 12 MR. MANCINI: Objection to the
12:58:14 13 characterization of the document. The document speaks
12:58:15 14 for itself.
12:58:17 15 THE WITNESS: I'm confused. It also says
12:58:19 16 Credit Suisse, not First Boston.
12:58:24 17 MR. BASKIN: Q. Do you have a recollection
12:58:25 18 Credit Suisse was your financial advisor?
12:58:29 19 A No, I don't recall.
12:58:29 20 Q Now, do you see, sir, on page 12 that Credit
12:58:33 21 Suisse valued a base case valuation of YouTube at
12:58:38 22 \$2.7 billion?
12:58:39 23 MR. MANCINI: Objection to the
12:58:40 24 characterization of the document; the document speaks
12:58:42 25 for itself.

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12:58:45 2 THE WITNESS: Yeah, I guess what -- I mean,

12:58:46 3 it's hard for me to take this one slide out of

12:58:49 4 context.

12:58:50 5 MR. BASKIN: Q. In October 2006, did you

12:58:56 6 believe that Google was paying a fair price for

12:58:58 7 YouTube?

12:59:03 8 MR. MANCINI: Objection; vague and ambiguous.

12:59:06 9 THE WITNESS: Are you referring to our

12:59:07 10 acquisition price?

12:59:08 11 MR. BASKIN: Yes.

12:59:13 12 THE WITNESS: So your question is? Why --

12:59:16 13 why don't you state the question again.

12:59:17 14 MR. BASKIN: Q. In October 2006, do you

12:59:21 15 believe that Google was paying a fair price for

12:59:23 16 YouTube?

12:59:24 17 MR. MANCINI: Objection; vague and ambiguous.

12:59:25 18 THE WITNESS: Yeah, I'm not sure how to

12:59:28 19 define "fair" in the question.

12:59:30 20 MR. BASKIN: Q. Did you believe that Google

12:59:31 21 was overpaying for YouTube?

12:59:34 22 MR. MANCINI: Objection; vague and ambiguous.

12:59:36 23 THE WITNESS: I don't recall my, you know,

12:59:40 24 exact train of thought around the price.

12:59:42 25 MR. BASKIN: Q. Did you believe that

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12:59:43 2 Google -- that YouTube was worth \$1.65 billion?
12:59:49 3 MR. MANCINI: Objection; vague and ambiguous.
12:59:50 4 THE WITNESS: Like I said, I -- I don't
12:59:56 5 recall my exact thinking around the price of YouTube.
12:59:59 6 MR. BASKIN: Q. Did anyone tell you at the
13:00:02 7 time that he or she thought that YouTube was not worth
13:00:06 8 \$1.65 billion?
13:00:14 9 A I don't recall what was said around the
13:00:16 10 price.
13:00:18 11 Q Do you recall if anyone told the senior
13:00:22 12 management of Google that YouTube was not worth
13:00:27 13 \$1.65 billion?
13:00:31 14 MR. MANCINI: Objection; assumes facts; vague
13:00:33 15 and ambiguous.
13:00:33 16 THE WITNESS: Yeah, I actually don't recall
13:00:37 17 the discussion around price.
13:00:39 18 MR. BASKIN: Q. Do you know, sir, whether
13:00:47 19 any of the carrying value of YouTube has been written
13:00:54 20 down on Google's books?
13:00:56 21 MR. MANCINI: Objection; lacks foundation;
13:00:58 22 vague and ambiguous.
13:01:00 23 THE WITNESS: Not sure what you mean by
13:01:02 24 "carrying value."
13:01:03 25 MR. BASKIN: Q. Do you know whether any of

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13:01:05 2 the acquisition price paid by Google has been written
13:01:10 3 down on Google's books in connection with the YouTube
13:01:16 4 acquisition?

13:01:17 5 MR. MANCINI: Same objections.

13:01:17 6 And, Counsel, we've gone so far beyond what
13:01:20 7 is this client's knowledge. Again, contrary to what
13:01:22 8 the Court has said, so I'm hopeful we'll move on
13:01:25 9 quickly.

13:01:26 10 THE WITNESS: I mean, I have a lot of
13:01:28 11 accountants and people like that. I'm not aware of
13:01:31 12 the specifics of that.

13:01:32 13 MR. BASKIN: Q. Do you know whether -- do
13:01:34 14 you have any idea of what the carrying value of
13:01:38 15 YouTube is on Google's books today?

13:01:40 16 MR. MANCINI: Same objections, and same
13:01:41 17 reminder to counsel about the Court's order with
13:01:44 18 respect to this witness.

13:01:45 19 THE WITNESS: Same answer.

13:01:45 20 MR. BASKIN: Q. You know or don't know,
13:01:48 21 Mr. Page?

13:01:49 22 A I already stated that I am not aware.

13:01:52 23 Q Now, prior to October 2006, Google had its
13:02:00 24 own competing video site called Google Video; did it
13:02:04 25 not?

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13:02:06 2 MR. MANCINI: Objection; vague and ambiguous.
13:02:07 3 THE WITNESS: I'm not sure about the
13:02:15 4 definition of "competing," and we actually still have
13:02:20 5 such a thing.
13:02:21 6 MR. BASKIN: Q. Prior to October 2006,
13:02:23 7 Google had a video site called Google Video; did it
13:02:30 8 not?
13:02:31 9 A That's correct.
13:02:31 10 Q And did you have personal knowledge at that
13:02:34 11 time of the copyright compliance practices followed by
13:02:37 12 Google Video in 2006?
13:02:38 13 MR. MANCINI: Objection; vague and ambiguous;
13:02:39 14 calls for a legal conclusion, and to the extent that,
13:02:45 15 if the witness has any knowledge to this issue, that
13:02:47 16 comes from a communication with counsel, I instruct
13:02:50 17 the witness not to answer.
13:02:51 18 THE WITNESS: Yeah, I don't recall.
13:02:53 19 MR. BASKIN: Q. Was Google Video, Mr. Page,
13:02:55 20 actively screening for copyright materials prior to
13:02:59 21 upload in 2006?
13:03:01 22 MR. MANCINI: Objection; vague and ambiguous.
13:03:02 23 THE WITNESS: I don't recall.
13:03:06 24 MR. BASKIN: Q. Was Google Video using human
13:03:08 25 review, Mr. Page, to screen for copyright violation

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13:03:12 2 materials in 2006?
13:03:13 3 MR. MANCINI: Objection; calls for a legal
13:03:14 4 conclusion.
13:03:15 5 THE WITNESS: I don't recall.
13:03:17 6 MR. BASKIN: Q. Was Google Video searching
13:03:20 7 by search terms on its site to seek out copyright
13:03:25 8 violated materials?
13:03:26 9 MR. MANCINI: Objection; calls for a legal
13:03:28 10 conclusion.
13:03:28 11 THE WITNESS: I don't recall.
13:03:29 12 MR. BASKIN: Let me show you what we will
13:03:40 13 mark as -- this one -- Page Exhibit 2.
13:04:00 14 (Document marked Page Exhibit 2
13:04:17 15 for identification.)
13:04:17 16 MR. BASKIN: Q. Were you -- the term, sir --
13:04:37 17 MR. MANCINI: So I -- Mr. Baskin, once again,
13:04:40 18 this document doesn't even list Mr. Page as a
13:04:44 19 recipient. It's been --
13:04:45 20 MR. BASKIN: Well, that's what I'm about to
13:04:46 21 ask him, sir.
13:04:47 22 MR. MANCINI: Okay.
13:04:48 23 MR. BASKIN: Q. Does the name
13:04:53 24 Harappa-BD@Google.com, does that mean anything to you,
13:04:54 25 Mr. Page?

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13:04:57 2 A It looks like an e-mail address of a group.
13:05:00 3 Q And you were a member of that group; were you
13:05:02 4 not?
13:05:03 5 A I don't recall.
13:05:04 6 Q Do you recall being advised in and around
13:05:08 7 December of 2005 that Google Video was sweeping videos
13:05:13 8 to take out any copyright violations on videos that
13:05:17 9 are less than two minutes long? Do you recall being
13:05:21 10 told that, sir?
13:05:21 11 MR. MANCINI: So objection to the
13:05:23 12 characterization of the document, and again objection
13:05:25 13 to the fact that a document by its marking here was
13:05:29 14 shown, at least to Mr. Drummond, is going beyond this
13:05:32 15 witness's unique knowledge, which is what this Court
13:05:35 16 permitted for this testimony.
13:05:36 17 MR. BASKIN: Q. Mr. Page, were you aware
13:05:37 18 that Google Video was sweeping videos for copyright
13:05:40 19 violations, videos that were less than two minutes
13:05:45 20 long?
13:05:46 21 MR. MANCINI: Objection to the
13:05:46 22 characterization of the document, and objection to the
13:05:49 23 extent it seeks a legal conclusion.
13:05:50 24 THE WITNESS: I don't recall.
13:05:54 25 Can I -- can I just state, too, this is

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13:05:56 2 probably a -- Harappa-bd is probably for business
13:06:02 3 development. It seems very unlikely I would be on
13:06:05 4 such a list.
13:06:07 5 MR. BASKIN: Okay.
13:06:12 6 Q After the acquisition of YouTube by Google,
13:06:20 7 did Google senior management make a decision not to
13:06:26 8 deploy screening at YouTube?
13:06:31 9 MR. MANCINI: Objection; lacks foundation;
13:06:33 10 vague and ambiguous.
13:06:34 11 THE WITNESS: I don't recall.
13:06:35 12 MR. BASKIN: Q. After the acquisition by
13:06:39 13 YouTube -- of YouTube by Google, did Google's senior
13:06:44 14 management ratify a decision not to deploy screening
13:06:48 15 practices at YouTube?
13:06:49 16 MR. MANCINI: Objection; asked and answered;
13:06:51 17 lacks foundation; vague and ambiguous.
13:06:53 18 THE WITNESS: I don't recall.
13:06:54 19 MR. BASKIN: Q. After the acquisition of
13:06:55 20 YouTube by Google, did Google's senior management
13:07:00 21 determine to cease using practices to ferret out
13:07:09 22 copyright violations at YouTube that were being used
13:07:11 23 at Google Video?
13:07:12 24 MR. MANCINI: Objection; lacks foundation;
13:07:14 25 vague and ambiguous; calls for a legal conclusion.

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13:07:17 2 THE WITNESS: Yeah, I don't recall.
13:07:18 3 MR. BASKIN: Q. After the acquisition by
13:07:20 4 YouTube of Goo- -- of YouTube by Google, did Google's
13:07:25 5 senior management ratify a decision not to utilize
13:07:30 6 practices followed by Google Video to weed out
13:07:35 7 copyright violations at the newly acquired YouTube?
13:07:38 8 MR. MANCINI: Objection; lacks foundation;
13:07:40 9 vague and ambiguous; calls for a legal conclusion;
13:07:42 10 asked and answered.
13:07:42 11 THE WITNESS: I don't recall.
13:07:44 12 MR. BASKIN: Q. Were you party to any such
13:07:47 13 discussion, Mr. Page, to cease using practices that
13:07:53 14 Google Video previously had been using to prevent
13:07:56 15 copyright violations?
13:07:57 16 MR. MANCINI: Same exact objections.
13:07:59 17 THE WITNESS: Could you restate the question?
13:08:02 18 MR. BASKIN: Q. Do you recall being a party
13:08:04 19 to any discussion whereby senior management determined
13:08:14 20 to cease using practices at YouTube to ferret out
13:08:23 21 copyright violations which previously were being used
13:08:26 22 at Google Video?
13:08:27 23 MR. MANCINI: Same objections.
13:08:27 24 And with all due respect, Mr. Baskin, it's
13:08:29 25 the exact same question characterized three different

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13:08:30 2 ways.
13:08:31 3 THE WITNESS: Yeah, I don't recall.
13:08:32 4 MR. BASKIN: Q. Would such a decision have
13:08:35 5 required the approval of senior management?
13:08:37 6 MR. MANCINI: Objection; lacks foundation;
13:08:39 7 vague and ambiguous.
13:08:39 8 THE WITNESS: I guess I would be speculating
13:08:41 9 if I answered that question.
13:08:42 10 MR. BASKIN: Q. Well, in the ordinary course
13:08:44 11 of how the senior management works, you're one of the
13:08:46 12 three most senior people in the business; right, sir?
13:08:50 13 A Yes.
13:08:50 14 Q Would a decision to cease using copyright
13:08:55 15 compliance techniques at YouTube that previously were
13:08:59 16 being used at Google Video, would such a decision have
13:09:04 17 required the approval of you, Mr. Brin, and
13:09:09 18 Mr. Schmidt?
13:09:10 19 MR. MANCINI: Objection; lacks foundation;
13:09:13 20 vague and ambiguous.
13:09:15 21 THE WITNESS: Yeah, I guess you have a whole
13:09:18 22 bunch of assumptions in your question.
13:09:19 23 MR. MANCINI: Mr. Baskin, I think we can save
13:09:22 24 ourselves a whole lot of time if you can just ask this
13:09:24 25 question, whether or not this witness was involved in

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13:09:26 2 operational decisions. I think that would be a fair

13:09:29 3 way to go forward.

13:09:30 4 MR. BASKIN: Q. Mr. Page, would the decision

13:09:32 5 to cease using practices at YouTube that previously

13:09:38 6 were used at Google Video, would such a decision have

13:09:41 7 required your approval --

13:09:42 8 MR. MANCINI: Objection.

13:09:43 9 MR. BASKIN: Q. -- in the ordinary course?

13:09:45 10 MR. MANCINI: Objection; lacks foundation;

13:09:46 11 vague and ambiguous.

13:09:48 12 THE WITNESS: Same answer. I don't recall.

13:09:50 13 MR. BASKIN: Q. Now, does -- by the way, I

13:10:08 14 was invited to ask you a question. So let me ask you

13:10:10 15 that question: Are you involved in the operation

13:10:12 16 decisions at Google?

13:10:13 17 MR. MANCINI: Objection; I think your

13:10:15 18 question is to Google Video -- excuse me -- YouTube.

13:10:20 19 Excuse me. YouTube.

13:10:20 20 MR. BASKIN: Q. Are you involved, sir, in

13:10:22 21 operational issues at Google?

13:10:26 22 A Hard to define what "operational issues" are,

13:10:30 23 but I'm one of the most senior executives.

13:10:32 24 Q And, in fact, are you the most senior exec --

13:10:36 25 your title says you are president of products; is that

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13:10:41 2 correct?

13:10:41 3 A That's correct.

13:10:41 4 Q Does that mean that -- well, strike that.

13:10:44 5 Why don't you explain to us what you -- what

13:10:47 6 you understand your ambit to be then; what is your job

13:10:51 7 at Google?

13:10:52 8 MR. MANCINI: So, Counselor, we're completely

13:10:55 9 wasting time. The job description and

13:10:57 10 responsibilities that he holds is exactly what Judge

13:11:00 11 Stanton called out as the things you should not be

13:11:04 12 wasting this witness's time on.

13:11:04 13 MR. BASKIN: I thought you told me to ask

13:11:06 14 him.

13:11:06 15 MR. MANCINI: You asked -- you asked --

13:11:07 16 MR. BASKIN: That's fine. I'll withdraw the

13:11:09 17 question.

13:11:09 18 MR. MANCINI: Okay.

13:11:10 19 MR. BASKIN: Q. Mr. Page, in May 2006 --

13:11:12 20 strike that.

13:11:13 21 Do the initials GPS or -- mean anything to

13:11:19 22 you?

13:11:21 23 A Yes.

13:11:21 24 Q What are they?

13:11:22 25 A In the context of Google?

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13:11:24 2 Q Yes.
13:11:26 3 A They're a set of meetings that we hold.
13:11:29 4 Q And they are basically meetings in which the
13:11:33 5 senior management of the company reviews various
13:11:36 6 products; is that correct?
13:11:40 7 A They're a set of meetings with a wide variety
13:11:43 8 of topics.
13:11:45 9 Q And at each such GPS meeting, is a particular
13:11:49 10 product reviewed or highlighted?
13:11:58 11 A I don't know that I'm a particular expert on
13:12:00 12 the top -- on the subject of the GPS meetings. Like I
13:12:04 13 said, it's a general meeting. Pretty much, you know,
13:12:09 14 I mentioned whatever people want to talk about. Not
13:12:12 15 particularly well-defined.
13:12:14 16 Q In the spring of 2006, was a GPS meeting held
13:12:20 17 and the topic of that meeting being Google Video?
13:12:24 18 MR. MANCINI: Objection; assumes facts; vague
13:12:27 19 and ambiguous.
13:12:27 20 THE WITNESS: I mean, I've -- you know,
13:12:31 21 probably go to 100 meetings a week or something here.
13:12:35 22 Maybe not that meeting, but some significant number.
13:12:38 23 I don't recall a particular meeting in October of
13:12:40 24 2006.
13:12:40 25 MR. BASKIN: Q. Do you recall attending a

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13:12:42 2 GPS meeting where the topic was Google Video?
13:12:45 3 MR. MANCINI: Same objections; asked and
13:12:47 4 answered.
13:12:47 5 THE WITNESS: I don't recall.
13:12:50 6 MR. BASKIN: Q. Who is David E-U-N? How
13:13:08 7 would you pronounce that, sir?
13:13:09 8 A I'm not sure I have the proper pronunciation.
13:13:13 9 David Eun.
13:13:16 10 Q Who is he?
13:13:18 11 A He's an employee of Google. He works in some
13:13:24 12 sort of business-related area.
13:13:26 13 Q And in 2006, was he a senior executive of
13:13:33 14 Google Video?
13:13:38 15 MR. MANCINI: Objection; lacks foundation;
13:13:39 16 vague and ambiguous.
13:13:40 17 THE WITNESS: Yeah, I'm not sure how to
13:13:41 18 define "senior executive."
13:13:43 19 MR. BASKIN: Q. In 2006, was he an executive
13:13:47 20 of -- working within Google Video, sir?
13:13:50 21 A I don't know that much about what David's
13:13:52 22 title was or whatever.
13:13:56 23 Q Let me show you an exhibit which we will mark
13:14:03 24 as Page 3, Page Exhibit 3.
13:14:13 25 ///

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13:14:13 2 (Document marked Page Exhibit 3
13:14:21 3 for identification.)
13:14:21 4 MR. BASKIN: I'll hand you Page Exhibit 3.
13:14:39 5 MR. MANCINI: While he reviews the document,
13:14:41 6 I'm going to renew my continuing objection to a
13:14:44 7 document that's been asked of at least two prior
13:14:47 8 witnesses, and we believe violates this Court's order
13:14:51 9 with respect to this deposition.
13:14:52 10 MR. BASKIN: Q. Mr. Page, you will see that
13:14:54 11 you are not a recipient of Exhibit 3.
13:14:57 12 Do you see that, sir?
13:14:58 13 A Yes.
13:14:58 14 Q Now, if you go to the bottom of the first
13:15:00 15 page of Exhibit 3, you will see that Mr. Eun or Eun,
13:15:05 16 however you pronounce his name, is describing illegal
13:15:10 17 traffic and piracy on YouTube -- on the YouTube site;
13:15:14 18 do you see that, sir?
13:15:15 19 MR. MANCINI: Objection to the
13:15:16 20 characterization of the document.
13:15:17 21 THE WITNESS: Sorry. Would you like me to
13:15:39 22 review the whole document, or what would you like me
13:15:42 23 to do?
13:15:43 24 MR. BASKIN: Q. Mr. Page, let me call your
13:15:45 25 attention to the following paragraph, and I'll have a

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13:15:48 2 very simple question about it.
13:15:50 3 "I think we should beat YouTube - and all
13:15:53 4 competitors - but not at all costs. A large part of
13:15:57 5 their traffic is from pirated content. When we
13:16:02 6 compare our traffic numbers to theirs, we should
13:16:05 7 acknowledge that we are comparing our 'legal traffic'
13:16:08 8 to their mix of traffic from legal and illegal
13:16:12 9 content. One senior media executive told me they are
13:16:15 10 monitoring YouTube very closely and referred to them
13:16:19 11 as a 'Video Grokster.'"
13:16:21 12 Do you see that paragraph, sir?
13:16:24 13 A Uh-huh.
13:16:24 14 Q Did Mr. Schmidt ever raise the topics set
13:16:33 15 forth in that paragraph with the OC or its
13:16:37 16 predecessor?
13:16:38 17 MR. MANCINI: Objection; lacks foundation;
13:16:40 18 vague and ambiguous.
13:16:40 19 THE WITNESS: I don't recall.
13:16:43 20 MR. BASKIN: Q. Was there ever a discussion
13:16:45 21 at the OC or its predecessor among the senior
13:16:49 22 executives of Google regarding the extent of pirated
13:16:55 23 content on YouTube?
13:16:56 24 MR. MANCINI: Objection; lacks foundation;
13:16:58 25 calls for a legal conclusion; vague and ambiguous.

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13:16:59 2 THE WITNESS: I don't recall.
13:17:03 3 MR. BASKIN: Q. Was there ever a discussion
13:17:04 4 that you recall among the senior -- strike that.
13:17:07 5 Was there ever a discussion of any kind among
13:17:09 6 the senior executives of Google that YouTube has
13:17:23 7 pirated an illegal content constituting a large part
13:17:27 8 of its traffic?
13:17:28 9 MR. MANCINI: Objection; lacks foundation;
13:17:30 10 vague and ambiguous; calls for a legal conclusion.
13:17:31 11 THE WITNESS: Yeah, I don't recall.
13:17:35 12 MR. BASKIN: Q. You recall no such
13:17:37 13 conversations at any time; is that what you're saying?
13:17:39 14 MR. MANCINI: Objection; asked and answered.
13:17:40 15 THE WITNESS: Sorry. You're asking the same
13:17:41 16 question.
13:17:42 17 MR. BASKIN: Q. You recall no such
13:17:43 18 conversations among the senior executives at Google at
13:17:46 19 any time, right, Mr. Page?
13:17:47 20 MR. MANCINI: Just asked and answered.
13:17:49 21 THE WITNESS: I'm sorry. I couldn't quite
13:17:52 22 hear what you said between the two.
13:17:55 23 MR. BASKIN: Q. I've said -- I said, during
13:17:56 24 the course of all the OC meetings that you attended
13:18:02 25 and its predecessor to the OC, when the senior

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13:18:06 2 executives of Google convene, am I right, sir, that is
13:18:14 3 your testimony, that you do not recall an instance
13:18:18 4 where the senior executives of Google discussed that a
13:18:23 5 large part of the traffic in YouTube is pirated
13:18:28 6 content?

13:18:28 7 MR. MANCINI: So same exact objections. It's
13:18:31 8 been asked and it's been answered, and although the
13:18:35 9 witness has testified to his lack of knowledge, I also
13:18:37 10 want to object to preserve it to the extent it calls
13:18:40 11 for communications with counsel, and I instruct the
13:18:43 12 client not to answer.

13:18:44 13 THE WITNESS: I don't recall.

13:19:03 14 MR. BASKIN: Q. Now, in the course -- how
13:19:21 15 often, by the way, do you speak to Mr. Schmidt?

13:19:27 16 A How often do I speak to Mr. Schmidt?

13:19:31 17 Q Is it a daily event?

13:19:36 18 A I mean, there's a lot of -- you know, a lot
13:19:40 19 of travel and so on. Pretty often.

13:19:46 20 Q And how close are your offices, Mr. Page?

13:19:50 21 A How close are our offices physically?

13:19:54 22 Five-minute walk.

13:19:58 23 Q And do you recall Mr. Schmidt communicating
13:20:05 24 to you regarding what he had learned at the May GPS
13:20:13 25 meeting on the topic of Google Video?

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13:20:16 2 MR. MANCINI: Objection; lacks foundation;

13:20:17 3 vague and ambiguous.

13:20:18 4 THE WITNESS: I don't recall.

13:20:19 5 MR. BASKIN: Q. Do you recall, for example,

13:20:22 6 whether Mr. Schmidt ever told you that the Google

13:20:39 7 Video team had stated in a deck given to him, that

13:20:52 8 YouTube's business model is completely sustained by

13:20:56 9 pirated content? They are at the mercy of companies

13:21:01 10 not responding with DCM requests?

13:21:08 11 Do you recall Mr. Schmidt ever telling you he

13:21:10 12 learned that at a GPS meeting regarding the topic of

13:21:15 13 Google Video and YouTube?

13:21:16 14 MR. MANCINI: Objection; lacks foundation;

13:21:17 15 vague and ambiguous.

13:21:18 16 THE WITNESS: I don't recall.

13:21:18 17 MR. BASKIN: Q. Do you recall Mr. Schmidt

13:21:20 18 ever advising the OC or its predecessor of what he was

13:21:28 19 told at the spring 2006 GPS meeting on the topic of

13:21:34 20 piracy at YouTube?

13:21:35 21 MR. MANCINI: Objection; lacks foundation;

13:21:37 22 vague and ambiguous and calls for a legal conclusion.

13:21:39 23 THE WITNESS: I don't recall.

13:21:39 24 MR. BASKIN: Q. Do you recall whether the

13:21:42 25 senior executives of Google, prior to the decision to

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13:21:47 2 buy YouTube, ever considered the issue of piracy at
13:21:53 3 YouTube?
13:21:53 4 MR. MANCINI: Objection; vague and ambiguous;
13:21:57 5 calls for a legal conclusion.
13:22:00 6 To the extent it seeks communications with
13:22:01 7 counsel, I instruct the witness not to answer.
13:22:04 8 THE WITNESS: I won't answer.
13:22:06 9 MR. BASKIN: Q. Did you ever consider in
13:22:10 10 your own mind, prior to the acquisition of YouTube by
13:22:13 11 Google, the issue of copyright piracy at YouTube?
13:22:22 12 MR. MANCINI: Objection; calls for a legal
13:22:24 13 conclusion; vague and ambiguous.
13:22:25 14 THE WITNESS: I don't recall.
13:22:27 15 MR. BASKIN: Why don't we take a two-minute
13:22:37 16 break.
13:22:38 17 THE VIDEOGRAPHER: We are now going off the
13:22:39 18 record.
13:22:39 19 The time is 1:18 p.m.
13:22:41 20 (Lunch break taken 1:18 p.m.)
21 -----
22
23
24
25

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2 A F T E R N O O N S E S S I O N
13:53:39 3 1:54 p.m.
13:53:39 4
13:58:17 5 THE VIDEOGRAPHER: We're now going back on
13:58:29 6 the record. The time is 1:54 p.m.
13:58:33 7 MR. BASKIN: Okay.
13:58:35 8 Q Mr. Page, am I correct that over the years,
13:58:44 9 Google has held negotiations with major entertainment
13:58:52 10 companies like movie studios and producers of
13:58:56 11 televised content for revenue-sharing deals, whereby
13:59:05 12 the content owners would license their content over
13:59:09 13 YouTube or Google Video and split revenue with Google?
13:59:15 14 MR. MANCINI: Objection; vague and ambiguous.
13:59:17 15 THE WITNESS: Yeah, there's a lot of premises
13:59:23 16 there.
13:59:24 17 Can you split it up into multiple questions,
13:59:27 18 maybe?
13:59:28 19 MR. BASKIN: Q. Over the years, has Google
13:59:32 20 engaged in negotiations with entertainment companies
13:59:40 21 to license their --
13:59:41 22 A Wait. Can we stop there?
13:59:45 23 Q -- to license their content?
13:59:47 24 A Okay. We have -- there's probably been a
13:59:55 25 number of different deals with entertainment companies

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13:59:57 2 around content.

14:00:00 3 Q And am I right that the way these deals
14:00:04 4 function is that Google would receive a license to use
14:00:13 5 the content on Google Video or YouTube and
14:00:19 6 advertisements -- advertising revenues surrounding
14:00:24 7 that content would be shared between Google and the
14:00:27 8 entertainment companies?

14:00:29 9 MR. MANCINI: Objection; assumes facts; vague
14:00:31 10 and ambiguous.

14:00:31 11 THE WITNESS: Yeah, again, there's a lot of
14:00:35 12 assumptions there. Can you split that again into
14:00:37 13 multiple questions?

14:00:38 14 MR. BASKIN: Q. Was it a key element of
14:00:42 15 Google's negotiations with movie studios and TV
14:00:49 16 companies that the TV companies would license their
14:00:55 17 content on Google Video and YouTube?

14:00:57 18 MR. MANCINI: Objection; vague and ambiguous.

14:00:58 19 THE WITNESS: Can you restate that?

14:01:04 20 MR. BASKIN: Q. You didn't understand my
14:01:06 21 words, Mr. Page?

14:01:08 22 A Well, I think it's very important that I
14:01:09 23 answer accurately, so I'd like you to restate the
14:01:12 24 question.

14:01:14 25 Q Am I correct, sir, that a key element of

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14:01:20 2 Google's negotiations with movie studios and TV
14:01:23 3 companies is for Google to acquire a license to
14:01:30 4 display their content on Google Video or YouTube?
14:01:34 5 MR. MANCINI: Objection; vague and ambiguous.
14:01:41 6 THE WITNESS: Sorry. I guess I'm -- I'm
14:01:44 7 confused about the definition of "key element."
14:01:49 8 MR. BASKIN: Q. Which word are you having
14:01:51 9 problems with, Mr. Page? The word "key" or "element"?
14:01:56 10 MR. MANCINI: I'm actually confused by the
14:01:58 11 terms myself, Mr. Baskin. There's probably a better
14:02:01 12 way to ask that question.
14:02:02 13 MR. BASKIN: Q. Which word confuses you,
14:02:04 14 Mr. Page, key or element?
14:02:06 15 A The combination of the two words.
14:02:07 16 Q That combination is confusing to you, sir?
14:02:11 17 Is that right?
14:02:13 18 A You know, business deals between large
14:02:15 19 companies are pretty complex things involving many
14:02:20 20 different aspects. There's many possible companies
14:02:25 21 represented by your question. It's a difficult
14:02:27 22 question to answer.
14:02:32 23 Q When Google has held negotiations with movie
14:02:35 24 studios and television -- producers of television
14:02:41 25 content, has Google sought to obtain a license to

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14:02:49 2 display their content on YouTube or Google Video?

14:02:56 3 A Again, the first part of the question, movie
14:03:01 4 studios or? You want to remind me of the question?

14:03:08 5 Your -- your corporate entities were movie studios or?

14:03:12 6 Q Are you having problems understanding me,

14:03:15 7 Mr. Baskin?

14:03:16 8 MR. MANCINI: Mr. Baskin, he just wants to be
14:03:19 9 precise. He wants you to break down the question.

14:03:21 10 MR. BASKIN: Q. When Google has had
14:03:22 11 discussions with movie studios, has Google sought to
14:03:26 12 negotiate to get a license to display their
14:03:32 13 copyrighted content on YouTube and Google Video?

14:03:36 14 MR. MANCINI: Objection; vague and ambiguous.

14:03:37 15 THE WITNESS: Yeah, I don't recall.

14:03:43 16 MR. BASKIN: Q. Well, do you recall when
14:03:44 17 Google has had discussions with -- with television
14:03:47 18 producing companies like MTV Networks or Turner
14:03:53 19 Broadcasting, did Google seek to negotiate to get a
14:04:00 20 license to display their copyrighted content on
14:04:04 21 YouTube and Google Video?

14:04:05 22 MR. MANCINI: Same objections; objection to
14:04:08 23 the extent it seeks a legal conclusion, and continuing
14:04:11 24 objection as it being beyond the scope of Judge
14:04:14 25 Stanton's order for this deposition, but you can

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14:04:19 2 answer if you recall.

14:04:20 3 THE WITNESS: Again, there's a lot of detail
14:04:24 4 in those arrangements and a lot of complexity, and so
14:04:30 5 the -- the definition of all those terms is -- is
14:04:33 6 relevant to how I would answer the question. You're
14:04:40 7 asking me a very, very specific question which I then
14:04:43 8 can't recall.

14:04:43 9 MR. BASKIN: Q. Now, when Google or YouTube
14:04:50 10 personnel -- well, let's break it down first.

14:04:53 11 When YouTube personnel have held negotiations
14:04:58 12 with major entertainment companies, have you been kept
14:05:04 13 advised regarding the status of the negotiation?

14:05:07 14 MR. MANCINI: Objection; lacks foundation.

14:05:10 15 Do you have a time period in mind,

14:05:11 16 Mr. Baskin?

14:05:14 17 MR. BASKIN: Q. What's your answer,

14:05:15 18 Mr. Page?

14:05:17 19 A In general, for all Google businesses, you
14:05:19 20 know, I try to keep apprised of what's happening, but
14:05:23 21 there's a tremendous number of deals going on and
14:05:26 22 things going on.

14:05:27 23 Q Well, my question is, particularly in the
14:05:31 24 negotiations with big movie studios, like Viacom
14:05:37 25 Paramount, or Walt Disney, or Turner, or NBC

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14:05:44 2 Universal, were you being kept apprised of the status
14:05:48 3 of the negotiations?
14:05:51 4 A Again, I said, in general, I'm kept apprised
14:05:53 5 of major happenings in the company.
14:05:57 6 Are you asking a specific question about a
14:06:01 7 specific deal or just in general?
14:06:03 8 Q Let me ask it again. Listen very carefully
14:06:05 9 to the question, okay, Mr. Page.
14:06:07 10 Here's the question: Particularly in the
14:06:12 11 negotiations with big movie studios like Viacom,
14:06:17 12 Paramount, or Walt Disney, or Turner, or NBC
14:06:24 13 Universal, were you being kept apprised of the status
14:06:29 14 of the negotiations?
14:06:30 15 MR. MANCINI: Objection; compound question.
14:06:33 16 THE WITNESS: I wouldn't say particularly.
14:06:40 17 MR. BASKIN: Q. And when you say you
14:06:52 18 wouldn't be -- say "particularly," you mean -- what do
14:06:54 19 you mean by that, sir?
14:06:56 20 A It seems like you're trying to imply in the
14:06:58 21 complicated question form that I was particularly
14:07:00 22 apprised of such deals. I already told you, in
14:07:03 23 general, I'm apprised of what's going on. I don't
14:07:05 24 think it was any different with these kinds of deals.
14:07:09 25 Q Now, at any point in time, did you -- were

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14:07:13 2 you being advised of the terms being offered to Viacom
14:07:22 3 in connection with negotiations for a license to
14:07:27 4 display Viacom content over YouTube?

14:07:30 5 MR. MANCINI: Objection; vague and ambiguous.

14:07:35 6 MR. DEIXLER: May I note for the record and
14:07:37 7 note my objection to the witness's repeated looking at
14:07:41 8 the transcript of the questions and answers. I
14:07:43 9 believe it's irregular and improper, and I ask that
14:07:46 10 that aide to his testimony be taken from him.

14:07:50 11 MR. MANCINI: So I just want to note for the
14:07:51 12 record that I said very specifically at the beginning
14:07:52 13 of this deposition that this monitor, which is for my
14:07:54 14 benefit, was close in proximity to the witness, and I
14:07:58 15 didn't hear an objection to that because of the setup
14:08:00 16 of this room.

14:08:01 17 I'm happy to move it, Mr. Baskin, if you
14:08:04 18 think it's somehow improperly aiding this witness.

14:08:07 19 MR. BASKIN: To be honest with you, I love
14:08:11 20 the fact he's videotaped watching the monitor, so
14:08:13 21 you're welcome to look at the monitors, as far as I'm
14:08:13 22 concerned, but I understand his objection.

14:08:17 23 Q Now -- so let me ask you again, Mr. Page.
14:08:20 24 In connection with Viacom, were you being
14:08:24 25 apprised of the terms of the negotiations between

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14:08:28 2 Viacom and Google?

14:08:32 3 A So I don't recall any such detail or

14:08:39 4 anything.

14:08:40 5 Q Now, did you ever hear of the phrase "Big

14:08:45 6 6" by the way, "Big 6 Media Companies"?

14:08:50 7 A I don't recall hearing such a phrase.

14:08:52 8 Q Did Google's senior management hold weekly

14:09:07 9 meetings to discuss the status of large transactions?

14:09:12 10 MR. MANCINI: Objection; assumes facts; vague

14:09:15 11 and ambiguous.

14:09:15 12 THE WITNESS: I mean, seems again a very

14:09:19 13 vague question. I don't recall.

14:09:20 14 MR. BASKIN: Q. Well, for example, was there

14:09:28 15 a no-surprise approach at Google about bringing in

14:09:36 16 deals so that you and Mr. Brin and Mr. Schmidt had to

14:09:41 17 be kept advised regarding the status of negotiations?

14:09:44 18 MR. MANCINI: Objection; assumes facts; vague

14:09:47 19 and ambiguous.

14:09:47 20 THE WITNESS: Again, in general, you know, I

14:09:52 21 work hard to make sure I'm apprised of roughly what's

14:09:56 22 going on. I don't know the details of how that's

14:09:59 23 operated on.

14:10:00 24 MR. BASKIN: Q. Well, my question was, was

14:10:02 25 there a no-surprise policy that the three of you could

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14:10:05 2 not be surprised regarding the status of negotiations

14:10:10 3 with big content owners?

14:10:12 4 MR. MANCINI: Objection; asked and just

14:10:15 5 answered.

14:10:15 6 THE WITNESS: Yeah, I don't recall of any

14:10:17 7 such term.

14:10:18 8 MR. BASKIN: Let me just -- we will mark as

14:10:33 9 Page 4 -- you got it?

14:10:47 10 (Document marked Page Exhibit 4

14:11:09 11 for identification.)

14:11:09 12 MR. BASKIN: Q. If it makes your life

14:11:50 13 easier, Mr. Page, I'm not really going to ask you any

14:11:54 14 questions about the document, apart from the first

14:11:57 15 paragraph.

14:11:57 16 MR. MANCINI: Just give the -- just give the

14:11:59 17 witness a moment to review it.

14:12:21 18 MR. BASKIN: Q. Can you identify, sir,

14:12:23 19 Exhibit 4 as an e-mail received by you, among others,

14:12:31 20 on or about September 7th, 2006?

14:12:36 21 A I mean, I don't remember the e-mail, but

14:12:38 22 I assume that's been produced in document production.

14:12:47 23 Q And was there, at Google, a no-surprises

14:12:50 24 approach to bringing in deals so that you and

14:12:53 25 Mr. Schmidt and Mr. Brin had to be put on notice on

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14:13:02 2 deals that were being discussed?
14:13:05 3 MR. MANCINI: Objection; vague and ambiguous;
14:13:06 4 asked and answered.
14:13:06 5 . THE WITNESS: I mean, this is an e-mail that
14:13:11 6 was, you know, addressed to me. But, you know, again,
14:13:18 7 I have many, many responsibilities at Google, and I'm
14:13:22 8 not that operationally involved in the deal details.
14:13:27 9 So I typically probably would not read such an e-mail.
14:13:34 10 MR. BASKIN: Q. I didn't ask you whether you
14:13:35 11 read the e-mail. I asked you whether there was a
14:13:38 12 no-surprise approach to bringing in deals to Google --
14:13:41 13 MR. MANCINI: Objection; vague and ambiguous;
14:13:42 14 asked and answered.
14:13:42 15 MR. BASKIN: Q. -- such that -- such that
14:13:43 16 you and the other two prin -- key executives have to
14:13:50 17 be advised of ongoing negotiations?
14:13:53 18 MR. MANCINI: Same objections.
14:13:54 19 THE WITNESS: I already stated I had no
14:13:57 20 recollection of that term.
14:13:58 21 MR. BASKIN: Q. Now, do you recall being
14:14:19 22 advised of the content deal terms regarding my client,
14:14:25 23 Viacom, as the transaction -- as the transaction was
14:14:32 24 being negotiated?
14:14:33 25 A No, I don't recall that.

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14:14:36 2 Q Well, let me hand you, for example, what
14:14:51 3 we'll mark as Page 5.

14:14:55 4 (Document marked Page Exhibit 5
14:15:13 5 for identification.)

14:15:13 6 MR. BASKIN: Oh, I'm sorry. Let me see about
14:15:15 7 the others. You get the marked 5.

14:15:38 8 THE WITNESS: Sorry. I seem to have two
14:15:39 9 copies of this.

14:15:41 10 MR. BASKIN: You can pass one down.

14:16:43 11 Q Can we agree, sir, that you and Mr. Brin were
14:16:48 12 among the CC recipients of Exhibit 5?

14:16:50 13 MR. MANCINI: Objection; document speaks for
14:16:52 14 itself

14:16:53 15 THE WITNESS: Again, I don't recall the
14:16:54 16 particular e-mail, but I assume that's produced and
14:16:59 17 that that's the case.

14:17:01 18 MR. BASKIN: Q. Now, does this document,
14:17:06 19 Exhibit 5, help to refresh your memory, that you were
14:17:12 20 being kept advised of the status of deal terms in the
14:17:18 21 negotiations between Viacom and Google?

14:17:23 22 MR. MANCINI: Objection to the
14:17:25 23 characterization of the document.

14:17:26 24 THE WITNESS: I mean, it helps me remember
14:17:28 25 that there's an e-mail that I appear to have gotten

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14:17:31 2 about those terms.

14:17:32 3 MR. BASKIN: Q. And do you recall whether

14:17:39 4 the senior management of Google had discussed

14:17:54 5 providing over half a billion dollars as a revenue

14:17:59 6 guarantee to Viacom for its content to be displayed

14:18:05 7 over YouTube and Google.

14:18:09 8 A No, I don't recall. You said -- in the

14:18:13 9 context again, we have very large commercial

14:18:16 10 relationships with very many large number of

14:18:19 11 companies, and I take it in this case, this one did

14:18:22 12 not get signed by Viacom or by Google, and so I tend

14:18:29 13 to pay more attention to the ones that are in their

14:18:32 14 final processes. I don't know how far along this was.

14:18:38 15 Q Well, can you tell us, for the record, of the

14:18:43 16 transactions you do remember, whether there was any

14:18:48 17 other content provider to whom Google offered in

14:18:57 18 excess of half a billion dollars for its content apart

14:19:02 19 from Viacom?

14:19:03 20 MR. MANCINI: Objection; assumes facts; vague

14:19:05 21 and ambiguous; and once again, I think clearly outside

14:19:06 22 of the scope of Judge Stanton's order.

14:19:09 23 THE WITNESS: So, again, Google has very

14:19:11 24 large commercial relationships with companies, some of

14:19:15 25 which is much, much larger than this. That seems not

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14:19:19 2 the scope of the current inquiry.
14:19:21 3 MR. BASKIN: Q. The question I asked you,
14:19:22 4 Mr. Page, is, can you tell us the name of one content
14:19:31 5 provider, other than Viacom, to whom Google offered in
14:19:39 6 excess of a half billion dollars for its content?
14:19:42 7 MR. MANCINI: Are you asking whether he has
14:19:44 8 personal knowledge of this issue?
14:19:45 9 MR. BASKIN: If he knows, yes.
14:19:46 10 MR. MANCINI: Okay. Same objections.
14:19:48 11 THE WITNESS: Again, it would not surprise
14:19:49 12 me, if that's the case. Again, I'm not in charge of
14:19:53 13 all those deals and intimately familiar with all of
14:19:57 14 them, so I don't want to speculate on that.
14:20:00 15 MR. BASKIN: Well, let me hand you what we
14:20:10 16 will mark as Page Exhibit 6.
14:20:19 17 (Document marked Page Exhibit 6
14:21:11 18 for identification.)
14:21:11 19 MR. MANCINI: So while the witness reviews
14:21:14 20 it, I just want to renew my continuing objection, that
14:21:16 21 these questions go outside the Court's directive.
14:21:20 22 Once again, this is a document on which he is
14:21:22 23 CCed, so it clearly could not be within his unique
14:21:26 24 knowledge.
14:21:32 25 MR. BASKIN: Q. Are you ready, Mr. Page?

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14:21:33 2 MR. MANCINI: Just give him a minute.
14:21:35 3 THE WITNESS: Would you like me to read the
14:21:37 4 document?
14:21:38 5 MR. BASKIN: I don't think for my questions
14:21:39 6 you're really gonna to have to, but you're welcome to
14:21:41 7 if you want. It depends how long you want the
14:21:43 8 deposition to last.
14:21:43 9 MR. MANCINI: Well, if you can point us,
14:21:46 10 Counselor, to some aspect of this document that you'd
14:21:48 11 like to ask him about, then maybe that would help us
14:21:51 12 move along.
14:21:52 13 MR. BASKIN: Okay. I really want to focus on
14:21:53 14 the first paragraph, again. So why don't you read
14:21:56 15 that for a second, and I'll pose you a couple of
14:22:00 16 questions.
14:22:00 17 MR. MANCINI: Thank you.
14:22:06 18 MR. BASKIN: Oh, I'm sorry.
14:22:41 19 THE WITNESS: Okay.
14:22:45 20 MR. BASKIN: Q. First, sir, in and around
14:22:47 21 November of 2006, it was Google's view, was it not,
14:22:54 22 that Viacom had the most valuable content of any other
14:23:00 23 premium content provider?
14:23:01 24 MR. MANCINI: Objection; vague and ambiguous;
14:23:03 25 lacks foundation.

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14:23:04 2 THE WITNESS: I don't recall any such
14:23:06 3 conclusion.

14:23:06 4 MR. BASKIN: Q. Well, looking, for example,
14:23:11 5 at Exhibit 6, do you recall receiving Exhibit 6 as a
14:23:18 6 CC?

14:23:18 7 A Again, no, I don't recall this particular
14:23:21 8 e-mail.

14:23:21 9 Q Do you recall -- strike that.

14:23:26 10 Does this help refresh your memory again,
14:23:28 11 that you were being constantly kept apprised of the
14:23:31 12 status of deal terms in the negotiations between
14:23:35 13 Viacom and Google?

14:23:36 14 MR. MANCINI: Objection to the
14:23:37 15 characterization; and objection, vague and ambiguous.

14:23:39 16 THE WITNESS: I already asked -- I already
14:23:43 17 answered this. I don't recollect.

14:23:45 18 MR. BASKIN: Q. Now, do you recollect that
14:23:51 19 the proposed minimum guarantee being offered Viacom in
14:23:56 20 and around November 14th, 2006, was five times the
14:24:07 21 amount of the minimum guarantee being offered Turner
14:24:10 22 and eight times the minimum guarantee being offered to
14:24:18 23 CBS? Do you recall that, sir?

14:24:20 24 MR. MANCINI: Objection; lacks foundation.

14:24:23 25 THE WITNESS: I don't understand any of the

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14:24:25 2 premises actually of your question. You showed me two
14:24:30 3 e-mails. I don't even know if the first e-mail you
14:24:33 4 showed me is before or after this one, and this e-mail
14:24:38 5 is quite vague, so I wouldn't make a conclusion about
14:24:41 6 five times from -- from that set of data, and I don't
14:24:45 7 recall any specifics.

14:24:48 8 MR. BASKIN: Q. Read the sentence that
14:24:49 9 begins -- second full sentence that begins "The
14:24:52 10 challenge is that for CBS, Turner and Viacom, we have
14:25:01 11 proposed minimum guarantees of 60 million, 75 million,
14:25:07 12 and 483 million, all of which have been countered with
14:25:13 13 300 million, 170 million, and plus 700 million,
14:25:19 14 depending on the day respectively.

14:25:21 15 Do you see that?

14:25:24 16 MR. MANCINI: Objection; document speaks for
14:25:25 17 itself.

14:25:26 18 MR. BASKIN: Q. Do you see that?

14:25:27 19 A I can read the document, yes.

14:25:28 20 Q Do you understand those words on the
14:25:30 21 document?

14:25:31 22 A I can understand what is written there.

14:25:36 23 Q Okay.

14:25:37 24 A I think deals are pretty complex things. It
14:25:40 25 doesn't have time frame here or any number of other

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14:25:43 2 issues. It all states in the second paragraph here
14:25:49 3 that CBS and Turner are more focused on building a
14:25:53 4 real business rather than just getting a large dollar
14:25:54 5 guarantee.

14:25:55 6 So I assume that any deal team negotiations
14:25:57 7 would have taken that into account. You're implying
14:26:01 8 value from this, which I think is -- is not something
14:26:04 9 I would agree with.

14:26:06 10 Q So you would not agree that Google had
14:26:13 11 offered Viacom five times the amount of -- of -- for a
14:26:18 12 minimum guarantee that it had offered Turner?

14:26:22 13 MR. MANCINI: Objection asked and just
14:26:24 14 answered.

14:26:24 15 THE WITNESS: I already answered this, that
14:26:26 16 there's many premises here that aren't clear to me
14:26:30 17 from these documents, and I have no other
14:26:33 18 recollection.

14:26:33 19 MR. BASKIN: Q. Now, let me show you what
14:26:39 20 we'll mark as Page 7, Page Exhibit 7. Strike that.

14:27:06 21 Did there come a time that you recall,
14:27:08 22 Mr. Page, that Google offered Viacom a partnership
14:27:19 23 which Google valued at \$592 million? Do you remember
14:27:24 24 that, sir?

14:27:25 25 MR. MANCINI: Objection; lacks foundation.

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14:27:27 2 THE WITNESS: I don't recall.
14:27:28 3 MR. BASKIN: Q. As you sit here, did -- do
14:27:44 4 you recall if Google ever offered any content provider
14:27:52 5 even half as much of the \$592 million offered to
14:27:59 6 Viacom?
14:27:59 7 MR. MANCINI: Objection; lacks foundation.
14:28:03 8 THE WITNESS: I don't recall, and again, I
14:28:05 9 just would say that business -- these kinds of
14:28:07 10 business deals that are done between large companies
14:28:11 11 are hundreds of pages. There's many, many, many
14:28:15 12 terms. You're asking about one particular term, but
14:28:17 13 you're not talking about time frame or other parts of
14:28:20 14 the deals or so on.
14:28:25 15 MR. BASKIN: I understood I was talking about
14:28:27 16 money, sir. The question is -- let me show you what
14:28:29 17 we'll mark as Exhibit 7, Page Exhibit 7.
14:28:33 18 (Document marked Page Exhibit 7
14:28:54 19 for identification.)
14:28:54 20 MR. MANCINI: Again, I'm going to continue my
14:28:55 21 same -- same objection as being beyond the scope of
14:29:01 22 the Court's order with respect to this deposition, as
14:29:04 23 this document was only forwarded or copied to this
14:29:07 24 witness after the fact, I might note.
14:29:11 25 MR. BASKIN: Q. Mr. Page, apart from a

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14:29:14 2 number -- I actually am not going to ask you any

14:29:19 3 questions about this document.

14:29:19 4 Q Does this document help to remind you that

14:29:21 5 you and Mr. Brin were routinely being kept advised of

14:29:27 6 deal terms regarding negotiations with Viacom?

14:29:33 7 MR. MANCINI: Objection to the

14:29:34 8 mischaracterization of the document.

14:29:37 9 THE WITNESS: Again, same answer. I don't

14:29:39 10 recall.

14:29:39 11 MR. BASKIN: Q. And let me ask you then, can

14:29:43 12 you recall, as you sit here today, another media

14:29:51 13 company that was offered even half as much as the

14:29:56 14 \$592 million being offered to Viacom in this document?

14:30:00 15 MR. MANCINI: Objection; asked and answered

14:30:02 16 several times now and lacks foundation.

14:30:04 17 THE WITNESS: Same answer.

14:30:05 18 MR. BASKIN: Q. Which is?

14:30:07 19 A I don't recall.

14:30:10 20 Q Now -- by the way, let me show you what we'll

14:30:16 21 mark as Page 8.

14:30:19 22 (Document marked Page Exhibit 8

14:30:39 23 for identification.)

14:30:39 24 MR. BASKIN: Q. And again, so we can get you

14:30:54 25 out of here promptly, I'm only going to be talking to

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14:30:59 2 you about the paragraph marked three.

14:31:02 3 A Sorry. On the first page?

14:31:03 4 Q Yes.

14:31:04 5 A Okay.

14:31:18 6 Q My question, sir, since -- by the way, this

14:31:19 7 is not a document that went to you; correct?

14:31:25 8 A I don't know. I'm just reading the document

14:31:27 9 like you, so it doesn't appear that I'm on here, no.

14:31:31 10 Q The document says that --

14:31:35 11 MR. MANCINI: Mr. Baskin, let's just give the

14:31:37 12 witness a moment. Make sure he's reviewed it.

14:31:40 13 MR. BASKIN: Okay. I'm just talking about

14:31:42 14 paragraph three, but you can read the whole thing. It

14:31:44 15 depends how long we want the deposition to go.

14:31:47 16 MR. MANCINI: No, no. Just to skim it to

14:31:49 17 give him context.

14:31:58 18 THE WITNESS: Okay.

14:31:58 19 MR. BASKIN: Q. Did you, in fact, say that

14:32:10 20 the value to Google of getting a license from Viacom

14:32:19 21 was worth \$150 million even without any advertising

14:32:24 22 support?

14:32:25 23 MR. MANCINI: Objection; lacks foundation.

14:32:28 24 THE WITNESS: I don't recall.

14:32:29 25 MR. BASKIN: Q. Well, as you sit here now,

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14:32:34 2 do you recall, in fact, believing in and around
14:32:39 3 October, November 2006 that Viacom's content, even
14:32:46 4 absent any ads, would have been worth \$150 million to
14:32:50 5 Google?

14:32:50 6 MR. MANCINI: Objection; lacks foundation;
14:32:52 7 vague and ambiguous.

14:32:52 8 THE WITNESS: Again, I don't recall. I
14:32:55 9 was -- can I -- let me just state something here about
14:32:57 10 the -- it says with ten ads.

14:33:04 11 This is a note to -- from Tim, looks like. I
14:33:09 12 should say there's two ways, I think, deals were being
14:33:13 13 contemplated.

14:33:14 14 One was with ads being sold by Google, which
14:33:17 15 Tim is in charge or was in charge of, is no longer in
14:33:20 16 charge of, and the other way was with a partner
14:33:24 17 selling ads.

14:33:25 18 So I assume from Tim's perspective here, that
14:33:28 19 that means that he's saying Viacom would sell the ads,
14:33:33 20 not that there would be no ads.

14:33:37 21 MR. BASKIN: Q. Well --

14:33:37 22 A Just wanted to make that clear.

14:33:39 23 Q -- that's the way you read the document?

14:33:41 24 A That's the way I would read it, yes.

14:33:42 25 Q Was that, in fact, your position back in

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14:33:45 2 October 2006?

14:33:46 3 A I don't recall my position.

14:33:48 4 Q Okay. Now, you mentioned, I think, before

14:33:51 5 that the negotiation with Viacom failed; is that

14:33:54 6 right, sir? Meaning, you did not reach an agreement

14:33:57 7 with Viacom; correct?

14:33:58 8 A As far as I know.

14:33:59 9 Q And did there come a time, in the

14:34:04 10 negotiations with Viacom, when the senior management

14:34:11 11 of Google decided that Google should pretend to be

14:34:16 12 negotiating with Viacom as a way to buy time while

14:34:22 13 Google completed deals with other content owners?

14:34:26 14 MR. MANCINI: Objection; lacks foundation;

14:34:28 15 vague and ambiguous.

14:34:28 16 THE WITNESS: I don't recall, and I add

14:34:31 17 further that we have very strong ethics around not

14:34:35 18 doing such things. So I would certainly be against

14:34:39 19 that if anything like that had happened.

14:34:41 20 MR. BASKIN: Q. Well, did there come a time

14:34:43 21 when the senior management decided that Google should

14:34:50 22 keep Viacom warm while it negotiated transactions with

14:34:56 23 other companies?

14:34:57 24 MR. MANCINI: Objection; lacks foundation;

14:35:00 25 vague and ambiguous.

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14:35:01 2 THE WITNESS: As I said, I don't recall.

14:35:02 3 MR. BASKIN: Q. If that was Google's policy

14:35:10 4 to pretend to negotiate with Viacom, or to keep Viacom

14:35:18 5 warm while it negotiated with other companies, would

14:35:22 6 such a policy have required your approval, Mr. Page?

14:35:25 7 MR. MANCINI: Objection; lacks foundation;

14:35:26 8 vague and ambiguous, and calls for a hypothetical

14:35:28 9 answer.

14:35:31 10 THE WITNESS: Yeah, you're asking me to

14:35:33 11 speculate on something that I have no recollection of

14:35:36 12 and I have no knowledge of.

14:35:37 13 MR. BASKIN: Q. Do you recall whether it was

14:36:01 14 Google's policy and practice, in November 2006, to try

14:36:09 15 to keep Viacom warm in order to buy time in order to

14:36:13 16 complete other deals?

14:36:15 17 MR. MANCINI: Same exact -- same exact

14:36:17 18 objections, and asked and answered.

14:36:19 19 THE WITNESS: I don't recall.

14:36:20 20 MR. BASKIN: Q. You recall no such

14:36:24 21 discussion among you, and Mr. Page, and Mr. Schmidt?

14:36:27 22 A I am Mr. Page.

14:36:28 23 MR. MANCINI: Same objections.

14:36:29 24 MR. BASKIN: Q. Sorry?

14:36:30 25 A I am Mr. Page.

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14:36:31 2 Q Sorry.

14:36:32 3 Among the three of you, you recall no such

14:36:34 4 discussions?

14:36:35 5 MR. MANCINI: Same objections.

14:36:36 6 THE WITNESS: Again, I don't recall.

14:36:37 7 MR. BASKIN: Let's mark as Page 9.

14:36:51 8 (Document marked Page Exhibit 9

14:37:06 9 for identification.)

14:37:06 10 MR. BASKIN: Q. Let me hand you, sir,

14:37:07 11 Page 9.

14:37:18 12 A Thank you.

14:38:33 13 Q Mr. Page, can you identify Page Exhibit 9,

14:38:39 14 sir, as an e-mail received by you, along with

14:38:43 15 Mr. Schmidt and Mr. Brin?

14:38:45 16 A Again, I don't remember specific e-mails, but

14:38:47 17 I assume this was produced by -- by counsel.

14:38:51 18 Q In other words, if counsel produced it -- you

14:38:53 19 are the Larry Page referenced in the "To" line, are

14:38:57 20 you not, sir?

14:38:57 21 A Yes.

14:38:58 22 Q And do you recall your thoughts regarding the

14:39:10 23 strategy set forth in the e-mail from Joan Braddi,

14:39:17 24 B-R-A-D-D-I, in and around November 16th, 2006?

14:39:21 25 MR. MANCINI: Objection; vague and ambiguous.

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14:39:23 2 THE WITNESS: I don't recall.
14:39:26 3 MR. BASKIN: Q. Do you recall responding to
14:39:28 4 Mr. Kordestani's inquiry of you and Mr. Schmidt and
14:39:33 5 Mr. Brin for your thoughts regarding the strategy set
14:39:37 6 forth in Exhibit 9?
14:39:37 7 MR. MANCINI: Objection; mischaracterizes the
14:39:39 8 document; vague and ambiguous.
14:39:45 9 THE WITNESS: I don't recall.
14:39:45 10 MR. BASKIN: Q. Do you recall ever
14:39:46 11 discussing, with the other two most-senior people at
14:39:52 12 Google, Eric's request to keep them warm?
14:40:02 13 A I do not recall.
14:40:03 14 MR. MANCINI: Objection; same objections.
14:40:04 15 MR. BASKIN: Q. How -- how about the
14:40:06 16 strategy of buying us time in order to complete other
14:40:10 17 deals through negotiations with Viacom?
14:40:13 18 MR. MANCINI: Same --
14:40:13 19 MR. BASKIN: Q. Do you recall that,
14:40:14 20 Mr. Page?
14:40:15 21 MR. MANCINI: Same objections.
14:40:15 22 THE WITNESS: I don't recall that, and I
14:40:17 23 would state -- I mean, I believe the exact opposite
14:40:19 24 case is made by this e-mail that you just produced.
14:40:23 25 I mean, it says here "On Viacom, they are not

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14:40:30 2 moving and we are not either. The goal is to keep
14:40:32 3 them engaged (as tough as it might be)....

14:40:37 4 MR. BASKIN: Q. Well, actually, why don't
14:40:39 5 you read the end of that sentence you just read,
14:40:41 6 Mr. Page. Why don't you read the whole sentence for
14:40:43 7 the jury; would you?

14:40:44 8 A I --

14:40:46 9 MR. MANCINI: First of all, I object to
14:40:48 10 continual references to a non-present jury and the
14:40:51 11 document speaks for itself. That's not why we're here
14:40:54 12 to have this witness read documents.

14:40:57 13 MR. BASKIN: He cut off his -- he read a
14:40:59 14 sentence and cut it off halfway.

14:41:01 15 Q Why don't you finish the sentence, Mr. Page.

14:41:04 16 MR. MANCINI: Same objections.

14:41:05 17 THE WITNESS: Okay. I'm happy to read the
14:41:08 18 sentence, as I believe it still states my point.

14:41:13 19 And "focus on getting one of the other deals
14:41:17 20 done." I don't think that there's any reason why
14:41:23 21 these deals would be exclusive; and, in fact, Google's
14:41:26 22 policy has always been to do deals with all content
14:41:30 23 providers.

14:41:32 24 MR. BASKIN: Q. Now, the very next
14:41:34 25 parenthetical on that document following what you just

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14:41:38 2 cut off reading says that "Larry and Sergey are on

14:41:43 3 board with this as well."

14:41:46 4 Were you, in fact, on board with the

14:41:48 5 strategy, Mr. Page, back in October, November, 2006?

14:41:53 6 MR. MANCINI: Objection to the

14:41:54 7 characterization of the document.

14:41:55 8 THE WITNESS: I don't recall the details

14:41:57 9 here.

14:41:57 10 MR. BASKIN: Now, let me show you what we

14:42:09 11 will mark as 10.

14:42:19 12 (Document marked Page Exhibit 10

14:42:34 13 for identification.)

14:42:34 14 MR. MANCINI: Handing you Exhibit 10.

14:42:41 15 THE WITNESS: Thanks.

14:42:43 16 MR. BASKIN: Q. First, Mr. Page, can you

14:43:32 17 identify Exhibit 10 as an e-mail received by you as a

14:43:35 18 CC in and around November 16th, 2006?

14:43:38 19 MR. MANCINI: Objection; the document speaks

14:43:41 20 for itself.

14:43:42 21 THE WITNESS: My e-mail address is on here,

14:43:44 22 yes.

14:43:44 23 MR. BASKIN: Q. Do you remember this

14:43:44 24 document?

14:43:45 25 A I do not recall this document.

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14:43:49 2 Q Do you remember whether it was Google's
14:43:54 3 strategy, in and around November 16th, 2006, to be
14:44:01 4 more generous to CBS and Turner and to keep Viacom
14:44:07 5 engaged until we sign one of the other two? Do you
14:44:11 6 recall that, sir?

14:44:11 7 MR. MANCINI: Objection; lacks foundation;
14:44:13 8 vague and ambiguous.

14:44:13 9 THE WITNESS: I don't recall that, no.

14:44:16 10 MR. BASKIN: Q. Do you recall whether in
14:44:26 11 your own mind you believed on November 16, 2006, that
14:44:34 12 Google's practice tactics with respect to Viacom were
14:44:37 13 in good faith?

14:44:38 14 MR. MANCINI: Objection; lacks foundation;
14:44:39 15 calls for speculation.

14:44:42 16 THE WITNESS: I don't recall any specifics
14:44:43 17 about Viacom.

14:44:44 18 MR. BASKIN: Q. I take it these last two
14:44:48 19 e-mails sent to you called "Deal review call," or Chat
14:44:57 20 with Eric on Media Deals," that is 9 and 10, do not
14:45:02 21 refresh your recollection that you were being kept
14:45:05 22 apprised of negotiations with Viacom?

14:45:09 23 MR. MANCINI: Objection; lacks foundation.

14:45:11 24 THE WITNESS: Yeah, again, I don't recall.

14:45:13 25 MR. BASKIN: Q. Now, you recall, do you not,

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14:45:22 2 that during the same time period Google was
14:45:31 3 negotiating with other film studio and TV producers,
14:45:37 4 were they not, Mr. Page?

14:45:39 5 A I don't recall any specifics there.

14:45:41 6 Q Well, do you recall, for example, whether
14:45:47 7 Google had ongoing negotiations to acquire Turner's
14:45:51 8 content, Turner Broadcasting, Inc.'s content to show
14:45:57 9 that on YouTube with a valid license? Do you recall
14:46:03 10 such negotiations?

14:46:04 11 MR. MANCINI: Objection; lacks foundation;
14:46:06 12 vague and ambiguous.

14:46:06 13 THE WITNESS: I don't recall.

14:46:10 14 MR. BASKIN: Q. How about with Walt Disney
14:46:12 15 Company? Do you recall, Mr. Page, whether in and
14:46:18 16 around December 2006 you were being advised of
14:46:25 17 negotiate -- the status of negotiations with Walt
14:46:28 18 Disney and Google regarding acquiring Walt Disney's
14:46:33 19 content to be displayed on YouTube?

14:46:35 20 MR. MANCINI: Objection; lacks foundation;
14:46:37 21 vague and ambiguous.

14:46:41 22 THE WITNESS: I don't recall.

14:46:41 23 MR. BASKIN: Q. Or how about a record
14:46:43 24 company called EMI? Do you recall actually
14:46:45 25 consummating a transaction with them?

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14:46:48 2 MR. MANCINI: Objection; lacks foundation.

14:46:52 3 THE WITNESS: I know we have deals with --

14:46:54 4 with a number of major record labels.

14:46:56 5 MR. BASKIN: Q. Mr. Page, is it a fact that

14:47:09 6 in Google's negotiations with all of these film

14:47:16 7 studios, and TV programmers, and record companies in

14:47:23 8 and around the end of 2006 and early 2007, that the

14:47:33 9 package being offered by Google to these companies

14:47:38 10 included fingerprinting and filtering for copyright

14:47:42 11 materials on the YouTube site?

14:47:45 12 MR. MANCINI: Objection; vague and ambiguous.

14:47:46 13 THE WITNESS: I don't recall.

14:47:51 14 MR. BASKIN: Q. Well, assuming that YouTube

14:47:53 15 and Google, at the end of 2006 and early 2007, was

14:48:03 16 offering fingerprinting and filtering for copyright

14:48:06 17 violations to studios and content providers who signed

14:48:16 18 deals with YouTube, would such a policy had to have

14:48:21 19 been approved by you?

14:48:22 20 MR. MANCINI: Objection; lacks foundation;

14:48:24 21 hypothetical; vague and ambiguous.

14:48:25 22 THE WITNESS: Seems like you're -- you're

14:48:32 23 wanting me to hypothetically state whether such a

14:48:34 24 thing, if it existed, would have to have been approved

14:48:39 25 by me.

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14:48:40 2 I don't know.

14:48:40 3 MR. BASKIN: Well, let's -- let me hand you,

14:48:48 4 for example, what we will mark as Page 11.

14:48:51 5 (Document marked Page Exhibit 11

14:49:26 6 for identification.)

14:49:26 7 MR. MANCINI: So, Mr. Baskin, while the

14:49:28 8 witness reviews this document previously shown to

14:49:30 9 Mr. Drummond as an exhibit, I want to state my

14:49:33 10 continuing objection that we've gone far afield of

14:49:35 11 what the judge had indicated would be the ground rules

14:49:40 12 of this deposition. I'll ask -- allow you to ask a

14:49:44 13 question and ask that you proceed with some haste

14:49:49 14 here.

14:49:49 15 MR. BASKIN: Sure.

14:49:51 16 Q Mr. Page, with respect to Page 11 -- Page

14:50:02 17 Exhibit 11, I want you to turn to page four of that

14:50:05 18 document.

14:50:06 19 MR. MANCINI: Just give the witness a moment

14:50:07 20 to familiarize himself generally with it.

14:50:27 21 MR. BASKIN: Q. And, in particular, on

14:50:29 22 page four, sir, there's a section called "Audio

14:50:33 23 Fingerprinting & Claiming Turner Content Uploaded By

14:50:37 24 Users."

14:50:39 25 Do you see that, sir, in the second box on

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14:50:43 2 the page?

14:51:02 3 A Okay.

14:51:03 4 Q Now, does this help refresh your memory that

14:51:05 5 in and around October 2006, YouTube was offering

14:51:10 6 Turner audio fingerprinting and metadata searches and

14:51:22 7 some other techniques as part of a license transaction

14:51:28 8 with Turner?

14:51:31 9 MR. MANCINI: Objection; lacks foundation;

14:51:32 10 mischaracterizes the document; vague and ambiguous.

14:51:34 11 THE WITNESS: So I know very little about

14:51:37 12 this document, whether it was signed or not, or any of

14:51:40 13 those things, so it's hard to answer that question.

14:51:43 14 MR. BASKIN: Q. Well, the question I do want

14:51:45 15 you to answer though is this: Assuming that, in fact,

14:51:49 16 YouTube was offering Turner Broadcasting

14:51:56 17 fingerprinting and other filtering techniques in and

14:51:59 18 around October 2006 as part of a revenue-sharing

14:52:04 19 agreement, would such a provision had to have been

14:52:08 20 approved by you, Mr. Page?

14:52:09 21 MR. MANCINI: Objection; lacks foundation;

14:52:11 22 vague and ambiguous.

14:52:11 23 THE WITNESS: Well, again, this is a

14:52:15 24 hypothetical deal which I'm not sure of the status of,

14:52:18 25 and I have no idea.

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14:52:19 2 MR. BASKIN: Q. You have no idea whether it
14:52:20 3 would have had to have been approved by you?

14:52:25 4 A Well, it's not like the company is really
14:52:26 5 obvious like we should approve everything, so no, I
14:52:29 6 don't know if that should be approved by me or not.

14:52:31 7 Q What about if a similar provision -- strike
14:52:38 8 that.

14:52:39 9 You'll agree with me that Walt Disney
14:52:41 10 Companies is one of the largest entertainment
14:52:44 11 companies on the face of the earth? Is that right,
14:52:48 12 Mr. Page?

14:52:48 13 A I agree that Walt Disney is a large
14:52:52 14 entertainment company.

14:52:52 15 Q In fact, you actually visited with them from
14:52:55 16 time to time; did you not?

14:52:55 17 A I recall visiting Walt Disney at least once.

14:52:59 18 Q And were you being kept apprised of the
14:53:02 19 status of the negotiations between Google and Walt
14:53:05 20 Disney in and around December 2006?

14:53:09 21 A I don't recall.

14:53:09 22 Q Well, let me hand you, for example --
14:53:16 23 MR. ALGER: Let's take a break. Let's take a
14:53:16 24 break.

14:53:19 25 MR. BASKIN: No, I'm in the middle of a

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14:53:20 2 question.
14:53:20 3 MR. ALGER: I'm asking for a break.
14:53:22 4 MR. BASKIN: Excuse me. When I'm done with
14:53:23 5 my line of questioning.
14:53:24 6 MR. ALGER: There's no question pending right
14:53:26 7 now, that's why I asked for a break right now.
14:53:27 8 MR. BASKIN: There's no question, because you
14:53:28 9 just interrupted me in the middle of the question.
14:53:30 10 MR. ALGER: You haven't handed the witness an
14:53:34 11 exhibit, so we're going to take a five-minute break
14:53:36 12 right now.
14:53:37 13 Off the record.
14:53:39 14 THE VIDEOGRAPHER: This is the ending of tape
14:53:41 15 number one of the video deposition of Larry Page.
14:53:44 16 We're now going off the record.
14:53:45 17 The time is 2:49 p.m.
14:53:51 18 (Recess taken.)
15:04:07 19 THE VIDEOGRAPHER: This is the beginning of
15:04:08 20 recording number two of the video deposition of Larry
15:04:10 21 Page.
15:04:11 22 We are now back on the record.
15:04:13 23 The time is 3:00 p.m.
15:04:17 24 MR. MANCINI: What is this marked as?
15:04:21 25 MR. BASKIN: I've lost track.

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15:04:24 2 THE REPORTER: 12.
15:04:24 3 MR. BASKIN: 12.
15:04:25 4 MR. MANCINI: So, Mr. Baskin, while the
15:04:26 5 witness is reviewing this one --
15:04:27 6 THE WITNESS: Actually, I don't have a copy
15:04:42 7 yet.
15:04:42 8 (Document marked Page Exhibit 12
15:04:43 9 for identification.)
15:04:43 10 MR. MANCINI: I want to re -- restate my
15:04:44 11 continuing objection and at this point, alarm, over
15:04:49 12 the fact, yet again, he's being showed a document that
15:04:52 13 was previously, in fact, shown and marked as an
15:04:54 14 exhibit to another witness in stark violation of this
15:04:58 15 Court's order, which I'm now compelled to read into
15:05:01 16 the record.
15:05:01 17 Judge Stanton in the order for this
15:05:03 18 deposition says on October -- sorry -- April 2nd,
15:05:07 19 2009, on page eight, line 24, "First, no one is going
15:05:12 20 to spend any time during these depositions on matters
15:05:15 21 which are non-controversial and can be obtained in
15:05:20 22 another way.
15:05:21 23 "For example a witness's biography, the jobs
15:05:24 24 he held, his responsibilities then and now. Matters
15:05:28 25 of that sort can all be finished by an affidavit

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15:05:32 2 prepared for the executive by others. Proceed
15:05:33 3 immediately -- this is now directed to the
15:05:37 4 plaintiff -- to what is necessary and only obtainable
15:05:41 5 from this witness."
15:05:42 6 We've given you incredible leeway today.
15:05:42 7 This witness, one of the most senior executives at
15:05:46 8 Google, has spent an incredible amount of time being
15:05:49 9 asked questions that other people have, in fact, been
15:05:49 10 deposed about and never has there been a showing made
15:05:55 11 that it is either necessary or only obtainable from
15:05:56 12 this witness, and if we can't move on, Mr. Baskin, at
15:06:00 13 some point we're going to have to shut this down --
15:06:02 14 MR. BASKIN: Well --
15:06:02 15 MR. MANCINI: -- in direct violation of this
15:06:04 16 Court's order.
15:06:05 17 MR. BASKIN: I totally disagree. I'm going
15:06:08 18 ask him about his knowledge and the senior
15:06:10 19 management's knowledge of policies and practices.
15:06:13 20 MR. MANCINI: You're allowed to ask him about
15:06:15 21 his knowledge.
15:06:17 22 MR. BASKIN: That's what I'm going to do.
15:06:18 23 MR. MANCINI: Thank you.
15:06:19 24 MR. BASKIN: And that's what I've been doing.
15:06:21 25 And again, if you want to -- we're going to finish

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15:06:24 2 well within the four hours if he continues to
15:06:25 3 cooperate, and let's -- let's go forward.
15:06:31 4 Q Sir, I've handed you now what's been marked
15:06:34 5 as Page Exhibit 12.
15:06:36 6 Do you see that, sir?
15:06:37 7 A Yes.
15:06:37 8 Q If you turn to the last page of Page
15:06:40 9 Exhibit 12, you will see that in and around
15:06:51 10 December 21st, 2006, that Google was offering to
15:06:55 11 provide to the Walt Disney companies --
15:06:59 12 A Sorry. You're asking me about the last page?
15:07:01 13 Q Yes. The -- the page marked five of five on
15:07:04 14 the bottom.
15:07:04 15 A Okay.
15:07:05 16 Q And the very last paragraph, you want to read
15:07:07 17 that for a second, sir.
15:07:12 18 A Sure. Okay.
15:07:46 19 Q You will see in that last paragraph on Page
15:07:50 20 Exhibit 12, that Google, in and around December 21st,
15:07:57 21 2006, was offering the Walt Disney Company audio
15:08:01 22 fingerprinting and various other tools to protect
15:08:07 23 their content as part of a license transaction.
15:08:10 24 Do you see that, sir?
15:08:11 25 MR. MANCINI: Objection; document speaks for

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15:08:12 2 itself.

15:08:13 3 THE WITNESS: Sorry. I'm not -- I don't
15:08:15 4 recall this document, and I don't know if it's -- was
15:08:19 5 presented to them or not, so I don't know if this was
15:08:22 6 an internal document or whatever.

15:08:24 7 MR. BASKIN: Okay.

15:08:25 8 Q So my question is, first of all, did you have
15:08:29 9 knowledge that Google was offering the Walt Disney
15:08:34 10 company, in and around December 2006, fingerprinting
15:08:38 11 and other tools as part of a revenue-sharing
15:08:45 12 agreement?

15:08:47 13 A I don't -- I don't recall, and also I'll just
15:08:51 14 state -- I just stated several times, Google is
15:08:58 15 offering audio fingerprinting. Both documents they
15:09:01 16 presented, as I'm reading the document now, just say
15:09:04 17 that the -- Google shall -- sorry -- Google shall, on
15:09:11 18 behalf -- on behalf of Walt Disney Company pay an
15:09:14 19 audio fingerprinting vendor.

15:09:14 20 Q Right.

15:09:14 21 A So that seems a little bit of a
15:09:16 22 mischaracterization of the document.

15:09:18 23 Q Accepting your reading, which is exactly
15:09:20 24 right, did you have knowledge in and around 2006,
15:09:25 25 December 2006, Google was offering to pay a -- a

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15:09:30 2 fingerprinting vendor to check for Walt Disney's

15:09:34 3 content on the Google web -- on the YouTube website?

15:09:37 4 A I don't recall.

15:09:37 5 MR. MANCINI: Objection; lacks foundation.

15:09:39 6 MR. BASKIN: Q. And assuming that that, in

15:09:41 7 fact, happened as set forth in Exhibit 12, would the

15:09:49 8 decision to provide fingerprinting and like techniques

15:09:54 9 to a large content provider like Walt Disney had to

15:09:58 10 have had your approval, sir?

15:10:00 11 MR. MANCINI: Objection; asked and answered

15:10:01 12 several times.

15:10:03 13 THE WITNESS: Again, same hypothetical

15:10:05 14 question. I don't know.

15:10:06 15 MR. BASKIN: Q. Well, let me show you just

15:10:08 16 one more, and then we'll move on. This one happens to

15:10:11 17 be my client.

15:10:24 18 (Document marked Page Exhibit 13

15:10:27 19 for identification.)

15:10:27 20 MR. BASKIN: Let's mark as Page 13.

15:11:06 21 Q I will, in particular, sir, ask you to look

15:11:09 22 at a section called "UGV Content Claiming/Association

15:11:12 23 Process," and it's on the page Bates stamp with the

15:11:18 24 last four digits of the Bates stamp being '2081.

15:11:24 25 MR. MANCINI: I just want to repeat my

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15:11:25 2 continuing objections and hope we'll move on quickly.
15:12:13 3 MR. BASKIN: Q. Mr. Page, can you identify
15:12:15 4 for us Exhibit 13?
15:12:19 5 A I'm looking at Exhibit 13, yes.
15:12:21 6 Q Oh.
15:12:24 7 What I'm asking is, do you recall in and
15:12:30 8 around December 2006 being shown the proposed term
15:12:33 9 sheet for a transaction between MTV Networks, a Viacom
15:12:40 10 Company, and Google?
15:12:41 11 A No, I don't recall that.
15:12:42 12 Q Do you recall, sir, being advised, having
15:12:46 13 knowledge in and around December 14th, 2006, that as
15:12:50 14 part of a license contract, proposed license agreement
15:12:56 15 between Viacom's MTV Networks and Google, Google was
15:13:01 16 offering to provide audio fingerprinting services to
15:13:06 17 Viacom with respect to the YouTube website?
15:13:08 18 MR. MANCINI: Objection; lacks foundation;
15:13:10 19 vague and ambiguous; and to the extent it calls for
15:13:14 20 communications with counsel, instruct the client, not
15:13:17 21 the witness, on attorney-client -- not to testify on
15:13:20 22 attorney-client privilege ground.
15:13:21 23 THE WITNESS: I don't recall.
15:13:22 24 MR. BASKIN: If, in fact -- strike that.
15:13:28 25 Q If Google and YouTube were -- was offering

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15:13:35 2 fingerprinting and other filtering techniques to all
15:13:38 3 of these media companies in and around November and
15:13:41 4 December 2006, would the senior management of Google
15:13:47 5 have been advised of that, sir?

15:13:50 6 MR. MANCINI: Objection; asked and answered
15:13:53 7 several times today.

15:13:54 8 THE WITNESS: The premise of your question
15:13:56 9 doesn't make sense to me.

15:13:57 10 MR. BASKIN: Q. Would the senior management
15:14:01 11 of Google have been advised and -- strike that.

15:14:06 12 Would senior management of Google have to
15:14:09 13 have approved the provision of audio fingerprinting
15:14:14 14 services to would-be content partners in exchange for
15:14:20 15 a license agreement?

15:14:21 16 MR. MANCINI: Objection; lacks foundation;
15:14:23 17 asked and answered several times today.

15:14:26 18 THE WITNESS: Again, don't agree with the
15:14:28 19 premise of your question.

15:14:29 20 MR. BASKIN: Q. Which part of the premise
15:14:32 21 don't you agree, sir?

15:14:35 22 A You have a long string of hypothetical
15:14:37 23 things.

15:14:39 24 Q Well, assuming that the jury believes that
15:14:43 25 Google did offer audio fingerprinting to Turner, to

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15:14:50 2 MTV, to Walt Disney Company, at the end of 2006 as
15:14:56 3 part of a license agreement, should the jury conclude
15:15:00 4 that such a -- that such audio fingerprinting had to
15:15:02 5 have been approved by the senior management of Google,
15:15:05 6 sir?

15:15:05 7 MR. MANCINI: Objection.

15:15:06 8 So that is clearly a question intended for no
15:15:12 9 other purpose than to harass this witness. There is
15:15:14 10 no jury here. It is clearly intended for that purpose
15:15:18 11 and that purpose only, Mr. Baskin, and you know that.
15:15:21 12 If your question is posed differently, I'll allow him
15:15:24 13 to answer that question. That is purely harassment.

15:15:26 14 MR. BASKIN: It's not harassment.

15:15:27 15 Q But you've now seen, sir, proposed term
15:15:30 16 sheets for three companies, all of which contain the
15:15:33 17 provision of audio fingerprinting. Would such
15:15:35 18 provisions had to have had the approval of senior
15:15:37 19 management of Google?

15:15:38 20 MR. MANCINI: Objection; lacks foundation and
15:15:42 21 asked and answered numerous times.

15:15:43 22 THE WITNESS: Again, I don't know if these
15:15:44 23 deals were consummated or not in this form; and as I
15:15:47 24 already stated also, it didn't look like that was just
15:15:50 25 a third-party vendor that was being paid as part of

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15:15:53 2 this deal.
15:15:53 3 MR. BASKIN: Q. And would you have had to
15:15:56 4 have approved such a provision, Mr. Page?
15:15:58 5 A I also already stated --
15:16:00 6 MR. MANCINI: Same objections.
15:16:01 7 THE WITNESS: I also already stated that
15:16:03 8 companies are complicated things, and whether or not I
15:16:06 9 would have had to approve it is not -- is not a
15:16:08 10 reasonable thing to -- to opine on.
15:16:10 11 MR. BASKIN: In the event -- strike that.
15:16:19 12 Q In this time period, Mr. Page, was it the
15:16:27 13 express policy of Google's senior management not to
15:16:31 14 offer fingerprinting or filtering to content owners
15:16:37 15 unless they entered into a revenue-sharing agreement
15:16:40 16 with Google?
15:16:41 17 MR. MANCINI: Objection.
15:16:41 18 So once again, this is the same question
15:16:44 19 asked probably in ten different ways today to which
15:16:47 20 the witness has clearly said he doesn't have knowledge
15:16:49 21 of this subject.
15:16:50 22 Therefore, we're clearly in violation of the
15:16:52 23 Court's order, and it is clearly for no purpose any
15:16:55 24 longer that I can see other than to harass this
15:16:58 25 witness.

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15:16:59 2 MR. BASKIN: Sorry. Sir, let me reread the

15:17:01 3 question again. I need your answer.

15:17:03 4 Q In this time period, Mr. Page, was it the

15:17:06 5 express policy of Google's senior management not to

15:17:09 6 offer fingerprinting or filtering to content owners

15:17:15 7 unless they entered into a revenue-sharing agreement

15:17:17 8 with Google?

15:17:18 9 MR. MANCINI: Same objections. Plus, lacks

15:17:20 10 foundation and vague and ambiguous.

15:17:21 11 THE WITNESS: I don't recall.

15:17:24 12 MR. BASKIN: Q. Do you recall discussing

15:17:25 13 with senior management, sir, the fact that Google

15:17:30 14 would not offer fingerprinting to any content owner in

15:17:32 15 the absence of a license?

15:17:34 16 MR. MANCINI: Same exact objections.

15:17:37 17 THE WITNESS: I don't recall that.

15:17:41 18 MR. BASKIN: Q. Now, as president of

15:18:12 19 products, isn't that your title, Mr. Page?

15:18:14 20 A And cofounder.

15:18:15 21 Q Yes.

15:18:16 22 As president of products and cofounder, was

15:18:20 23 one of the products that you were president over of

15:18:23 24 YouTube?

15:18:23 25 MR. MANCINI: Objection; asked and answered.

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15:18:26 2 THE WITNESS: Like I stated, Google has a
15:18:28 3 wide variety of products.
15:18:32 4 MR. BASKIN: Mark as Exhibit 14.
15:18:33 5 (Document marked Page Exhibit 14
15:18:38 6 for identification.)
15:18:38 7 MR. MANCINI: While the witness is looking at
15:18:40 8 that, can we just get a time check when you get a
15:18:43 9 moment.
15:18:44 10 THE VIDEOGRAPHER: Sure.
15:18:45 11 MR. BASKIN: We just happened to have him do
15:18:48 12 that. Before the break you guys called, we were under
15:18:52 13 two hours.
15:18:53 14 MR. MANCINI: Okay.
15:19:01 15 THE VIDEOGRAPHER: We're at 124 minutes.
15:19:03 16 124.
15:19:04 17 MR. MANCINI: Thank you.
15:19:09 18 While this witness is reviewing this
15:19:41 19 document, I want to renew my continuing objection and
15:19:43 20 increasing concern over the apparent intentional
15:19:49 21 disavowence of this Court's order.
15:19:52 22 This document is, on its face, marked as
15:19:54 23 having been presented to Mr. Schmidt at his
15:19:58 24 deposition, and we're asking this witness again,
15:20:00 25 again, about something that's been asked about before,

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15:20:04 2 but I hope we'll move on quickly.
15:20:06 3 MR. BASKIN: We are. We're gonna ask him
15:20:08 4 about his knowledge and authorization.
15:20:10 5 Q Mr. -- Mr. Page, who is Mr. Eun, E-U-N?
15:20:14 6 MR. MANCINI: Objection; asked and answered
15:20:15 7 several times.
15:20:15 8 THE WITNESS: Some sort of business person
15:20:17 9 working for Google.
15:20:19 10 MR. BASKIN: Q. Now, you will see in Page
15:20:22 11 Exhibit 14, this is an e-mail that you have no reason
15:20:26 12 to believe you received; right, sir?
15:20:28 13 A No. My name isn't anywhere on it.
15:20:31 14 Q But Mr. Eun refers to -- the bottom of the
15:20:35 15 page -- to the new CYC system, which includes audio
15:20:42 16 fingerprinting using Audible Magic's database and
15:20:48 17 other tools.
15:20:49 18 And then you'll see, sir, in the first --
15:20:56 19 it's really the second paragraph I guess, at the top
15:20:58 20 of the page, he says "Our CYC tools are now live and
15:21:03 21 well and are only offered to partners who enter into a
15:21:08 22 revenue deal with us."
15:21:11 23 Do you see that, Mr. Page?
15:21:13 24 MR. MANCINI: Objection; it mischaracterizes
15:21:16 25 the document.

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15:21:17 2 THE WITNESS: I'm reading the document, too.
15:21:20 3 Yes.
15:21:22 4 MR. BASKIN: Q. Now, is Mr. Eun's recital of
15:21:28 5 Google's policy as only offering the CYC tools to
15:21:34 6 partners who enter into a revenue deal, was that an
15:21:38 7 accurate portrayal of Google's policies and practices
15:21:43 8 as authorized by senior management in and around
15:21:46 9 February 2007, Mr. Page?
15:21:47 10 MR. MANCINI: Objection; lacks foundation;
15:21:48 11 vague and ambiguous.
15:21:49 12 THE WITNESS: I have no recollection of that.
15:21:53 13 MR. BASKIN: Q. Do you recall being advised,
15:21:54 14 in and around February 2007, that that is Google's
15:21:57 15 policy?
15:21:58 16 MR. MANCINI: Same objections; and to the
15:22:00 17 extent, although I don't think it is, it's seeking
15:22:02 18 advice of counsel. Instruct the witness not to
15:22:04 19 answer.
15:22:05 20 THE WITNESS: Yeah, I don't -- I don't recall
15:22:08 21 that.
15:22:08 22 MR. BASKIN: Q. And assuming that Mr. Eun
15:22:11 23 has it right and this was Google's policy, sir, could
15:22:15 24 this have been Google's policy without the
15:22:17 25 authorization approval of the senior management of the

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15:22:20 2 company?
15:22:21 3 MR. MANCINI: Objection; lacks foundation;
15:22:22 4 hypothetical; vague and ambiguous.
15:22:25 5 I do suggest we move on, Mr. Baskin.
15:22:28 6 THE WITNESS: Yeah. I'll state this e-mail
15:22:30 7 appears to have never been sent, except to himself.
15:22:34 8 MR. BASKIN: Q. My question is, sir, if his
15:22:37 9 characterization of the policy is accurate as set
15:22:40 10 forth in Exhibit 14, could this have been Google's
15:22:42 11 policy without the authorization and approval of the
15:22:45 12 senior management of the company?
15:22:47 13 MR. MANCINI: Objection; lacks foundation;
15:22:48 14 hypothetical; vague and ambiguous.
15:22:52 15 THE WITNESS: Yeah, I don't -- I don't
15:22:53 16 recall.
15:22:53 17 MR. BASKIN: Q. Now -- by the way, as you
15:23:13 18 sit here today, sir, do you know even one example
15:23:29 19 where in the end of 2006 or January, February, March,
15:23:37 20 April 2007 where Google provided filtering and
15:23:42 21 fingerprinting to any studio or TV producer in the
15:23:46 22 absence of a revenue-sharing deal?
15:23:48 23 MR. MANCINI: Objection; lacks foundation;
15:23:50 24 vague and ambiguous; asked and answered several times.
15:23:55 25 THE WITNESS: I have no knowledge of that.

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15:23:56 2 MR. BASKIN: Q. Now, do you recall whether

15:24:03 3 senior management, in fact, discussed that it would be

15:24:14 4 Google's practice not to provide for -- strike that.

15:24:17 5 Now, was David Drummond a member of the OC?

15:24:32 6 A David Drummond is a member of the OC.

15:24:35 7 Q That is to say he's a member of the senior

15:24:38 8 management of the company, right, sir? He sits in the

15:24:44 9 OC meetings.

15:24:45 10 A That's correct.

15:24:45 11 Q Did Mr. Drummond advise the senior management

15:24:55 12 of the company that he had received letters from the

15:25:02 13 general counsel of Viacom and the general counsel of

15:25:06 14 NBC Universal, in and around February 2007, requesting

15:25:14 15 that Google cooperate with those two companies to

15:25:17 16 utilize filtering and fingerprinting to -- on the

15:25:20 17 YouTube website?

15:25:21 18 MR. MANCINI: So objection, and instruct the

15:25:23 19 witness not to answer to the extent it's seeking

15:25:26 20 communications with counsel, which it seems that it

15:25:28 21 clearly indeed is.

15:25:30 22 MR. BASKIN: Your position is that if you

15:25:35 23 communicate and he got a letter it is a privileged

15:25:38 24 communication?

15:25:38 25 MR. MANCINI: You're asking about the

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15:25:39 2 communication itself.
15:25:40 3 MR. BASKIN: Okay. Let's do it the hard way.
15:25:46 4 Let's have exhibit -- where are we?
15:25:48 5 THE REPORTER: 14.
15:25:49 6 MR. BASKIN: 14?
15:25:50 7 THE REPORTER: 15.
15:25:51 8 MR. BASKIN: Let me hand you, sir, what we
15:25:56 9 will mark as Exhibit 14.
15:25:58 10 MR. DEIXLER: 15.
15:26:00 11 MR. BASKIN: 15 is it?
15:26:01 12 THE REPORTER: Yes.
15:26:02 13 MR. BASKIN: I'm sorry.
15:26:02 14 MR. MANCINI: 15.
15:26:04 15 MR. BASKIN: Which purports to be a letter
15:26:06 16 from Michael Fricklas at Viacom to David Drummond,
15:26:10 17 Kent Walker of Google.
15:26:11 18 (Document marked Page Exhibit 15
15:26:21 19 for identification.)
15:26:21 20 MR. BASKIN: And just to make our life easier
15:26:23 21 again, why don't we go to Exhibit 16.
15:26:28 22 MR. MANCINI: Do you mean 15?
15:26:29 23 MR. BASKIN: I thought the other one is 15.
15:26:31 24 This is now 16; is that right?
15:26:33 25 THE REPORTER: Yes.

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15:26:35 2 MR. BASKIN: The Viacom letter is 15. The

15:26:37 3 NBC letter is 16.

15:26:41 4 MR. MCGILL: He's introducing the second

15:26:44 5 exhibit at the same time.

15:26:44 6 MR. BASKIN: I'm introducing two exhibits.

15:26:46 7 MR. MANCINI: Go ahead.

15:26:47 8 (Document marked Page Exhibit 16

15:27:48 9 for identification.)

15:27:48 10 MR. MANCINI: Is there a question pending,

15:27:50 11 Counselor?

15:27:51 12 MR. BASKIN: Q. Are you ready?

15:27:54 13 Mr. Page, you received Exhibits 15 and 16

15:28:07 14 prior to today, sir?

15:28:10 15 A I don't recall ever seeing them.

15:28:12 16 Q In the course of the OC meetings or other

15:28:15 17 meetings between senior management, did David Drummond

15:28:19 18 ever tell you and the other OC members that he

15:28:28 19 received Exhibit 15 from the general counsel of Viacom

15:28:31 20 and Exhibit 16 from the general counsel of NBC

15:28:35 21 Universal both in February of 2007?

15:28:38 22 MR. MANCINI: So I'll permit the witness to

15:28:41 23 answer what appears to be a question directed at

15:28:44 24 whether or not Mr. Drummond indicated that these

15:28:48 25 documents were received, but just so we're cautious,

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15:28:52 2 instruct the witness not to communicate any
15:28:55 3 communications from Mr. Drummond about the content or
15:28:58 4 discussions surrounding these documents to the extent
15:29:01 5 there were any and if Mr. Page was even present for
15:29:04 6 those.
15:29:05 7 THE WITNESS: I don't recall.
15:29:05 8 MR. BASKIN: Q. Do you recall the senior
15:29:11 9 management of the company of the OC at this time ever
15:29:20 10 giving consideration to cooperating with Viacom or NBC
15:29:28 11 and to use fingerprinting to keep their content off
15:29:33 12 the YouTube website in and around February 2007?
15:29:36 13 MR. MANCINI: Objection; vague and ambiguous;
15:29:38 14 compound question.
15:29:40 15 THE WITNESS: I -- I don't recall.
15:29:42 16 MR. BASKIN: Q. Sorry?
15:29:43 17 A I don't recall.
15:29:44 18 Q You recall no discussion about cooperating
15:29:46 19 with these two companies at all, is that right,
15:29:50 20 Mr. Page?
15:29:50 21 MR. MANCINI: Objection; asked and just
15:29:52 22 answered.
15:29:52 23 THE WITNESS: Sorry. That's a different
15:29:53 24 question.
15:29:54 25 MR. BASKIN: Q. Do you recall the senior

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15:29:58 2 management at the company, including you, ever giving
15:30:01 3 consideration to cooperating with Viacom and NBC in
15:30:07 4 February 2007 to use filtering techniques to keep
15:30:11 5 their content off the YouTube website?

15:30:13 6 MR. MANCINI: Objection; vague and ambiguous;
15:30:15 7 asked and just answered.

15:30:17 8 THE WITNESS: I don't recall.

15:30:17 9 MR. BASKIN: Q. You know, if two of the
15:30:44 10 largest entertainment companies in the world are
15:30:48 11 simultaneously communicating with Mr. Drummond to
15:30:52 12 request YouTube's cooperation, is that the sort of
15:30:55 13 topic that you would expect to be considered by the OC
15:31:00 14 and the senior management of the company, sir?

15:31:02 15 MR. MANCINI: Objection; calls for
15:31:04 16 speculation.

15:31:10 17 THE WITNESS: I don't recall any such
15:31:13 18 discussion.

15:31:13 19 MR. BASKIN: Now, let me hand you, sir, what
15:32:32 20 we'll mark as Exhibit 17.

15:32:41 21 (Document marked Page Exhibit 17
15:32:46 22 for identification.)

15:32:46 23 MR. BASKIN: Q. Sir, this is a very long
15:33:31 24 document. What I'm going to ask you to do, first of
15:33:35 25 all so we can, again, try to get you out in a timely

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15:33:39 2 fashion, is to simply have you verify that you are the

15:33:42 3 Larry Page to whom this document was sent, and then

15:33:45 4 I'm going to ask you to turn to what's page 25 of the

15:33:51 5 document, and I have -- actually page -- the page

15:33:56 6 preceding 25 and page 25, and I have a few questions

15:33:58 7 about that.

15:33:59 8 MR. MANCINI: So let's take that one at a

15:34:02 9 time when you're ready.

15:34:03 10 THE WITNESS: My name is on the document,

15:34:05 11 yes. Sorry. I don't seem -- oh.

15:35:22 12 MR. BASKIN: Q. So, first of all, who is

15:35:23 13 Jonathan Rosenberg?

15:35:26 14 MR. MANCINI: Same continuing objections to

15:35:27 15 the violation of the Court's order.

15:35:29 16 THE WITNESS: He's one of our executive vice

15:35:34 17 presidents or whatever we call them. I don't know

15:35:35 18 exactly.

15:35:36 19 MR. BASKIN: Q. And do you recall him

15:35:40 20 sending Exhibit 17 to you and Mr. Schmidt and

15:35:43 21 Mr. Brin?

15:35:45 22 A No, I don't recall that, sir.

15:35:46 23 Q And when you turn to that page that I

15:35:50 24 referenced, page 25 --

15:35:54 25 A I should probably say I get hundreds of such

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15:35:58 2 things.
15:35:58 3 Q If you turn to the page preceding page 25,
15:36:01 4 the actual -- the -- it says "How to get more content
15:36:06 5 digitization"; do you see that, sir?
15:36:12 6 A Sorry. I've been looking at page 25, so --
15:36:14 7 okay.
15:36:14 8 Q Okay. Then we turn to page 25.
15:36:18 9 Do you recall you and Mr. Brin and
15:36:23 10 Mr. Schmidt discussing any of the points made on
15:36:32 11 page 25 of Page Exhibit 17?
15:36:36 12 MR. MANCINI: Objection; lacks foundation;
15:36:38 13 vague and ambiguous.
15:36:39 14 THE WITNESS: I don't recall discussing
15:36:47 15 page 25.
15:36:48 16 MR. BASKIN: Q. Well, how about the items on
15:36:50 17 page 25, sir? Do you recall you and -- you,
15:36:52 18 Mr. Page -- you and Mr. Brin and Mr. Schmidt,
15:36:56 19 discussing the items found on page 25?
15:36:58 20 MR. MANCINI: Same objections.
15:37:00 21 THE WITNESS: Same answer.
15:37:01 22 MR. BASKIN: Q. No; is that the answer?
15:37:04 23 MR. MANCINI: No. I believe the witness
15:37:08 24 said, "I don't recall."
15:37:09 25 THE WITNESS: Yeah.

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15:37:09 2 MR. BASKIN: Q. So, for example, do you
15:37:20 3 recall the three senior management of Google discussed
15:37:26 4 whether they should threaten a change in copyright
15:37:29 5 policy as a threat to get standard deal sign-ups with
15:37:36 6 content owners?
15:37:37 7 MR. MANCINI: So, Mr. Baskin, besides the
15:37:39 8 fact that you're mischaracterizing the document, he's
15:37:41 9 just answered that question.
15:37:42 10 If you want to read him each of the bullet
15:37:45 11 points in the hopes you might get a different answer,
15:37:47 12 I don't know how we're doing anything other than
15:37:49 13 wasting this witness's time.
15:37:51 14 MR. BASKIN: Q. Did you hear my question,
15:37:53 15 sir?
15:37:55 16 Do you recall discussing with the other two
15:37:56 17 top senior executives of the company whether Google
15:38:00 18 should threaten a change in its copyright policy as a
15:38:04 19 threat to get a standard deal sign-up with content
15:38:06 20 owners?
15:38:06 21 MR. MANCINI: Same objections, and lacks
15:38:08 22 foundation, and vague and ambiguous.
15:38:09 23 THE WITNESS: Again, I don't recall.
15:38:13 24 MR. BASKIN: Q. Do you recall being advised,
15:38:36 25 in 2007, that entire movies were being uploaded onto

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15:38:45 2 YouTube?
15:38:45 3 MR. MANCINI: Objection; lacks foundation;
15:38:49 4 vague and ambiguous.
15:38:49 5 THE WITNESS: No, I don't recall.
15:38:50 6 MR. BASKIN: Let me give you the names of
15:38:59 7 some movies, and tell me if you recall being told if
15:39:03 8 they were being uploaded in their entirety onto
15:39:05 9 YouTube.
15:39:07 10 Q How about Sicko, a movie released by
15:39:13 11 Weinstein Company? Were you advised of that, sir?
15:39:25 12 A Privileged information.
15:39:30 13 Q How about Spider Man III?
15:39:35 14 MR. MANCINI: So to the extent it calls for
15:39:37 15 communications with counsel, instruct the witness not
15:39:39 16 to answer to the extent it seeks to reveal
15:39:41 17 attorney-client communications.
15:39:42 18 THE WITNESS: I don't recall.
15:39:46 19 MR. BASKIN: Q. How about Blood Diamond?
15:39:48 20 MR. MANCINI: Same objection and instruction.
15:39:49 21 THE WITNESS: I won't answer.
15:39:54 22 MR. BASKIN: Q. How about the Walt Disney
15:40:03 23 picture Cars?
15:40:04 24 MR. MANCINI: Same objection and instruction.
15:40:06 25 THE WITNESS: I don't recall.

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15:40:06 2 MR. BASKIN: Q. How about Meet The
15:40:08 3 Robinsons?
15:40:09 4 MR. MANCINI: Same objection and instruction.
15:40:10 5 THE WITNESS: I don't recall.
15:40:11 6 MR. BASKIN: Q. How about Pans Labyrinth?
15:40:17 7 MR. MANCINI: Same objection and instruction.
15:40:18 8 THE WITNESS: I don't recall.
15:40:25 9 MR. BASKIN: Q. Is it your testimony that
15:40:27 10 you do not recall -- strike that.
15:40:28 11 Is it your testimony, as you sit here today,
15:40:31 12 that you do not recall being advised of any movie
15:40:34 13 up -- uploaded in its entirety onto YouTube in 2007?
15:40:40 14 MR. MANCINI: Objection; mischaracterizes his
15:40:41 15 testimony.
15:40:41 16 THE WITNESS: I don't recall.
15:40:42 17 MR. BASKIN: Q. Well, do you recall the
15:40:55 18 senior management of the company discussing what to do
15:41:05 19 about entire movies being uploaded onto YouTube in
15:41:09 20 2007?
15:41:10 21 MR. MANCINI: Objection; lacks foundation,
15:41:11 22 and objection and instruction not to answer to the
15:41:15 23 extent it seeks attorney-client privileged
15:41:17 24 communications.
15:41:17 25 THE WITNESS: I don't recall.

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15:41:19 2 MR. BASKIN: Q. Were you aware that Google

15:41:37 3 was -- strike that.

15:41:42 4 I take it, sir, that senior management was

15:41:45 5 very aware that Google was in discussions with the

15:41:48 6 MPAA, the Motion Picture Association, regarding

15:41:54 7 copyright compliance issues?

15:41:55 8 MR. MANCINI: Objection.

15:41:56 9 MR. BASKIN: Q. Are you aware of that?

15:41:57 10 MR. MANCINI: Objection; vague and ambiguous;

15:41:58 11 lacks foundation; calls for a legal conclusion.

15:42:05 12 THE WITNESS: I don't recollect that.

15:42:12 13 MR. BASKIN: Okay.

15:42:29 14 Q Did the senior management of the company,

15:42:34 15 sir, authorize Google personnel to tell the MPAA that

15:42:40 16 Google would refuse to filter or use fingerprinting

15:42:47 17 technologies in and around February 2007 in the

15:42:52 18 absence of a license deal with members of the MPAA?

15:42:56 19 MR. MANCINI: Objection; lacks foundation;

15:42:58 20 vague and ambiguous, and continuing objection to the

15:43:01 21 expressed disavowance of this Court's order with

15:43:05 22 respect to this deposition.

15:43:06 23 THE WITNESS: I don't recall.

15:43:22 24 MR. BASKIN: Q. If the MPAA was so advised,

15:43:26 25 could that have been done, sir, without the express

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15:43:29 2 authorization and permission of the senior management
15:43:31 3 of Google?
15:43:32 4 MR. MANCINI: Same exact objections.
15:43:34 5 THE WITNESS: Again, I feel like the same
15:43:39 6 hypothetical question. You're asking me if,
15:43:43 7 hypothetically, should they have authorization or not
15:43:47 8 for that. I think it's an unclear statement for a
15:43:50 9 company.
15:43:57 10 MR. BASKIN: Q. Now, you learned, did you
15:43:59 11 not, that there came a time in February 2007 where
15:44:04 12 Viacom did a very substantial takedown of its content
15:44:10 13 off of the YouTube website?
15:44:12 14 MR. MANCINI: Objection; vague and ambiguous.
15:44:13 15 THE WITNESS: I'm sorry. Could you restate
15:44:16 16 the question?
15:44:17 17 MR. BASKIN: Q. Did there come a time when
15:44:22 18 you learned in February 2007 that my client, Viacom,
15:44:27 19 did a very substantial takedown of its content off of
15:44:31 20 the YouTube website?
15:44:33 21 MR. MANCINI: Same objections.
15:44:34 22 THE WITNESS: I don't recall.
15:44:34 23 MR. BASKIN: Q. Let me show you -- you don't
15:44:57 24 recall being advised that Viacom had done a massive
15:45:00 25 takedown off of the YouTube website in or around

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15:45:03 2 February 2007?
15:45:04 3 MR. MANCINI: Same objections; asked and
15:45:04 4 answered.
15:45:06 5 THE WITNESS: I already said I don't recall.
15:45:09 6 MR. BASKIN: Let's have what we will mark as
15:45:29 7 Exhibit 18.
15:45:31 8 (Document marked Page Exhibit 18
15:47:16 9 for identification.)
15:47:16 10 THE WITNESS: Do you want me to read the
15:47:19 11 whole document?
15:47:20 12 MR. BASKIN: No. In fact, let me just tell
15:47:23 13 you, first, let's just first authenticate it first,
15:47:26 14 and I'll ask you a very simple question.
15:47:28 15 Q Sir, Exhibit 18, on its face, appears to be a
15:47:32 16 document, an e-mail chain, the top of which
15:47:35 17 Mr. Kordestani is sending the rest of the e-mail chain
15:47:40 18 expressly to you and Mr. Schmidt and Mr. Brin. Do you
15:47:46 19 see that, sir?
15:47:47 20 A Yes. My name is on this, yes.
15:47:49 21 Q Do you recall, in fact, receiving Exhibit 18?
15:47:51 22 A No, I do not recall.
15:47:52 23 Q Does this refresh your recollection, in and
15:47:53 24 around February 2007, that Viacom had performed a
15:47:57 25 massive takedown of its content off of YouTube?

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15:48:01 2 MR. MANCINI: Objection; vague and ambiguous.
15:48:02 3 THE WITNESS: I don't recall.
15:48:03 4 MR. BASKIN: Q. Now, I just have one
15:48:11 5 question for you, sir.
15:48:12 6 Are you familiar with the ways in which
15:48:26 7 YouTube could perform a takedown off of the -- off --
15:48:28 8 off of the website? Is that is anything you of
15:48:33 9 familiarity with as president of products?
15:48:35 10 A Again, we have a very large number of
15:48:38 11 products. I'm not the operational person. I assume
15:48:41 12 we have people who are very knowledgeable about those
15:48:44 13 topics.
15:48:46 14 Q Okay. So how a takedown might be performed
15:48:48 15 is not something that you feel qualified to talk
15:48:54 16 about?
15:48:55 17 A Is there a question?
15:48:56 18 MR. MANCINI: And objection; continuing
15:48:57 19 objection that it violates the Court's order.
15:49:00 20 MR. BASKIN: Okay.
15:49:01 21 Q In particular, you see that Mr. Kordestani --
15:49:07 22 can you give him back the document, please.
15:49:17 23 You'll see, if you go, sir, to the page two,
15:49:22 24 the Bates stamp '3153 of Exhibit 18, Mr. Kordestani
15:49:35 25 puts forth two ways in which the takedown might be

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15:49:40 2 done.

15:49:41 3 One way was for Viacom to give specific URLs

15:49:47 4 to YouTube, and the other is if Viacom only gave

15:49:52 5 search terms or program names; do you see those two

15:49:54 6 sentences, sir?

15:49:55 7 MR. MANCINI: Objection; document speaks for

15:49:57 8 itself.

15:49:59 9 Mr. Baskin, I really hope, now, we're getting

15:50:02 10 to a question that is within this witness's knowledge.

15:50:05 11 THE WITNESS: Yeah, I have no specific

15:50:07 12 knowledge of that.

15:50:08 13 MR. BASKIN: Okay. That wasn't question.

15:50:09 14 Q You have no -- and this topic was not

15:50:10 15 discussed, I take it, among you and Mr. Schmidt and

15:50:13 16 Mr. Brin after you received Exhibit 18 --

15:50:18 17 MR. MANCINI: Objection; lacks foundation;

15:50:19 18 vague and ambiguous.

15:50:20 19 MR. BASKIN: Q. -- the manner in which

15:50:21 20 YouTube could implement a takedown?

15:50:23 21 MR. MANCINI: Same objections.

15:50:24 22 THE WITNESS: I don't recall.

15:50:25 23 MR. BASKIN: Okay.

15:50:36 24 Q Have you used the YouTube website, Mr. Page?

15:50:39 25 A Yes.

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