

1 HURLEY, CHAD

15:50:14 2 MR. BASKIN: Q. Would you expect that you  
15:50:16 3 would remember that?

15:50:18 4 A Like I said, you know, I may recall some --  
15:50:21 5 some of those examples. I can't think of a specific  
15:50:27 6 one. I...

15:50:32 7 Q In the course of your -- for the last year or  
15:50:36 8 are two, do you recall seeing e-mails where you were  
15:50:38 9 so advised of that, that there were serial uploads of  
15:50:44 10 entire movies onto the YouTube website?

15:50:47 11 MR. SCHAPIRO: You can answer to the extent  
15:50:48 12 that you exclude any work that we had preparing for  
15:50:54 13 this deposition.

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

15:51:01 15 MR. BASKIN: Q. Do you think those were  
15:51:02 16 among the e-mails that were lost?

15:51:06 17 A There may have been some, you know. You  
15:51:09 18 know, if it happened within the last year, probably  
15:51:12 19 not.

15:51:15 20 Q Now, I think you told us earlier that you  
15:51:36 21 were aware or you had heard that Google Video was  
15:51:43 22 sweeping for copyrighted materials when they were a  
15:51:47 23 direct competitor of yours.

15:51:48 24 MR. SCHAPIRO: Objection; mischaracterizes  
15:51:49 25 his prior testimony.

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15:51:51 2 THE WITNESS: I don't -- I don't know exactly  
15:51:52 3 what I said -- remember what I said this morning, the  
15:51:55 4 exact wording.

15:51:56 5 MR. BASKIN: Q. Well, what's the truth? I  
15:51:58 6 don't care about the exact wording this morning.

15:52:00 7 Were you aware that when they were a direct  
15:52:03 8 competitor of yours, Google Video was sweeping for  
15:52:09 9 copyright materials?

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

15:52:11 11 Aware when? The testimony was that he  
15:52:13 12 learned about it afterwards.

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

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

15:52:19 15 A That was something I heard. I'd never seen  
15:52:20 16 it. That's just -- I heard about it.

15:52:23 17 Q That is, you heard that at the time when  
15:52:28 18 Google Video was competing directly with YouTube, that  
15:52:33 19 Google Video was sweeping for copyrighted materials?

15:52:36 20 MR. SCHAPIRO: Objection; vague as to  
15:52:39 21 "sweeping."

15:52:40 22 THE WITNESS: Yeah, again, I don't -- I don't  
15:52:42 23 remember when and where and who told me that or how I  
15:52:46 24 came upon it, but that's just something I heard.

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

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15:52:52 2 not, that after Google acquired YouTube, this practice  
15:53:00 3 of sweeping for copyright violations was not applied  
15:53:05 4 at YouTube; correct?

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

15:53:09 6 THE WITNESS: Again, I -- you know, I don't  
15:53:12 7 necessarily know what was implemented after the  
15:53:15 8 acquisition. You'd have to speak to the teams that  
15:53:18 9 were focusing on that.

15:53:19 10 MR. BASKIN: Q. Well, your -- you -- you  
15:53:20 11 remained CEO after the acquisition; didn't you?

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

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

15:53:27 14 MR. BASKIN: Q. And do you know whether,  
15:53:31 15 after the acquisition, when you were CEO, did a Google  
15:53:37 16 Video practice of sweeping for videos not apply at  
15:53:41 17 YouTube?

15:53:42 18 MR. SCHAPIRO: Vagueness objection as to  
15:53:45 19 "sweeping."

15:53:46 20 THE WITNESS: Again, I can't remember what  
15:53:48 21 happened, what was applied.

15:53:49 22 MR. BASKIN: Q. You cannot remember whether  
15:53:53 23 YouTube post-acquisition has been sweeping for  
15:53:57 24 videos --

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

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

15:54:03 3 A Yeah, I -- I -- I don't know if we are. I --  
15:54:04 4 I doubt we are.

15:54:08 5 Q Now, did you have a discussion with somebody  
15:54:13 6 at Google to the effect that Google Video's practice  
15:54:22 7 of sweeping for copyright violations would not apply  
15:54:29 8 at YouTube?

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

15:54:34 10 MR. BASKIN: Q. Did you have such a  
15:54:36 11 discussion with anybody, Mr. Hurley?

15:54:37 12 A I -- I -- I can't remember, but there may  
15:54:41 13 have been an e-mail.

15:54:42 14 Q Well, an e-mail or discussion, do you ever  
15:54:45 15 remember discussing with somebody at Google, you're  
15:54:53 16 acquirer, that the practice of sweeping videos for  
15:54:59 17 copyright violations would not apply at YouTube post  
15:55:03 18 acquisition?

15:55:04 19 MR. SCHAPIRO: Do you want to define what you  
15:55:05 20 mean by "sweeping"?

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

15:55:10 22 MR. BASKIN: I ask the questions, not your  
15:55:12 23 counsel.

15:55:12 24 Q What -- what -- are you -- did you have any  
15:55:15 25 discussion with anybody at Google that the practice of

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

15:55:28 3 not apply at YouTube?

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

15:55:32 5 term "sweeping."

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

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

15:55:39 8 in your daily life?

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

15:55:41 10 question.

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

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

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

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

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

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

15:56:33 17 out?

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

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

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

15:56:38 21 remember that document?

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

15:56:39 23 characterization.

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

15:56:41 25 morning.

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

15:56:43 3 Q Now, without regard to the document, were you  
15:56:52 4 aware -- strike that.

15:56:53 5 Without regard to the document, I take it you  
15:56:55 6 were aware that YouTube's practice prior to the  
15:57:00 7 acquisition by Google was to run ads against Watch  
15:57:06 8 Pages?

15:57:09 9 A Yeah, I don't know how many Watch Pages, but  
15:57:12 10 that's what this document implies.

15:57:14 11 Q But independent of the document, just from  
15:57:17 12 your experience as CEO of YouTube, you knew that;  
15:57:23 13 didn't you, sir?

15:57:24 14 A Yeah.

15:57:25 15 Q Now, how long prior to the acquisition of  
15:57:34 16 YouTube by Google, how long a period of time had  
15:57:42 17 YouTube advertised against Watch Pages?

15:57:47 18 A I don't -- I don't know the specific  
15:57:49 19 length/time.

15:57:49 20 Q Well, your brother's document purports to  
15:57:53 21 cover the time, that is, Hurley -- Brent Hurley 14, of  
15:57:57 22 June results, June '06.

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

15:58:08 24 A I think --

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

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15:58:15 2 advertising against Watch Pages?

15:58:17 3 MR. SCHAPIRO: Objection; lacks foundation;  
15:58:18 4 mischaracterizes the document.

15:58:20 5 THE WITNESS: Again, I can't recall the  
15:58:22 6 specific dates. I can't tell you.

15:58:24 7 MR. BASKIN: Q. Now, you are aware, I take  
15:58:29 8 it, that there came a time when the practice of  
15:58:34 9 that -- of YouTube's practice of advertising against  
15:58:37 10 Watch Pages stopped? Is that right, sir?

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

15:58:44 12 Q And do you recall when the time arose that  
15:58:49 13 the practice -- YouTube's practice of advertising  
15:58:51 14 against Watch Pages stopped?

15:58:54 15 A Well, I'm not aware of -- or I can't remember  
15:58:58 16 the specific date that it changed, no.

15:59:00 17 Q Was it shortly after the acquisition by  
15:59:02 18 Google, sir?

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

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

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

15:59:13 22 Q Do you recall why the practice of advertising  
15:59:18 23 against Watch Pages stopped at YouTube post  
15:59:23 24 acquisition?

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

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15:59:28 2 mean, there's a -- you know, business reasons why.

15:59:30 3 You know, obviously we wanted to show our business

15:59:33 4 partners that we're serious about concentrating on

15:59:36 5 their content, selling their pages, maximizing value

15:59:40 6 for them participating in our -- on our system. We

15:59:43 7 wanted to focus the sales force on that.

15:59:45 8 Also, just generally, we -- we didn't want to

15:59:47 9 disrupt the user's experience on the site. We wanted

15:59:50 10 to limit the amount of ads, and unless you would join

15:59:53 11 our partner program and not opt into having ads show

15:59:56 12 up against your -- your videos, we didn't want to

15:59:57 13 randomly just put videos against someone's family trip

16:00:00 14 to the beach.

16:00:03 15 Q Do I take from this last answer that you

16:00:05 16 actually have a memory of discussing with somebody

16:00:08 17 that these are the reasons for ceasing advertisements

16:00:13 18 in its Watch Pages?

16:00:14 19 A No, I don't remember specific discussions. I

16:00:17 20 remember this was potentially some of the reasons why

16:00:20 21 we were thinking about it.

16:00:23 22 Q Well, do you know why, in fact, you stopped,

16:00:28 23 why YouTube stopped practice of advertising its Watch

16:00:31 24 Pages?

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

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

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

16:00:41 4 from counsel to stop?

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

16:00:47 6 not to answer.

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

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

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

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

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

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

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

16:01:53 14 answer.

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

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

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

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

16:02:05 19 know.

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

16:02:45 21 document.

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

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

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

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

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

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

16:05:03 3 Q Now, do you recall this subject matter of  
16:05:09 4 this, of -- of Hurley Exhibit 20?

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

16:05:18 6 Q Well, do you recall removing that paragraph  
16:05:28 7 that begins with "A" for answer from YouTube's  
16:05:35 8 policies in and around December 2005?

16:05:39 9 A I -- I don't know what happened in response  
16:05:40 10 to this e-mail.

16:05:41 11 Q Do you know whether, in fact, up until that  
16:05:48 12 point, you had a review process primarily focused on  
16:05:58 13 removing adult content or obvious copyright violations  
16:06:04 14 and then you ceased that review process on or after  
16:06:09 15 December 2005?

16:06:12 16 A I don't remember the specific time frame, but  
16:06:15 17 I think at one point we -- we tried to do something  
16:06:18 18 like this, but obviously it -- it continued to change  
16:06:24 19 as we tried to strike the appropriate balance, and...

16:06:27 20 Q And by continuing to change, you mean you  
16:06:29 21 ceased your review process insofar as it pertained to  
16:06:34 22 copyright -- obvious copyright violations in and  
16:06:37 23 around December 2005; is that right, Mr. Hurley?

16:06:40 24 A I'm assuming so. I don't know what happened  
16:06:42 25 in response to this.

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16:06:43 2 Q Was this roughly the same time that you  
16:06:47 3 stopped practice at YouTube of community flagging for  
16:06:51 4 copyright violations?

16:06:55 5 A It may have been. I don't -- I don't know  
16:06:57 6 what time that happened.

16:07:02 7 Q Because you are the person who ordered that  
16:07:04 8 practice be stopped, right, internally; correct?

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

16:07:11 10 Q And then you -- I think we saw it this  
16:07:14 11 morning -- didn't you issue the instruction to stop  
16:07:17 12 community flagging?

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

16:07:26 14 Q Do you recall other practices that had been  
16:07:28 15 engaged in at Yoohoo -- at Ya -- at You -- YouTube in  
16:07:37 16 connection with copyright compliance that stopped in  
16:07:42 17 and around -- strike that.

16:07:44 18 Do you recall other practices that had been  
16:07:47 19 engaged in by YouTube, insofar as copyright compliance  
16:07:53 20 was concerned, that changed prior to the acquisition  
16:08:00 21 by Google?

16:08:00 22 MR. SCHAPIRO: Objection; vague and assumes  
16:08:05 23 facts not in evidence.

16:08:07 24 MR. BASKIN: Okay. Well, let me be a little  
16:08:10 25 more concrete.

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16:08:10 2 Q You stopped screening -- strike -- strike  
16:08:13 3 that.

16:08:13 4 You stopped -- stopped flagging, correct,  
16:08:16 5 sir?

16:08:16 6 A Flagging?

16:08:18 7 Q For -- community flagging for copyright  
16:08:20 8 violations. You stopped that in the fourth quarter of  
16:08:23 9 2005, right, Mr. Hurley?

16:08:25 10 A Again, I don't remember the date, but  
16:08:29 11 potentially, yes.

16:08:30 12 Q And then in and around December 2005, at  
16:08:35 13 least it's Ms. Gillette's instruction, that this  
16:08:38 14 paragraph that references the review process primarily  
16:08:45 15 focused on removing adult content or obvious copyright  
16:08:50 16 violations, that that also stopped --

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

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

16:08:56 19 MR. SCHAPIRO: -- mischaracterizes the text  
16:08:58 20 of the document.

16:08:59 21 THE WITNESS: Again, in response to this  
16:09:01 22 e-mail, I don't know what was -- what had taken place.

16:09:05 23 Like I stated this morning, we were making  
16:09:08 24 mistakes. Our community was making mistakes based on  
16:09:12 25 their perceived kind of, I guess, definition of

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

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

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

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

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

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

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

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

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16:11:11 2 Q Well, did you instruct your team that YouTube  
16:11:15 3 should use a canned response when a user inquires  
16:11:22 4 about its copyright obligations?

16:11:25 5 A I don't remember if I used those specific  
16:11:27 6 terms, but, again, if we want to educate our  
16:11:29 7 community.

16:11:31 8 Q What about the use of a can response? You  
16:11:39 9 don't remember that phrase?

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

16:11:42 11 Q Assuming that you communicated to your  
16:11:55 12 YouTube team that all you should do is provide a can  
16:12:04 13 response that users should own all copyrights to the  
16:12:10 14 material they upload, what meaning does "can response"  
16:12:18 15 have for you in that context?

16:12:20 16 MR. SCHAPIRO: Objection; calls for  
16:12:21 17 speculation; incomplete hypothetical.

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

16:12:28 19 MR. BASKIN: Q. Well, do you know the  
16:12:29 20 meaning of the word "can response" -- words "can  
16:12:32 21 response"?

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

16:12:38 23 Q Well, let's -- give me this document. Sorry.  
16:13:18 24 I think you're right.

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

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16:13:34 2 MR. BASKIN: Why don't we mark as Hurley  
16:13:36 3 Exhibit 21 a document in my hand, and I will hand out  
16:13:38 4 copies to other counsel. I'm sorry.

16:13:48 5 You got it?

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

16:13:50 7 (Document marked Hurley, C., Exhibit 21  
16:13:51 8 for identification.)

16:14:17 9 MR. BASKIN: Q. Have you seen Exhibit 21  
16:14:24 10 prior to today, Mr. Hurley?

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

16:14:31 12 Q Well, without regard to the exhibit,  
16:14:33 13 recalling the particular exhibit, do you recall in  
16:14:40 14 communicating to the YouTube team, in your capacity as  
16:14:44 15 CEO in and around September 25th, 2005, that "We  
16:14:53 16 should communicate the canned response that you should  
16:14:57 17 own all copyrights to the material you upload"?

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

16:15:03 19 MR. SCHAPIRO: Objection; misstates the text  
16:15:05 20 and omits part of the text.

16:15:08 21 MR. BASKIN: Q. Do you remember  
16:15:09 22 communicating that, Mr. Hurley?

16:15:11 23 A I don't remember, but it -- it looks like  
16:15:12 24 I -- I had.

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

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16:15:17 2 fact, sent, what did you mean by "canned  
16:15:22 3 response," Mr. Hurley?

16:15:23 4 A Well, I -- I don't know. Like I said, I  
16:15:24 5 don't know if -- if we responded to this guy. I don't  
16:15:29 6 know if he -- he owned the rights to this clip. I  
16:15:32 7 mean, that's what we were trying to communicate to  
16:15:34 8 him.

16:15:34 9 I think, obviously to make things efficient,  
16:15:39 10 you can't construct -- or you know, construct  
16:15:42 11 individual e-mails to -- to keep up with questions. I  
16:15:45 12 mean, a canned response is just trying to create a  
16:15:47 13 more efficient process so we can educate more people.

16:15:51 14 Q And that's your understanding of what you  
16:15:53 15 meant by "canned response"?

16:15:56 16 A I mean, typically, that's how you try to  
16:15:58 17 respond to people's questions online.

16:16:00 18 Q Now, on the YouTube website, have there  
16:16:15 19 always been a portion of the website that is private?

16:16:23 20 A In terms of -- of -- well, what portion are  
16:16:26 21 you talking about?

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

16:16:30 23 Can individuals upload videos to -- not for  
16:16:43 24 public dissemination, but for simply private viewing?

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

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16:16:49 2 Q And has that functionality existed from the  
16:16:52 3 start of YouTube?

16:16:56 4 A I'm trying to remember. I don't know if it  
16:16:58 5 existed from the beginning, but it's something that  
16:17:00 6 we've had for a while.

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

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

16:17:05 9 Q Now, if someone wants to upload videos  
16:17:17 10 privately to this private part of the YouTube website,  
16:17:23 11 can they upload anything they want?

16:17:28 12 A Well, assuming they, you know, follow our --  
16:17:32 13 our terms of use, they can upload a clip typically  
16:17:39 14 under ten minutes in range.

16:17:40 15 Q Is the ten-minute range limitation applied to  
16:17:43 16 private videos?

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

16:17:47 18 Q And can individuals upload serially entire  
16:17:53 19 movies to their private video?

16:17:57 20 A Again, that's against our terms of use, but  
16:18:00 21 someone could possibly do it.

16:18:01 22 Q Now, assuming a content owner was intent on  
16:18:14 23 preserving its intellectual property and wanted to  
16:18:18 24 issue a takedown notice to YouTube, am I correct that  
16:18:25 25 a content owner has zero access to private videos?

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

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

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

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

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

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

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

16:20:00 3 MR. SCHAPIRO: -- misstates the testimony;  
16:20:01 4 lacks foundation.

16:20:02 5 THE WITNESS: Yeah, that's not what I said.  
16:20:03 6 I just said I -- I -- it -- I -- I don't know. I  
16:20:06 7 don't remember.

16:20:07 8 MR. BASKIN: Q. What about with respect to  
16:20:11 9 2006?

16:20:13 10 A I don't know. Again, as -- as the tools have  
16:20:16 11 evolved, I -- I don't know the -- you know, for, you  
16:20:19 12 know, private videos, if partners have the ability  
16:20:23 13 beyond some of the -- the audio and video  
16:20:25 14 fingerprinting that we have today to -- to see them.

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

16:20:36 16 What about in 2007? Could an individual --  
16:20:42 17 can a content owner who's not a partner with you, not  
16:20:52 18 a partner with YouTube -- could a content owner  
16:20:57 19 protect its intellectual property that was uploaded to  
16:21:00 20 private videos?

16:21:02 21 MR. SCHAPIRO: Objection; vague; lacks  
16:21:04 22 foundation.

16:21:04 23 THE WITNESS: Yeah, can -- can you define  
16:21:06 24 "partner"?

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

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

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

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

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

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

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

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16:22:23 2 embedded in the question.

16:22:25 3 THE WITNESS: Yeah, again, what I was saying,  
16:22:32 4 I -- I don't know any partner, you know, a partner at  
16:22:33 5 any level, what their abilities were, you know, tied  
16:22:35 6 to private videos.

16:22:36 7 MR. BASKIN: Q. That's at any year or just  
16:22:38 8 2005?

16:22:38 9 A No, I -- as I was saying, the tools continued  
16:22:43 10 to adapt. I -- I don't know how technically it would  
16:22:45 11 work for them.

16:22:46 12 Q Am I correct that in 2008, as late as 2008, a  
16:22:56 13 content owner has no access to the private videos,  
16:23:00 14 unless they sign a license agreement with YouTube?

16:23:03 15 A I'm not aware of that, no. Like I said,  
16:23:06 16 we -- we want them to -- you know, a partner, as we  
16:23:11 17 define it, is someone that doesn't necessarily need to  
16:23:13 18 provide us content or licensing deal.

16:23:15 19 It's, you know, kind of a legal agreement so  
16:23:18 20 they can have access to our tools. Obviously, you  
16:23:20 21 know, with any piece of technology it's common.

16:23:25 22 Q The question was, as late as 2008, if Viacom  
16:23:29 23 declines to enter -- had declined to enter into --  
16:23:33 24 with -- a license agreement with you, am I right, sir,  
16:23:37 25 that there was no way for Viacom to access the private

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16:23:42 2 videos to protect its intellectual property rights?

16:23:45 3 MR. SCHAPIRO: Objection; asked and answered.

16:23:47 4 THE WITNESS: Yeah, like I continue to say,

16:23:49 5 any partner at any level, I don't know what their

16:23:52 6 abilities were concerning private videos.

16:23:56 7 MR. BASKIN: Q. Am I also right that

16:23:58 8 individuals who upload videos can switch public videos

16:24:02 9 to private -- and make them private?

16:24:05 10 A Yeah, that's -- that's a functionality that's  
16:24:09 11 available.

16:24:09 12 Q Just a press of a button; is that correct?

16:24:11 13 A I -- I think that's what it requires. I  
16:24:14 14 don't know if you check a box or click a button,  
16:24:17 15 something like that.

16:24:17 16 Q And you mentioned before that there was  
16:24:19 17 limited viewership to private videos. When did that  
16:24:23 18 start, sir?

16:24:25 19 A I don't know when it exactly started, but  
16:24:28 20 that's something that we've had for a while.

16:24:30 21 Q Did you have limited viewership in 2005?

16:24:34 22 A I -- I -- I don't know.

16:24:36 23 Q Did you have limited viewership in 2006?

16:24:39 24 A I can't say for sure. I don't know.

16:24:41 25 Q Did you have limited viewership in 2007?

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16:24:44 2 A Again, I -- I don't know the date that we  
16:24:47 3 implemented that.

16:24:48 4 Q Now, are there private videos that are --  
16:25:01 5 have been viewed thousands or even tens of thousands  
16:25:04 6 of times, sir?

16:25:08 7 A Oh, I -- I assume potentially it's a  
16:25:10 8 possibility, if it used to be public and they -- they  
16:25:13 9 marked it as private. But, you know, I guess it would  
16:25:16 10 seem for, you know, a limited group of 25 people to --  
16:25:20 11 but there could be. I have lots of great family  
16:25:23 12 videos.

16:25:24 13 Q Did you ever, by the way, personally take  
16:25:26 14 some public video and mark it private?

16:25:29 15 A Yeah, I may have. I -- like I said, I  
16:25:31 16 uploaded family videos, and as the site became more  
16:25:34 17 popular, I didn't necessarily want people to see my  
16:25:37 18 children running around on the beach.

16:25:40 19 Q Now, am I correct that YouTube has  
16:26:58 20 distribution agreements with many other parties to  
16:27:06 21 distribute YouTube videos over other medium?

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

16:27:16 23 Q Well, I think you discussed some of it this  
16:27:19 24 morning, but is there a distribution agreement between  
16:27:22 25 YouTube and Cingular?

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16:27:27 2 A I believe at one time we probably had a deal  
16:27:29 3 with them or a mobile carrier.

16:27:32 4 Q Well, you have one with Verizon today; don't  
16:27:35 5 you, sir?

16:27:35 6 A I don't know if that's still the case. We  
16:27:37 7 probably do. I don't know.

16:27:38 8 Q You don't know if you have a distribution  
16:27:40 9 agreement with Verizon?

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

16:27:43 11 THE WITNESS: Again, I -- I don't know. We  
16:27:46 12 have lots of partnerships.

16:27:47 13 MR. BASKIN: Q. Do you know if you have a  
16:27:49 14 distribution agreement with Vodafone in Europe?

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

16:27:55 16 Q Now, do you -- do you know if you have a  
16:27:56 17 dis- -- you told us this morning you have a  
16:27:59 18 distribution agreement with iPhone; is that correct?

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

16:28:01 20 Q And you have a distribution agreement also  
16:28:04 21 with Apple TV; is that correct?

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

16:28:07 23 Q And what other distribution agreements come  
16:28:09 24 to your mind in addition to the ones I just mentioned?

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

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

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

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

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

16:29:12 16 A Yeah, typically.

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

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

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

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16:29:38 2 A It's application, some protocol -- something  
16:29:42 3 interface. I -- I don't know.

16:29:42 4 Q So am I to understand that you enter into  
16:29:46 5 these distribution agreements with these carriers for  
16:29:48 6 free?

16:29:53 7 A For the most part. I mean, maybe in the  
16:29:55 8 early deals we -- there may have been some -- some  
16:29:58 9 kind of value attached to it, but I can't remember.

16:30:01 10 Q And when you enter into them for free with  
16:30:06 11 some of the distributees, is the assumption that  
16:30:11 12 you'll share advertising revenue with them for videos  
16:30:12 13 displayed over -- over their medium?

16:30:14 14 A Probably sometimes. I don't know of specific  
16:30:18 15 agreements, what's in each one with each company.

16:30:21 16 Q Well, I assume in every case you get paid  
16:30:24 17 some way, do you not, Mr. Hurley?

16:30:27 18 A I don't know. I -- I don't think in every  
16:30:29 19 case, but maybe some of them.

16:30:32 20 Q Well, which distribution agreements are you  
16:30:37 21 entering into with some of these large companies  
16:30:41 22 without getting paid? Tell us one.

16:30:45 23 A I -- I can't think of one specifically, but I  
16:30:47 24 just know in general we -- we have an API together --  
16:30:51 25 available, and they have the ability to -- to access

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

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

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

16:31:05 7

16:31:16 8

16:31:21 9

16:31:23 10

16:31:27 11

16:31:31 12

16:31:33 13

16:31:38 14

16:31:38 15

16:31:41 16

16:31:42 17

16:31:44 18

16:31:50 19

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

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

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16:32:05 2 Q And what is the form of payment in the  
16:32:07 3 Vodafone transaction?

16:32:09 4 A That one, I -- I don't know. I haven't seen  
16:32:11 5 the -- the deal terms on that or I can't remember  
16:32:14 6 them. I don't know what it is.

16:32:15 7 Q Do you think you're distributing your YouTube  
16:32:20 8 videos over Vodafone for free?

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

16:32:32 10 Q Now, did you -- when -- when Google acquired  
16:32:55 11 YouTube, did Eric Schmidt tell you that your focus  
16:33:07 12 should be to grow playbacks to one billion a day?

16:33:13 13 A I don't know. He may -- he may have told --  
16:33:15 14 told us that. He -- you know, when he came by the  
16:33:18 15 office and would speak with us, he -- he wanted to  
16:33:20 16 make sure that we stayed focus on what was -- what was  
16:33:23 17 important.

16:33:24 18 That, you know, continue to grow numbers on  
16:33:26 19 all fronts, build a great user experience, you know,  
16:33:30 20 bring partners on board and build a great advertising  
16:33:34 21 tool. So kind of, you know, he just wanted us to  
16:33:36 22 continue momentum.

16:33:37 23 Q Who is -- do you know who David Eun is,  
16:33:42 24 E-U-N?

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

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

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

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

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

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

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

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

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

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

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

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16:34:52 2 exhibit, that would be great, Stu.

16:34:56 3 MR. BASKIN: I will give you -- to you --

16:34:58 4 well, the Bates number is -- well, let me give you --

16:35:00 5 find -- see if I can find the exhibit.

16:35:01 6 MR. SCHAPIRO: Thank you.

16:35:03 7 MR. BASKIN: I'm not marking it. I just want

16:35:05 8 to reference this, and I just want to get his --

16:35:10 9 MR. SCHAPIRO: Fine.

16:35:11 10 MR. BASKIN: So here it be.

16:35:13 11 MR. SCHAPIRO: So if you're not marking it,

16:35:14 12 is it okay that I read or you read the Bates number

16:35:17 13 into the record, just so we know what it is?

16:35:19 14 MR. BASKIN: Sure.

16:35:20 15 MR. SCHAPIRO: This is GOO001-02021241.

16:35:28 16 MR. BASKIN: Now -- I'm sorry.

16:35:30 17 MR. SCHAPIRO: It's all right.

16:35:31 18 It's an e-mail that purports to be from David

16:35:34 19 Eun to Suzie Reider, September 14th, 2007.

16:35:39 20 MR. BASKIN: Q. And in the third full

16:35:41 21 paragraph, Mr. Hurley, they make reference -- this

16:35:46 22 e-mail makes reference to you and says, "If you -- we

16:35:48 23 think back to last November," that would be

16:35:52 24 November 2006, that's when the deal closed between

16:35:55 25 YouTube and Google; correct?

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16:35:57 2 A Yeah, I -- I -- I think it's around that time  
16:35:59 3 frame, yes.

16:36:01 4 Q "You are Chad. Your head is spinning and  
16:36:04 5 Eric Schmidt, COO of the most powerful company in the  
16:36:08 6 world, tells you your only focus is to grow playbacks  
16:36:12 7 to one billion per day --- that's what you do"; do you  
16:36:20 8 see that reference in the document?

16:36:23 9 A Yes.

16:36:23 10 Q Do you recall Mr. Schmidt, in fact,  
16:36:26 11 instructing you, Chad, that your only focus is to grow  
16:36:34 12 playbacks to one billion per day?

16:36:37 13 A You know, I don't remember a specific  
16:36:39 14 conversation, but he was definitely confident in our  
16:36:44 15 ability to build a great product.

16:36:46 16 Q But do you recall him telling you in the  
16:36:49 17 course of building this great product he wanted you to  
16:36:53 18 grow playbacks to one billion per day?

16:36:56 19 A I -- I don't know specifically, but  
16:36:59 20 definitely growing user base, growing plays was, you  
16:37:04 21 know, something we aspired to do.

16:37:06 22 Q Now, did there come a time when Mr. Schmidt's  
16:37:10 23 thinking shifted on that and he changed his direction  
16:37:12 24 to you guys to YouTube?

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

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

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

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

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

16:38:08 17 THE WITNESS: Thanks.

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

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

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

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

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

16:39:01 3 Q And it references that "Three weeks ago  
16:39:03 4 Eric" -- is that Eric Schmidt?

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

16:39:08 6 Q "Shifted his thinking on YouTube's focus, so  
16:39:13 7 since that time we have been rapidly been redirecting  
16:39:17 8 our efforts and resources from user growth to  
16:39:20 9 monetization"; do you see that?

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

16:39:24 11 Q What happened three weeks prior to  
16:39:27 12 March 14th, 2008, whereby Mr. Schmidt communicated to  
16:39:32 13 you that his thinking had shifted and that he wanted  
16:39:37 14 you to redirect your efforts from user growth to  
16:39:41 15 monetization?

16:39:43 16 A Yeah, like I -- I mentioned in my previous  
16:39:45 17 answer, that, you know, obviously what was happening  
16:39:49 18 in the economy and, to some effect, Google's core  
16:39:53 19 business of advertising, they wanted us to make this  
16:39:56 20 more of a priority.

16:39:58 21 You know, he didn't want us to -- to redirect  
16:40:00 22 all our efforts. I don't -- it doesn't say all our  
16:40:03 23 efforts, but focus more on monetization, which we --  
16:40:06 24 we started to do.

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

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

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

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

16:40:34 7 A Yes.

16:40:35 8 Q Per day?

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

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

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

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

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

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

16:41:23 25 THE WITNESS: Okay.

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16:41:24 2 THE VIDEOGRAPHER: This is the end of  
16:41:26 3 videotape No. 3 in the continuing deposition of Chad  
16:41:28 4 Hurley on April 22nd, 2009.

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

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

16:41:36 7 (Recess taken.)

16:53:22 8 THE VIDEOGRAPHER: This is the beginning of  
16:53:23 9 videotape No. 4 in the deposition of Chad Hurley on  
16:53:27 10 April 22nd, 2009.

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

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

16:53:34 13 MR. BASKIN: Mr. Hurley, I think we're in the  
16:53:43 14 final lap.

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

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

16:53:50 17 MR. SCHAPIRO: Let the record reflect that  
16:53:51 18 we're smiling.

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

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

16:54:10 21 In 2006, prior to the acquisition of YouTube  
16:54:26 22 by Google, did YouTube engage in discussions with a  
16:54:36 23 company called Audible Magic?

16:54:40 24 A It sounds familiar. I don't -- I don't know  
16:54:42 25 at what time we -- we did have discussions with them.

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1 HURLEY, CHAD

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

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

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

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

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

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

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

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

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

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

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1 HURLEY, CHAD

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

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

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

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

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

16:56:29 7 Q What about Snocap? Does that sound familiar  
16:56:32 8 to you?

16:56:33 9 A Yeah, I think. Yeah, I think that's one  
16:56:34 10 company now, Gracenote and Snocap. I don't know if  
16:56:38 11 they were separate at the time.

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

16:56:42 13 A Yeah, I don't -- I don't know if all at the  
16:56:44 14 same time, but I think that's the French one, I  
16:56:47 15 believe.

16:56:48 16 Q And the technical team, as you referred to  
16:56:53 17 it, was trying to determine which among them provided  
16:56:59 18 the best product for your purposes; correct?

16:57:02 19 A I think that was, you know, one of the  
16:57:04 20 factors that we were evaluating.

16:57:07 21 Q And at roughly this time -- same time period,  
16:57:15 22 was YouTube trying to engage in discussions with  
16:57:19 23 different large-scale content providers regarding  
16:57:27 24 you signing licensing agreements between them and  
16:57:31 25 YouTube?

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16:57:35 2 A I think we were. I mean, I can't remember  
16:57:36 3 the specific ones. I...

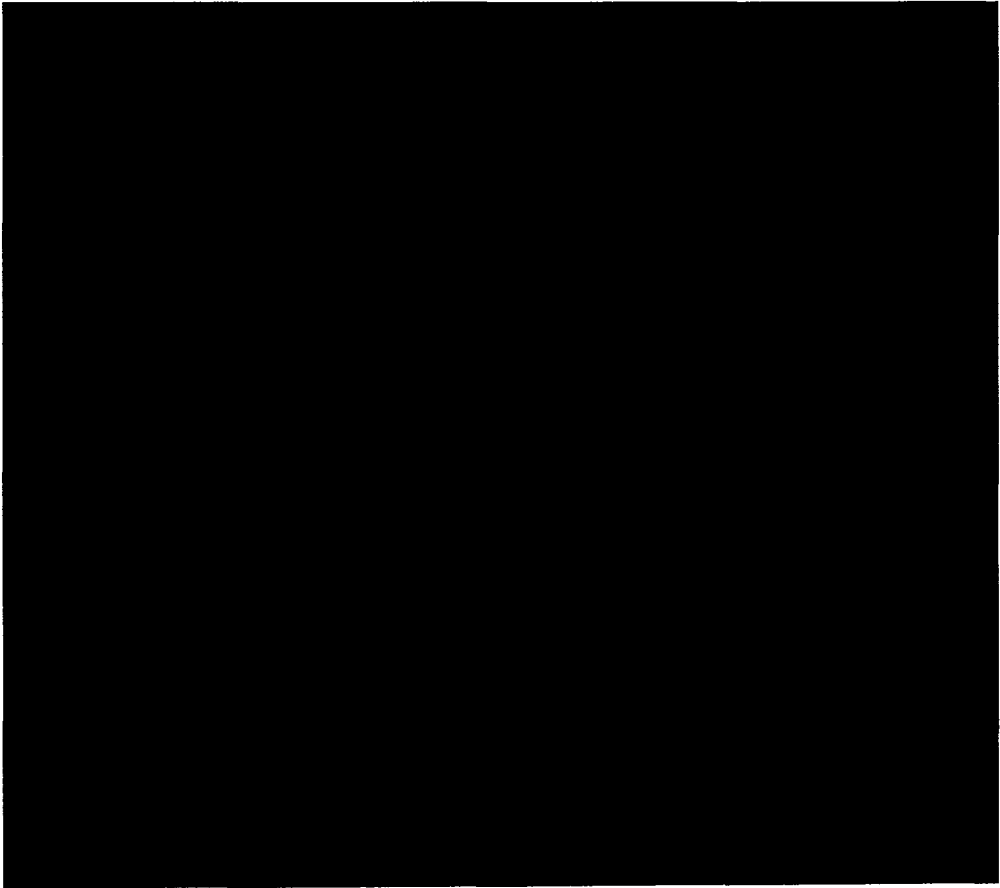
16:57:39 4 Q Well, was one that you can remember Warner  
16:57:42 5 Music?

16:57:42 6 A Sure. Yeah, we were in discussions with all  
16:57:45 7 the labels.

16:57:45 8 Q Was Warner Music actually the first large  
16:57:49 9 record company with which you signed a license  
16:57:52 10 agreement?

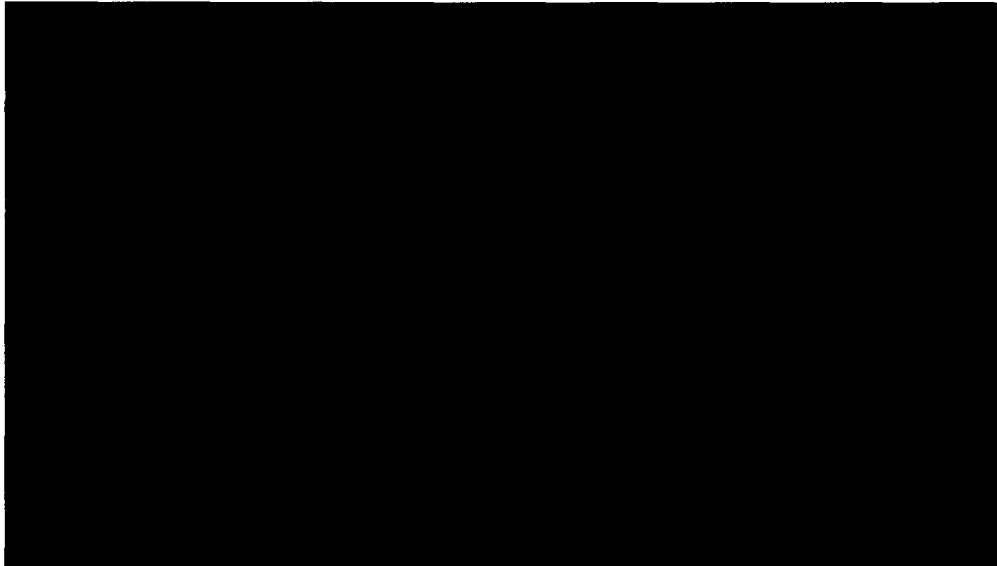
16:57:52 11 A I think they were.

16:57:53 12  
16:57:57 13  
16:58:01 14  
16:58:14 15  
16:58:19 16  
16:58:20 17  
16:58:22 18  
16:58:25 19  
16:58:28 20  
16:58:30 21  
16:58:33 22  
16:58:37 23  
16:58:39 24  
16:58:40 25



1 HURLEY, CHAD

16:58:41 2  
16:58:44 3  
16:58:48 4  
16:58:53 5  
16:58:54 6  
16:58:55 7  
16:59:03 8  
16:59:04 9  
16:59:07 10



16:59:08 11  
16:59:11 12  
16:59:15 13  
16:59:17 14  
16:59:20 15  
16:59:24 16  
16:59:26 17  
16:59:32 18  
16:59:34 19  
16:59:42 20  
16:59:48 21  
16:59:59 22  
17:00:02 23  
17:00:06 24  
17:00:08 25

Q And how does audio -- what is your understanding how fingerprint technology works or worked at the time? What -- what did it entail?

A Well, I'm not -- I'm not an engineer, far from it, but they -- simply just trying to make a -- you know, basically a fingerprint that you're trying to match somehow based on the waves or the notes, and that could -- that could be pretty effective in identifying a -- an audio file, audio track.

Q And as part of the discussions with these various companies, did you learn what the price would be to enter into a license agreement with one of these fingerprint vendors for them to provide this audio fingerprinting service for you?

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



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17:00:11 2 the factors, you know, beyond how effective it is,  
17:00:14 3 how -- how, you know, effectively it scales, how much  
17:00:16 4 it costs. I mean, these are all of the types of  
17:00:18 5 things that you look into when you're trying to strike  
17:00:21 6 a deal.

17:00:21 7 Q Well, do you know, for example, in the case  
17:00:24 8 of Audible Magic, was the cost -- what -- what the  
17:00:30 9 approximate cost of a license was gonna be?

17:00:34 10 A I can't -- I can't remember. You know,  
17:00:38 11 again, someone on the partnership side tried to strike  
17:00:40 12 the deal would know that. Probably Chris Maxcy.

17:00:44 13 Q And does the range of about \$200,000 a year  
17:00:49 14 sound about right to you?

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

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

17:01:00 17 Did there come a time when you, in fact --  
17:01:03 18 first, this one -- entered into an agreement with  
17:01:20 19 Audible -- Audible Magic, as -- as opposed to the  
17:01:22 20 other vendors?

17:01:25 21 A I believe, you know, through the process of  
17:01:28 22 weighing various factors and, you know, looking at all  
17:01:31 23 of the -- looking at all of them, you know, I think we  
17:01:34 24 did determine to go with -- with Audible, yeah.

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

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17:01:38 2 early October of 2006?

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

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

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

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

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

17:01:57 8 A 23.

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

17:02:07 10 A Thank you.

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

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

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

17:02:21 14 for identification.)

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

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

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

17:02:28 18 sorry.

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

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

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

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

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

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

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

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17:02:46 2 have the term sheet?

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

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

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

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

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

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

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

17:04:01 10 for identification.)

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

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

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

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

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

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

17:04:23 17 in a second --

17:04:24 18 A Okay.

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

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

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

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

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

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

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

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17:05:05 2 Q Okay.

17:05:16 3 A All right.

17:05:16 4 Q And David Estrada, who this was sent to, is  
17:05:20 5 he someone who worked for you at YouTube?

17:05:22 6 A Yeah, I think he -- he probably reported to  
17:05:25 7 either Chris or Zahavah.

17:05:26 8 Q And then Chris is Chris at YouTube. The  
17:05:29 9 other recipient is -- is Chris Maxcy?

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

17:05:33 11 Q Maxcy?

17:05:34 12 A Yeah.

17:05:34 13 Q And he -- and the only purpose of the  
17:05:37 14 document -- I take it you've not seen this document  
17:05:39 15 prior to today; is that correct?

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

17:05:43 17 Q But the page that I referenced to you before,  
17:05:45 18 the one that ends 126, does this help to set forth the  
17:05:57 19 approximate cost of this service for the contract that  
17:06:00 20 YouTube entered into with Audible Magic?

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

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

17:06:10 23 MR. BASKIN: Well, we can go through the  
17:06:12 24 whole cause, but -- but in any -- but if you look at  
17:06:14 25 the section called " [REDACTED] " --

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17:06:16 2 A Yes.

17:06:16 3 Q -- and you'll see there's an original term  
17:06:18 4 and a couple of extensions, and then various other  
17:06:22 5 [REDACTED] that are embodied further down, you're welcome to  
17:06:25 6 look at all the [REDACTED], but looking at original term, if  
17:06:29 7 we could just stay with that for a second, since that  
17:06:31 8 seems to cover the first year 2008, it says on the  
17:06:35 9 execution date, "[REDACTED]  
17:06:40 10 [REDACTED]"; do you see that?

17:06:43 11 A I see that.

17:06:44 12 Q And does that refresh your recollection  
17:06:45 13 that's roughly the -- the upfront cost of this  
17:06:50 14 contract seem -- does it ring true to you?

17:06:54 15 MR. SCHAPIRO: Objection; compound.

17:06:58 16 THE WITNESS: Again, I -- I don't remember  
17:06:59 17 this -- this, you know, specific -- specific deal, but  
17:07:04 18 it looks like this is what the document is stating.

17:07:07 19 MR. BASKIN: Q. And then there was -- and  
17:07:17 20 then there's a residual fee of [REDACTED] under  
17:07:22 21 certain circumstances you see. That's also part of  
17:07:25 22 it, but we -- again, we -- I take it you don't  
17:07:27 23 remember the details of that fee?

17:07:29 24 A No.

17:07:30 25 Q Okay. Now, is it your understanding -- by

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

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

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

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

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

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

17:09:00 22 THE WITNESS: Thanks.

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

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17:10:01 2 e-mail?

17:10:05 3 A Yeah, it looks like I got it.

17:10:06 4 Q And there actually was a prior e-mail  
17:10:09 5 reference that you sent out on November 16th, 2006,  
17:10:16 6 responding to Peter Chang in which you stated that  
17:10:22 7 this could potentially be a very powerful acquisition  
17:10:25 8 for Google; correct?

17:10:29 9 A Yeah, it looks like that's what I did, yeah.

17:10:31 10

17:11:38 11

17:11:47 12

17:11:49 13

17:11:51 14 MR. SCHAPIRO: Objection; asked and answered.

17:11:53 15

17:11:57 16

17:11:59 17

17:12:02 18 MR. BASKIN: Q. And, in fact, basically all  
17:12:09 19 of the media companies that you were talking to in and  
17:12:14 20 around October 2006 wanted you to adopt a similar  
17:12:19 21 technology to this, a filtering technology; isn't that  
17:12:24 22 correct?

17:12:24 23 MR. SCHAPIRO: Objection; lacks foundation.

17:12:29 24 MR. BASKIN: Q. Is that true, sir?

17:12:32 25 A It may have been the case. I --

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1 HURLEY, CHAD

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

17:12:37 3 A Yeah, I think he leads partnerships, some  
17:12:41 4 partnerships for us. I think he reports to -- to  
17:12:44 5 Chris, I think.

17:12:45 6 Q And did he report to you that all of your  
17:12:48 7 would-be partners basically want YouTube to agree to  
17:12:56 8 certain filtering and copyright protection standards  
17:12:58 9 as part of transactions?

17:13:02 10 A It may have been the case. I mean, we make  
17:13:04 11 our tools available to them. We want to make our  
17:13:07 12 tools available generally to anyone. They don't need  
17:13:10 13 to -- to enter into a licensing agreement because of  
17:13:13 14 it.

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

17:13:15 16 We'll just mark -- let's mark as Exhibit 26,  
17:13:21 17 which we'll provide to everyone.

17:13:22 18 (Document marked Hurley, C., Exhibit 26  
17:13:26 19 for identification.)

17:13:26 20 THE VIDEOGRAPHER: Counsel, could you slide  
17:13:28 21 your microphone up?

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

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

17:13:44 24 THE WITNESS: Okay. Let me just read this  
17:13:45 25 quickly.

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17:13:50 2 MR. BASKIN: Just, again, to speed things  
17:13:51 3 along, I'm only going to be referencing the first  
17:13:55 4 paragraph with you, so we can try to get everyone to  
17:13:57 5 the garage on time.

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

17:14:56 7 MR. BASKIN: Q. Now, again, this is an  
17:14:59 8 e-mail, Exhibit 26, an e-mail, in fact, received by  
17:15:03 9 you, correct, sir?

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

17:15:06 11 Q And in the first paragraph, Mr. Donahue is  
17:15:09 12 discussing with you some of the wishes of the networks  
17:15:13 13 and studios with which you are engaging in discussions  
17:15:17 14 at the time; is that correct?

17:15:18 15 A Yeah, it looks like that's what he's  
17:15:20 16 discussing here.

17:15:21 17 Q And among the things that they want, I  
17:15:26 18 believe, he says, "I believe the business development  
17:15:29 19 people would like to do a deal, but you must -- they  
17:15:34 20 must satisfy their lawyers and that means that they  
17:15:36 21 want YouTube to agree to certain filtering and  
17:15:40 22 copyright protection standards"; do you see that?

17:15:43 23 A I see that.

17:15:43 24 Q And was the transaction with Audible Magic,  
17:15:46 25 at least in part, intended to provide a filtering

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17:15:52 2 technology that YouTube could use with content  
17:15:54 3 partners?

17:15:56 4 A We want to provide it to everyone, but it  
17:15:59 5 looks like it's their business development people, you  
17:16:01 6 know, wanting us to -- to satisfy their lawyers.  
17:16:04 7 They -- they want us to -- to attach it to their deal.  
17:16:07 8 It was nothing that we necessarily would ever, you  
17:16:10 9 know, want it just attached to a specific deal.

17:16:13 10 Q Okay.

17:16:14 11 A We wanted to have these tools available for  
17:16:16 12 everyone.

17:16:17 13 Q Okay. And we'll get back to that again in a  
17:16:19 14 second.

17:16:20 15 Now, in fact, let me show you what we will  
17:16:26 16 mark as -- I'm not sure we have this. I'm not sure we  
17:16:32 17 have this.

17:16:38 18 Okay. Now, during this time period, and also  
17:17:12 19 in October of 2006, you were developing a program  
17:17:41 20 called CYC or Claim your Content; is that correct?

17:17:45 21 A Yeah, something we developed. I don't know  
17:17:49 22 the specific time.

17:17:50 23 Q And CYC had different elements to it; is that  
17:17:56 24 correct?

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

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17:17:57 2 THE WITNESS: Yeah, in terms of -- what do  
17:17:59 3 you mean by "elements"? What "elements"?

17:18:01 4 MR. BASKIN: Q. Well, let me show you what  
17:18:03 5 has previously been marked -- yeah.

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

17:18:38 7 A 27.

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

17:18:42 9 This, again, is not a document that I have  
17:18:44 10 any reason to believe you got --

17:18:47 11 A Okay.

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

17:18:48 13 MR. SCHAPIRO: But you want to ask him about  
17:18:49 14 it.

17:18:50 15 MR. BASKIN: I want to ask -- want to ask you  
17:18:51 16 about the content of it.

17:18:58 17 (Document marked Hurley, C., Exhibit 27  
17:19:00 18 for identification.)

17:19:00 19 THE WITNESS: Thanks.

17:19:47 20 MR. SCHAPIRO: Do you have another copy of  
17:19:49 21 this? And this is which, 27? I'll take a second to  
17:19:58 22 read this.

17:20:33 23 MR. BASKIN: Q. Have you had a chance to  
17:20:34 24 read it, Mr. Hurley?

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

1 HURLEY, CHAD

17:20:38 2 today?

17:20:38 3 A No.

17:20:38 4 Q Now, again, remind us who Mr. Eun is -- or  
17:20:44 5 Eun?

17:20:45 6 A Eun, David Eun, again, I don't remember his  
17:20:48 7 specific title, but he leads partnerships and other --  
17:20:51 8 other products within Google.

17:20:53 9 Q And in the course of this memo, Mr. Eun  
17:21:02 10 summarizes some tools available at Google and YouTube,  
17:21:11 11 and were there parts of this memo that struck you  
17:21:15 12 as -- any part of it that struck you as an inaccurate  
17:21:18 13 reflection of what the state of play as of  
17:21:22 14 February 2007 at Google and YouTube?

17:21:25 15 A I don't know specifically at that time if --  
17:21:27 16 if this is -- was, in fact, true. I -- I wasn't  
17:21:31 17 working with these tools.

17:21:32 18 Q Okay. Well, if you look at the tools, he  
17:21:36 19 start -- he has two paragraphs at the beginning of the  
17:21:43 20 memo. The first one deals with that every potential  
17:21:46 21 partner with or without a YouTube deal has -- has  
17:21:49 22 access to the automatic takedown tool. This comprises  
17:21:54 23 an online console to file DMCA complaints and request  
17:22:01 24 takedowns, and then an MD5 hash to proactively take  
17:22:09 25 down a new load of previously takedown video file; do

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17:22:14 2 you see that?

17:22:14 3 A Yep.

17:22:14 4 Q And then he describes something called "our  
17:22:18 5 CYC tools are now live as well"; do you see that?

17:22:22 6 A I see that.

17:22:23 7 Q And down below he describes what this new CYC  
17:22:27 8 system is; do you see that, sir?

17:22:29 9 MR. SCHAPIRO: Objection to the  
17:22:29 10 characterization.

17:22:31 11 And, Stu, you're referring to this as a memo.  
17:22:36 12 It's an e-mail from David Eun to himself.

17:22:38 13 MR. BASKIN: That's right. That's fair  
17:22:38 14 enough.

17:22:38 15 Q That's the way you read it, too; right?  
17:22:41 16 Mr. Eun is writing an e-mail to himself; right?

17:22:45 17 A Yeah, it looks like he's making a draft of a  
17:22:47 18 potential document, yeah.

17:22:48 19 Q And he says, "The new CYC system has digital  
17:22:52 20 hashing on all files"; do you see that?

17:22:54 21 A Where are we?

17:22:56 22 Q The very bottom.

17:22:57 23 A Yes.

17:22:57 24 Q And then it has "Audio fingerprinting system  
17:23:00 25 whereby the content partner can send reference

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

17:23:37 8 A I see that.

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

17:23:46 12 A Yeah.

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

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

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

17:24:10 20 A I see that.

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

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

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

17:24:45 7 You're -- you're not just simply rejecting.  
17:24:46 8 You're actually claiming something you want us to  
17:24:49 9 place ads against us -- new content, so obviously you  
17:24:51 10 need to be in a revenue deal with us.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17:27:16 3 THE WITNESS: Well, again, with all of these  
17:27:19 4 dates, I mean, if -- if they were a partner or not, or  
17:27:21 5 if they had access to the tools or not, I -- I don't  
17:27:25 6 know if -- if -- if there were or not deals in place.

17:27:29 7 MR. BASKIN: Q. I take it, with respect to  
17:27:31 8 December -- I'm asking you if you can name one such  
17:27:34 9 deal. Can you, sir?

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

17:27:36 11 Q What about January 2007? Can you name even  
17:27:41 12 one company --

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

17:27:46 14 MR. BASKIN: Q. -- to whom you were prepared  
17:27:48 15 to offer -- strike that.

17:27:52 16 Can you give us the name of even one company  
17:27:54 17 in January 2007 or February 2007 to whom YouTube  
17:28:01 18 offered Audible Magic's fingerprint technology in the  
17:28:05 19 absence of a license agreement?

17:28:07 20 MR. SCHAPIRO: You can ask for whatever month  
17:28:09 21 you want, but he's said he doesn't remember one way or  
17:28:13 22 another.

17:28:13 23 MR. BASKIN: Q. January, February, sir, give  
17:28:15 24 us the name of one company.

17:28:17 25 A I can't remember.

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17:28:17 2 Q March?

17:28:18 3 A Like I said, any date, I don't the time frame  
17:28:20 4 of when or if we had any deal in place, or...

17:28:24 5 Q When was the first time -- strike that.

17:28:26 6 I take it that with respect to Warner Records  
17:28:30 7 you did offer them this technology; did you not?

17:28:34 8 A Well, you know, you know, you're referencing  
17:28:37 9 the deal. I -- I'm assuming that -- that it was  
17:28:41 10 potentially something that was attached to it.

17:28:43 11 It's -- like I mentioned previously, we were  
17:28:45 12 trying to do some unique and creative things in terms  
17:28:47 13 of providing maximum choice for a copyright holder.

17:28:50 14 Q And did Warner Records agree to enter into a  
17:28:53 15 license agreement with you before you offered them  
17:28:55 16 Audible Magic's technology?

17:28:57 17 A I'm not sure. Again, that's assuming that it  
17:28:59 18 was part of the terms that they agreed to or part of  
17:29:03 19 the deal terms.

17:29:04 20 Q And how about after -- after Warner  
17:29:06 21 communications? Was there a second company, record  
17:29:08 22 company, with whom you did a deal?

17:29:10 23 A Well, you know, from this e-mail right here,  
17:29:12 24 it says UMG. You know, WMG and UMG are live, so...

17:29:17 25 Q UMG is Universal Music; is that correct?

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17:29:20 2 A Yeah.

17:29:20 3 Q And isn't it true, sir, that you offered them  
17:29:24 4 Audible Magic technology as well in and around the  
17:29:29 5 turn of the year 2007? Isn't that right, sir?

17:29:32 6 A Again, I can't recall.

17:29:33 7 Q And you offered them the Audible Magic  
17:29:36 8 technology as part of a license agreement that they  
17:29:41 9 entered into with YouTube, correct, sir?

17:29:43 10 A I --

17:29:45 11 MR. SCHAPIRO: Objection; asked and answered.

17:29:46 12 MR. BASKIN: Q. Correct?

17:29:47 13 A I do not know.

17:29:48 14 Q Now, weren't you following these big company  
17:29:50 15 deals, Mr. Hurley?

17:29:51 16 A We had lots of deals. We had lots of things  
17:29:54 17 going on with the company. That's why I went out to  
17:29:56 18 try to hire the best people I could to, again,  
17:29:59 19 delegate a lot of this work.

17:30:00 20 Q My question is, were you following these  
17:30:02 21 large company deals like Warner and Universal?

17:30:05 22 A Sure.

17:30:05 23 Everything on a high level. I try to, you  
17:30:08 24 know, touch base and have meetings with a few  
17:30:11 25 individuals. I just can't recall. We -- you know, we

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17:30:14 2 had so much going on in such a short amount of time,  
17:30:18 3 it's -- it was a little crazy.

17:30:19 4 Q Do you remember in and around the fall of  
17:30:20 5 2006 having discussions with Turner about Turner  
17:30:23 6 Communications entering into a license agreement with  
17:30:25 7 YouTube?

17:30:27 8 A Yeah. Potentially that -- that could have  
17:30:29 9 been the case. I don't remember it specifically.

17:30:30 10 Q You really don't remember that?

17:30:32 11 MR. SCHAPIRO: Objection.

17:30:34 12 MR. BASKIN: Q. You don't remember having  
17:30:35 13 discussions with Turner specifically?

17:30:37 14 A We could have. We've been -- you know, like  
17:30:42 15 I said, we had lots of partnerships and talked to a  
17:30:42 16 lot of people.

17:30:46 17 Q And in and around October 2006 with respect  
17:30:48 18 to Turner, were you prepared to offer them audio  
17:30:51 19 fingerprinting and metadata searches as part of a  
17:30:55 20 license agreement?

17:30:55 21 MR. SCHAPIRO: Objection; assumes  
17:30:57 22 conversations.

17:30:57 23 THE WITNESS: Yeah, you know, assuming we did  
17:31:00 24 have that conversation or any kind of communication,  
17:31:02 25 that it may have been, you know, part of the

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17:31:07 2 discussions. I -- I can't recall.

17:31:08 3 MR. BASKIN: Q. And did Turner, in fact,  
17:31:10 4 enter into a license agreement with YouTube as part of  
17:31:14 5 those discussions in the fall of 2006?

17:31:16 6 MR. SCHAPIRO: Objection; assumes discussions  
17:31:18 7 in the fall of 2006.

17:31:19 8 THE WITNESS: Again, I can't remember. I --  
17:31:23 9 I -- I don't believe that we did. I can't recall  
17:31:25 10 that.

17:31:25 11 MR. BASKIN: Q. And is it true and fair and  
17:31:27 12 accurate to say that after discussions broke down with  
17:31:30 13 Turner, you did not offer them the audio  
17:31:33 14 fingerprinting in and around the fall of 2006?

17:31:35 15 MR. SCHAPIRO: Objection; foundation.

17:31:36 16 THE WITNESS: Again, I -- I don't remember  
17:31:39 17 the discussions that we had and what became of that  
17:31:42 18 deal or if we had one.

17:31:43 19 MR. BASKIN: Q. How about Warner? How about  
17:31:45 20 Walt Disney Company? Were you familiar with  
17:31:47 21 conversations with them in and around January and  
17:31:50 22 February of -- strike that.

17:31:52 23 Were you familiar with conversations with  
17:31:54 24 Walt Disney Company in and around December 2006?

17:31:58 25 A Again, we -- we very well may have been in

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17:32:00 2 discussions with them. I wouldn't doubt it.

17:32:02 3 Q And as part of those discussions, was -- to  
17:32:11 4 your recollection, was YouTube prepared to offer the  
17:32:13 5 Walt Disney Company metadata searches, as well as  
17:32:23 6 Google shall, on behalf of the Walt Disney Company,  
17:32:26 7 pay an audio fingerprint vendor to create an audio  
17:32:30 8 fingerprint corresponding to each item of claimed  
17:32:33 9 content?

17:32:33 10 MR. SCHAPIRO: Objection; incoherent.

17:32:35 11 MR. BASKIN: Q. Sir, did you offer Walt  
17:32:37 12 Disney Company metadata searches and audio  
17:32:41 13 fingerprinting as part of a transaction in and around  
17:32:44 14 December 2006?

17:32:46 15 A I -- I don't know. Again, I'm -- I wasn't in  
17:32:47 16 charge of the -- the deals. I can't recall.

17:32:51 17 Q People were not reporting to you about the  
17:32:53 18 discussions with the -- with Walt Disney Company?

17:32:55 19 A Sure. We had lots of discussions, but...

17:32:57 20 Q Do you recall that as part of a transaction,  
17:33:01 21 YouTube was prepared to offer them both metadata --  
17:33:05 22 metadata searches and fingerprinting technology?

17:33:08 23 MR. SCHAPIRO: Objection; foundation.

17:33:09 24 THE WITNESS: We could have, but then again  
17:33:14 25 our goal is to provide these tools to everyone.

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17:33:17 2 MR. BASKIN: Q. And when Walt Disney  
17:33:19 3 Company -- did Walt Disney Company, in fact, enter  
17:33:21 4 into a transaction with YouTube in and around  
17:33:23 5 December 2006?

17:33:24 6 A Again, I -- I do not know.

17:33:25 7 Q And is it fair to say, sir, that after they  
17:33:27 8 declined to enter into such a transaction with  
17:33:30 9 YouTube, that YouTube did not provide to Walt Disney  
17:33:34 10 Company either metadata searches or audio  
17:33:39 11 fingerprinting --

17:33:39 12 MR. SCHAPIRO: Objection.

17:33:40 13 MR. BASKIN: Q. -- in and around  
17:33:43 14 December 2006?

17:33:44 15 MR. SCHAPIRO: Objection; lacks foundation;  
17:33:44 16 assumes facts not in evidence.

17:33:46 17 MR. BASKIN: Q. Is that correct, sir?

17:33:47 18 A I mean, I'm assuming that that -- you know,  
17:33:49 19 that assumes if, you know, we -- we hadn't reached a  
17:33:52 20 deal, but I do not recall.

17:33:53 21 Q What about NBC? Same thing. Did you offer  
17:33:57 22 NBC in and around February 2007 the ability to do --  
17:34:02 23 to implement approved watermark detection techno- --  
17:34:07 24 detection technology to screen all content for  
17:34:11 25 potential pirated NBC content on your website?

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17:34:16 2 Did you offer them that, sir, in and around  
17:34:19 3 February 2007 as part of a license agreement?

17:34:23 4 MR. SCHAPIRO: Compound; objection.  
17:34:24 5 Objection to the form.

17:34:25 6 THE WITNESS: Again, I don't recall. We --  
17:34:27 7 we listen to our partners, and, you know, things that  
17:34:30 8 they suggest, it may come up during deal terms, but  
17:34:33 9 we're always looking for great suggestions on how to  
17:34:35 10 continue to improve the products.

17:34:37 11 MR. BASKIN: Q. Do you recall offering NBC  
17:34:39 12 what I just read to you, sir, in and around  
17:34:41 13 February 2007?

17:34:42 14 A I do not.

17:34:42 15 Q Were people reporting to you that you were  
17:34:44 16 offering these technologies to NBC in and around  
17:34:47 17 February 2007 as part of a license agreement?

17:34:50 18 A I can't recall them mentioning it to me.  
17:34:52 19 You'd have to ask them.

17:34:53 20 Q Did you, in fact, enter into a license  
17:34:56 21 agreement with NBC in and around February 2007?

17:34:59 22 A We may have. I don't know at what level. I  
17:35:04 23 know, you know, they used our site well for -- for  
17:35:08 24 marketing reasons and posting clips. I -- I'm  
17:35:12 25 relatively confident that was one that was able to

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17:35:14 2 come on board.

17:35:15 3 Q Are you suggesting that you think you might  
17:35:17 4 have entered into a techno- -- a license agreement  
17:35:18 5 with NBC in and around February 2007?

17:35:21 6 A I don't know if it was part of that deal or  
17:35:22 7 if this was a separate one. I don't know.

17:35:24 8 Q And did you, in fact, not end up offering to  
17:35:27 9 NBC in and around February 2007 video techno- --  
17:35:32 10 fingerprinting technology once they declined to enter  
17:35:36 11 into a license agreement with YouTube?

17:35:38 12 MR. SCHAPIRO: Objection; unclear syntax.

17:35:46 13 MR. BASKIN: You can answer a question with  
17:35:49 14 unclear syntax.

17:35:49 15 MR. SCHAPIRO: Did you, in fact, not end up  
17:35:52 16 offering --

17:35:52 17 THE WITNESS: Yeah.

17:35:52 18 MR. SCHAPIRO: -- once they declined.

17:35:54 19 MR. BASKIN: Okay. Thank you. Let me clear  
17:35:55 20 it up.

17:35:56 21 Q Once they declined to enter into a license  
17:36:00 22 agreement with you, isn't it true, sir, that you  
17:36:03 23 refused to provide NBC with -- with filtering  
17:36:07 24 technology -- with fingerprinting technology in and  
17:36:08 25 around February 2007?

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17:36:10 2 MR. SCHAPIRO: Objection; assumes they  
17:36:11 3 declined.

17:36:12 4 THE WITNESS: Yeah, so, assuming they  
17:36:14 5 declined and, you know, assuming I would remember this  
17:36:17 6 deal, I -- I do not know.

17:36:19 7 MR. BASKIN: Q. Viacom the same thing? Were  
17:36:20 8 you prepared to offer Viacom fingerprinting technology  
17:36:24 9 in and around December, January, February, of 2006 and  
17:36:28 10 2007?

17:36:29 11 A I -- I don't know.

17:36:31 12 Q And once Viacom refused to enter into a  
17:36:35 13 license agreement with YouTube, did YouTube offer  
17:36:37 14 Viacom fingerprinting technology in -- in and around  
17:36:41 15 February 2007?

17:36:42 16 MR. SCHAPIRO: Objection; foundation;  
17:36:43 17 compound.

17:36:44 18 THE WITNESS: Again, like all of these  
17:36:47 19 examples, I do not know what was in the deal terms.

17:36:51 20 MR. BASKIN: Q. How about EMI Music Group?  
17:36:53 21 Are you familiar with that transaction?

17:36:55 22 A You know, I -- I know of the company. You  
17:37:00 23 know, the -- I knew we were trying to enter deals with  
17:37:02 24 all of the major music labels. Again, I don't know  
17:37:05 25 the specific terms, but...

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17:37:06 2 Q Did you enter into a transaction with EMI?

17:37:10 3 A I think we were able to reach agreement with  
17:37:11 4 them.

17:37:11 5 Q And as part of that transaction with EMI,  
17:37:14 6 they provided you with a license agreement, did they  
17:37:16 7 not?

17:37:17 8 A Yeah.

17:37:17 9 Q And as part of the transaction with EMI for a  
17:37:20 10 license agreement, you offered them fingerprint  
17:37:23 11 technology, did you not, Mr. Hurley?

17:37:25 12 A I don't know.

17:37:26 13 Q Are you familiar with the -- with the  
17:37:28 14 transaction with EMI? Did anyone report to you about  
17:37:32 15 it, sir?

17:37:33 16 A Again, it would probably go up to Chris  
17:37:37 17 Maxcy.

17:37:37 18 Q Were you told, sir, that in connection with  
17:37:40 19 EMI's transaction, that YouTube contracted to provide  
17:37:48 20 EMI with audio fingerprinting technology that shall  
17:37:57 21 be -- shall be 95 percent or greater effective at  
17:38:01 22 protecting them from uploads on your website?

17:38:06 23 A Well, considering I don't remember the terms  
17:38:07 24 from any of these deals, I'm sure I don't remember  
17:38:10 25 that number as well.

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17:38:11 2 Q Well, did someone report to you at the time,  
17:38:15 3 Mr. Maxcy or anyone involved in these transactions,  
17:38:19 4 that EMI was offered fingerprint technology which was  
17:38:26 5 going to be 95 percent or greater effective?

17:38:32 6 A He could have mentioned it to me. He could  
17:38:34 7 have sent an e-mail. I don't remember.

17:38:37 8 Q Can you give me the name of one company that  
17:38:39 9 refused to enter into a license agreement with YouTube  
17:38:43 10 to whom you offered the same technology?

17:38:46 11 MR. SCHAPIRO: Objection; form.

17:38:50 12 MR. BASKIN: Q. Just one company, sir.

17:38:53 13 A Well, again, that's assuming that was in the  
17:38:55 14 deal that I don't remember. You know, I can't mention  
17:38:58 15 what were in other ones. I mean, I don't know.

17:39:02 16 Q When was the first time you believe that  
17:39:09 17 Google and YouTube, in fact, offered fingerprint  
17:39:12 18 technology to companies in the absence of a license  
17:39:15 19 agreement?

17:39:21 20 A I -- I don't -- I don't know.

17:39:22 21 Q Was it into year 2008, sir?

17:39:26 22 A I don't recall.

17:39:27 23 Q Do you know when was the first time you  
17:39:29 24 offered Viacom fingerprint technology to protect  
17:39:34 25 Viacom's material on YouTube's website?

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17:39:37 2 MR. SCHAPIRO: Objection; foundation; assumes  
17:39:39 3 facts.

17:39:41 4 MR. BASKIN: Q. Do you know when's the first  
17:39:43 5 time?

17:39:43 6 A I don't know the date.

17:39:44 7 Q Was it in 2008, sir?

17:39:46 8 A I don't know.

17:39:46 9 Q Now, do you understand that -- returning to  
17:40:34 10 Mr. Eun's memo, is that still in front of you?

17:40:36 11 A Yeah. 27, I believe.

17:40:41 12 Q Were you --

17:40:44 13 MR. SCHAPIRO: Objection to "memo."

17:40:47 14 MR. BASKIN: Strike that.

17:40:49 15 Q Returning to Mr. Eun's e-mail dated  
17:40:53 16 February 15th, 2007, Hurley Exhibit 27, were you part  
17:40:56 17 of a discussion at YouTube that the new CYC tools,  
17:41:04 18 once they became live, would only be offered to  
17:41:06 19 partners who enter into a revenue deal with us?

17:41:09 20 MR. SCHAPIRO: Objection; asked and answered.

17:41:11 21 THE WITNESS: Yeah, as I -- as I was saying  
17:41:13 22 before, I may have been involved with discussions like  
17:41:17 23 that; and, you know, again, I -- you know, point out  
17:41:21 24 that this was a new system, and obviously anything in  
17:41:24 25 beta you want to release to a limited set of people,

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17:41:26 2 and initially it was set up to claim content, which  
17:41:30 3 means that you would place ads against it and earn  
17:41:34 4 revenue. So it makes sense that they would have  
17:41:36 5 access to it, I mean.

17:41:37 6 MR. BASKIN: Q. Well, who would -- who was  
17:41:40 7 empowered to make the decision that the CYC tools  
17:41:46 8 would only be offered to partners who enter into a  
17:41:49 9 revenue deal with YouTube?

17:41:51 10 MR. SCHAPIRO: Objection; assumes such a  
17:41:53 11 decision.

17:41:54 12 MR. BASKIN: Q. Who had the power to make  
17:41:55 13 such a decision, Mr. Hurley?

17:41:57 14 A Well, you know, assuming we would make such a  
17:42:03 15 decision, you know, it -- it would be a combination  
17:42:09 16 of -- of things. It would be the deal team, first of  
17:42:15 17 all, looking at it, but also probably, very important,  
17:42:17 18 would be the -- the technical side, the engineers, in  
17:42:20 19 terms of how the system works and what was  
17:42:22 20 technically -- technic -- technically, you know,  
17:42:28 21 feasible.

17:42:30 22 Q Did you participate in discussions with  
17:42:34 23 Mr. Schmidt that the CYC tools should be confined to  
17:42:40 24 people who enter into revenue contracts with you?

17:42:45 25 A I don't recall that.

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1 HURLEY, CHAD

17:42:45 2 Q How about with Mr. Brin?

17:42:50 3 A I don't recall. We may have discussed how  
17:42:52 4 the system would work.

17:42:53 5 Q What about Mr. Page?

17:42:59 6 A I don't recall. We could have.

17:43:00 7 Q What about Mr. Eun?

17:43:02 8 A Again, for all I know, we could have.

17:43:03 9 Q And did you authorize the policy that said  
17:43:10 10 that these contracts -- these audio -- these digital  
17:43:14 11 fingerprinting technology would only be available to  
17:43:18 12 companies that entered into revenue agreements with  
17:43:21 13 YouTube?

17:43:21 14 MR. SCHAPIRO: Objection; lacks foundation;  
17:43:24 15 makes an assumption not in evidence.

17:43:26 16 THE WITNESS: Yeah, again, like I explained  
17:43:29 17 before, I -- I don't know if we had discussions. You  
17:43:33 18 know, the -- the reasons I stated before in terms of a  
17:43:36 19 revenue sharing deal, this was claiming content that  
17:43:40 20 we were placing ads against. It was a -- a new  
17:43:42 21 technology, and I don't know why it was released in  
17:43:44 22 this way.

17:43:46 23 MR. BASKIN: Q. Does -- well, let's discuss  
17:43:48 24 that for a second.

17:43:51 25 Do you recall whether YouTube ever determined

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1 HURLEY, CHAD

17:43:56 2 the cost of applying Audible Magic's finger --  
17:44:03 3 fingerprint technology for every content owner who  
17:44:07 4 requested it, regardless of whether or not they  
17:44:12 5 entered into a license agreement with you?

17:44:14 6 A Potentially we could have. I mean, it's  
17:44:17 7 something -- it's a business decision. You're looking  
17:44:19 8 at costs and, you know, how could it affect your --  
17:44:22 9 your company.

17:44:23 10 Q Well, we looked at the actual contract and  
17:44:26 11 the cost parameters of the contract.

17:44:27 12 Did you determine what the cost would be to  
17:44:31 13 provide this same technology to everyone who asked for  
17:44:34 14 it, even if they wouldn't enter into a license  
17:44:38 15 agreement with you?

17:44:38 16 A Did I? I -- I'm pretty sure I didn't do that  
17:44:41 17 analysis. Maybe someone on the team did.

17:44:43 18 Q Did you ever ask anyone on the team to do it?

17:44:47 19 A I could have.

17:44:47 20 Q I'm asking did you? I know you could have.  
17:44:50 21 Did you?

17:44:51 22 A I don't remember.

17:44:51 23 MR. SCHAPIRO: Objection.

17:44:55 24 MR. BASKIN: Q. Can you tell us, is -- was  
17:44:56 25 there any finan- -- was there any financial reason --

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1 HURLEY, CHAD

17:45:03 2 strike that.

17:45:03 3 Was cost, in fact, a factor in deciding  
17:45:09 4 whether or not to make this digital technology  
17:45:12 5 available to all content owners, even if they don't  
17:45:17 6 enter into a license agreement with YouTube?

17:45:19 7 A You know, there's a lot of factors that would  
17:45:22 8 go into it. That could be one of them. It could be,  
17:45:25 9 again, just technically the resources we have to build  
17:45:27 10 it, the resources we have, the -- and, yeah, I mean,  
17:45:35 11 just -- it could be one of the various factors, of  
17:45:37 12 course.

17:45:37 13 Q I know it could have been a factor. I'm  
17:45:39 14 asking you if it was.

17:45:40 15 MR. SCHAPIRO: Objection to the form.

17:45:41 16 THE WITNESS: Again, I -- I don't know if it  
17:45:44 17 was.

17:45:51 18 MR. BASKIN: Q. When particularly after the  
17:45:52 19 acquisition by Google, do you have any idea, sir, what  
17:45:56 20 size -- strike that.

17:45:58 21 Once Google acquired YouTube, was there a  
17:46:05 22 cost constraint that prevented Google from retaining  
17:46:08 23 this technology for use by all content owners who  
17:46:11 24 wanted it, even if they don't enter into a license  
17:46:14 25 agreement with YouTube?

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1 HURLEY, CHAD

17:46:15 2 MR. SCHAPIRO: Objection to the premise built  
17:46:17 3 into the question.

17:46:19 4 THE WITNESS: Again, I -- I can't recall.  
17:46:20 5 You know, obviously, you know, being acquired may have  
17:46:26 6 changed our access to resources, but we were primarily  
17:46:29 7 trying to operate as a startup, be lean and mean and  
17:46:32 8 make the correct decisions before.

17:46:38 9 MR. BASKIN: Q. When -- can I -- can I have,  
17:46:40 10 again, the -- the -- if you could return for a  
17:46:43 11 second -- well, let me.

17:47:09 12 Do you know that when YouTube sent videos to  
17:47:18 13 Audible Magic to have them check the videos against  
17:47:22 14 their database of fingerprints, was there any reason  
17:47:28 15 why that check by Audible Magic could not have  
17:47:32 16 included other company -- any company's fingerprints  
17:47:36 17 that Audible Magic had?

17:47:37 18 MR. SCHAPIRO: Objection.

17:47:43 19 MR. BASKIN: Let me phrase this -- let me --  
17:47:44 20 let me -- let me clarify the question.

17:47:46 21 Q Assuming that Viacom's fingerprints were  
17:47:48 22 deposited with Audible Magic, was there any cost  
17:47:53 23 reason why, when videos were sent to Audible Magic to  
17:47:59 24 have them check videos against their database, that  
17:48:04 25 they could not check those videos against Viacom's

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1 HURLEY, CHAD

17:48:07 2 fingerprints?

17:48:11 3 A I don't recall any -- any cost or technical  
17:48:16 4 reasons. I -- I don't know how the system would work,  
17:48:18 5 how the -- the files or the fingerprints, whatever was  
17:48:21 6 being checked, were working.

17:48:23 7 Q Well, isn't it a fact that once the video was  
17:48:29 8 sent to Audible Magic, that Audible Magic could have  
17:48:35 9 easily checked it against Viacom's fingerprints at  
17:48:38 10 virtually no cost?

17:48:41 11 A Again, I don't know how the system works. I  
17:48:43 12 don't know the -- the machine processing power that  
17:48:46 13 was required. It would be a technical question in  
17:48:49 14 terms of how much it would cost. I don't -- I don't  
17:48:51 15 know that.

17:48:51 16 Q And you don't remember ever asking anybody at  
17:48:54 17 YouTube to cost that out, I take it, did you, sir?

17:48:58 18 A No, I don't recall that.

17:48:59 19 Q And certainly Mr. Schmidt never suggested to  
17:49:01 20 you that YouTube should cost out what -- what it would  
17:49:05 21 cost to make Audible Magic available to all content  
17:49:09 22 providers, even if they don't enter into a license  
17:49:14 23 agreement with YouTube; correct?

17:49:16 24 A Yeah. He -- he may have. We're constantly  
17:49:17 25 looking at ways to improve the system.

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1 HURLEY, CHAD

17:49:21 2 Q Do you recall him asking you to cost out  
17:49:23 3 whether Viacom and other content providers could be  
17:49:26 4 included within the Audible Magic license?

17:49:30 5 MR. SCHAPIRO: Objection; asked and answered.

17:49:32 6 THE WITNESS: Yeah. Again, I can't recall,  
17:49:34 7 but he -- he could have.

17:49:35 8 MR. BASKIN: Q. How about Mr. Page or  
17:49:36 9 Mr. Brin? Did either of them ever suggest to you that  
17:49:39 10 maybe you should do that, sir?

17:49:41 11 A They may have.

17:49:41 12 Q Do you recall either of them suggesting to  
17:49:44 13 you to cost it out?

17:49:46 14 A No, I don't.

17:49:47 15 Q Now, by the way, were you party to the common  
17:50:03 16 conversations between Viacom and Google and YouTube in  
17:50:11 17 and around November/December of '06 and  
17:50:17 18 January/February '07 on the issue of whether Viacom  
17:50:22 19 would award a license to YouTube?

17:50:24 20 A Yeah, I can't -- I can't remember the -- the  
17:50:26 21 time frame, but I do remember some meetings in  
17:50:29 22 Mountain View.

17:50:30 23 Q Which you were party of -- party to?

17:50:33 24 A I -- I think I attended some of them. I  
17:50:36 25 don't know how many there were.

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17:50:37 2 Q Why don't you just tell us what you remember  
17:50:42 3 happening at those meetings.

17:50:43 4 A Just general discussions on how we could do a  
17:50:46 5 deal. I can't remember the specifics.

17:50:47 6 Q Do you remember why a deal was not done?

17:50:55 7 A I'm assuming it was over price. They were  
17:50:58 8 probably asking for a lot of money.

17:51:01 9 Q But beyond that assumption, do you have any  
17:51:04 10 actual recollection of while a -- why a deal was not  
17:51:06 11 done?

17:51:08 12 A No, I don't.

17:51:08 13 Q Who was in attendance at these meetings with  
17:51:11 14 you that you recall from the Google/YouTube side of  
17:51:13 15 the equation?

17:51:19 16 A I can't remember who specifically was in the  
17:51:21 17 meeting. I remember, I think, Michael -- was it --  
17:51:24 18 Michael Wolfe was in one.

17:51:26 19 Q He was a representative of MTV Viacom?

17:51:29 20 A I think, yeah, one of those.

17:51:30 21 Q And who was your representatives at this  
17:51:32 22 meeting?

17:51:34 23 A I can't remember specifically. I'm assuming  
17:51:37 24 maybe Chris Maxcy was there or David Drummond or --  
17:51:41 25 I'm -- I'm not sure, I mean, people leading the

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1 HURLEY, CHAD

17:51:44 2 discussions for partnerships. Maybe David Eun. I  
17:51:48 3 don't know.

17:51:48 4 Q Are you just speculating now or do you  
17:51:51 5 actually have a memory of them being there?

17:51:53 6 A I'm just speculating. I'm just assuming,  
17:51:55 7 since they're doing deals for us that this was a  
17:51:58 8 meeting that they would attend.

17:52:01 9 MR. BASKIN: And -- let me hand you what  
17:52:23 10 we'll mark as Exhibit 28.

17:52:34 11 (Document marked Hurley, C., Exhibit 28  
17:52:35 12 for identification.)

17:52:35 13 THE WITNESS: Thanks.

17:52:36 14 MR. BASKIN: Q. Exhibit 28 -- well, read it  
17:52:38 15 first, I guess, a little bit. I just have...

17:54:19 16 A Okay.

17:54:26 17 Q Can you identify Exhibit 28 as an e-mail sent  
17:54:30 18 from you to Wendy Chang dated in and around  
17:54:35 19 November 28, 2006?

17:54:38 20 A Yep, that's what it looks like.

17:54:39 21 Q Do you remember sending this e-mail, sir?

17:54:41 22 A No, I do not.

17:54:42 23 Q Now, the only question I have for you about  
17:54:47 24 that e-mail, you'll see down below, it refers to a new  
17:54:50 25 proposed model.

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1 HURLEY, CHAD

17:54:51 2 A Yes, I see that.

17:54:52 3 Q This was an -- this was in -- in an e-mail

17:54:56 4 that Wendy Chang wrote to -- to you and Chris Maxcy;

17:55:00 5 right?

17:55:01 6 A Yeah, that's what it looks like, yeah.

17:55:03 7 Q And then who is Wendy Chang?

17:55:04 8 A Uh-huh.

17:55:05 9 What's that.

17:55:05 10 Q Who is Wendy Chang?

17:55:08 11 A Wendy Chang used to lead some of the, you

17:55:11 12 know, gathering the numbers, kind of the -- the

17:55:15 13 finances. I don't know if she's still with the

17:55:16 14 company.

17:55:18 15 Q Now, directing your attention to this new

17:55:20 16 proposed model, do you have a recollection why, in

17:55:26 17 connection with expected partner shares in the new

17:55:30 18 model -- MTV you understood to be Viacom; right, sir?

17:55:34 19 A I guess so. It says MTV, but I don't --

17:55:36 20 Q Is MTV a subsidiary of Viacom?

17:55:41 21 A Yeah, but I don't know if it includes all

17:55:44 22 their properties.

17:55:45 23 Q Well, just in connection with MTV alone, do

17:55:48 24 you have a recollection why their partnership share

17:55:50 25 was going to be [REDACTED] ?

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1 HURLEY, CHAD

17:55:56 2 MR. SCHAPIRO: Objection; foundation.

17:55:59 3 THE WITNESS: I don't know. I'm just

17:56:03 4 assuming maybe they're tough negotiators.

17:56:07 5 MR. BASKIN: Q. You'll agree with me that

17:56:10 6 two times is double one time; right?

17:56:12 7 MR. SCHAPIRO: Objection.

17:56:13 8 MR. BASKIN: You wanted a foundation. I'm

17:56:15 9 giving you a foundation.

17:56:17 10 Q Can you explain to me --

17:56:19 11 A It -- it depends on what you're times --

17:56:22 12 timesing it against.

17:56:23 13 Q Do you know why MTV's share was going to be

17:56:28 14 [REDACTED], while -- while -- [REDACTED]

17:56:31 15 [REDACTED]?

17:56:34 16 A I don't know. Maybe they were bluffing the

17:56:35 17 value of their content.

17:56:38 18 Q Do you recall such a discussion?

17:56:43 19 A I don't recall.

17:56:43 20 Q You think it's possible they were bluffing

17:56:45 21 like the way you bluff?

17:56:47 22 A If they were good negotiators.

17:56:49 23 Q Now, in connection with this, do you recall a

17:56:55 24 discussion with Wendy Chang or with Chris Maxcy, I

17:57:02 25 know I'm getting his name wrong, but we'll fill it in

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1 HURLEY, CHAD

17:57:05 2 right --

17:57:06 3 A Yeah.

17:57:06 4 Q -- do you recall a discussion with either of  
17:57:08 5 them as to why MTV alone was getting such a large  
17:57:12 6 partnership share as part of these -- this new  
17:57:16 7 proposed model?

17:57:18 8 A I don't -- I don't recall. We could have had  
17:57:19 9 the conversations.

17:57:20 10 Q Was that because the determination was made  
17:57:23 11 by YouTube that MTV's content was so valuable?

17:57:27 12 A Again, I -- I -- I can't assume, because I  
17:57:30 13 don't know what the discussions were.

17:57:31 14 Q Now, in fact, the partnership shares were  
17:57:44 15 going to be fixed based on -- off of global  
17:57:49 16 performance of the respected entities; isn't that  
17:57:51 17 right, sir?

17:57:52 18 MR. SCHAPIRO: Objection; vague.

17:57:53 19 THE WITNESS: I -- I -- I don't know. I -- I  
17:57:55 20 can't recall any kind of.

17:57:58 21 MR. BASKIN: Q. Do you recall any such  
17:57:59 22 discussion with them that that's how this matrix was  
17:58:01 23 set up?

17:58:03 24 A There very well may be a matrix. I don't  
17:58:07 25 know who -- if even it even exists who -- who created

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1 HURLEY, CHAD

17:58:11 2 it and if I've seen it.

17:58:13 3 Q Now -- okay.

17:58:42 4 Let's take a -- let's go off the record for

17:58:44 5 two minutes. I may want to figure out a way of

17:58:47 6 maybe -- we'll finish a little early, but I want to be

17:58:53 7 able to collect my thoughts with my colleagues; okay?

17:58:55 8 THE VIDEOGRAPHER: The time is 5:58 p.m.

17:58:57 9 We are off the record.

17:59:01 10 (Recess taken.)

18:14:44 11 THE VIDEOGRAPHER: The time is 6:13 p.m.

18:14:48 12 We are back on the record.

18:14:50 13 MR. BASKIN: Q. Mr. Hurley, I just want to

18:14:57 14 show you a series of documents, just have you

18:15:05 15 identify, first, whether you can -- whether you

18:15:10 16 remember receiving these documents, these e-mails; and

18:15:13 17 if not, identify -- I'll ask you to identify that

18:15:16 18 you -- well, then -- then I'll ask you a follow-up

18:15:18 19 question with respect to each one.

18:15:21 20 A Okay.

18:15:21 21 MR. BASKIN: Exhibit --

18:15:22 22 THE REPORTER: 29.

18:15:24 23 MR. BASKIN: -- 29.

18:15:28 24 (Document marked Hurley, C., Exhibit 29

18:15:35 25 for identification.)

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL, INC., COMEDY )  
 PARTNERS, COUNTRY MUSIC )  
 TELEVISION, INC., PARAMOUNT )  
 PICTURES CORPORATION, and BLACK )  
 ENTERTAINMENT TELEVISION, LLC, )  
 )  
 Plaintiffs, )  
 )  
 vs. ) NO. 07-CV-2203  
 )  
 YOUTUBE, INC., YOUTUBE, LLC, )  
 and GOOGLE, INC., )  
 )  
 Defendants. )

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 )  
 THE FOOTBALL ASSOCIATION PREMIER )  
 LEAGUE LIMITED, BOURNE CO., et al., )  
 on behalf of themselves and all )  
 others similarly situated, )  
 )  
 Plaintiffs, )  
 vs. ) NO. 07-CV-3582  
 )  
 YOUTUBE, INC., YOUTUBE, LLC, and )  
 GOOGLE, INC., )  
 )  
 Defendants. )  
 \_\_\_\_\_

VIDEOTAPED DEPOSITION OF JAWED KARIM  
PALO ALTO, CALIFORNIA  
TUESDAY, JUNE 9, 2009

JOB NO. 16798

DAVID FELDMAN WORLDWIDE, INC.  
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1 KARIM, JAWED

14:19:19 2 particular e-mail.

14:19:20 3 BY MR. BASKIN:

14:19:20 4 Q. Well, towards the bottom of Exhibit 29,

14:19:30 5 there's a sentence that begins, "If videos get

14:19:31 6 flooded with porn" -- and then it goes on to talk

14:19:32 7 about -- "we could always approve videos first

14:19:36 8 before they are shown anywhere. That's a one-line

14:19:40 9 code change."

14:19:41 10 Do you see that, sir?

14:19:42 11 A. Uh-huh.

14:19:43 12 Q. Is that the sentence that you're telling us

14:19:46 13 is now a simplification?

14:19:49 14 A. I mean, you know, most changes are not

14:19:53 15 one-line code changes. It's used as an expression

14:19:56 16 to say that something is fairly simple, but it may

14:20:00 17 not be one line.

14:20:01 18 Q. But as I understand it, to make this change

14:20:05 19 would have been -- for someone like you, would have

14:20:08 20 been a very simple thing to undertake; right?

14:20:13 21 MR. INGBER: Objection, vague and

14:20:15 22 ambiguous.

14:20:15 23 THE WITNESS: It would have been a pretty

14:20:17 24 simple change.

14:20:18 25 BY MR. BASKIN:

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1 KARIM, JAWED

14:20:18 2 Q. Now, was there a decision made within  
14:20:24 3 YouTube in and around April of 2005 not to permit  
14:20:31 4 the administrative interface to block videos from  
14:20:37 5 going -- from being viewed prior to review?

14:20:42 6 MR. PAGE: Objection, vague and ambiguous.

14:20:47 7 THE WITNESS: Um, so this was discussed  
14:20:55 8 before the Web site launched. So actually,  
14:20:59 9 everything we discuss at this point is really  
14:21:01 10 subject to, you know, changing, and we were  
14:21:06 11 considering different possibilities.

14:21:09 12 BY MR. BASKIN:

14:21:09 13 Q. My question is: Was a decision made --  
14:21:14 14 when the administrative interface went live, was a  
14:21:19 15 decision made not to write the code to permit review  
14:21:24 16 of videos by the interface prior to their being  
14:21:29 17 displayed to the public?

14:21:31 18 A. Um, I don't know if -- so you're asking me  
14:21:39 19 about the initial kind of implementation of the --  
14:21:43 20 of this interface?

14:21:45 21 I think it probably varied. I think, you  
14:21:49 22 know -- this is before the Web site launched. I  
14:21:52 23 think we probably tried out different approaches.  
14:21:55 24 So I wouldn't be surprised if we had tried both of  
14:21:58 25 those approaches.

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1 KARIM, JAWED

14:22:00 2 Q. Well, one possibility was to review videos  
14:22:03 3 before they became publicly available; correct?

14:22:05 4 A. That's one of the possibilities.

14:22:07 5 Q. And was that possibility ever adopted by  
14:22:10 6 YouTube, to your knowledge?

14:22:11 7 MR. INGBER: Objection, vague.

14:22:13 8 THE WITNESS: I don't remember, but I think  
14:22:14 9 it's very possible that we used both approaches.

14:22:17 10 BY MR. BASKIN:

14:22:18 11 Q. When did you use both approaches,  
14:22:21 12 Mr. Karim?

14:22:22 13 MR. PAGE: Objection, misstates his prior  
14:22:24 14 testimony.

14:22:27 15 MR. INGBER: Same objection.

14:22:28 16 THE WITNESS: I don't remember exactly when  
14:22:30 17 but these -- the approaches changed, I'm pretty  
14:22:32 18 sure.

14:22:32 19 BY MR. BASKIN:

14:22:32 20 Q. Can you tell us any period of time when the  
14:22:37 21 interface was set up to review videos before they  
14:22:42 22 became publicly available?

14:22:44 23 A. I don't know the time frame. I think it's  
14:23:01 24 very likely that that was the case for some time.

14:23:03 25 Q. What time, sir?

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1 KARIM, JAWED

14:35:59 2 Q. When you were involved with the site.

14:36:00 3 A. Until what date?

14:36:01 4 Q. Until you ceased being involved with the  
14:36:04 5 site.

14:36:05 6 MR. INGBER: Objection as to "involved."

14:36:06 7 THE WITNESS: Define "involved."

14:36:08 8 MR. INGBER: Vague as to "involved."

14:36:10 9 BY MR. BASKIN:

14:36:11 10 Q. Until -- until the period of time when you  
14:36:13 11 were terminated. From your start -- start with the  
14:36:16 12 site until when you were terminated from the site,  
14:36:21 13 could a YouTube user upload a video and switch it  
14:36:27 14 from public to private at his will?

14:36:30 15 A. I'm not certain about the time after I was  
14:36:32 16 no longer full-time with the company, after  
14:36:36 17 September 2005, but before that I know that users  
14:36:38 18 could do that.

14:36:39 19 Q. Now, am I right that if a content provider  
14:36:48 20 wanted to search for its content on YouTube, it had  
14:36:51 21 no access to what was switched to private videos;  
14:36:54 22 correct?

14:36:54 23 MR. INGBER: Objection, vague and  
14:36:56 24 ambiguous, calls for speculation.

14:36:57 25 THE WITNESS: What time frame?

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1 KARIM, JAWED

14:36:58 2 BY MR. BASKIN:

14:36:59 3 Q. Let's take your -- your past time frame.

14:37:03 4 Up until September 2005, am I correct that  
14:37:06 5 a content provider who wanted to search the site for  
14:37:11 6 its intellectual property had no access to the  
14:37:15 7 private videos?

14:37:16 8 MR. INGBER: Same objections.

14:37:20 9 THE WITNESS: What is the objection?

14:37:21 10 MR. INGBER: Vague and ambiguous, calls for  
14:37:29 11 speculation.

14:37:29 12 THE WITNESS: I mean, private videos, you  
14:37:33 13 couldn't, you know, have access to if it wasn't  
14:37:36 14 being shared with the person who -- if it wasn't  
14:37:40 15 shared with you. So you couldn't just find it on  
14:37:44 16 the site.

14:37:45 17 BY MR. BASKIN:

14:37:47 18 Q. Now, do you know whether you had private  
14:38:19 19 videos on your site that had been reviewed thousands  
14:38:23 20 of times by -- by viewers?

14:38:27 21 MR. INGBER: Vague and ambiguous as to the  
14:38:29 22 term "your site."

14:38:33 23 BY MR. BASKIN:

14:38:34 24 Q. With respect to the videos that you  
14:38:38 25 uploaded, sir, to your private video site on

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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL, INC., COMEDY )  
PARTNERS, COUNTRY MUSIC. )  
TELEVISION, INC., PARAMOUNT )  
PICTURES CORPORATION, and BLACK )  
ENTERTAINMENT TELEVISION, LLC, )  
 )  
Plaintiffs, )

vs. ) NO. 07-CV-2103

YOUTUBE, INC., YOUTUBE, LLC, )  
and GOOGLE, INC., )  
 )  
Defendants. )

THE FOOTBALL ASSOCIATION PREMIER )  
LEAGUE LIMITED, BOURNE CO., et al., )  
on behalf of themselves and all )  
others similarly situated, )  
 )  
Plaintiffs, )

vs. ) NO. 07-CV-3582

YOUTUBE, INC., YOUTUBE, LLC, and )  
GOOGLE, INC., )  
 )  
Defendants. )

VIDEOTAPED DEPOSITION OF LARRY PAGE  
PALO ALTO, CALIFORNIA  
THURSDAY, OCTOBER 1, 2009

JOB NO. 17750

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OCTOBER 1, 2009

12:23 p.m.

VIDEOTAPED DEPOSITION OF LARRY PAGE,  
WILSON, SONSINI, GOODRICH & ROSATI, LLP,  
601 Page Mill Road, Palo Alto, California  
pursuant to notice, and before me,  
ANDREA M. IGNACIO HOWARD, CLR, RPR, CRR, CSR  
License No. 9830.

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

2

3 FOR THE PLAINTIFFS VIACOM INTERNATIONAL, INC.:

4 SHEARMAN & STERLING LLP

5 By: STUART BASKIN, Esq.

6 SEAN T. STRAUSS, Esq.

7 599 Lexington Avenue

8 New York, New York 10022

9 (212) 848-4000 stuart.baskin@shearman.com

10

11 FOR THE LEAD PLAINTIFFS AND PROSPECTIVE CLASS:

12 PROSKAUER ROSE LLP

13 By: BERT H. DEIXLER, Esq.

14 2049 Century Park East, Suite 3200

15 Los Angeles, California 90067-3206

16 (310) 284-5663 bdeixler@proskauer.com

17

18 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and

19 GOOGLE, INC.:

20 MAYER BROWN, LLP

21 By: JOHN MANCINI, Esq.

22 DAVID H. MCGILL, Esq.

23 1675 Broadway

24 New York, New York 10019-5820

25 (212) 506-2312 jmancini@mayerbrown.com

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1 A P P E A R A N C E S (Continued.)

2

3

4 ALSO PRESENT: Timothy L. Alger, Deputy General  
5 Counsel, Google Inc.

6

7 Catherine Lacavera, Senior  
8 Litigation Counsel, Google Inc.

9

10 Armando Carrasco, Videographer.

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12 ---oOo---

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2 PALO ALTO, CALIFORNIA

3 THURSDAY, OCTOBER 1, 2009

4 12:23 P.M.

5

12:27:25 6 THE VIDEOGRAPHER: Today's videotaped  
12:27:26 7 deposition of Larry Page is taken on October 1st,  
12:27:30 8 2009, at Wilson, Sonsini, Goodrich & Rosati,  
12:27:35 9 601 South California Avenue, Palo Alto, California.  
12:27:37 10 In the matter of Viacom International versus YouTube,  
12:27:42 11 Inc., and The Football Association. Case No.  
12:27:47 12 07-CV-3582 and 2103, in the court of the Southern  
12:27:51 13 District of New York.

12:27:52 14 My name is Armando Carrasco. I represent  
12:27:55 15 David Feldman Worldwide, located at 600 Anton  
12:27:59 16 Boulevard, Suite 1100, Costa Mesa, California.

12:28:02 17 We are now commencing at 12:23 p.m.

12:28:05 18 Will all present please identify themselves,  
12:28:08 19 beginning with the witness.

12:28:09 20 THE WITNESS: Larry Page from Google.

12:28:12 21 MR. MANCINI: John Mancini, Mayer Brown LLP  
12:28:16 22 for defendants YouTube and Google.

12:28:20 23 MR. ALGER: Timothy Alger from Google, Inc.

12:28:24 24 MR. MCGILL: David McGill, Mayer Brown, also  
12:28:25 25 for defendants.

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12:28:25 2 MS. LACAVERA: Catherine Lacavera, Google,  
12:28:26 3 Inc.  
12:28:26 4 MR. BASKIN: Stuart Baskin of Shearman &  
12:28:28 5 Sterling for Viacom.  
12:28:29 6 MR. STRAUSS: Sean Strauss of Shearman &  
12:28:33 7 Sterling.  
12:28:33 8 MR. DEIXLER: Bert Deixler of Proskauer &  
12:28:37 9 Rose on behalf of the Class Plaintiffs.  
12:28:37 10 THE VIDEOGRAPHER: Thank you.  
12:28:37 11 Will -- will the court reporter please swear  
12:28:39 12 in the witness.  
12:28:39 13 LARRY PAGE,  
12:28:39 14 having been sworn as a witness,  
12:28:39 15 testified as follows:  
12:28:39 16  
12:28:53 17 MR. BASKIN: You ready?  
12:28:55 18 THE VIDEOGRAPHER: Yes.  
12:28:56 19 We're on the record.  
12:28:56 20 EXAMINATION BY MR. BASKIN  
12:28:56 21 MR. BASKIN: Okay.  
12:28:57 22 Q Good afternoon, Mr. Page.  
12:28:59 23 A Good afternoon.  
12:29:00 24 Q What is your --  
12:29:02 25 MR. MANCINI: Stu, may I, just before we

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12:29:03 2 begin, just to put on the record, we want to mark the  
12:29:06 3 entirety of this transcript "Highly Confidential."

12:29:09 4 As we've agreed, the videotape that's being  
12:29:12 5 taken will be kept in -- by one copy only by Viacom  
12:29:17 6 counsel under lock and key, and this deposition is  
12:29:19 7 obviously pursuant to the Court's April 2nd, 2009,  
12:29:22 8 order.

12:29:22 9 And I do want to note for the record the  
12:29:26 10 fault, which seems to lie with the court reporting  
12:29:31 11 service, that we're starting an hour late.

12:29:34 12 MR. BASKIN: Let's go off the record again  
12:29:36 13 for the -- with respect to this sequestering of the --  
12:29:39 14 of the transcript --

12:29:39 15 MR. MANCINI: Sure.

12:29:40 16 MR. BASKIN: -- off the tape. Let's just go  
12:29:40 17 off the record for a second. I don't think we should  
12:29:40 18 do it on the record.

12:29:42 19 THE VIDEOGRAPHER: We're now going off the  
12:29:42 20 record.

12:29:43 21 The time is 12:25 p.m.

12:29:48 22 (Discussion off the record.)

12:30:04 23 THE VIDEOGRAPHER: We're now back on the  
12:30:49 24 record.

12:30:49 25 The time is 12:26 p.m.

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12:30:52 2 MR. BASKIN: Just to reformat the arrangement  
12:30:54 3 and to clarify it, the agreement is that with respect  
12:30:59 4 to the videotape, that each of the law firms rep -- on  
12:31:04 5 the plaintiffs' side, with respect to both cases, will  
12:31:08 6 maintain one copy of the recording, and we will  
12:31:11 7 maintain it in a secure place under lock.

12:31:16 8 MR. MANCINI: Agree with the clarification.  
12:31:21 9 Okay.

12:31:21 10 MR. BASKIN: Q. And with that, good  
12:31:23 11 afternoon, again, Mr. Page.

12:31:25 12 A Good afternoon.

12:31:26 13 Q Have you had -- did you prepare for this  
12:31:29 14 deposition?

12:31:32 15 A I had a conversation with my attorneys here.

12:31:35 16 Q And how long did the conversation with your  
12:31:38 17 attorneys last?

12:31:41 18 A Couple of hours.

12:31:42 19 Q And by your attorneys, who was in attendance  
12:31:46 20 during the course of this conversation?

12:31:48 21 A I think the same group that's assembled here.

12:31:52 22 Q The -- okay. That's sufficient for these  
12:31:57 23 purposes.

12:31:57 24 Now, you met with the attorneys -- your  
12:31:59 25 attorneys for two hours?

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12:32:01 2 A I said a few hours.

12:32:02 3 Q A few hours.

12:32:03 4 You met with them over the course of just one  
12:32:06 5 day?

12:32:10 6 A Met with them yesterday, and we were waiting  
12:32:12 7 for the proceedings to get started here.

12:32:15 8 Q And during the course of your meeting with  
12:32:18 9 them, they showed you documents, I take it?

12:32:21 10 A We examined a number of documents.

12:32:25 11 Q And approximately how many documents were you  
12:32:27 12 shown in the course of your preparation, Mr. Page?

12:32:36 13 A I mean, I don't recall exactly, but I would  
12:32:39 14 guess it's hard for me to estimate, but I would say  
12:32:48 15 under ten. Something in that range.

12:32:50 16 Q And apart from the ten documents or the under  
12:32:56 17 ten documents you were shown, you've been shown non  
12:32:59 18 other -- no other documents in connection with your  
12:33:01 19 preparation today for this deposition?

12:33:05 20 MR. MANCINI: Objection; asked and answered.

12:33:07 21 THE WITNESS: Yeah, I mean, I think I  
12:33:09 22 described what -- what we did.

12:33:12 23 MR. BASKIN: Q. Now, did any of those ten  
12:33:13 24 documents, since there are so few of them, did any of  
12:33:16 25 them refresh your recollection regarding some aspect

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12:33:20 2 of your testimony?

12:33:24 3 A Sorry. I haven't given any testimony yet;  
12:33:28 4 no?

12:33:29 5 Q That's fair enough.

12:33:30 6 Did any of the ten documents refresh your  
12:33:32 7 recollection regarding events concerning the  
12:33:36 8 relationship between Google and YouTube?

12:33:42 9 A I guess maybe you can rephrase the question.  
12:33:44 10 We looked at a number of documents. I don't  
12:33:50 11 know. We read through them.

12:33:53 12 Q The question was, did any of those that you  
12:33:55 13 read through refresh your recollection regarding what  
12:34:01 14 happened back in 2006, 2007, 2008 in the relationship  
12:34:07 15 between YouTube and Google?

12:34:11 16 A I guess I'm still confused about the  
12:34:13 17 question, because I don't have a photographic memory  
12:34:15 18 for every document produced by, you know, a huge  
12:34:18 19 number of employees at Google. So I'm sure any  
12:34:20 20 document I looked at I didn't photographically  
12:34:26 21 remember it.

12:34:29 22 Q Okay. Now, what is your current title at  
12:34:34 23 Google?

12:34:35 24 A I'm president of products and cofounder.

12:34:38 25 Q And would I be correct in believing that you

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12:34:42 2 and Eric Schmidt and Sergey Brin are the three most  
12:34:47 3 senior executives of Google?

12:34:51 4 A Yes.

12:34:52 5 Q Now, am I also correct that a larger group of  
12:34:58 6 senior executives hold regular meetings to discuss  
12:35:07 7 strategy and business issues?

12:35:09 8 MR. MANCINI: Objection; vague and ambiguous.

12:35:11 9 THE WITNESS: We have various meetings, no,  
12:35:16 10 in a large company.

12:35:18 11 MR. BASKIN: Q. Is there a formal body of --  
12:35:20 12 that has a name of senior executives?

12:35:25 13 A Sorry. Which senior executives?

12:35:29 14 Q Well, you and Mr. Brin and Mr. Schmidt, and  
12:35:32 15 maybe seven or eight others. Is there a formal body  
12:35:37 16 of executives that meet?

12:35:41 17 MR. MANCINI: Objection; vague and ambiguous.

12:35:45 18 THE WITNESS: There's been various groups  
12:35:47 19 over time.

12:35:49 20 MR. BASKIN: Q. So, as I recall, there was a  
12:35:53 21 name change in -- in connection with -- with some  
12:35:57 22 group of senior executives.

12:35:59 23 I'm just trying to determine that, because it  
12:36:01 24 will make our questions easier. We can talk --  
12:36:05 25 isn't -- there was a group of senior executives,

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12:36:07 2 including the three of you and several senior vice  
12:36:10 3 presidents, that meet with some regularity; isn't that  
12:36:12 4 true?

12:36:13 5 A Yes.

12:36:13 6 Q And what is the name of that group?

12:36:16 7 A Currently, the name of that group is the OC.

12:36:20 8 Q And OC stands for what?

12:36:24 9 A I'm not exactly sure.

12:36:25 10 Q And prior -- and the OC had a name  
12:36:28 11 previously -- a different name previously; did it not?

12:36:32 12 A Well, it was a different group before that.

12:36:34 13 Q But I take it that you have always been a  
12:36:39 14 member of this group of senior executives; isn't that  
12:36:42 15 true?

12:36:43 16 MR. MANCINI: Objection; vague and ambiguous.

12:36:44 17 THE WITNESS: Yeah, I guess, which group do  
12:36:47 18 you mean?

12:36:47 19 MR. BASKIN: Q. Well, both the OC and the  
12:36:50 20 predecessor to the OC. You were the members of both;  
12:36:53 21 were you not?

12:36:56 22 A Like I already said, I think the groups were  
12:36:59 23 different. I think that's why the name was changed.

12:37:01 24 Q I understand the groups were different, but  
12:37:04 25 my question is, were you a member of both groups?

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