

## EXHIBIT H.2

1 A Not that I -- it does not modify the  
2 Obechi SWF based on the way Obechi is designed.  
3 Q Are you aware of whether or not ChainRxn  
4 is designed in that same basic way as the Obechi  
5 website?  
6 A What do you mean basic way?  
7 Q Well, with this -- a user makes -- decides  
8 that they want to give Obechi access, and then  
9 there's a call made from the user to, for example,  
10 your website, and then data in the game is provided  
11 back to the user through the Facebook website. Is  
12 that -- is that basically how this iFraming  
13 technology works on Facebook?  
14 A The iFrame contains a -- a reference to a  
15 page that can exist on another server, and that  
16 external server can host the -- can host content  
17 from the game and also connect to the Facebook API  
18 to provide different features.  
19 Q Well, in your complaint do you say that  
20 Facebook doesn't host the chain reaction website,  
21 and instead it's provided through this iFrame, is  
22 the way you just described the way basically that  
23 you understand ChainRxn to work?  
24 A Yes, that's based on how I believe  
25 ChainRxn works.

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1 Q So kind of the basic way that Obechi works  
2 on the Facebook website is the same as you  
3 understand the ChainRxn to work?  
4 A I think fundamentally there's a lot of  
5 similarities.  
6 Q Okay. Is Obechi still available on the  
7 Facebook website?  
8 A To my recollection I believe so.  
9 MR. CHATTERJEE: 2033.  
10 (Document marked for identification as  
11 Defendant's Exhibit 2033.)  
12 BY MR. CHATTERJEE:  
13 Q Do you recognize this document 2033?  
14 A Yes.  
15 Q What is it?  
16 A It's a web page.  
17 Q Is this a web page that you set up?  
18 A Define "set up."  
19 Q Well, did you create kind of the -- the  
20 page that says Obechi is on Facebook to allow for  
21 discussion about it?  
22 A I didn't create the page. Facebook  
23 generated the page. I provided certain pieces of  
24 content.  
25 Q Okay. So when you -- so when you wanted

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1 to kind of connect to Facebook through the API, are  
2 you aware that you signed a developer terms of  
3 service?  
4 A I don't recall, but I -- I don't recall.  
5 Q You would assume as much, right?  
6 A Yes.  
7 Q And as part of that kind of sign-up  
8 process, Facebook creates a page like this for  
9 particular applications that are created, is that  
10 kind of the way it works?  
11 A I am not sure. I don't know.  
12 Q Do you know how this page is created?  
13 A I don't know.  
14 Q Is it an automated process where you  
15 register Obechi?  
16 A I'm sorry, I didn't hear you.  
17 Q Is it like an automated process or  
18 something every time you want to put a new app on  
19 Facebook that Facebook automatically creates this  
20 page?  
21 A I believe so. I can't speak for how  
22 Facebook operates.  
23 Q What does Obechi mean?  
24 A I'm sorry? I didn't hear you.  
25 Q What does Obechi mean?

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1 A Obechi? It's actually just a random word.  
2 I think it's an African word.  
3 Q How did you come up with that name?  
4 A I think I went on a random word generator  
5 website one day.  
6 Q Other than this game Obechi, are there any  
7 other games that you operate on Facebook?  
8 A Not that I'm aware of.  
9 MR. CHATTERJEE: Let's mark it as 2034.  
10 (Document marked for identification as  
11 Defendant's Exhibit 2034.)  
12 A Hopefully you don't make me read all this.  
13 BY MR. CHATTERJEE:  
14 Q Well, if you can look at the document  
15 requests that I gave you, there's a document request  
16 number 31.  
17 A Do you know what page that is?  
18 Q I don't know off the top of my head, but  
19 I'll find it for you real quick. It's about 37.  
20 A What number? What document number was it?  
21 Q Request number 31.  
22 A 31. Sorry, it's a lot of documents in  
23 front of me. 231 --2031?  
24 Q No, no, it's -- I'm sorry, it's 2029. I  
25 apologize. I thought you were asking me what the

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1 document request number is.  
2 MR. CHATTERJEE: You can put yours in  
3 front of him if you want.  
4 A Okay.  
5 MR. BRIDGES: 31.  
6 BY MR. CHATTERJEE:  
7 Q So request number 31 asks for all  
8 documents that relate or refer to any Facebook user  
9 information you collected or through -- from or  
10 through the Obechi video game. Do you see that?  
11 A Yes.  
12 Q This was a document that Mr. Hancock sent  
13 us in response to that question. Do you see that?  
14 A Yes.  
15 Q Do you know what these numbers are that  
16 are on these pages?  
17 A I believe those are what I stored as  
18 Facebook user names or user IDs.  
19 Q User IDs. And there's about 135 pages of  
20 them, correct?  
21 A I don't know exact amount, but I'll take  
22 your word for it.  
23 Q The pages are numbered.  
24 A 135, yes.  
25 Q Why did you keep these user IDs?

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1 A I needed a way to link the user to their  
2 score.  
3 Q Did you -- did you provide a privacy  
4 policy on your game?  
5 A I have a privacy policy on my game.  
6 Q Is there any other user information you  
7 store other than these numbers?  
8 A There's no other Facebook user information  
9 that I store that I'm aware of.  
10 Q How would you be able to confirm that?  
11 A I'm not sure I understand your question.  
12 Q Well, if you wanted to confirm that these  
13 user IDs were the only thing that you kept, how  
14 would you be able to search your database or your  
15 computer servers to know that?  
16 A I have a column marked Facebook user ID or  
17 user ID which is Facebook users.  
18 Q Do you think Obechi was a successful game  
19 on Facebook?  
20 A Depends on your definition of success.  
21 Q Do you think that your dispute with  
22 Facebook about ChainRxn -- ChainRxn -- has helped  
23 generate revenue for Boomshine?  
24 A I'm sorry, can you repeat the question?  
25 Q Do you think that your dispute with

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1 Facebook about ChainRxn has helped generate revenue  
2 for Boomshine?  
3 A No.  
4 Q Are you aware of what the average growth  
5 rate in revenue was for Boomshine from inception to  
6 May 2009?  
7 A Not off the top of my head.  
8 Q Would it surprise you that on average the  
9 growth rate of revenue from the inception to May  
10 2009 for Google Ads was negative 1.2 percent  
11 relating to Boomshine?  
12 A Again, I -- I don't have that in front of  
13 me, so.  
14 Q And that after your notice of infringement  
15 your average growth rate was 4.84 percent?  
16 A I'm not aware of those numbers.  
17 Q Okay. And did you know that when Facebook  
18 removed ChainRxn from its website, Boomshine's  
19 average revenue growth from Google Ads fell back  
20 down to negative 1.63 percent?  
21 A I'm not aware of that.  
22 Q Once ChainRxn was removed from Facebook's  
23 website, is there any particular reason you didn't  
24 launch Boomshine on Facebook's website?  
25 A I felt that it was too late.

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1 Q You had seen other similar games launch  
2 and become very popular on Facebook, though, right?  
3 A Yes.  
4 Q But you still felt it was too late even  
5 though other people had succeeded?  
6 A Yes.  
7 MR. CHATTERJEE: 2034?  
8 THE REPORTER: 2035.  
9 MR. CHATTERJEE: 2035.  
10 (Document marked for identification as  
11 Defendant's Exhibit 2035.)  
12 MR. BRIDGES: I'd like to mark the  
13 document highly confidential, if we can.  
14 MR. CHATTERJEE: That's fine. Let's mark  
15 the transcript highly confidential as well.  
16 MR. BRIDGES: Agreed.  
17 BY MR. CHATTERJEE:  
18 Q Do you know why you produced this  
19 document?  
20 A I thought that it would be valuable for  
21 you guys to have.  
22 Q Did you give this W-9 to somebody?  
23 A Yes.  
24 Q Who?  
25 A My lawyer.

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1 Q It's not cost per Mochi?  
2 And earnings, what does the earnings mean?  
3 A How much money was earned total.  
4 Q And that's earned total as a result of  
5 ads?  
6 A Yes. ECPM is I think per 1,000  
7 impressions how much money is earned.  
8 Q Okay.  
9 MR. CHATTERJEE: I think this is my last  
10 document, we'll have a five-minute break, then I'll  
11 decide if I have more questions.  
12 MR. BRIDGES: No problem.  
13 (Document marked for identification as  
14 Defendant's Exhibit 2041.)  
15 BY MR. CHATTERJEE:  
16 Q This is a document that was produced  
17 today. I just want you to take a quick look through  
18 it and tell me what the various pieces of this  
19 document are.  
20 A Okay. I looked through it.  
21 Q So for the first several pages before we  
22 get to the tax statements, what are these documents?  
23 A This is a ad revenue report.  
24 Q And who creates this ad revenue report?  
25 A Kongregate.

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1 Q And so Kongregate -- is that kind -- is  
2 this kind of like Kongregate's version of what  
3 Google Ads and Mochi do?  
4 A Based on my understanding, yes.  
5 Q Is there any particular reason why this  
6 stuff wasn't produced earlier?  
7 A I was looking through my stuff, and I  
8 realized that I may have left this out, and I wanted  
9 to produce it to you guys.  
10 Q And these miscellaneous income forms, are  
11 these -- are these basically --  
12 A Which ones, I'm sorry?  
13 Q At the very end, the last two pages.  
14 A Okay.  
15 Q Are these basically tax statements that  
16 Google and MTI Enterprises has issued to you?  
17 A Yes.  
18 Q Under the MTI agreement there was a time  
19 when the game was supposed to end, right?  
20 A I don't recall specifically off the top of  
21 my head.  
22 Q Have you ever checked to see if it ended,  
23 if that were true?  
24 A I don't think I ever checked.  
25 Q Okay.

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1 MR. CHATTERJEE: Let's take a break. I  
2 might be done.  
3 MR. BRIDGES: Not a problem.  
4 THE VIDEOGRAPHER: Stand by, please.  
5 We're off the record. The time is approximately  
6 5:37.  
7 (Recess 5:37-5:46 p.m.)  
8 THE VIDEOGRAPHER: Back on the record the  
9 time is approximately 5:46. You may continue.  
10 (Document marked for identification as  
11 Defendant's Exhibit 2042.)  
12 BY MR. CHATTERJEE:  
13 Q So, Mr. Miller, what I've handed you is  
14 Developer Principles & Policies. If you look under  
15 Roman numeral I in presenting your policies,  
16 Facebook has a requirement that you must provide a  
17 link to your privacy policy and any other applicable  
18 policies in the info section of your application's  
19 profile page and on every page of your application.  
20 You see that?  
21 A Yes.  
22 Q Do you do that with Obechi?  
23 A I don't recall if it's inside the info  
24 settings, but I believe that it should be -- you  
25 know, there should be a privacy policy accessible.

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1 Q Is it on every page of the application?  
2 A I'm not sure.  
3 Q Did you ever take any measures to make  
4 sure you were being compliant with Facebook's  
5 developer principles and policies?  
6 A Yes.  
7 Q What did you do?  
8 A I added a privacy policy.  
9 Q And have you read this before?  
10 A I think I have seen this page before.  
11 MR. CHATTERJEE: So, Julio, why don't we  
12 pull up Obechi.  
13 (Off-the-record discussion.)  
14 BY MR. CHATTERJEE:  
15 Q So where on this application page is there  
16 an indication of the privacy policy?  
17 A Can you scroll down? Keep scrolling.  
18 There. After the Twitter.  
19 Q Okay. So that's -- that's where you've  
20 identified the profile?  
21 A Yes.  
22 Q Okay. So if we click start, is it framed  
23 in that? So that's what you did, you put the  
24 privacy policy at the bottom, and then you framed  
25 the game inside?

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1 A Looks like that's what I did.  
2 Q Okay. Let's go to the applications  
3 profile page.  
4 (Off-the-record discussion.)  
5 BY MR. CHATTERJEE:  
6 Q So this is the Obechi profile page, right?  
7 A I don't know if I would call it a profile  
8 page, but it's a page that Facebook generates.  
9 Q Are you familiar with anything else that  
10 Facebook would call an -- your applications profile  
11 page?  
12 A No.  
13 Q Is your profile -- is your privacy policy  
14 listed on this page?  
15 A Not that I'm aware of.  
16 MR. CHATTERJEE: Click to the info  
17 section, Julio.  
18 BY MR. CHATTERJEE:  
19 Q There's also an info section up above. Is  
20 your -- is your privacy policy listed anywhere  
21 there?  
22 A No.  
23 Q Is that -- is that content about -- about  
24 Obechi, is that something written by you?  
25 A I don't recall if I wrote that.

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1 Q Who else would have written it?  
2 A Tim.  
3 Q Okay. And about K2xL, would you have  
4 written that?  
5 A Tim might have written that.  
6 Q It has your phone number on it, right?  
7 A That's not my personal phone number.  
8 Q It's K2xL's?  
9 A It's this Google voice phone number that I  
10 have.  
11 Q Okay. Does Mr. Halbert maintain that  
12 phone number?  
13 A No.  
14 Q It's for you?  
15 A Yes.  
16 Q Why doesn't this identify anything on  
17 Mr. Halbert on there?  
18 A On this page?  
19 Q Yes.  
20 A We felt that -- I have no idea why, but I  
21 guess it's better that it's not identifying either  
22 of us.  
23 Q It is identifying K2xL, right?  
24 A Yes.  
25 Q And is that K2xL, LLC or your pseudonym?

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1 A Again I'm not, like, sure legality of  
2 what -- what you mean by pseudonym and all this  
3 stuff, but K2xL is just the name that we chose to  
4 represent what we do.  
5 Q Was it the name that you and Mr. Halbert  
6 chose or the name that you chose?  
7 A Name that I chose, but then we chose to  
8 represent Obechi.  
9 Q Okay. And -- and you didn't mean to  
10 suggest that -- when you entered that name that it  
11 was K2xL, LLC, right?  
12 A Correct. If I did I would have written  
13 K2xL, LLC.  
14 Q Okay. Is there any particular reason you  
15 decided to sue Facebook in Georgia originally?  
16 A I can't answer that due to privilege.  
17 Q Did you ever take a look at your terms of  
18 service or the developer policies prior to suing  
19 Facebook?  
20 A I don't recall.  
21 Q Do you ever remember investigating whether  
22 you had contractual obligations to Facebook because  
23 you were a Facebook member you had launched  
24 applications on Facebook?  
25 A I don't recall.

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1 (Off-the-record discussion.)  
2 BY MR. CHATTERJEE:  
3 Q So subject to us resolving some of these  
4 document issues which I view as pretty significant,  
5 I think I'm done here.  
6 A Okay.  
7 Q It's been a long day. Thank you.  
8 THE VIDEOGRAPHER: Stand by, please. This  
9 concludes this videotaped deposition of Danny  
10 Miller. The time is approximately 5:48. We are off  
11 the record.  
12 (Deposition concluded at 5:48 p.m.)  
13 (Signature reserved.)  
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