

EXHIBIT 10

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DANIEL M. MILLER

Plaintiff,

vs.

CIVIL ACTION FILE

NO. 10-00264 (WHA)

FACEBOOK, INC. and YAO WEI
YEO,

Defendants.

HIGHLY CONFIDENTIAL

VIDEO DEPOSITION OF DANIEL MILLER

Monday, February 7, 2011

10:05 a.m.

Heninger, Garrison & Davis

1 Glenlake Parkway, Suite 700

Atlanta, Georgia

Reported by:
Robyn Bosworth
RPR, CRR, CCR-B-2138

JOB NO. 155202

10:52:06 1 Q Have you ever launched on any other social
10:52:08 2 networking website? Boomshine. Let me -- let me
10:52:11 3 restate the question. Have you ever launched
10:52:13 4 Boomshine on any other social networking website?

10:52:17 5 A Can you define social networking website?

10:52:20 6 Q I'm talking about the conventional ones
10:52:23 7 like MySpace or what used to be MySpace, Bebo, hi5,
10:52:27 8 Facebook, anyone with a third-party application
10:52:27 9 plug-in that's a platform for users who are engaging
10:52:32 10 socially.

10:52:32 11 A I'm not sure I understand the question
10:52:34 12 still.

10:52:35 13 Q Okay. What confuses you about the
10:52:36 14 question?

10:52:37 15 A Still the definition of what do you mean
10:52:39 16 by social network.

10:52:42 17 Q What I mean by that is any place that
10:52:44 18 allows you to operate off of a platform and interact
10:52:47 19 with other users.

10:52:50 20 A Yes.

10:52:51 21 Q And where are those?

10:52:53 22 A I can recall Kongregate is one.

10:52:58 23 Q And what is Kongregate?

10:53:01 24 A Exactly what you mentioned, a social
10:53:04 25 website -- a social platform website.

11:02:30 1 platform launched in May of 2007. Okay?

11:02:36 2 Other than being in school, are you aware
11:02:38 3 of any reason why you wouldn't have launched
11:02:41 4 Boomshine on Facebook between May 24th of 2007 and
11:02:46 5 early 2008?

11:02:48 6 MR. HANCOCK: Object to the form. You can
11:02:50 7 answer.

11:02:51 8 A Besides being in school, I can't recall
11:02:54 9 anything specifically.

11:02:57 10 BY MR. CHATTERJEE:

11:02:58 11 Q During -- while you were operating
11:03:00 12 Boomshine in 2007 to early 2008, were you signing up
11:03:06 13 deals or placing it on other websites?

11:03:10 14 A Can you repeat the question, please?

11:03:12 15 Q Sure. From the time you launched in 2007
11:03:15 16 to early 2008, were you making Boomshine available
11:03:18 17 on other websites?

11:03:24 18 A Can you be more specific what you mean by
11:03:27 19 putting them on other websites?

11:03:30 20 Q What's confusing about the question?

11:03:32 21 A Like are you asking if I put them on the
11:03:33 22 other websites?

11:03:36 23 Q Yes.

11:03:38 24 A Yes.

11:03:39 25 Q Okay. Who?

11:03:42 1 A I put it on Kongregate.

11:03:45 2 Q Which was another platform?

11:03:47 3 A Right.

11:03:48 4 Q Okay.

11:03:49 5 A But it's not -- yeah. Okay.

11:03:51 6 Q And what did you need to do in order to

11:03:55 7 put Boomshine on the Kongregate platform?

11:04:01 8 A Upload the game.

11:04:05 9 Q Did you put it on any other websites?

11:04:10 10 A Newgrounds.

11:04:12 11 Q And what's Newgrounds?

11:04:14 12 A A portal.

11:04:17 13 Q Portal to what?

11:04:20 14 A Content.

11:04:23 15 Q Did you have -- other than uploading it,

11:04:24 16 did you have to do anything further?

11:04:27 17 A Not that I can recall.

11:04:29 18 Q Okay. Anyone else?

11:04:32 19 A Off the top of my head I can't remember

11:04:35 20 any others.

11:04:36 21 Q Do you ever -- do you remember ever making

11:04:39 22 changes to your game in order to make it available

11:04:43 23 through other companies?

11:04:46 24 A Can you be more specific on your question?

11:04:49 25 Q Sure. Do you remember, like, changing

17:27:31 1 A Correct.

17:27:31 2 Q Got it.

17:27:32 3 And there's a number that are charged 400
17:27:36 4 for, and then some others that charge higher rates
17:27:40 5 like 550, 700. What was the reason for those price
17:27:44 6 differences?

17:27:45 7 A Negotiation.

17:27:46 8 Q And so basically you charge different
17:27:49 9 people different prices based upon what they are
17:27:52 10 willing to pay?

17:27:55 11 A Yes.

17:27:57 12 Q Other than adding a logo or something like
17:28:00 13 that, and I'm going to exclude New Line Cinema for
17:28:05 14 the moment, did you make any other kind of
17:28:09 15 significant changes to any of the versions that you
17:28:12 16 licensed?

17:28:17 17 A Not that I can recall.

17:28:20 18 Q And why do you list Kongregate weekly and
17:28:23 19 Kongregate monthly separately from confirmed
17:28:26 20 clients?

17:28:28 21 A Oh, because that was contests.

17:28:30 22 Q And what kind of contests?

17:28:32 23 A Monthly and weekly contests.

17:28:33 24 Q And what were the contests that were being
17:28:35 25 run with respect to Boomshine on Kongregate?

17:28:39 1 A When I uploaded my game on Kongregate
17:28:42 2 there was a contest for votes, and my game won a
17:28:48 3 weekly award as well as a monthly award.

17:28:51 4 Q Of votes like who liked it the most?

17:28:53 5 A Correct.

17:28:53 6 Q Got it.

17:28:54 7 Now, pending clients, FreeOnlineGames. Do
17:28:58 8 you remember when you first contacted them?

17:29:00 9 A I can't recall specifically off the top of
17:29:03 10 my head.

17:29:03 11 Q How long has it been approximately that
17:29:05 12 it's been pending?

17:29:06 13 A I have no idea.

17:29:07 14 Q And CompFused, any recollection there?

17:29:11 15 A I don't recall specifically.

17:29:15 16 Q And unknown client to unknown agency for
17:29:19 17 \$2,000. Someone that you never knew offered you
17:29:23 18 \$2,000 to license?

17:29:25 19 A I don't recall.

17:29:27 20 Q Do you recall anything about that entry?

17:29:29 21 A I don't recall that entry.

17:29:31 22 Q And the total amount of licensing revenue
17:29:33 23 you received was \$10,475?

17:29:37 24 A Correct.

17:29:52 25 Q Now, the data on 2038 was data that you

CERTIFICATE

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STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the colloquies, questions, and answers were reduced to typewriting under my direction; that the transcript is a true and correct record of the evidence given upon said proceeding.

I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of this action.

This the 10th day of February, 2011.

Robyn Bosworth

ROBYN BOSWORTH, RPR, CRR, CCR-B-2138