

## **KRAMER DECLARATION EXHIBIT F**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

--oOo--

DIGITAL ENVOY, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. C 04 01497 RS
	)	
GOOGLE, INC.,	)	CERTIFIED COPY
	)	
Defendant.	)	
_____	)	HIGHLY CONFIDENTIAL
	)	
AND RELATED CROSS-ACTION.	)	
_____	)	Attorneys' Eyes Only

DEPOSITION OF  
MATTHEW D. CUTTS

\_\_\_\_\_  
Wednesday, September 1, 2004

Volume I

(Pages 1 - 178)

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REPORTED BY: CARLA SOARES, CSR 5908 (01-355005)



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1 I might have had would have been responsible because a  
2 lawyer sent an e-mail out.

3 MR. KRATZ: Q. Back on Plaintiff's Exhibit 1,  
4 still on the response to the second question, your next  
5 sentence, the last sentence, describes what you used the  
6 data for, and it looks like there's two uses, to  
7 determine country targeting for ads and to select which  
8 home page, google.ca or google.fr, to a visitor.

9 Do you at least see where I'm referring?

10 A. Yes, I do.

11 Q. Were you aware of any other uses that Google  
12 was making of Digital Envoy's technology at that time?

13 A. Yes.

14 Q. What were the other uses?

15 A. I know that we built country-specific indices  
16 in the search engine, so that, for example, someone  
17 could search for pages which were hosted in Germany.  
18 That fits in with the agreement, as I understood it,  
19 that we could use the data in any way we wanted.

20 Q. Let me ask you that part. Your understanding,  
21 let's say, at that point in time was that you could use  
22 the data in any way you wanted?

23 A. Other than perhaps giving the complete code to  
24 another party, yes.

25 Q. To be clear, the time frame we're talking

1 about is November 2001?

2 A. Yes.

3 Q. So your understanding is that -- at that point  
4 in time, your understanding was that you could use the  
5 data in any way you wanted except for giving the  
6 complete code to another third party?

7 A. I believe that's correct.

8 Q. And on what do you base that understanding?

9 MR. KRAMER: After the fact objection on the  
10 grounds that "code" is vague, but --

11 MR. KRATZ: That's probably not the right  
12 word.

13 THE WITNESS: Yeah. By "code," I mean the  
14 data, the complete data of Digital Envoy.

15 MR. KRATZ: Q. The wholesale moving of this  
16 dump of information to an outside person.

17 MR. KRAMER: What was the most recent  
18 question?

19 THE WITNESS: The most recent question was --

20 MR. KRATZ: Q. On what do you base that  
21 understanding?

22 A. During the negotiation process with Steve  
23 Schimmel, I believe I wanted to make sure that we got  
24 the cheapest price and the most flexibility that we  
25 could to use the data in any way we wanted.

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1 MR. KRAMER: Okay. Let's take a break now for  
2 lunch.

3 (Recess taken.)

4 MR. KRATZ: Back on the record after the lunch  
5 break.

6 Q. We've been talking about the understanding  
7 that you had, as of the time of this Exhibit 1 e-mail,  
8 November 2001, regarding what you were free to do under  
9 the license.

10 My question is, that understanding, did you  
11 have that understanding consistently from the time of  
12 entering into the relationship with Digital Envoy to  
13 today, that you had the ability to use the information  
14 for whatever you wanted, except for moving the whole  
15 database to a third party?

16 A. I believe I did have that understanding.

17 Q. If you drop down to No. 8 --

18 MR. KRAMER: We're in Exhibit 1, right,  
19 Plaintiff's Exhibit 1?

20 MR. KRATZ: Indeed.

21 Q. On page 2, starting with the word "Truthfully,  
22 every vendor that we've used, we end up writing our own  
23 version of the software," at the time that you wrote  
24 this, what other vendors had you used that you had  
25 knowledge of?

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1 of information. So it wasn't as much my responsibility  
2 for how to take the criteria for the ads and determine  
3 which ads would show up.

4 MR. KRATZ: Q. Who was?

5 A. Other members of the ads group.

6 Q. Do you recall anyone specifically being  
7 involved in meshing the geographical solution into the  
8 criteria?

9 MR. KRAMER: Lacks foundation.

10 Go ahead.

11 THE WITNESS: I wouldn't characterize it as an  
12 individual working on solving geography.

13 For example, we often think about how to  
14 maximize the benefit to users and advertisers and to  
15 Google, and that leads to a philosophy much more akin to  
16 solving a set of equations or maximizing some value  
17 rather than an emphasis on one particular facet like  
18 geolocation.

19 MR. KRATZ: Q. Was the geolocation used in  
20 the criterion that resulted in the search results as  
21 opposed to the page search, the pure search?

22 MR. KRAMER: Objection to the question as  
23 vague and ambiguous. I'll also object to the question  
24 as compound and as lacking foundation.

25 THE WITNESS: I wouldn't at all fragment



1 something into saying it's search and ads. We think of  
2 ads as just another type of search.

3 MR. KRATZ: Q. All right. But when you run a  
4 search on Google, it's right, isn't it, that your  
5 results that you get in the search aren't -- there are  
6 some that get placed in front of you as a result of this  
7 paid and bidding process, and there are some that don't  
8 have that paid and bidding process involved or  
9 influencing your result, correct?

10 MR. KRAMER: I'll object on the grounds that  
11 it's lacking in foundation, calls for speculation, it's  
12 an incomplete hypothetical, and it's vague.

13 THE WITNESS: I think at Google we take a  
14 pretty broad view in search in that we want to return  
15 the most useful information to users. So, for  
16 example --

17 MR. KRATZ: Q. I got that, but --

18 MR. KRAMER: Let him finish.

19 THE WITNESS: So, for example, if we think  
20 that there might not be a good answer to a question  
21 because there are very few results, we might do our  
22 types of searches differently. And in the same way, if  
23 there are very few results, we might suggest Google  
24 answers, which is another property that can refer people  
25 to experts who are willing to solve problems in return

1 belief?

2 A. I believe that providing the best information  
3 to users as quickly as possible is the best way to gain  
4 the loyalty and the trust of the user, which is how you  
5 will get them to visit Google again and again and trust  
6 Google in the future and return to Google as a user.

7 Q. And that trust includes providing responses to  
8 a search question that are not influenced by money?

9 A. That's correct.

10 MR. KRAMER: Okay. He's answered the  
11 question. Let me object after the fact on the grounds  
12 that it calls for speculation and it's vague.

13 MR. KRATZ: Q. And those particular results,  
14 the ones not influenced by money, are displayed in some  
15 fashion in the search result, correct?

16 MR. KRAMER: Objection. Vague.

17 THE WITNESS: I think part of the  
18 misunderstanding I'm having of your questions is that I  
19 don't think Google draws a dichotomy between ads and  
20 between searching over the web or searching any other  
21 type of information because I believe that Google  
22 believes that returning the best information possible is  
23 the best way to get information to users so that they  
24 return.

25 MR. KRATZ: Q. So Google doesn't take great