

EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CLRB HANSON INDUSTRIES, LLC,)	
etc., et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No.
)	05-03639 JW
GOOGLE, INC.,)	
)	
)	
Defendant.)	
_____)	

30(b) (6) DEPOSITION OF BRETT R. HANSON

August 18, 2006

228010



(310) 207.8000 Los Angeles	(916) 922.5777 Sacramento	(818) 702.0202 San Fernando Valley
(949) 955.0400 Orange County	(408) 885.0550 San Jose	(858) 455.5444 San Diego
(415) 433.5777 San Francisco	(951) 686.0606 Inland Empire	(760) 322.2240 Palm Springs

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

-----X
CLRB HANSON INDUSTRIES, LLC d/b/a
INDUSTRIAL PRINTING, and HOWARD
STERN, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

GOOGLE, INC.,

Defendant.

Case No.
05-03639 JW

Confidential
Portions Bound
Separately

-----X
August 18, 2006

9:45 a.m.

30(b)(6) VIDEOTAPED DEPOSITION

of CLRB HANSON INDUSTRIES d/b/a
INDUSTRIAL PRINTING by BRETT R. HANSON,
taken by Defendant, pursuant to notice,
held at the offices of Thacher Proffitt
& Wood, 2 World Financial Center, New
York, New York, before Amy E. Sikora,
CRR, CSR, RPR, Certified Realtime
Reporter, Certified Shorthand Reporter,
Registered Professional Reporter, and
Notary Public within and for the State
of New York.

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A P P E A R A N C E S:

WOLF POPPER LLP

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845 Third Avenue

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BY: LESTER L. LEVY, ESQ.

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BY: DAVID T. BIDERMAN, ESQ.

M. CHRISTOPHER JHANG, ESQ.

ALSO PRESENT:

THOMAS DELVECCHIO, Videographer

1 B. Hanson

10:05 2 business with Google, had industrial printing

10:05 3 used any other on-line advertising services?

10:05 4 A. Yes, sir.

10:05 5 Q. What were those?

10:05 6 A. The ones I can recall are Yahoo,

10:05 7 which was Overture, Ah-Ha. I think that may

10:05 8 have been the extent of the -- the extent of

10:05 9 them that I can recall.

10:05 10 Q. Okay. And what type of business

10:05 11 is Industrial Printing engaged in?

10:05 12 A. Printing services.

10:05 13 Q. What type of printing services?

10:05 14 A. Printing on three-dimensional

10:05 15 substrates.

10:05 16 Q. And is that the same type of

10:05 17 business that Hanson Industries is engaged

10:06 18 in?

10:06 19 A. I'm not sure of the full extent

10:06 20 of what Hanson Industries does.

10:06 21 Q. Does Hanson Industries do

10:06 22 printing on three-dimensional substrates?

10:06 23 A. I'm not sure if they do at this

10:06 24 point.

10:06 25 Q. And how about CLRB Hanson, does

B. Hanson

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Q. Okay. And between the time of July 2002 and the time you signed this affidavit in July 20th, 2005, you continued to use the Google AdWords program; correct?

A. Can you ask that question again, please.

Q. Yeah, sure.

Between the time of July 2002 when you signed on for the AdWords program and July 20th, 2005, when you signed this

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B. Hanson

affidavit, you used the Google AdWords
program during that time period; correct?

A. Yes, sir.

(Continued in confidential
portion of transcript.)

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B. Hanson

2 a button there where you can go cost previous
3 day, previous seven days, 30 days, 60 days,
4 and all-time costs.

5 Q. Okay. And yours defaults to the
6 current day?

7 A. Yes, sir.

8 Q. And so your practice is then you
9 look at that current day information;
10 correct?

11 A. Yes.

12 Q. And then what do you look at on
13 that current day information?

14 A. What our costs are associated
15 with internal review of what a client may
16 tell me that they've received for orders or
17 flow of leads, et cetera.

18 Q. Okay. And then what causes you
19 to implement the pause?

20 A. Lack of capacity within the
21 plant. The costs -- we've met our targeted
22 return on investment at that point and
23 there's no need to continue expending money.

24 Q. Anything else?

25 A. That's pretty much it.

1 B. Hanson
11:42 2 typically two.
11:42 3 Q. And the other one was still
11:42 4 active; correct?
11:42 5 A. Yes.
11:42 6 Q. And under the contract
11:42 7 decorating campaign, there were four ad
11:42 8 groups paused. Do you see that?
11:42 9 A. Correct.
11:42 10 Q. And then how many total ad
11:42 11 groups were there, if you can recall, under
11:42 12 that particular campaign?
11:43 13 A. Well, I think there's only two.
11:43 14 I mean, under which campaign? Contract
11:43 15 decorating?
11:43 16 Q. Yes, sir.
11:43 17 A. I think there's only five.
11:43 18 There's the active and then the paused.
11:43 19 There is not --
11:43 20 Q. Okay. So -- I'm sorry, I
11:43 21 interrupted you.
11:43 22 A. There is only the active plus
11:43 23 the pause. So your account -- the team there
11:43 24 may be multiple ad groups, for example. But
11:43 25 they're all running.

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B. Hanson

Q. And is it your practice to pause ad groups or campaigns?

A. Campaigns.

Q. And why's that?

A. Because -- campaigns would stop the whole campaign. We either feel comfortable with the results so we turn off the campaign to limit our cost that day. For example, we pause -- we pause -- I have clients in CLRB and Hanson and SECOA paused on the weekends. We don't run campaigns on the weekend.

Now Google has a feature where you can run on a 12- and 24-hour clock, where you can turn on your campaign. Each individual campaign can be tailored to run on the 15-minute based on a 12- and a 24-hour clock tied to your -- your time zone. So we have it marked as central standard time and we run our -- I have -- Hanson Industries has asked me to run their campaigns approximately 65 percent of the time. That's a feature that Google's added so you don't have to go in and on all the time turning it off and on.

B. Hanson

11:44 2 But we still go in to monitor the -- the --
11:45 3 that's a good feature that they have. I'm
11:45 4 surprised they haven't figured out this cost
11:45 5 yet. So we don't go over the cost.

11:45 6 Q. And in this instance you'd
11:45 7 paused certain ad groups, do you see this?

11:45 8 A. Yes.

11:45 9 Q. Rather than campaigns. What --
11:45 10 what caused you to pause just those ad
11:45 11 groups?

11:45 12 A. They were ineffective ad groups
11:45 13 that were in there that we may still use in
11:45 14 the future, but rather than deleting the ad
11:45 15 group, because once you deleted the ad group
11:45 16 you have to rebuild the ad. We just paused
11:45 17 it all together and maybe go back to it and
11:45 18 maybe not. But we have found that those
11:45 19 certain ad groups don't generate the
11:45 20 click-through rate.

11:45 21 We try to maintain a
11:45 22 click-through rate of greater than
11:45 23 6.5 percent. And sometimes we do and
11:45 24 sometimes we don't.

11:45 25 Q. And when you say "we," do you

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B. Hanson

(Exhibit No. 31, Google AdWords campaign management, 7/8/05, bearing Bates Nos.~P0114 through P0115, marked for identification as of this date.)

Q. And that's a document, Google AdWords campaign management, July 8, 2005; is that correct?

A. Yes, sir.

Q. And all these are for -- all these ones that we've marked, that is, 27, 28, 29, 30, all of those are for CLRB Hanson; is that correct?

A. Yes, sir.

Q. And are all the campaigns that are shown for CLRB Hanson?

A. Yes, sir.

Q. And Exhibit 31 is the same type of document I just described -- I just mentioned, 27, 28, 29, and 30?

A. Yes, sir.

Q. Then the next document is Exhibit 32, which is a one-page document Bates numbered P0116.

(Exhibit No. 32, billing

1 B. Hanson

13:15 2 of days in the month, multiplied that by the
13:15 3 daily budget, do you know whether that amount
13:15 4 would exceed the total cost for that
13:15 5 particular number of days?

13:15 6 A. I do not.

13:16 7 Q. So is it your belief, based on
13:16 8 your interpretation of your legal
13:16 9 relationship with Google, that during the
13:16 10 period specified, 7/31/02 through 11/2/05,
13:16 11 that you paid \$16,507.27 more than you should
13:16 12 have?

13:16 13 A. Yes, sir.

13:17 14 Q. And there are some instances,
13:17 15 for example, looking at page 43 of 56 or
13:17 16 Bates No. 0494 --

13:17 17 A. Okay.

13:17 18 Q. -- there are some instances
13:17 19 where the percent column, the overcharge
13:17 20 percentage, the second to the right, is in
13:17 21 excess of 20 percent; do you see those?

13:17 22 A. Yes.

13:17 23 Q. For example, February 24, 2005,
13:17 24 it's listed as being 51 percent?

13:17 25 A. Yes.

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B. Hanson

A. I'm looking at the
correspondence between -- on Bates stamp
P0331 to P0332.

Q. Okay. Why don't we mark that
next in order so everybody knows what we're
talking about. That looks like it's part of
a longer e-mail string, Mr. Hanson. Why
don't we just mark the whole string which
begins at 329.

A. Okay.

MR. BIDERMAN: We'll mark as
next in order page 329 through 333.

(Exhibit No. 39, document
beginning with e-mail, AdWords support,
April 1, 2005, 7:47 p.m., bearing Bates
Nos. 329 through 333, marked for
identification as of this date.)

Q. Exhibit 39. And it begins with
an e-mail, AdWords support, April 1, 2005,
7:47 p.m.

And your referencing a specific
e-mail from Tina; is that right?

A. That's correct.

Q. And could you show us where that

1 B. Hanson

13:36 2 is?

13:36 3 A. Well, right on Bates stamp 0329,
13:36 4 forwarded messages from AdWords support.
13:36 5 "Hello, Brett" is the heading, dated April 1,
13:36 6 2005. "Thank you for your e-mail" -- you
13:36 7 want knee read it?

13:36 8 Q. No. I see it. So, in other
13:36 9 words, did you contact Tina in some way and
13:37 10 say, give me some information?

13:37 11 A. Yes.

13:37 12 Q. What did you say to her?

13:37 13 A. I think that's on the string
13:37 14 further in the -- if we look at Bates stamp
13:37 15 P0330.

13:37 16 Q. Yeah.

13:37 17 A. At the top of that document,
13:37 18 "Hello." It's dated -- looks like my reply
13:37 19 to Tina. It says, "I need the daily budget
13:37 20 versus the daily charges first quarter last
13:37 21 year for both accounts as soon as possible."

13:37 22 Q. Okay. And both accounts, you
13:37 23 mean --

13:37 24 A. SECOA and CLRB.

13:37 25 Q. Okay. And why did you want that

B. Hanson

13:37 1 information.

13:37 2
13:37 3 A. To verify that there were
13:37 4 overcharges.

13:37 5 Q. And do you note that on
13:37 6 March 31, for example, Tina had communicated
13:37 7 to you that, and I'm looking on page 330, "As
13:38 8 I previously mentioned, charges accrued over
13:38 9 20 percent of your set daily budget will be
13:38 10 credited to your account at the end of the
13:38 11 month."

13:38 12 Do you see that?

13:38 13 A. I do.

13:38 14 Q. And have you -- do you have any
13:38 15 understanding about whether, in fact, charges
13:38 16 over 20 percent of your set daily budget are
13:38 17 in fact credited to your account?

13:38 18 A. I do not.

13:38 19 Q. In other words, you don't know
13:38 20 one way or the other whether they are?

13:38 21 A. I don't believe they are.

13:38 22 Q. Okay. And why is that?

13:38 23 A. Because I have with some
13:38 24 certainty tied out that the charges that were
13:38 25 reflected on the reports from Google servers

1 B. Hanson

13:38 2 to what was charged to our credit card match.

13:38 3 Google's own reports from their servers

13:38 4 verify my information.

13:38 5 Q. And when you say, "Google's own
13:38 6 reports," you're referring to what exhibit?

13:39 7 A. Exhibit 36.

13:39 8 Q. Okay. And that's the -- that's
13:39 9 the summary of information that's on your
13:39 10 AdWords page; correct?

13:39 11 A. Right. The only information on
13:39 12 Exhibit 37 -- 36, excuse me, that was added
13:39 13 was the subtraction from the daily budget to
13:39 14 the daily cost to come up with -- so we
13:39 15 took -- I took the numbers that Google
13:39 16 provided.

13:39 17 Q. Right. And, again, you haven't
13:39 18 tried to do that with the invoices, have you?

13:39 19 A. I have not.

13:39 20 Q. And looking at the
13:39 21 correspondence from Tina again on page 331,
13:39 22 on March 30, 2005, I'm looking at this e-mail
13:39 23 correspondence, it says, among other things
13:40 24 she states to you, "In general, we try to
13:40 25 keep your daily cost fluctuation to no more

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B. Hanson

13:40 than 20 percent above your daily budget. And
13:40 we make sure that within the 30-day billing
13:40 period you are never charged more than the
13:40 number of days in that billing period times
13:40 your daily budget."

Do you see that?

A. Yes.

13:40 Q. And did you understand her to be
13:40 communicating to you that in fact under the
13:40 Google AdWords program you could be charged
13:40 up to 120 percent of your daily budget per
13:40 day?

13:40 A. Well, I dis -- I mean, I
13:40 disagreed with the e-mails that I -- that
13:40 I -- I disagreed with this -- this point.
13:40 There's one e-mail that's not -- that's not
13:40 in this document from one of Google's
13:40 representatives that said, well, if you don't
13:40 like our budget -- if you don't like the
13:40 budget running over at where you're at,
13:40 adjust your budget downward by 20 percent,
13:41 then you won't go over whatever your magical
13:41 number is. So I --

13:41 Q. So is it fair to say that at

B. Hanson

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2 some point in time you did understand that
3 whether you agreed with it or not, Google's
4 practice under the AdWords program was to
5 charge up to 120 percent of your daily
6 budget?

7 A. Can you ask that question again,
8 please.

9 Q. Is it fair to say that in some
10 point in time you did understand that,
11 whether you agreed with it or not, Google's
12 practice under the AdWords program was to
13 charge up to 120 percent of your daily
14 budget?

15 A. Yes.

16 Q. And when did you come to that
17 understanding?

18 A. Well, as I'm becoming frustrated
19 with my -- with my dialogue with Google, my
20 exchange of e-mails back and forth.

21 Q. Okay. And was it sometime in
22 2002 that you came to that understanding?

23 A. No. Quite to the contrary. If
24 you look at Exhibit 36, which is an
25 interesting point in itself, if you look on

1 B. Hanson

13:42 2 page P0507, overcharges don't start, really,
13:42 3 there's not a significant accumulation of
13:42 4 daily problems until -- there's a small one
13:42 5 in 2005, \$50.52. There was one -- that was
13:42 6 in the first quarter of 2003.

13:42 7 The second quarter of 2003
13:42 8 there's --

13:42 9 Q. Sorry, can you slow down. What
13:42 10 page are you on?

13:42 11 A. Oh, I'm sorry. P0507, the last
13:42 12 page.

13:43 13 Q. Okay.

13:43 14 A. It really didn't become a huge
13:43 15 concern from a dollars standpoint until the
13:43 16 first quarter -- second quarter of 2004.

13:43 17 Q. And is that when you first
13:43 18 raised it with Google?

13:43 19 A. Right around -- right around
13:43 20 that point, I believe, yes.

13:43 21 Q. And is it fair to say that at
13:43 22 that point in time, during the course of
13:43 23 those communications --

13:43 24 A. We had never gone over budget
13:43 25 before then. At that point it was like every

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B. Hanson

screen from the Google report.

Q. And was it the daily Google report?

A. I don't remember.

Q. And in response to this, if you look at page 5 of 33, actually, 6 of 33, there's -- I'm sorry, 4 of 33, there's an e-mail that begins, "Hello, Brett. It was a pleasure speaking with you today. I've included additional information below regarding how our system deals with overdelivery charges."

Do you see that?

A. Yes.

Q. And then going to 5 of 33, you were told, "We try keep your daily cost fluctuation to no more than 20 percent above your daily budget."

Do you recall receiving that information?

A. I don't remember.

Q. Any reason to doubt that you didn't receive this e-mail?

A. I don't doubt it, no.

1 B. Hanson

14:43 2 Q. And then there you were also
14:43 3 told, "We make sure that within a 30-day
14:43 4 billing period you are never charged more
14:43 5 than the number of days in that billing
14:44 6 period times your daily budget."

14:44 7 Do you see that?

14:44 8 A. I do see that.

14:44 9 Q. And is it fair to say that by
14:44 10 this time, March of '05, you understood that
14:44 11 at least Google's practice was to charge no
14:44 12 more than 20 percent above your daily budget?

14:44 13 A. Must have been, yes. If I
14:44 14 misspoke before, I'll correct my answer to
14:44 15 approximately March.

14:44 16 Q. And then if you look at page 4
14:44 17 of 33, at the top there's an e-mail from
14:44 18 AdWords support, "Hello, Brett." It states,
14:44 19 "I understand that you accrued charges over
14:44 20 your daily budget again yesterday. I
14:44 21 apologize for any inconvenience caused by
14:44 22 this overdelivery. At this time, please feel
14:45 23 free to reduce your daily budget in order to
14:45 24 decrease the overall charges you accrue this
14:45 25 week. However, as I previously mentioned,

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B. Hanson

A. Not that I can recall.

Q. And if you look to -- under page 96 -- pardon me, tab 96. If you turn to page 5 of 41. There's an e-mail from you dated Thursday, 13 January 2005. "Hi, Bethanie. Can you please check our overcharges for our daily budgets by ads and account CLRB Hanson Industry LLC, customer ID: 934-396-2830."

Do you see that reference?

A. Yes, sir.

Q. And what prompted you to write that e-mail?

A. It appears I wrote it because we were being overcharged based on the daily budget.

Q. And how did you conclude that?

A. From Google's reports.

Q. Looking at the daily reports that you've described earlier today?

A. Yes, sir.

Q. And after -- and then you'll see the response, which is -- appears on the next page, 4 of 41. Do you see that? And in the

1 B. Hanson

14:54 2 Q. And then she described in that
14:54 3 phone call that Google would charge up to
14:55 4 120 percent of your daily budget on a given
14:55 5 day but never charge more than the amount of
14:55 6 your daily budget times the number of days in
14:55 7 a month?

14:55 8 A. I don't believe that that's what
14:55 9 it says in that e-mail.

14:55 10 Q. Did she explain that to you on
14:55 11 the phone?

14:55 12 A. I don't -- I don't recall.

14:55 13 Q. Do you --

14:55 14 MR. BIDERMAN: Withdraw that
14:55 15 question.

14:55 16 Q. Do you recall --

14:55 17 MR. BIDERMAN: Withdraw that
14:55 18 question.

14:55 19 Q. At some point in time someone
14:55 20 from Google told you, did they not, that you
14:55 21 would be charged up to 120 percent of your
14:55 22 daily budget for a given day but that your
14:55 23 total charges for a month would not exceed
14:55 24 your daily budget times the number of days in
14:55 25 that month?

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B. Hanson

A. They may have mentioned -- they may have told me that, but I didn't agree to it, nor do I ever remember agreeing to such terms.

Q. So, in other words, it was communicated to you, but you didn't agree to it; is that what you're saying?

A. Yes.

MR. BIDERMAN: Let me just see if I've got any other e-mails to mark.

Q. And then going back to tab 96 again.

A. Okay.

Q. There's a e-mail to you at the bottom from AdWords support dated March 4, '05. Do you see that?

MR. LEVY: What page?

MR. BIDERMAN: I'm sorry.

Page 1 of 41.

A. Yes.

Q. Okay. And then this is an e-mail from someone named Tina. Do you recall that, dealing with Tina P.?

A. Vaguely.

1 B. Hanson

15:15 2 summary, January to November 2005, of

15:15 3 CLRB Hanson Industries, bearing Bates

15:15 4 Nos. 440 through 451, marked for

15:15 5 identification as of this date.)

15:15 6 MR. BIDERMAN: Will be

15:15 7 Exhibit 46.

15:16 8 Q. And what does Exhibit 46

15:16 9 reflect?

15:16 10 A. The billing summary from Google.

15:16 11 Q. Of whose account?

15:16 12 A. CLRB Hanson Industries.

15:16 13 Q. Okay. And what was the purpose

15:16 14 of generating this document?

15:16 15 A. Just to show the billing for the

15:16 16 year period of December '04 -- from

15:17 17 January '05 through November 8th.

15:17 18 Q. And why did you generate that?

15:17 19 A. I'm not sure.

15:17 20 Q. And there's some handwriting,

15:17 21 looks like it appears on the first page,

15:17 22 little dots next to these numbers. Does that

15:17 23 reflect any work on your part?

15:17 24 A. I don't know.

15:17 25 Q. For example, were you trying to

C E R T I F I C A T E

STATE OF NEW YORK)

:SS

COUNTY OF NEW YORK)

I, AMY E. SIKORA, CRR, CSR, RPR, a
Certified Realtime Reporter, Certified
Shorthand Reporter, Registered Professional
Reporter and Notary Public within and for the
State of New York, do hereby certify that the
foregoing deposition of BRETT R. HANSON was
taken before me on the 18th day of August, 2006;

That the said witness was duly
sworn before the commencement of the testimony;
that the said testimony was taken
stenographically by me and then transcribed.

I further certify that I am not
related by blood or marriage to any of the
parties to this action nor interested directly
or indirectly in the matter in controversy; nor
am I in the employ of any of the counsel in
this action.

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of August, 2006.

Amy E. Sikora

AMY E. SIKORA, CRR,