Document 81-4

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## Exhibit C

## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION

CLRB HANSON INDU	JSTRIES, LLC,	)		
	Plaintiffs,	)		
v.		)	Case No. 05-03639	WC
GOOGLE, INC.,		)		
	Defendant.	( ()		

## DEPOSITION OF HOWARD STERN

August 16, 2006

227871



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	INTEREST CHARGE STORMS COLUMN
2	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA
3	SAN JOSE DIVISION
4	CLRB HANSON INDUSTRIES, LLC d/b/a INDUSTRIAL PRINTING, and HOWARD
5	STERN, on behalf of themselves and all others similarly situated,
6	Plaintiffs,
7	v. Case No.
8	05-03639 JW GOOGLE, INC.,
9	Defendant.
10	x
11	August 16, 2006
12	11:19 a.m.
13	
14	VIDEOTAPED DEPOSITION of HOWARD
15	STERN, taken by Defendant, pursuant to
16	notice, held at the offices of Thacher
17	Proffitt & Wood, 2 World Financial
18	Center, New York, New York, before
19	Amy E. Sikora, CRR, CSR, RPR, Certified
20	Realtime Reporter, Certified Shorthand
21	Reporter, Registered Professional
22	Reporter, and Notary Public within and
23	for the State of New York.
24	
25	

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2	APPEARANCES:
3	WOLF POPPER LLP
4	Attorneys for Plaintiffs and the Proposed Class
5	845 Third Avenue
6	New York, New York 10022
7	BY: LESTER L. LEVY, ESQ.
8	MICHELE F. RAPHAEL, ESQ.
9	PERKINS COIE LLP
10	Attorneys for Defendant
11	180 Townsend Street
12	San Francisco, CA 94107-1909
13	BY: DAVID T. BIDERMAN, ESQ.
14	M. CHRISTOPHER JHANG, ESQ.
15	
16	
17	ALSO PRESENT:
18	THOMAS DELVECCHIO, Videographer
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. 2

	1	H. Stern
.1:36	2	A. I got to the Google home page
.1:36	3	and went to the, I guess, advertising hot
.1:36	4	link. I don't recall the exact word that
.1:36	5	they have, but, basically, there's a link
.1:36	6	that gets you into the advertising AdWords
.1:36	7	product.
.1:36	8	Q. Okay. And when was that?
.1:36	9	A. I would say October 2003 or late
.1:36	10	September 2003.
.1:36	11	Q. And this was on the computer
.1:37	12	that you've described before?
.1:37	13	A. Yes.
.1:37	14	Q. Okay. And when you looked into
.1:37	15	it first off, did you sign up at the same
.1:37	16	time that you looked into it or did you look
.1:37	17	into it and then later sign up?
.1:37	18	A. I can't say for sure.
.1:37	19	Q. Okay. When you looked into it,
.1:37	20	can you recall, as we sit here today, what
.1:37	21	you looked at?
.1:37	22	A. I looked at the sign-up screen.
.1:37	23	I looked at if there were minimum charges,
.1:37	24	monthly charges.
.1:37	25	Q. Okay. Anything else?
		22

	. 1	H. Stern	
11:51	2	you, sir, this is the current sign-in version	
11:52	3	for the Google AdWords program.	
11:52	4	A. Right.	
11:52	5	Q. We don't have the one that was	
11:52	. 6	in existence at the time you signed up.	
11:52	. 7	My question to you is, is this	
11:52	.8	similar to the page that you saw when you	
11:52	. 9	signed up for your account?	
11:52	10	A. In a lot of ways it's not.	
L1:52	11	Q. Okay. Tell me the ways it is	
11:52	12	and the ways it isn't, if you would.	
l1:52	13	A. When I signed up, there was only	
11:52	14	one way to enroll, I believe.	
l1:52	15	Q. Got you.	
.1:52	16	A. Currently, when you sign up	
.1:52	17	there are two ways to enroll.	
.1:52	18	Q. Okay. And when you signed up,	
.1:52	19	what was the one way to enroll?	
.1:52	20	A. You basically give the keywords;	
.1:52	21	your daily budget; your cost per click, I	
.1:52	22	believe; your credit card information; your	
.1:52	23	mailing address; an e-mail, contact e-mail.	
.1:52	24	That's about all I recall.	
.1:52	25	Q. Okay. And how do you know that	

H. Stern 1 I was under the assumption 4:30 2 A. that it was related to the number of days .4:30 3 .4:31 4 your ad is active, and that each day you .4:31 5 wouldn't be charged more than your daily budget. .4:31 6 .4:31 7 Q. Okay. .4:31 8 Α. Because I never run my ads everyday. So this really doesn't apply to my .4:31 9 situation. .4:31 10 11 .4:31

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- Q. And what made you believe that you would -- that the days that your campaign was paused would not be included in that calculation?
- A. Well, for the simple reason that this is -- this AdWords is put forward as something that gives me complete control over my charges, so I thought -- thought it was reasonable to assume, if I'm not running my ads, why would I be charged for days that I'm turning them off.
- Q. Okay. And did you -- have you ever seen any documentation that stated, documentation from Google, that stated that the days where your campaign was paused would

	}		
	1		H. Stern
16:27	2	Α.	Yes.
16:27	3	Q.	Is that an incentive for you to
16:27	4	sign up for A	AdWords?
16:27	5	A.	Right. It's a good reason,
16:27	6	right.	
L6:27	. 7	Q.	And then it goes on to say,
L6:27	8	"This is the	same no matter how you choose to
L6:27	9	pay for your	advertising."
L6:27	10		Do you see that?
L6:27	11	Α.	Yes.
L6:27	12	Q.	Okay. So why did you switch to
L6:27	13	Google from Y	Yahoo?
.6:27	14	Α.	Because Yahoo had a monthly
.6:27	15	minimum that	I needed to pay, whether or not
.6:27	16	I even ran th	ne ads.
.6:27	17	Q.	And Google?
.6:27	18	Α.	They had no minimum.
.6:27	19	Q.	And, in fact, they told you they
.6:28	20	had no minimu	um; correct?
.6:28	21	Α.	Right.
.6:28	22		MR. BIDERMAN: Objection.
.6:28	23	Assumes	s facts not in evidence.
.6:28	24		MR. LEVY: Do you want to change
.6:28	25	the tap	pe now?
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