

# EXHIBIT A

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

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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.

1 B. Hanson

10:11 2 program?

10:11 3 A. Yes, sir.

10:11 4 Q. And you'd heard about it in some  
10:11 5 fashion, I take it?

10:11 6 A. Correct.

10:11 7 Q. Do you remember how you'd heard  
10:11 8 about it?

10:11 9 A. Well, I subscribe to various  
10:11 10 informational newsletters from various  
10:11 11 sources, and I may have come across it as an  
10:11 12 advertisement on the right or left-hand side,  
10:11 13 and I may have clicked it. And I don't  
10:11 14 recall exactly how I got to the Google site,  
10:11 15 but...

10:11 16 Q. Somehow you were there?

10:11 17 A. I got there.

10:11 18 Q. Okay. And then -- this was on a  
10:11 19 PC, I take it?

10:11 20 A. Yes, sir.

10:11 21 Q. Okay. And how many PC's, if you  
10:12 22 know, have you used to place ads on the  
10:12 23 Google AdWords program?

10:12 24 A. I have no idea.

10:12 25 Q. More than 10?

1 B. Hanson

10:12 2 A. Yes.

10:12 3 Q. More than 20, you think?

10:12 4 A. Yes.

10:12 5 Q. And how long did it take for you

10:12 6 to go through the sign-up process for the

10:12 7 AdWords program?

10:12 8 A. As I recall, I think I was quite

10:12 9 amazed at how quick it was. Less than a

10:12 10 minute, I believe.

10:12 11 Q. And was it a situation where you

10:12 12 actually looked at the site and saw how the

10:12 13 sign-up process worked and said, I'm going to

10:12 14 sign up later or this intrigues me, or you

10:12 15 just went to the site and then immediately

10:12 16 signed on?

10:12 17 A. I went to the site. I believe I

10:12 18 immediately signed on, and --

10:13 19 Q. Okay. And do you remember at

10:13 20 some point in time during the sign-in process

10:13 21 you were asked for --

10:13 22 MR. BIDERMAN: Withdraw the

10:13 23 question.

10:13 24 Q. At some point in time in the

10:13 25 sign-in process you were asked for certain

1 B. Hanson

10:13 2 information; correct?

10:13 3 A. Yes, sir.

10:13 4 Q. Can you describe, as best as you  
10:13 5 can recall, the information that you were  
10:13 6 asked for and the order in which you provided  
10:13 7 the information?

10:13 8 A. Initially, it was -- the  
10:13 9 initial, what I recall, was an e-mail  
10:13 10 address, a password, a credit card number,  
10:13 11 and -- and an initial campaign name and  
10:14 12 campaign keywords. Keywords associated with  
10:14 13 the campaign. A daily budget dollar amount,  
10:14 14 and the maximum we were willing to pay per  
10:14 15 click for the various keywords associated  
10:14 16 with a campaign name.

10:14 17 Q. And do you remember that at some  
10:14 18 point in time the terms and conditions for  
10:14 19 the AdWords program appeared on your screen?

10:14 20 A. No, sir.

10:14 21 Q. Let me show you a document which  
10:14 22 I'll mark as next in order.

11:18 23 (Exhibit No. 22, three-page  
11:18 24 document entitled Google AdWords,  
11:18 25 Google AdWords Select Standard Terms

1 B. Hanson

11:18 2 and Conditions, marked for

11:18 3 identification as of this date.)

10:15 4 Q. I show you a document which is

10:16 5 Exhibit 22. It's a three-page document

10:16 6 entitled "Google AdWords, Google AdWords

10:16 7 Select Standard Terms and Conditions."

10:16 8 Do you see that document?

10:16 9 A. Yes, sir.

10:16 10 Q. I'll represent to you that this

10:16 11 was the document with the Google terms and

10:16 12 conditions as of July 2002. Do you recall

10:16 13 seeing these terms and conditions at or about

10:16 14 the time that you signed on to the program?

10:16 15 A. I do not.

10:16 16 Q. And have you ever seen these

10:16 17 terms and conditions?

10:16 18 A. Not that I can recall.

10:16 19 Q. Have you ever seen any Google

10:16 20 AdWords terms and conditions?

10:17 21 A. I have -- the most recent ones

10:17 22 that were submitted as -- as -- the documents

10:17 23 you provided.

10:17 24 Q. Okay. But other than in

10:17 25 connection with this litigation and documents

1 B. Hanson

10:35 2 and conditions in connection with that  
10:35 3 sign-up process?

10:35 4 A. Can you ask that question again,  
10:35 5 please.

10:35 6 Q. Sure. Trying to identify the  
10:35 7 time you signed up on behalf of -- I  
10:35 8 mispronounce the name of that.

10:35 9 MR. LEVY: SECOA.

10:35 10 A. I'll pronounce it for you. It's  
10:35 11 SECOA, S-E-C-O-A.

10:35 12 Q. Not like the tree. I keep  
10:35 13 thinking about the tree.

10:35 14 A. SECOA.

10:35 15 Q. SECOA. On behalf of SECOA,  
10:36 16 going back to that time, any recollection of  
10:36 17 reviewing the terms and conditions for the  
10:36 18 AdWords program at that time?

10:36 19 A. Not that I recall.

10:36 20 Q. Okay. And at that time did  
10:36 21 you -- did you in some manner electronically  
10:36 22 signify your acceptance to the AdWords terms  
10:36 23 and conditions when you signed up for SECOA?

10:36 24 A. Can you ask that question again,  
10:36 25 please.

1 B. Hanson

10:36 2 Q. Sure. At the time that you  
10:36 3 signed up for SECOA --

10:36 4 MR. BIDERMAN: Off the record.

10:36 5 (Discussion off the record.)

10:37 6 Q. Going back to the time that you  
10:37 7 signed up for secoa.com, do you remember in  
10:37 8 any fashion electronically signifying that  
10:37 9 you accepted the terms and conditions of the  
10:37 10 AdWords program?

10:37 11 A. I recall one time a screen came  
10:37 12 up that denied access to our account, to the  
10:37 13 CLRB account. And it said that there were  
10:37 14 new terms and conditions. And if you wanted  
10:37 15 to use -- continue use of the AdWords  
10:37 16 programs you had to agree to the terms and  
10:37 17 conditions.

10:37 18 Q. Okay.

10:37 19 A. And you didn't get past that  
10:37 20 screen once you typed in your user name and  
10:37 21 your password.

10:38 22 Q. Okay. And then what happened  
10:38 23 after you hit that screen that denied you  
10:38 24 access?

10:38 25 A. It -- it gave you a link to, I





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B. Hanson

2 AdWords program?

3 A. I don't recall.

4 Q. And when you say you don't  
5 recall, are you saying you believe it didn't  
6 happen or you just don't remember one way or  
7 the other?

8 A. I don't remember one way or  
9 another.

10 Q. And the same with respect to --  
11 and other than what you described in  
12 connection with the sign-up process for  
13 Industrial Printing, anything else that you  
14 remember -- you remember being different when  
15 you signed up with respect to SECOA?

16 A. No, sir.

17 Q. And how about Hanson Industries,  
18 when you signed up for the Google AdWords  
19 program on behalf of Hanson Industries, same  
20 process?

21 A. I don't -- I don't believe I was  
22 the one that signed up for the AdWords  
23 program for Hanson Industries.

24 Q. Okay.

25 A. I'm -- I'm -- I don't believe I

1 B. Hanson

10:40 2 was.

10:40 3 Q. Do you know who did that?

10:40 4 A. I believe, Cindy Hanson, the  
10:40 5 owner, manager.

10:40 6 Q. And with respect to your  
10:40 7 understanding of what terms and conditions  
10:40 8 govern your relationship with SECOA, Inc. or  
10:40 9 you on behalf of SECOA, Inc. and the Google  
10:40 10 AdWords program, is that the same as your  
10:40 11 understanding as described with respect to  
10:40 12 Industrial Printing?

10:40 13 A. Yes, sir.

10:41 14 Q. And the same would be true of  
10:41 15 Hanson Industries?

10:41 16 A. I believe that to be correct,  
10:41 17 yes.

10:41 18 Q. And with respect to -- let me  
10:41 19 just back up. Have you ever looked at any of  
10:41 20 the FAQ's associated with the Google AdWords  
10:41 21 program?

10:41 22 A. Not -- not -- not -- not that --  
10:41 23 I may have -- not that I recall.

10:41 24 Q. And have you ever looked at any  
10:42 25 tutorials for the Google AdWords program?

1 B. Hanson

10:42 2 A. No, sir.

10:42 3 Q. Have you ever consulted with  
10:42 4 anyone other than at Google about how to use  
10:42 5 the AdWords program?

10:42 6 A. No, sir.

10:42 7 Q. In other words, you haven't  
10:42 8 taken any courses on like optimization or  
10:42 9 anything like that?

10:42 10 A. No, sir.

10:42 11 Q. No -- no training in how to use  
10:42 12 the AdWords program, is that fair to say,  
10:42 13 formal training?

10:42 14 A. No, sir. May I qualify that  
10:42 15 answer?

10:42 16 Q. Sure, absolutely.

10:42 17 A. I want to add to that.

10:42 18 Q. Sure.

10:42 19 A. There was a program that Google  
10:42 20 introduced in November of 2004 called AdWords  
10:42 21 Pro that allowed you to sign up to become a,  
10:43 22 quote, AdWords pro. And I signed up for it  
10:43 23 but I never did -- never proceeded past the  
10:43 24 initial sign-up page.

10:43 25 Q. Okay.

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B. Hanson

MR. BIDERMAN: We've been going about an hour. Do you want to take like four, five minutes?

MR. LEVY: Sure.

THE VIDEOGRAPHER: The time is 10:44 a.m. We're off the record.

(Recess taken.)

THE VIDEOGRAPHER: The time is 10:55 a.m. We're back on the record.

BY MR. BIDERMAN:

Q. And just one question while we're getting a document. With respect to the daily budget, how -- what is your understanding of how a daily budget works on the Google AdWords program?

A. That whatever our budget is we'll not be charged more than that certain amount.

Q. Okay. And how did you come to that understanding?

A. That's what was presented to me by Google.

Q. In what form?

A. The on-line page. The initial

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B. Hanson

page.

Q. Okay. And have you ever been told that you can be charged up to 120 percent of your daily budget on a given day?

A. I was told that by a representative of Google in an e-mail.

Q. Okay. And other than that, have you ever received that information?

A. No, sir.

Q. And I'll show you a document which are the FAQ's that were operative as of the time that you signed up for the AdWords program. We'll mark those next in order.

(Exhibit No. 23, FAQ's operative as of the time Mr. Hanson signed up for the AdWords programs, bearing Bates Nos. 20835 through 21343, marked for identification as of this date.)

Q. 23 are a series of documents that are clipped together. Bates number on the first document is 20835. Bates number on the last document is 21343. Mr. Hanson, I'd ask you if you'd refer to the document which

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B. Hanson

is in the second clipped group, numbered  
page 20904. You have to look at the lower  
right-hand side.

A. 20904?

Q. Yeah. Okay. And do you see the  
entry there under No. 2 that says, "Why did I  
receive more clicks than my daily budget on a  
particular day?"

A. Yes.

Q. And do you see where it says  
"Traffic is not constant from day to day."

Do you see that?

A. Yes.

Q. And it says, "For example, fewer  
people search the web on weekends than during  
the week. To account for this and maximize  
the potential of your advertising, Google may  
allow up to 20 percent more clicks in one day  
than your daily budget specifies."

Do you see that?

A. Yes.

Q. Have you ever seen that language  
before?

A. Only in the documents that were

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B. Hanson

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A. No, sir. No street drugs.

11:24 10

Never -- never used any street drugs of any

11:24 11

sort. I had cervical spinal fusion

11:24 12

January 4th of this year on my neck, and

11:24 13

perhaps used just a daily budget while I was

11:25 14

under some pain medication during that period

11:25 15

for a couple of weeks while I recovered. I

11:25 16

had four disks fused in my neck. But other

11:25 17

than that, no.

11:25 18

Q. Then going back, what I'm going

11:25 19

to do -- going back to the daily budget

11:25 20

issues, at some point in time did you

11:25 21

become --

11:25 22

MR. BIDERMAN: Withdraw the

11:25 23

question.

11:25 24

Q. At some point in time did you --

11:26 25

let me try another question.



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B. Hanson

11:26 2

How often did you look at the

11:26 3

billing information on your Google AdWords

11:26 4

program?

11:26 5

A. Just about daily.

11:26 6

Q. Okay. And when you say the

11:26 7

billing information, what pages did you

11:26 8

review?

11:26 9

A. The summary that indicated what

11:26 10

was charged against the daily budget.

11:26 11

Q. And how do you access that

11:26 12

summary?

11:26 13

A. Sign in with a user name,

11:26 14

password, and go to billing history.

11:26 15

Q. And so has it been your practice

11:26 16

since you signed up for the program to look

11:26 17

at that on a daily basis?

11:26 18

A. Just about, yes, sir.

11:26 19

Q. And how about pausing, have you

11:26 20

ever paused using the Google AdWords program?

11:27 21

A. Yes.

11:27 22

Q. When did you first start to

11:27 23

pause?

11:27 24

A. I believe almost immediately.

11:27 25

Q. Okay. And -- go ahead. Did I

1 B. Hanson

11:27 2 interrupt you? And what -- what caused you  
11:27 3 to use the pausing feature?

11:27 4 A. It's a unique selling feature  
11:27 5 allowing you to turn off and on your costs.  
11:27 6 Having more ability to control the costs  
11:27 7 associated with your pay-for-click  
11:27 8 advertising. I thought that was an asset of  
11:27 9 Google's that others did not have.

11:27 10 Q. Okay. And what did you use the  
11:27 11 pausing feature to accomplish?

11:27 12 A. That was my cost certain. If I  
11:27 13 had a daily budget of \$100 and my costs at  
11:27 14 that certain time were -- were, as an  
11:27 15 example, \$52 to my \$100 budget, I wasn't  
11:27 16 going to spend more than \$52 that day,  
11:28 17 period.

11:28 18 Q. So could you give me an example  
11:28 19 of how you would implement that pausing?

11:28 20 A. Just go in and click. There's a  
11:28 21 button that says, "Pause."

11:28 22 Q. Okay. But you said you'd look  
11:28 23 at your billing summary; right?

11:28 24 A. Look at my daily budget, that's  
11:28 25 on one page. You've got your campaign name,

1 B. Hanson

13:12 2 Bates stamp P0507 by quarter.

13:13 3 Q. Uh-huh.

13:13 4 A. And there, looking to the far --

13:13 5 far right, we've got the overcharge

13:13 6 percentage, and immediately to the left of

13:13 7 that is a number of what we were overcharged

13:13 8 on a daily basis cumulative per quarter. And

13:13 9 the total -- the totals is marked as

13:13 10 \$16,507.27.

13:13 11 Q. Okay. And that was a separate  
13:13 12 calculation that you did with a spreadsheet?

13:13 13 A. Well, it's summarizing what's  
13:13 14 highlighted by quarter up above.

13:13 15 Q. Okay.

13:13 16 A. So each one of these, if you  
13:13 17 look at the fourth quarter 2005.

13:13 18 Q. Yes.

13:13 19 A. The last column says 15,810,  
13:13 20 10,051.20, and a negative \$596.30. When  
13:14 21 there appears to be a negative number, that's  
13:14 22 what we have been overcharged.

13:14 23 Q. Okay. And when you came up with  
13:14 24 a quarter budget, how did you do that?

13:14 25 A. That's just -- the quarter

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B. Hanson

budget is just a function of summarizing the -- the totals. It has no meaning to what -- what I was trying to do here.

Q. The quarter budget totals up the daily budget?

A. Right.

Q. Times the number of days in a quarter?

A. Right.

Q. And have you ever tried to do this on a monthly basis?

A. No, I have not.

Q. And do you know whether, if you did this on a monthly basis, whether the total budget, that would be the number of days in the month times the daily budget, would be more or less than the total charges?

A. I don't know what -- I don't know what a monthly budget is to Google for me for the purposes of this, because I work from a daily budget.

Q. I didn't use the term "monthly budget." I said do you know whether on a monthly basis, if you took the total number

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.

1 B. Hanson

13:18 2 Q. Do you know whether you received  
13:18 3 overdelivery credits with respect to the  
13:18 4 particular charges that were in excess of  
13:18 5 20 percent of your daily budget?

13:18 6 A. I do not believe we have.

13:18 7 Q. And why do you have that  
13:18 8 conclusion?

13:18 9 A. I believe because I was able to  
13:18 10 tie out -- I was able to tie out the -- the  
13:18 11 total -- the total -- the total credit card  
13:18 12 charge is 360, looking on page 56 of 56 or  
13:18 13 P0507.

13:18 14 Q. Yes.

13:18 15 A. Totals and overall averages, I  
13:18 16 believe I was able to tie that out.

13:18 17 Q. And that total is 360737.02;  
13:19 18 correct?

13:19 19 A. Yes. And that's what was  
13:19 20 charged to Cindy's credit card.

13:19 21 Q. Okay. And did you provide the  
13:19 22 credit card statements that you used?

13:19 23 A. Yes.

13:19 24 Q. Okay. Why don't we just  
13:19 25 identify those also, if we could. They're in

1 B. Hanson

13:23 2 amount 360737.02 during the time period  
13:23 3 that's reflected on Exhibit 36?

13:23 4 A. This is part -- part of the  
13:24 5 documents, yes.

13:24 6 Q. Okay. And what were the other  
13:24 7 documents that you used?

13:24 8 A. I haven't been able to locate  
13:24 9 the other credit card statements.

13:24 10 Q. And then --

13:24 11 A. At the present time.

13:24 12 Q. Okay. And how were you able to  
13:24 13 conclude, without the other credit card  
-13:24 14 statements, that in fact you were charged the  
13:24 15 the roughly \$360,000 amount?

13:24 16 A. That's the report right from  
13:24 17 Google, what they charge -- that report's a  
13:24 18 summary of what Google actually charged the  
13:24 19 credit card.

13:24 20 Q. Is that your understanding?

13:24 21 A. Yes.

13:24 22 Q. And just to go back to my  
13:24 23 question, did you make any effort to look at  
13:24 24 these credit card statements, which are  
13:24 25 Exhibit 37, and use them to somehow

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B. Hanson

understand whether you received any  
overdelivery credits?

A. I have not.

Q. And did you go to the Google  
AdWords web site and log on and retrieve  
invoices from Google that corresponded to the  
period that is reflected on Exhibit 36?

A. I have not.

Q. Any reason why not?

A. I don't understand Google's  
invoicing process. I believe -- I just don't  
understand how Google invoices.

Q. And can you tell me what you've  
done to try to understand Google's invoicing  
process?

A. Well, I've tried to foot -- I'd  
tried to tie out an invoice to a credit card  
statement -- a credit card charge. I've  
contacted via e-mail asking, I believe,  
specifically of Google what's -- how they do  
the billing, and that's the extent.

Q. Have you spoken to anybody at  
Google?

A. I have.



1 B. Hanson

13:26 2 Q. On this particular subject?

13:26 3 A. No, sir.

13:26 4 Q. And what have you spoken to  
13:26 5 people at Google about?

13:26 6 A. The overcharges.

13:26 7 Q. And we'll come to that. And  
13:27 8 other than the documents that we've talked  
13:27 9 about thus far today, including Exhibit 36,  
13:27 10 have you made any other efforts to try to  
13:27 11 calculate what you believe are the  
13:27 12 overcharges on the AdWords account for CLRB  
13:27 13 Hanson?

13:27 14 A. No, sir.

13:27 15 Q. And have you ever made any such  
13:27 16 effort on behalf of SECOA, Inc., that entity?

13:27 17 A. No, sir.

13:27 18 Q. And have you ever made any  
13:27 19 efforts to do so on -- on behalf of Hanson  
13:27 20 Industries?

13:27 21 A. No, sir.

13:27 22 Q. And then there's just a few more  
13:28 23 documents. If you take the ones that your  
13:28 24 counsel provided to us last night, just to  
13:28 25 make sure we've got everything.

1 B. Hanson

13:37 2 information.

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

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

Do you see that?

A. Yes.

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

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

Q. So is it fair to say that at



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

1 B. Hanson

13:43 2 day we were going over budget.

13:43 3 Q. Right. I understand. Is it  
13:43 4 fair to say that at some time in the second  
13:43 5 quarter of 2004 you came to the understanding  
13:43 6 that it was Google's practice under the  
13:43 7 AdWords program to charge up to 20 percent  
13:43 8 above the specified daily budget amount for a  
13:43 9 given day?

13:43 10 A. No, sir. No, sir.

13:44 11 Q. Okay. You did come to that  
13:44 12 understanding at some point in time; right?

13:44 13 A. That wasn't the question you  
-13:44 14 asked me.

13:44 15 Q. Okay. Okay. Have you ever come  
13:44 16 to an understanding that Google's policy and  
13:44 17 practice under the AdWords program is to  
13:44 18 charge up to 120 percent of the daily budget?

13:44 19 A. As recently as -- I've kind of  
13:44 20 caved in and gave in that that's how Google's  
13:44 21 going to treat their advertisers, is going to  
13:44 22 screw them by 20 percent in the last, let's  
13:44 23 say, last June, 2005. Because I wasn't  
13:44 24 getting anywhere with asking them for, you  
13:44 25 know, why is this happening. It didn't

1 B. Hanson

13:45 2 matter what I changed the daily budget to, it  
13:45 3 always went over.

13:45 4 Q. Okay. So it's fair to say you  
13:45 5 came to that understanding sometime, say,  
13:45 6 June 2005?

13:45 7 A. Yes.

13:45 8 Q. And with respect to Exhibits 39  
13:45 9 and 38, the communications with Tina, did you  
13:45 10 speak to her by phone?

13:45 11 A. I don't know if Google has  
13:45 12 phones. No. E-mail.

13:45 13 Q. And have you ever spoken to  
13:45 14 anyone at Google by telephone?

13:46 15 A. Recently, I believe, I received  
13:46 16 a voicemail. In fact, on Monday, thanking us  
13:46 17 for our business from a Matt. I don't know,  
13:46 18 Matt something left on my voicemail.

13:46 19 Q. And anything other than that  
13:46 20 communication?

13:46 21 A. Not that I can recall.

13:46 22 Q. I thought -- have you ever  
13:46 23 spoken to anyone by phone or otherwise at  
13:46 24 Google about daily budget issues?

13:46 25 A. I think I -- let me refresh my



1 B. Hanson

13:46 2 memory here on what my answer just previously  
13:46 3 to that. I think I spoke to a Bethanie back  
13:46 4 in 2005.

13:46 5 Q. Okay.

13:46 6 A. That would have been January of  
13:46 7 2005.

13:46 8 Q. And how come you know it was  
13:46 9 January 2005?

13:47 10 A. I just -- I recall that in my  
13:47 11 head. I don't remember why I remember that,  
13:47 12 but I remember.

13:47 13 Q. Okay. And then --

-13:47 14 A. Well, I was helping a friend  
13:47 15 move from Mississippi, so I remember being in  
13:47 16 the car talking on my cell phone talking  
13:47 17 about -- talking to Bethanie about why the  
13:47 18 budget kept going over.

13:47 19 Q. Okay. And did you call her or  
13:47 20 did she call you?

13:47 21 A. I believe she was responding to  
13:47 22 an e-mail that I may have requested her to  
13:47 23 send to me or requested her to call me.

13:47 24 Q. Okay. And as best as you can  
13:47 25 recall, what did she say to you and what did

1 B. Hanson

14:40 2 this is from me or not.

14:40 3 Q. Have you ever been told by

14:40 4 Google that you needed to refine your keyword

14:40 5 list?

14:40 6 A. I do not believe so.

14:41 7 Q. If you look under tab 95,

14:41 8 please.

14:41 9 A. Okay.

14:41 10 Q. If you turn to page 6 of 33.

14:41 11 You see this is a series of e-mail strings;

14:41 12 correct?

14:41 13 A. Yes.

14:41 14 Q. And the e-mail that actually

14:41 15 begins on page 5 of 33 at the very bottom

14:41 16 says, "From Brett Hanson, g-mail.

14:41 17 Overbilling based on bugjet," B-U-G-J-E-T.

14:42 18 "Why," W-H-Y, question mark. And is this an

14:42 19 e-mail that you wrote?

14:42 20 A. It appears to be, yes.

14:42 21 Q. And it looks as if the format

14:42 22 got lost. Do you remember what format you

14:42 23 were sending -- what format you were using

14:42 24 and what information you were sending?

14:42 25 A. Just cutting and pasting the

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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

charges accrued over 20 percent over your set daily budget will be credited to your account at the end of the month."

Does that refresh your recollection of a conversation with somebody at Google?

A. I remember this e-mail because I thought it was a preposterous e-mail.

Q. And why did you believe it was a preposterous e-mail?

A. Well, to tell me to adjust my budget downward. Basically, the way I read this, it's telling me to reduce my daily budget so I don't go over my set budget. I mean, what's the point?

Q. And do you also recall being told --

A. I turn my budget off and on. Pardon me. I pause the campaign. I turn the campaign back on. I pause the campaign. I turn the campaigns on. So what constitutes -- in my opinion, the daily budget's the set amount that I say it is, not what Google says over 30 days.

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B. Hanson

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Q. And so you understood, as of

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March 31, 2005, that you disagreed with the

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way Google interpreted --

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A. This is not --

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MR. LEVY: Let him finish the

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question.

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MR. BIDERMAN: Let me withdraw

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the question.

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MR. LEVY: Again, let him finish

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the question.

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Q. Going back to this e-mail. And

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then you recall you were also told that

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anything over 20 percent would be credited to

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your account at the end of the month?

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A. I believe so.

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Q. And then other than what we've

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discussed thus far today, have you ever done

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anything to look for those credits?

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A. Only in my -- in the most rawest

14:46

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form of calculation. I've taken -- I've

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taken a look at what our daily budget is,

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going back to Exhibit 36.

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Q. Yup.

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A. In the rawest form. That was

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B. Hanson

the only way I could really understand -- get my hands around what we were overcharged. I could not do it from my one or two attempts at looking at the invoicing.

MR. LEVY: Mr. Biderman, I have a question.

MR. BIDERMAN: Yeah?

MR. LEVY: Have you produced to us all the overdeliverry credits that Google claims they gave to this plaintiff?

MR. BIDERMAN: We produced all the records we have relating to the account.

MR. LEVY: Relating to that? Including overdelivery credits?

MR. BIDERMAN: I'll confirm that we've produced everything that we have relating to the account.

MR. LEVY: Okay.

Q. And other than the one or two times that you've looked at the invoices, any other times that you've looked at the invoices to look for overdelivery credits?

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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

14:50 2 lower quarter of the page you were told,  
14:50 3 "Please be assured that for clicks accrued  
14:50 4 over your daily budget you will see a CN,  
14:51 5 'Overdelivery credit,' on the 'advertising  
14:51 6 costs' page for the charges in question."

14:51 7 And then you are given some  
14:51 8 instructions about logging into your account  
14:51 9 and going to -- and tabbing to certain  
14:51 10 information. Do you see that?

14:51 11 A. Yes.

14:51 12 Q. Did you, in fact, do that to see  
14:51 13 whether you were provided overdelivery  
14:51 14 credits?

14:51 15 A. I don't recall.

14:52 16 Q. Then you responded on Friday, 14  
14:52 17 January 2005, do you see at the top of page 4  
14:52 18 of 41?

14:52 19 A. Yes.

14:52 20 Q. Do you see that? And you said  
14:52 21 you wanted to be immediately issued a credit;  
14:52 22 is that right?

14:52 23 A. It appears to be, yes.

14:52 24 Q. And then you said you were going  
14:52 25 to contact your attorney if not; correct?

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B. Hanson

A. It appears, yes.

Q. And then --

(Discussion off the record.)

Q. And then on Friday,

January 14th, if you go to page 2 of 41, you received a response to that e-mail; is that correct?

A. On 2 of 41?

Q. 2 of 41, down there at the bottom it says on Friday, 14 January, 2005, Bethanie wrote: "Hello, Brett." Do you see that, at the very bottom?

A. Yes.

Q. And then she said, "Thank you for your reply and your time on the phone this afternoon."

You actually spoke to Bethanie about that issue?

A. That was that January call I was referring to earlier.

Q. Coming back from Mississippi?

A. Right.

Q. In the car?

A. Right.

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B. Hanson

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

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

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

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

14:55 Q. Do you --

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

14:55 Q. Do you recall --

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

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

1 B. Hanson

14:55 2 A. They may have mentioned -- they  
14:56 3 may have told me that, but I didn't agree to  
14:56 4 it, nor do I ever remember agreeing to such  
14:56 5 terms.

14:56 6 Q. So, in other words, it was  
14:56 7 communicated to you, but you didn't agree to  
14:56 8 it; is that what you're saying?

14:56 9 A. Yes.

14:56 10 MR. BIDERMAN: Let me just see  
14:56 11 if I've got any other e-mails to mark.

14:57 12 Q. And then going back to tab 96  
14:57 13 again.

14:57 14 A. Okay.

14:57 15 Q. There's a e-mail to you at the  
14:58 16 bottom from AdWords support dated March 4,  
14:58 17 '05. Do you see that?

14:58 18 MR. LEVY: What page?

14:58 19 MR. BIDERMAN: I'm sorry.

14:58 20 Page 1 of 41.

14:58 21 A. Yes.

14:58 22 Q. Okay. And then this is an  
14:58 23 e-mail from someone named Tina. Do you  
14:58 24 recall that, dealing with Tina P.?

14:58 25 A. Vaguely.

1 B. Hanson

14:58 2 Q. Okay. And you remember that she  
14:58 3 wrote to you and told you she would be your  
14:58 4 new client service representative, looking at  
14:58 5 page 2 of 41?

14:59 6 A. I'm looking at 2 of 41. But  
14:59 7 what am I looking for?

14:59 8 Q. "I would like to clarify that I  
14:59 9 have taken over as the direct representative  
14:59 10 for your account." Do you see that?

14:59 11 It's in the middle of the string  
14:59 12 of text at the top of the page.

14:59 13 A. Yes.

14:59 14 Q. And she gave you her e-mail  
14:59 15 address; correct?

14:59 16 A. Yes.

14:59 17 Q. And she gave you her phone  
14:59 18 number?

14:59 19 A. It appears to be, yes.

14:59 20 Q. And she gave you the information  
14:59 21 that you enter your 10-digit customer ID when  
14:59 22 you call. When you call, your call will be  
14:59 23 routed directly to her; is that correct?

14:59 24 A. That appears to be, yes.

14:59 25 Q. And she told you also that if

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B. Hanson

the videotape deposition of Mr. Brett  
Hanson. We're off the record.

(Time noted: 3:45 p.m.)

I have read the foregoing deposition transcript  
and by signing hereafter, approve same.

Dated \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Deponent)

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,