

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ORIGINAL

FILED

DEC - 7 2009

LOUIS VUITTON MALLETTIER, S.A.,	)	RICHARD W. WIEKING
	)	CLERK, U.S. DISTRICT COURT
	)	NORTHERN DISTRICT OF CALIFORNIA
PLAINTIFF,	)	C-07-03952-JW (ARL)
	)	
V.	)	AUGUST 25, 2009
	)	
AKANOC SOLUTIONS, INC.,	)	VOLUMES 8 AND 9
MANAGED SOLUTIONS GROUP, INC.,	)	
STEVEN CHEN AND DOES 1 THROUGH	)	PAGES 1 - 231
10, INCLUSIVE,	)	
	)	
DEFENDANTS.	)	
	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE JAMES WARE  
UNITED STATES DISTRICT JUDGE

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

OR THE PLAINTIFFS: J. ANDREW COOMBS, A PROF. CORP.  
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LICENSE NUMBER 9302

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REPORTER NOTE: ALL QUOTED EXCERPTS IN THIS TRANSCRIPT  
WERE REPORTED AND TYPED "AS READ."

1 SAN JOSE, CALIFORNIA

AUGUST 25, 2009

2 P R O C E E D I N G S

3 (WHEREUPON, AT 9:05 A.M., THE FOLLOWING  
4 PROCEEDINGS WERE HELD IN OPEN COURT, OUT OF THE PRESENCE  
5 OF THE JURY:)

6 THE COURT: GOOD MORNING, ALL.

7 I HAVE TWO STUDENTS IN THE BACK. YOU WERE  
8 SUPPOSED TO GET INTO CHAMBERS AND LET US KNOW WHEN YOU  
9 WERE HERE. COME FORWARD. COME TO THE SIDEBAR.

10 (WHEREUPON, A DISCUSSION WAS HELD AT THE  
11 SIDEBAR, NOT HEREIN REPORTED.)

12 THE COURT: READY TO RESUME?

13 MR. COOMBS: YES, YOUR HONOR.

14 THE COURT: SUMMON THE JURY.

15 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE  
16 HELD IN OPEN COURT, IN THE PRESENCE OF THE JURY:)

17 THE COURT: GOOD MORNING, MEMBERS. I HOPE YOU  
18 HAD A PLEASANT TIME OFF. NO?

19 WELL, YOU MAY RESUME YOUR EXAMINATION.

20 MR. COOMBS: THANK YOU, YOUR HONOR.

21 **STEVEN CHEN,**

22 BEING CALLED AS A WITNESS ON BEHALF OF THE DEFENDANTS,  
23 HAVING BEEN PREVIOUSLY DULY SWORN, WAS EXAMINED AND  
24 TESTIFIED FURTHER AS FOLLOWS:

25 ///

CROSS-EXAMINATION (CONTINUED)

BY MR. COOMBS:

Q. GOOD MORNING, MR. CHEN.

A. GOOD MORNING.

Q. WHEN WE BROKE FRIDAY AFTERNOON, I THINK WE WERE  
SPEAKING ABOUT THAT 8168.COM. I THINK YOU SEE ANOTHER  
IP DOMAIN NAME BAG925.COM.

YOU SEE THAT, MR. CHEN?

A. YES.

Q. AND DOES THAT -- IS IT CORRECT THAT WAS ONE OF THE  
DOMAIN NAMES THAT WAS ALLEGED IN THE COMPLAINT THAT YOU  
HAD SAID WAS SERVED ON YOU ON THE 20TH, BUT IN FACT ON  
THE 15TH?

A. YES.

Q. NOW, SEE IF THAT WORKS. ALL RIGHT.

(WHEREUPON, EXHIBIT 625 WAS MARKED FOR  
IDENTIFICATION.)

NOW, I'M PUTTING UP ON THE SCREEN A DOCUMENT  
THAT WE WILL MARK AS EXHIBIT 626 -- I'M SORRY, 625 --  
AND ASK YOU, MR. CHEN: DOES THAT APPEAR TO BE A PING  
RESPONSE REGARDING THE DOMAIN NAME WWW.BAG925.COM?

A. YES.

Q. AND IT APPEARS IT WAS DONE YESTERDAY; CORRECT?

A. IT WAS DONE YESTERDAY?

Q. YES.

1 A. I DON'T KNOW.

2 Q. OKAY. WELL, I'LL ASK YOU: THE IP ADDRESS  
3 THAT'S IDENTIFIED THERE, IT'S A LITTLE HAZY, BUT  
4 205.209.137.172, THAT'S AN IP ADDRESS ASSIGNED TO  
5 MANAGED SOLUTIONS GROUP?

6 A. THAT IS CORRECT.

7 Q. THAT WOULD CREATE THAT DOMAIN NAME, AND THAT  
8 WEBSITE AT THAT DOMAIN NAME IS CURRENTLY HOSTED ON A  
9 SERVER OWNED BY MANAGED SOLUTIONS GROUP?

10 A. YES.

11 Q. AND THAT IS PART OF THE AKANOC SOLUTIONS SERVICES  
12 PROVIDED TO ITS CUSTOMERS?

13 A. YES.

14 MR. LOWE: OBJECTION, YOUR HONOR. IT LACKS  
15 FOUNDATION AS TO DATE. I DON'T BELIEVE THERE'S A DATE  
16 YOU CAN SEE.

17 THE COURT: I PRESUME COUNSEL WAS REFERRING TO  
18 SOMETHING ON THE DOCUMENT FOR THE DATE, BUT I'LL SUSTAIN  
19 THE OBJECTION.

20 IT DOES APPEAR TO ME, HOWEVER, THAT THE  
21 QUESTION ASKS WHETHER OR NOT THAT DOMAIN NAME IS WITHIN  
22 THE GROUP ASSIGNED TO THAT COMPANY, AS I UNDERSTAND IT,  
23 AND THAT CAN BE ANSWERED "YES" OR "NO," IRRESPECTIVE OF  
24 THE DATE OF THIS DOCUMENT. BUT IT IS FAIR, SINCE YOU  
25 REFERRED TO IT AS HAVING BEEN DONE YESTERDAY, TO CLARIFY

1 WHERE THAT DATE CAN BE DISCERNED FROM THE DOCUMENT.

2 MR. COOMBS: THANK YOU, YOUR HONOR.

3 I'M SORRY, YOUR HONOR, IT APPEARS THAT I HAD  
4 THE FIRST PAGE AS THE SECOND PAGE, SO I WILL PULL THE UP  
5 THE SECOND PAGE AND PUT IT UP ON THE MONITOR.

6 BY MR. COOMBS:

7 Q. THIS IS A PING FOR BAG925.COM, AND I BELIEVE YOU  
8 SAID FROM YOUR DIRECT TESTIMONY YOU PING WITH THE  
9 WWW DOT-DOMAIN NAME, AND WITHOUT IT YOU COULD GET  
10 DIFFERENT RESULTS; CORRECT?

11 A. THAT IS CORRECT.

12 Q. AND, IN FACT, AS AN EXCESSIVE CAUTION ON YOUR  
13 PART, YOU DO BOTH WHEN YOU ARE CHECKING WHETHER A DOMAIN  
14 IS HOSTED ON ONE OF THE SERVERS OWNED BY THE DEFENDANTS?

15 A. THAT'S CORRECT.

16 Q. AND A SECOND PAGE HERE REFLECTS A DIFFERENT PING  
17 FOR THAT 925.COM; CORRECT?

18 A. YES, THAT'S CORRECT.

19 Q. AND IT INDICATES THE SAME IP ADDRESS AS FOR  
20 WWW.BAG925.COM; CORRECT?

21 A. THAT'S RIGHT.

22 Q. AND THAT PING REPORT TOWARD THE TOP -- AND I HOPE  
23 I DON'T MOVE THIS AROUND TOO MUCH. CAN YOU TELL ME WHAT  
24 DATE IS INDICATED WHERE MY PEN IS POINTED?

25 A. IT'S BLURRY, BUT IT LOOKS LIKE IT'S AUGUST 25,

1 2009.

2 Q. ALL RIGHT. THANK YOU.

3 SO BOTH BAG925.COM AND WWW.BAG925.COM APPEAR TO BE  
4 HOSTED ON DEFENDANT'S SERVERS AS ESSENTIALLY TODAY; IS  
5 THAT CORRECT?

6 A. YES, THAT'S CORRECT.

7 Q. AND THAT'S BORNE OUT BY THE OTHER PORTION OF THE  
8 EXHIBIT I HAVE MARKED, WHICH IS NOW IN FRONT OF YOU, AND  
9 WHICH HAS THE WHOIS ARIN RESULT FOR THAT IP ADDRESS;  
10 CORRECT?

11 A. THAT'S CORRECT.

12 Q. NOW, ON THAT PORTION OF THE REPORT YOU WILL SEE  
13 RA ABUSE HANDLE -- I'M SORRY, R ABUSE HANDLE, R TECH  
14 HANDLE OR ABUSE HANDLE OR TECH HANDLE. CAN YOU TELL US  
15 WHAT THOSE REFER TO?

16 A. "ABUSE" IS FOR ABUSE ISSUE TECH; "TECH HANDLE" IS  
17 FOR TECH -- TECH ISSUES.

18 Q. SO, AS I UNDERSTOOD YOUR TESTIMONY, THE  
19 INFORMATION PERTAINING TO THOSE HANDLES SHOULD BE  
20 CONTACT -- CURRENT CONTACT INFORMATION FOR MANAGED  
21 SOLUTIONS GROUP; IS THAT CORRECT?

22 A. THAT IS CORRECT.

23 Q. SO IT SHOULD BE -- I THINK YOU SAID ABUSE.MANAGER  
24 SG-INC.COM FOR THE E-MAIL ADDRESS?

25 A. YES.

1 Q. AND THAT WOULD BE THE NORTHPOINT LOOP ADDRESS IN  
2 FREMONT FOR THE MAILING ADDRESS; IS THAT CORRECT?

3 A. THAT'S CORRECT.

4 Q. OKAY. NOW, LET'S MARK AS 626 A ONE-PAGE ARIN  
5 WHOIS DATABASE SEARCH FOR THE HANDLE ABUSE 429-ARIN.

6 MR. LOWE: EXCUSE ME, YOUR HONOR. I OBJECT TO  
7 THIS. WE HAVE NOT SEEN THESE EXHIBITS BEFORE. THEY  
8 WERE NOT PROVIDED IN DISCOVERY. APPARENTLY, THEY HAVE  
9 BEEN CREATED IN THE LAST DAY OR TWO.

10 THE COURT: EVEN IF YOU ARE USING IT FOR  
11 IMPEACHMENT, PROVIDE COUNSEL WITH THE DOCUMENTS YOU ARE  
12 USING IN THIS EXAMINATION.

13 MR. COOMBS: MY APOLOGY.

14 MR. LOWE: I WOULD ASK HE HAND US ALL THE  
15 DOCUMENTS HE INTENDS TO USE TODAY SO WE DON'T SEE THEM  
16 ON THE SCREEN FOR THE FIRST TIME TODAY.

17 THE COURT: OF COURSE. THAT IS A COURTESY TO  
18 DO THAT, COUNSEL.

19 MR. COOMBS: YES, YOUR HONOR. I APOLOGIZE.

20 (WHEREUPON, EXHIBIT 626 WAS MARKED FOR  
21 IDENTIFICATION.)

22 BY MR. COOMBS:

23 Q. NOW, CAN YOU TELL ME WHAT MAILING ADDRESS IS  
24 INDICATED ON THAT WHO -- I'M SORRY, ARIN SEARCH RESULT?

25 THE COURT: MAILING ADDRESS OR E-MAIL?



1 BY MR. COOMBS:

2 Q. I'M SORRY. THAT'S NOT THE ONE I WAS PUTTING UP.  
3 THIS IS 626. LET ME ZOOM IT OUT A BIT.

4 CAN YOU TELL ME WHAT THAT IS, MR. CHEN?

5 A. IT LOOKS LIKE IT IS THE OLD ADDRESS WHEN WE FIRST  
6 SET UP THE COMPANY, THE 46750 FREMONT BOULEVARD.

7 Q. NOW, AS I UNDERSTOOD YOUR TESTIMONY, MANAGED  
8 SOLUTIONS GROUP AKANOC, THEY HAVEN'T BEEN AT THAT  
9 ADDRESS FOR MANY YEARS NOW?

10 A. MANY YEARS.

11 Q. AND I'LL JUST SCROLL UP, IF I CAN, AND CAN YOU  
12 READ THE DATE THAT APPEARS AT THE BOTTOM RIGHT-HAND  
13 CORNER OF THAT PAGE?

14 A. AUGUST 24, 2009.

15 Q. THANK YOU.

16 BAG925.COM, THAT WAS IN THE ORIGINAL COMPLAINT  
17 SERVED IN AUGUST OF 2007; CORRECT?

18 A. EXCUSE ME?

19 Q. THAT WAS ONE OF THE --

20 THE COURT: "THAT" BEING -- SAY THE NAME  
21 AGAIN.

22 BY MR. COOMBS:

23 Q. BAG925.COM WAS ONE OF THE WEBSITES THAT WAS  
24 ALLEGED IN THE ORIGINAL COMPLAINT SERVED ON YOU IN  
25 AUGUST OF 2007?

1 A. I BELIEVE SO.

2 Q. NOW, IN YOUR DIRECT TESTIMONY, I BELIEVE YOU SAID  
3 THAT YOU PROVIDE PACKAGES TO YOUR CUSTOMERS, BUT YOU  
4 REALLY DON'T KNOW WHAT YOUR CUSTOMERS DO WITH THOSE  
5 PACKAGES; IS THAT CORRECT?

6 A. NO, WE DON'T.

7 Q. AND I THINK YOU HAVE HEARD TESTIMONY TO THE EFFECT  
8 THAT THE DOMAIN NAME REGISTRATION WHOIS INFORMATION  
9 ABOUT DOMAIN NAME OPERATORS IS OFTEN INCORRECT OR  
10 MISLEADING. DO YOU RECALL THAT TESTIMONY?

11 A. DOMAIN NAME REGISTRAR CUSTOMER INFORMATION?

12 Q. THAT'S CORRECT.

13 A. I HAVE NO IDEA. I PERSONALLY PUT IN MY  
14 INFORMATION CORRECTLY.

15 Q. I'M NOT SPEAKING OF YOUR INFORMATION, BUT WHEN ONE  
16 OF YOUR CUSTOMERS HAS A WEBSITE HOSTED ON ITS SERVERS --  
17 I THINK YOU SAID YOU HAD STUDIED DOMAIN TOOLS FOR ABOUT  
18 A MONTH OR SO EARLIER ON IN THIS LITIGATION; DIDN'T YOU  
19 SAY SOMETHING TO THAT EFFECT?

20 A. ONLY THE IP INFORMATION SECTION.

21 Q. BUT YOU DIDN'T REALLY LOOK AT THE WHOIS  
22 INFORMATION AS IT RELATED TO THE DOMAIN NAME OPERATORS?

23 A. (NO AUDIBLE RESPONSE.)

24 Q. OKAY. WELL, IF YOU DON'T KNOW WHAT YOUR CUSTOMERS  
25 DO WITH THE CAPACITY YOU PROVIDE, HOW IS IT THAT YOU CAN

1 SAY THEY THEMSELVES AREN'T THE ONES OPERATING THE  
2 WEBSITES HOSTED ON YOUR SERVERS?

3 A. WHAT'S THAT GOT TO DO WITH -- I LOST THE QUESTION  
4 BECAUSE THE WEBSITE HAS NOTHING TO DO WITH MY CUSTOMER.

5 Q. HOW DO YOU KNOW THAT, IF YOU DON'T KNOW WHAT YOUR  
6 CUSTOMERS DO WITH IT?

7 A. MOST OF THE CUSTOMERS THAT I DEAL WITH, WE -- I  
8 DEAL WITH THEM AT MORE LIKE TECHNICAL LEVEL, AND THEY  
9 ARE JUST HOSTING RESELLERS.

10 Q. BUT YOU SAID YOU DON'T EVEN KNOW WHETHER THEY ARE  
11 DOING WEBSITES AS OPPOSED TO OTHER INTERNET  
12 APPLICATIONS. HOW CAN YOU SAY THEY THEMSELVES ARE NOT  
13 OPERATING THE WEBSITES OR SOMEBODY WORKING FOR THEM  
14 OPERATING THE WEBSITES THAT ARE ON THEIR SERVERS?

15 A. I DIDN'T SAY THEY DON'T OPERATE WEBSITES; I SAID I  
16 DON'T KNOW WHETHER THEY OPERATE A WEBSITE OR NOT.

17 Q. SO IT COULD BE THAT THEY DO IN FACT OPERATE  
18 WEBSITES THAT ARE ON THOSE SERVERS?

19 A. YES.

20 Q. IT COULD BE THAT SOMEBODY CONNECTED WITH THEM  
21 OPERATES THOSE WEBSITES ON THOSE SERVERS?

22 A. MAYBE.

23 Q. COULD BE A FAMILY MEMBER, FOR EXAMPLE?

24 A. MAYBE.

25 Q. NOW, IN YOUR DIRECT TESTIMONY, YOU SPOKE A LITTLE

1 BIT ABOUT SECONDARY AND PRIMARY IP NUMBERS. DO YOU  
2 REMEMBER THAT? WELL, I THINK YOU SAID THAT WHEN SOMEONE  
3 BUYS A PACKAGE FROM YOU, THEY GET A PRIMARY IP NUMBER;  
4 CORRECT?

5 A. MAIN IP NUMBER, YES.

6 Q. I'M SORRY. I'M TRYING TO REMEMBER TO USE THAT  
7 TERM INSTEAD OF PRIMARY. AND IN ADDITION TO THE MAIN IP  
8 NUMBER, THEY MAY REQUEST AN ALLOCATION OF ADDITIONAL  
9 SECONDARY IP NUMBERS?

10 A. EXTRA.

11 Q. OKAY. I WILL TRY TO REMEMBER THE "MAIN" AND  
12 "EXTRA."

13 OKAY. NOW, I THINK YOU SAID THAT THIS WAS  
14 DONE IN PART BECAUSE THE DEFENDANTS ARE REQUIRED TO  
15 JUSTIFY THEIR USE OF THE IP ALLOCATIONS THAT THEY HAVE?

16 A. YES.

17 Q. AND I THINK YOU ALSO SAID THAT THERE'S LIKE A  
18 MINIMUM USAGE OF AROUND 80 PERCENT OR SO. WAS THAT WHAT  
19 YOU TESTIFIED TO?

20 A. THAT IS IF YOU WANT TO APPLY NEW IP ADDRESSES FROM  
21 ARIN.

22 Q. I THINK YOU SAID, THOUGH, THAT THE NUMBER OF IP  
23 ADDRESSES ASSIGNED TO THE DEFENDANTS HAD DECREASED FROM  
24 ABOUT 40 TO 30,000. DID I MISUNDERSTAND?

25 A. YES, THAT'S AFTER THE SEPARATION. WE GAVE ROUGHLY

1 16,000 TO JACQUES PHAM. JACQUES, J-A-C-Q-U-E-S, PHAM,  
2 P-H-A-M.

3 Q. LET'S PULL UP EXHIBIT 25.

4 I'LL ASK MS. ADLER TO TURN TO PAGE 2, AND  
5 SCROLL DOWN TO PARAGRAPH 5-B.

6 CAN YOU READ PARAGRAPH 5-B FOR US, MR. CHEN?

7 A. "APPLICANT IS RESPONSIBLE FOR THE TIMELY AND  
8 ACCURATE MAINTENANCE OF DIRECTORY SERVICES DATA AS WELL  
9 AS ANY ORGANIZATION TO WHICH IT FURTHER SUBDELEGATES  
10 NUMBER RESOURCES."

11 Q. I UNDERSTAND THAT TO MEAN THAT THE ENTITY TO WHICH  
12 IP ADDRESSES ARE ALLOCATED IS REQUIRED TO MAINTAIN  
13 CORRECT CONTACT INFORMATION IN THE ARIN DATABASE; IS  
14 THAT YOUR UNDERSTANDING AS WELL?

15 A. YES.

16 Q. AND THAT APPLIES WHETHER OR NOT THE NAMES HAVE  
17 BEEN SUBDELEGATED OR ASSIGNED OR ALLOCATED TO SOMEONE  
18 ELSE ACTUALLY USING THE IP ADDRESSES?

19 A. I DON'T UNDERSTAND THE WORD OF "SUBDELEGATE."

20 Q. WELL, AS I UNDERSTAND IT, THE DEFENDANTS WILL  
21 ASSIGN IP ADDRESSES TO THEIR CUSTOMERS. WE WERE JUST  
22 TALKING ABOUT THAT.

23 A. THAT'S RIGHT.

24 Q. AND I UNDERSTAND THAT TO BE SUBDELEGATING.

25 A. YES.

1 Q. SO THAT THIS CLAUSE WOULD APPLY REGARDLESS OF  
2 WHETHER OR NOT THE DEFENDANTS ARE ASSIGNING IP ADDRESSES  
3 TO THEIR CUSTOMERS?

4 A. THAT'S CORRECT.

5 (WHEREUPON, EXHIBIT 627 WAS MARKED FOR  
6 IDENTIFICATION.)

7 BY MR. COOMBS:

8 Q. OKAY. I HAVE JUST MARKED AS 627 A FOUR-PAGE  
9 PRINTOUT FROM THE KNOWLEDGE BASE ON THE ARIN WEBSITE.  
10 JUST FOCUSING ON THE TOP FIRST PARAGRAPH OF THAT  
11 PRINTOUT, COULD YOU READ THE FIRST -- THE SENTENCE THAT  
12 ENDS ON THE FOURTH LINE OF THAT?

13 A. THE FOURTH LINE?

14 Q. COULD YOU READ THE FIRST FOUR LINES OF THAT  
15 PORTION? MAYBE IT WOULD BE EASIER IF I DID IT THIS WAY.  
16 I HAVE HIGHLIGHTED A PORTION OF THIS. COULD YOU JUST  
17 READ THIS FOR US? COULD YOU READ IT INTO THE RECORD,  
18 PLEASE. COULD YOU READ IT OUT LOUD?

19 A. "ARIN'S STEWARDSHIP OF INTERNET NUMBER" --

20 THE COURT: WHY DON'T YOU READ IT? DON'T --  
21 YOU HAVE THE DOCUMENT. YOU ARE MUCH BETTER ABLE TO  
22 SEE IT.

23 MR. COOMBS: YES. THANK YOU, YOUR HONOR.

24 BY MR. COOMBS:

25 Q. I'M READING FROM EXHIBIT 627 AND THE FIRST PORTION

1 OF WHICH FOLLOWS: "ARIN'S STEWARDSHIP OF  
2 INTERNET NUMBER RESOURCES REQUIRES  
3 CONSISTENT COHESIVE UNDERSTANDING  
4 OF WHO HOLDS RESOURCES, WHO IS  
5 RESPONSIBLE FOR THE MAINTENANCE  
6 OF THOSE RESOURCES, AND HOW THOSE  
7 RESOURCES ARE BEING UTILIZED. TO  
8 THAT END, ARIN USES IDENTIFIERS  
9 IN ITS DATABASE TO DENOTE  
10 DELEGATED NUMBER RESOURCES,  
11 ORGANIZATIONS, AND THE CONTACTS  
12 WHO ARE RESPONSIBLE FOR THE  
13 MANAGEMENT OF THE RESOURCES AND  
14 THEIR RECORDS."

15 YOU SEE THAT, MR. CHEN?

16 A. YES.

17 Q. AND I UNDERSTAND THAT TO BE AN EXPLANATION OF WHY  
18 IT'S IMPORTANT THAT THE ARIN DATABASE ACCURATELY REFLECT  
19 THE INFORMATION TO THOSE WHO HAVE RECEIVED IP ADDRESSES.

20 MR. LOWE: OBJECTION, YOUR HONOR. HIS  
21 UNDERSTANDING IS NOT RELEVANT. HE SHOULD ASK A  
22 QUESTION.

23 THE COURT: SUSTAINED.

24 BY MR. COOMBS:

25 Q. DO YOU UNDERSTAND THAT TO EXPLAIN THE REASONS WHY

1 IT'S IMPORTANT TO HAVE ACCURATE CONTACT INFORMATION IN  
2 THE ARIN DATABASE?

3 A. NEVER STUDIED THAT.

4 Q. BUT YOU, IN FACT, USE THE ARIN DATABASE YOURSELF  
5 AT TIMES; CORRECT?

6 A. THAT'S CORRECT.

7 Q. NOW, LET'S PULL UP EXHIBIT 1613 THAT WAS MARKED ON  
8 FRIDAY DURING YOUR DIRECT EXAMINATION. I THINK THIS IS  
9 A DOCUMENT THAT YOU SAID WAS PREPARED IN CONNECTION WITH  
10 YOUR INVESTIGATION OF DOMAIN TOOLS.

11 IF WE COULD SCROLL DOWN A LITTLE BIT.

12 NOW, THIS PING RESPONSE THAT'S INDICATED ON  
13 THE PORTION THAT'S SHOWN ON YOUR SCREEN RIGHT NOW --

14 A. YES.

15 Q. -- THAT'S A CUT AND PASTE FROM THE DOS COMMAND  
16 PROMPT; RIGHT?

17 A. THAT'S CORRECT.

18 Q. AND WHAT DATE WAS THAT PING TEST DONE?

19 A. IT'S THE SAME DAY.

20 Q. AS WHAT?

21 A. AS WHEN I PULLED THE DOMAIN TOOL SCREEN SHOT. AND  
22 I ALSO MADE THAT DOS SCREEN SHOT.

23 Q. AND WHAT DATE WAS THAT?

24 A. IF YOU SCROLL UP, THERE'S A DATE ON THE E-MAIL.

25 Q. SO IT'S THE DATE OF THE E-MAIL?



1 A. YES.

2 Q. IT WOULD BE THE DATE OF BOTH OF THOSE SEARCHES  
3 THAT ARE INDICATED?

4 A. THAT'S CORRECT.

5 Q. AND WHAT DOMAIN NAME DID YOU PING, AS INDICATED AT  
6 THE BOTTOM OF THAT E-MAIL?

7 A. ESHOES99.NET.

8 Q. AND I THINK YOU DID SAY THAT THE RESULTS FOR  
9 ESHOES99.NET MIGHT BE DIFFERENT FROM THE RESULTS FOR  
10 ESHOES -- I'M SORRY, WWW.ESHOES99.NET?

11 A. YES.

12 Q. DO YOU KNOW WHICH OF THOSE TWO DOMAIN NAMES WAS  
13 PINGED AS PART OF THE DOMAIN TOOLS REPORT?

14 A. I PINGED BOTH.

15 Q. HOW DID YOU PING BOTH USING DOMAIN TOOLS?

16 A. PING BOTH USING DOMAIN TOOLS?

17 Q. CORRECT.

18 A. NO, I DON'T EVEN KNOW WHETHER THE DOMAIN TOOL IS  
19 PULLING UP WWW OR WITHOUT WWW.

20 Q. SO IT'S QUITE POSSIBLE THAT THE WWW.ESHOES99.NET  
21 AND THAT THE PING WAS FOR A DIFFERENT WEBSITE AT SIMPLY  
22 ESHOES99.NET?

23 A. YES, IN THIS.

24 Q. SO THIS MAY, IN FACT, NOT SHOW ANY UNRELIABILITY  
25 IN THE DOMAIN TOOLS SEARCH RESULTS?

1 A. I HAVE SEVERAL OF THIS, NOT JUST ONE.

2 Q. WHERE ARE THEY? I HAVE NOT SEEN THEM.

3 A. I WAS NOT -- I WAS NOT BEING ASKED TO PROVIDE  
4 THAT.

5 Q. NOW, I THINK YOU HAVE TESTIFIED THAT YOU DON'T  
6 EVALUATE THE VALIDITY OF COMPLAINTS THAT ARE SENT TO  
7 YOU. YOU FORWARD THEM ON TO CUSTOMERS FOR THEIR  
8 HANDLING; IS THAT CORRECT?

9 A. MOST OF THE TIME.

10 Q. AND THEN YOU ALSO TESTIFIED THAT YOU HANDLE SOME  
11 COMPLAINTS A LITTLE DIFFERENTLY. YOU VIEWED, FOR  
12 EXAMPLE, INTELLECTUAL PROPERTY INFRINGEMENT ABUSE  
13 COMPLAINTS AS MORE IN THE NATURE OF BUSINESS DISPUTES,  
14 THEREFORE, LESS PRESSING THAN SOME TECHNICAL THAT MIGHT  
15 COME IN?

16 A. NOT A QUESTION OF ISSUE; IT JUST -- I'M NOT  
17 PUTTING MYSELF IN MIDDLE OF BUSINESS DISPUTE.

18 Q. ALL RIGHT. BUT YOU DID AGREE WITH ME AT THE  
19 BEGINNING OF YOUR TESTIMONY THAT COUNTERFEITING IS  
20 ILLEGAL; IT'S A CRIME, OR CAN BE?

21 A. IT IS A ISSUE THAT BY -- BY BUSINESS PARTIES, NOT  
22 BY LEGAL AUTHORITY.

23 Q. WHAT OTHER BUSINESS DISPUTES ARE YOU AWARE OF THAT  
24 ARE PUNISHED THROUGH THE CRIMINAL SYSTEM?

25 MR. LOWE: YOUR HONOR, I WOULD OBJECT TO THIS

1 LINE QUESTIONING. WHETHER THEY ARE CRIMES OR NOT IS NOT  
2 AN ISSUE IN THIS CASE.

3 THE COURT: SUSTAINED.

4 BY MR. COOMBS:

5 Q. ISN'T IT TRUE THAT WHEN A COPYRIGHT INFRINGEMENT  
6 ABUSE CLAIM IS TRANSMITTED TO YOU AT YOUR  
7 STEVE@AKANOC.COM E-MAIL ADDRESS, THAT THEY ARE STATED TO  
8 UNDER PENALTY OF PERJURY?

9 A. YES.

10 Q. AND YOU UNDERSTAND THAT THAT IS DONE BECAUSE THE  
11 LAW REQUIRES -- DOESN'T REQUIRE, BUT IT PROVIDES CERTAIN  
12 ADDITIONAL PROTECTIONS, IF THE INITIAL CLAIM IS STATED  
13 UNDER PENALTY OF PERJURY?

14 A. YES.

15 Q. IS IT NORMAL FOR YOU TO RECEIVE NOTICES OF OTHER  
16 FORMS OF BUSINESS DISPUTE UNDER PENALTY OF PERJURY?

17 A. I RAN INTO TIMES THAT I HAVE ALL THE CORRECT LEGAL  
18 COMPLAINTS AND WIND UP IT'S A -- JUST A *EX PARTE*  
19 DISPUTE.

20 Q. NOW, IN YOUR DIRECT EXAMINATION, I THINK YOU SAID  
21 YOUR PROCEDURES IN RESPONSE TO ABUSE COMPLAINTS HAVEN'T  
22 REALLY CHANGED SINCE 2006; IS THAT CORRECT?

23 A. NOT IN PRINCIPLE. NOTHING REALLY CHANGED.

24 Q. OKAY. SO WE SHOULDN'T INFER ANYTHING FROM THE  
25 FACT THAT YOU FIRST FILED THE DMC NOTICE WITH THE

1 COPYRIGHT OFFICE AFTER THE LITIGATION WAS FILED?

2 A. SHOULDN'T CHANGE ANYTHING.

3 Q. OKAY. YOU REMEMBER THAT I TOOK YOUR DEPOSITION,  
4 MR. CHEN, IN APRIL OF 2008?

5 A. YES.

6 Q. OKAY. I'M GOING TO READ TO YOU SOME QUESTIONS AND  
7 ANSWERS AND ASK YOU IF THESE QUESTIONS AND ANSWERS WERE  
8 IN FACT GIVEN AT THAT DEPOSITION.

9 "QUESTION:" --

10 AND THIS IS BEGINNING AT PAGE 194.

11 MR. LOWE: EXCUSE ME, YOUR HONOR. PERHAPS WE  
12 COULD PROVIDE THE WITNESS WITH A COPY?

13 MR. COOMBS: I'M SORRY. DO YOU HAVE THE  
14 ORIGINAL?

15 MR. LOWE: GIVE US A MOMENT.

16 (WITNESS PROVIDED A COPY OF THE DEPOSITION.)

17 MR. COOMBS: IN VOLUME I -- I'M SORRY, VOLUME  
18 II, PAGE 194 --

19 THE WITNESS: PAGE WHAT?

20 MR. COOMBS: 194.

21 THE WITNESS: LINE?

22 BY MR. COOMBS:

23 Q. BEGINNING AT LINE 5:

24 "QUESTION: NOW, IF THAT HAPPENS,  
25 DO YOU DO ANYTHING YOURSELF OR

1 DOES MANAGED SOLUTIONS DO  
2 ANYTHING TO VERIFY THAT THE  
3 OFFENDING SITE WAS IN FACT  
4 REMOVED AS REPRESENTED BY THE  
5 CUSTOMER?"

6 "ANSWER: THE NEWEST PROCEDURE  
7 THAT WE IMPOSE RIGHT NOW IS  
8 QUITE SIMPLE. WE WANT EVERYBODY  
9 TO MAKE SURE THE DOMAIN NAME  
10 DOES NOT RESULT TO OUR IP SO WE  
11 JUST NEED TO PING. IF IT'S  
12 STILL WITHIN OUR IP, THEN WE  
13 WILL CONSIDER IT STILL THERE;  
14 IF IT'S NOT, THEN WE WOULD  
15 REVIVE THE IP. THAT'S THE  
16 NEWEST PROCEDURE THAT WE HAVE  
17 RIGHT NOW."

18 "QUESTION: WHEN WAS THAT  
19 PROCEDURE IMPLEMENTED?"

20 "ANSWER: PROBABLY FEBRUARY,  
21 MARCH."

22 "QUESTION: OF 2008?"

23 "ANSWER: OF 2008. THAT'S  
24 CORRECT."

25 WERE THOSE QUESTIONS ASKED AND ANSWERS GIVEN

1 DURING YOUR DEPOSITION?

2 A. YES.

3 Q. AND I THINK FEBRUARY/MARCH OF 2008 WAS AFTER THE  
4 COMPLAINT IN THIS ACTION, WAS IT NOT?

5 A. YES.

6 Q. THANK YOU.

7 LET'S TURN BACK TO 1598, PLEASE. AND IF WE  
8 COULD SCROLL DOWN TO PAGE 3 TO THE ENTRY FOR  
9 LOVERNIKE.COM.

10 DO YOU SEE THAT ENTRY, MR. CHEN?

11 A. YES.

12 Q. AND IN THAT, YOU INDICATE THAT THE WEBSITE WAS NOT  
13 FUNCTIONING; IS THAT CORRECT?

14 A. THAT'S CORRECT.

15 Q. AND THIS WAS BASED ON A STUDY OF YOUR E-MAIL LOGS;  
16 IS THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. SO TELL ME, WHAT DO YOU DO -- HOW IS IT THAT YOU  
19 COME TO THE CONCLUSION THAT A WEBSITE IS NOT FUNCTIONAL?

20 A. TRY TO PING -- TRY TO USE A BROWSER TO GET INTO  
21 THE WEBSITE.

22 Q. IF A WEBSITE IS FUNCTIONING, YOU CAN LOOK AT IT  
23 LIKE ANYBODY ELSE; IS THAT CORRECT?

24 A. THAT'S CORRECT.

25 Q. SO, BASICALLY, YOU ARE SAYING IT RETURNS THE KIND

1 OF ERROR MESSAGES THAT WE HAVE HEARD FROM OTHER  
2 WITNESSES DURING THE CASE?

3 A. THAT'S CORRECT.

4 Q. "PAGE NOT FOUND" OR SOMETHING TO THAT EFFECT?

5 A. THAT IS CORRECT.

6 Q. SO THIS INDICATES THAT ON OR SOON AFTER THE 26TH  
7 OF NOVEMBER, THE WEBSITE LOVERNIKE.COM WAS NOT  
8 FUNCTIONING; IS THAT CORRECT?

9 A. THAT'S CORRECT.

10 Q. CAN YOU TELL US WHAT DATE THAT CHECK WAS DONE?

11 A. SHOULD BE ON THE 26TH OR SOMEWHERE AROUND THERE,  
12 IN THE TWO DAYS.

13 Q. LOOKS AS THOUGH, WHERE YOU DID FIND THE WEBSITE ON  
14 YOUR SERVERS, THAT A TAKEDOWN NOTICE WAS SENT ON THE  
15 29TH; CORRECT? IF YOU LOOK ABOVE AND BELOW "LOVERNIKE,"  
16 YOU WILL SEE A FEW THAT SAY "TAKEDOWN NOTICE SENT ON  
17 11/29." DO YOU SEE THOSE?

18 A. YES.

19 Q. IT SUGGESTS TO ME, AT LEAST, THAT YOU LOOKED AT  
20 THESE WEBSITES BETWEEN THE 26TH, WHEN THE LETTER WAS  
21 SENT, AND THE 29TH, WHEN THE TAKEDOWN NOTICES WERE SENT.  
22 IS THAT A REASONABLE INTERPRETATION?

23 A. IT'S A BIG BATCH SO I MUST HAVE WORKED ON IT IN --  
24 IN THAT COUPLE DAYS.

25 Q. OKAY. BUT BY THE 29TH, YOU HAD LOOKED AT

1 LOVERNIKE.COM AND CONCLUDED IT DID NOT ACTUALLY RESULT  
2 IN A WEBSITE?

3 A. THAT IS CORRECT.

4 Q. CAN WE PULL UP EXHIBIT 616 AND SCROLL TO PAGE 14.  
5 SCROLL DOWN.

6 DO YOU SEE THE HIGHLIGHTED ENTRIES,  
7 PARTICULARLY THE FIRST ONE ON 11/30? CAN YOU READ TO US  
8 THE ENTRY BESIDE THE 133131 TICKET NUMBER?

9 A. 133131?

10 Q. CORRECT.

11 A. "133131, UNPLUGGED PER STEVE DUE TO COUNTERFEIT  
12 PRODUCT, THIRD COMPLAINT WWW.LOVERNIKE.COM,  
13 205.209.185.226."

14 Q. THAT DOMAIN NAME IS THE SAME DOMAIN NAME WE WERE  
15 JUST TALKING ABOUT; CORRECT?

16 A. THAT IS CORRECT.

17 Q. THAT SUGGESTS THAT THE WEBSITE WAS IN FACT  
18 FUNCTIONAL ON THE 30TH OF NOVEMBER; IS THAT NOT CORRECT?

19 A. IF IT'S AFTER THE UNPLUGGED, THEN IT WILL NOT BE  
20 FUNCTION.

21 Q. IN FACT, WHEN YOU SAY "WEBSITE NOT FUNCTIONAL," IT  
22 WAS ONLY NOT FUNCTIONAL BECAUSE YOU HAD IN FACT  
23 UNPLUGGED THE SERVER ON WHICH THE WEBSITE WAS FOUND?

24 A. MAY. THE RECORD IS JUST SHOWING AT THAT  
25 PARTICULAR TIME IT WAS NOT FUNCTION. WHETHER I DID



1 ANYTHING TO IT, I HAVE NO RECOLLECTION.

2 Q. WELL, DOESN'T THIS INDICATE THAT YOU UNPLUGGED IT  
3 BECAUSE LOVERNIKE.COM WAS ON THE SERVER AT THAT TIME?

4 A. RIGHT.

5 Q. THANK YOU.

6 YOU DON'T ACTUALLY UNPLUG SERVERS IF THE  
7 WEBSITE IS NOT THERE, DO YOU?

8 A. IF WEBSITE IS NOT THERE, THEN I DON'T NEED TO.

9 Q. NOW, HOW MANY -- THERE'S A LIST THAT WE HAVE,  
10 ABOUT THREE OR FOUR PAGES. YOU MAY WANT TO TURN -- I  
11 THINK YOU HAVE A BINDER WITH 1598 IN IT.

12 BUT THERE WERE SEVERAL TAKEDOWN NOTICES SENT  
13 ON THE 29TH IN RESPONSE TO THE NOVEMBER 26TH LETTER; IS  
14 THAT NOT CORRECT?

15 A. COULD YOU REPEAT A QUESTION?

16 Q. IF YOU LOOK AT PAGES -- FROM THE BOTTOM OF PAGE 1  
17 UNTIL PAGE 5, YOU WILL SEE A LIST OF DOMAIN NAMES THAT  
18 WERE THE SUBJECT OF THE NOVEMBER 26TH LETTER. DO YOU  
19 SEE THAT?

20 A. YES.

21 Q. AND YOU WILL SEE THAT SEVERAL OF THEM WERE THE  
22 SUBJECT OF TAKEDOWN NOTICES SENT ON NOVEMBER 29TH. DO  
23 YOU SEE THAT?

24 A. THAT'S CORRECT.

25 Q. HOW MANY OF THOSE WERE SENT TO THE SAME CUSTOMER?

1 A. I HAVE NO RECOLLECTION.

2 Q. ALL RIGHT. MAYBE WE CAN HELP YOU WITH THAT.

3 LET'S PULL UP EXHIBIT 550. IF YOU COULD  
4 SCROLL JUST TO THE HEADER. OOPS.

5 YOU SEE THAT THAT IS SENT TO ZHONGHH; CORRECT?

6 A. YES.

7 Q. AND I THINK YOU TESTIFIED FRIDAY THAT ZHONGHH IS  
8 ALICE CHEN'S ACCOUNT; IS THAT CORRECT?

9 A. YES.

10 Q. AND IT SAYS THAT YOU'VE RECEIVED A COMPLAINT  
11 REGARDING SERVER 204.16.193.107 MAIN IP 204.13.69.210.  
12 YOU SEE THAT?

13 A. YES.

14 Q. AND IT'S REGARDING THE WEBSITE BAG4SELL.COM?

15 A. THAT'S CORRECT.

16 Q. SO THAT'S ONE THAT WAS SENT TO MS. CHEN.

17 LET'S TURN TO EXHIBIT 554, AND LET'S EXPAND  
18 THE HEADER ON THIS ONE.

19 THAT'S ALSO SENT TO ZHONGHH; CORRECT?

20 A. THAT'S CORRECT.

21 Q. AND THAT'S THE SAME DAY?

22 A. YES.

23 Q. AND IT'S SENT CONCERNING MAIN IP -- THIS IS A  
24 SLIGHTLY DIFFERENT MAIN IP; IT'S 205.209.136.90?

25 A. THAT'S CORRECT.

1 Q. SO IT'S TWO THAT WERE SENT ON THE SAME DAY TO  
2 MS. CHEN.

3 LET'S TURN TO EXHIBIT 555.

4 NOW, ON FRIDAY I THINK YOU SAID CHENDAN IS  
5 ALSO MS. CHEN; IS THAT CORRECT?

6 A. YES.

7 Q. SO THAT'S THREE NOTICES THAT WERE SENT ON  
8 NOVEMBER 29TH TO MS. CHEN; CORRECT?

9 A. YES.

10 Q. THAT'S CONCERNING DREAMYSHOES; CORRECT?

11 A. CORRECT.

12 Q. LET'S TURN TO 557.

13 THIS ONE WAS SENT TO ZHONGHH AS WELL?

14 A. YES.

15 Q. MS. CHEN?

16 A. YES.

17 Q. ON NOVEMBER 29TH; CORRECT?

18 A. YES.

19 Q. LET'S TURN TO EXHIBIT 559.

20 THIS ONE IS BEING SENT TO ZHONGHH AS WELL, SO  
21 THAT'S MS. CHEN ON NOVEMBER 29TH AS WELL; IS THAT  
22 CORRECT?

23 A. YES.

24 Q. AND LET'S TURN TO 560.

25 THAT'S TO CHENDAN, MS. CHEN, AGAIN?

1 A. YES.

2 Q. AND THAT'S NOVEMBER 29TH, 2007.

3 AND LET'S TURN TO EXHIBIT 562.

4 THAT'S ZHONGHH; THAT'S MS. CHEN, AGAIN?

5 A. YES.

6 Q. DIFFERENT WEBSITE; CORRECT?

7 A. YES.

8 Q. AND THAT'S THE SAME DAY?

9 A. YES.

10 Q. LET'S TURN TO 564.

11 MS. CHEN AGAIN ON THE SAME DAY CONCERNING YET  
12 ANOTHER WEBSITE, CORRECT?

13 A. YES.

14 Q. LET'S TURN TO 582.

15 ZHONGHH AGAIN, NOVEMBER 29TH, 2007, CONCERNING  
16 PRO-JORDAN?

17 A. YES.

18 Q. SO I HAVE GOT NINE NOTICES SENT TO ONE CUSTOMER  
19 CONCERNING NINE DIFFERENT WEBSITES ON SEVERAL DIFFERENT  
20 EXTRA IP NUMBERS?

21 A. YES.

22 Q. WOULD IT SURPRISE YOU TO KNOW THAT YOU SENT NINE  
23 NOTICES TO ANOTHER ONE OF YOUR CUSTOMERS THAT SAME DAY  
24 CONCERNING NINE DIFFERENT WEBSITES ON NINE DIFFERENT  
25 EXTRA IP'S CONTROLLED BY THEM?

1 A. NO.

2 Q. DID YOU TAKE ANY ACTION CONCERNING THIS EXTENSIVE  
3 INFRINGEMENT OCCURRING ON MS. CHEN'S SERVERS ALL AT ONE  
4 TIME, OTHER THAN SENDING THE NOTICES THAT ARE DESCRIBED  
5 HERE?

6 A. WE HOLD THE SAME PRINCIPLE. IF THEY DON'T  
7 RESPOND, WE DO WHAT WE NEED TO DO; IF THEY RESPOND IN  
8 ANY WAY OF RESOLVING THE ISSUE, WE VERIFY THAT. THAT'S  
9 WHAT WE CAN DO.

10 Q. SO THE ANSWER IS "NO"? YOU ASSUME THAT SHE  
11 RESPONDED, AND THAT WAS THE END OF THE MATTER?

12 A. WE DON'T ASSUME. WE VERIFY IT.

13 Q. OKAY. SO WHAT DID YOU DO TO VERIFY THAT THESE  
14 WEBSITES WERE IN FACT DEALT WITH AS PROPOSED IN THE  
15 VARIOUS EXHIBITS WE HAVE JUST LOOKED AT?

16 A. LOOKING AT NOVEMBER BATCH, THAT'S THE FIRST TIME  
17 IN MY LIFE, IN MY HOSTING BUSINESS LIFE, THAT I EVER  
18 RECEIVED A BIG BATCH OF COMPLAINTS AND DOMAINS ALL AT  
19 THE SAME TIME. SO FOR THIS PARTICULAR BATCH WILL COME  
20 OUT THE INFORMATION THAT I DO HAVE EVERYTHING THAT I  
21 SENT OUT, AND SO I DID NOT TAKE LIKE THE SECOND BATCH,  
22 THEN I START DOCUMENTING WHAT I DID EXACTLY FOR  
23 FOLLOW-UP.

24 SO THE FIRST BATCH I HAVE NO RECOLLECTION, BUT  
25 AT LEAST THIS SHOWS IF I SENT OUT THIS DOCUMENTS, IT'S A

1 SUMMARY OF ALL THE E-MAILS THAT I SENT OUT.

2 Q. MR. CHEN, I -- MAYBE I WAS NOT CLEAR ON MY  
3 QUESTION. DID YOU FINE MS. CHEN BECAUSE OF THIS  
4 EXTENSIVE INFRINGEMENT THAT WAS IDENTIFIED ON HER SERVER  
5 ON NOVEMBER 27TH?

6 A. IF I VERIFY --

7 Q. MR. CHEN, DID YOU FINE -- DID YOU IMPOSE ANY KIND  
8 OF MONEY PENALTY ON MS. CHEN FOR THE VARIOUS  
9 INFRINGEMENTS THAT WERE ON HER SERVER AT THE END OF  
10 NOVEMBER 2007?

11 A. NO.

12 Q. DID YOU SUSPEND MS. CHEN -- I MEAN THE CUSTOMER,  
13 MS. CHEN -- AS A RESULT OF THE VARIOUS INFRINGEMENTS  
14 IDENTIFIED ON HER SERVER AT THE END OF NOVEMBER, 2007?

15 A. NO.

16 Q. DID YOU TERMINATE HER?

17 A. NO.

18 Q. OF COURSE NOT.

19 THE COURT: DON'T -- YOUR COMMENT IS  
20 ARGUMENTATIVE.

21 MR. COOMBS: I'M SORRY.

22 BY MR. COOMBS:

23 Q. LET'S GO BACK TO EXHIBIT 554.

24 THIS IS ONE OF THE E-MAILS WE WERE JUST  
25 LOOKING AT, AND IT'S BUYSYSHOES.NET WHICH IS LOCATED ON

1 IP 205.209.136.90, MAIN IP 205.209.136.90. SO THEY ARE  
2 THE SAME IP NUMBER, ACTUALLY, AREN'T THEY?

3 A. YES.

4 Q. AND THIS IS THAT EXTRA MAIN ISSUE WE WERE TALKING  
5 ABOUT A LITTLE EARLIER?

6 A. NO, THIS IS JUST ONE IP. THIS IS ON THEIR MAIN  
7 IP.

8 Q. AND IF WE GO BACK TO 1598, ON THE TOP OF PAGE 2  
9 YOU WILL SEE THE FIRST ENTRY IS BUYSYSHOES.NET AND IT  
10 INDICATES A TAKEDOWN NOTICE SENT ON NOVEMBER 29TH, 2007.  
11 DO YOU SEE THAT?

12 A. YES.

13 Q. AND THE TAKEDOWN NOTICE REFERRED TO THERE IS THE  
14 E-MAIL THAT WE WERE JUST LOOKING AT; IS THAT NOT  
15 CORRECT?

16 A. THAT'S CORRECT.

17 Q. LET'S LOOK AT EXHIBIT 564.

18 NOW, THAT IS ALSO HOSTED ON THE SAME MAIN IP;  
19 IS THAT CORRECT?

20 A. YES.

21 Q. WHEN YOU SAY IN THE NEXT LINE "DIFFERENT IP," ARE  
22 YOU TALKING ABOUT THE "EXTRA IP" OR THE "MAIN IP"? IF  
23 YOU LOOK NEXT TO -- ON THE LINE CONCERNING  
24 BUYSYSHOES.NET, IT SAYS, YOU KNOW, "1/3/08, DIFFERENT IP  
25 NOTICE SENT" -- "TAKEDOWN NOTICE SENT 1/14/08." DO YOU

1 SEE THAT.

2 A. WE ONLY CHECK THE --

3 Q. I'M JUST ASKING YOU IF YOU SEE THE ENTRY I'M  
4 REFERRING TO.

5 A. WHAT DO YOU WANT ME TO LOOK AT?

6 THE COURT: THE CURSOR IS NOT IN THE RIGHT  
7 COLUMN. IT'S THE NEXT -- THAT COLUMN.

8 BY MR. COOMBS:

9 Q. DO YOU SEE WHERE IT SAYS "1/3/08, DIFFERENT IP"?

10 A. YES.

11 Q. IS THE DIFFERENT IP THERE A DIFFERENT EXTRA IP OR  
12 A DIFFERENT MAIN IP?

13 A. DIFFERENT IP FOR THE DOMAIN ITSELF.

14 Q. SO THE MAIN IP, IN FACT, COULD BE THE SAME?

15 A. I DON'T KNOW.

16 Q. YOU DON'T KNOW -- BECAUSE YOU ARE REALLY ONLY  
17 LOOKING AT THE EXTRA IP?

18 A. YES.

19 Q. NOW, LET'S PULL UP EXHIBIT 557 THAT WE WERE  
20 LOOKING AT A MOMENT AGO.

21 THIS IS ONE OF THE NOTICES TO MS. CHEN ON  
22 NOVEMBER 29TH; CORRECT?

23 A. YES.

24 Q. AND IT'S THE MAIN IP ENDING IN DOT NINE ZERO.

25 LET'S LOOK AT EXHIBIT 549. LET'S ENLARGE THE



1 FIRST PART OF THIS E-MAIL.

2 THIS IS ALSO SENT TO MS. CHEN; CORRECT?

3 A. YES.

4 Q. AND IT CONCERNS THE SAME DOMAIN NAME,  
5 GUCCIFENDI.COM?

6 A. YES.

7 Q. AND THIS IS INDICATING THAT IF THEY DON'T DEAL  
8 WITH IT, YOU WILL DISABLE THE SERVER WITHIN 15 MINUTES;  
9 CORRECT?

10 A. THAT'S CORRECT.

11 Q. AND THIS IS BECAUSE SHE SIMPLY MOVED IT FROM ONE  
12 OF HER MAIN IP'S TO A DIFFERENT ONE?

13 A. YES.

14 Q. NOW, ONE OF THE ISSUES WE WERE TALKING ABOUT WAS  
15 THE NOTICE DATE OF 1/3/08, WHICH IS INDICATED BESIDE  
16 MANY OF THE ENTRIES FOR 11/26. DO YOU SEE THAT?

17 A. (NO AUDIBLE RESPONSE.)

18 Q. WELL, JUST LOOK AT -- I WILL PULL UP 1598,  
19 BUYSYSHOES. AGAIN, IF YOU MOVE OVER TO THE FOURTH  
20 COLUMN, IT SAYS "1/3/08." IT'S A NOTICE DATE; CORRECT?

21 A. YES.

22 Q. AND WE WERE TALKING A LITTLE BIT ABOUT WHAT KIND  
23 OF NOTICE, IF ANY, THAT WAS. AND I WANTED TO HAVE YOU  
24 TAKE A LOOK AT 628, WHICH IS A PORTION OF THE SECOND  
25 REQUEST FOR PRODUCTION OF DOCUMENTS PROPOUNDED TO AKANOC

1 SOLUTIONS, INC. DO YOU SEE THAT, MR. CHEN?

2 A. YES.

3 Q. LET ME TURN TO THE FOURTH AND FINAL PAGE OF THAT  
4 DOCUMENT, WHICH IS A PROOF OF SERVICE, AND ASK YOU IF  
5 THE DATE ON THE PROOF OF SERVICE IS THE DATE OF THAT  
6 NOTICE THAT YOU WERE TALKING ABOUT.

7 LOOK TOWARDS THE BOTTOM. IT SAYS "EXECUTED  
8 ON" AND HAS A DATE. DO YOU SEE THAT?

9 A. JANUARY 3RD, 2008.

10 Q. AND THAT'S THE DATE THAT WE WERE JUST TALKING  
11 ABOUT ON 1598; CORRECT?

12 A. YES.

13 Q. DO YOU HAVE ANY QUESTION IN YOUR MIND THAT THE  
14 DOMAIN NAMES LISTED AS BEING SUBJECT OF A NOTICE ON  
15 1/3/08 WERE THE DOMAIN NAMES LISTED IN THE REQUEST FOR  
16 PRODUCTION OF DOCUMENTS?

17 A. I DON'T RECALL.

18 Q. ALL RIGHT.

19 LET'S JUST PULL UP THE FIRST PART OF EXHIBIT A  
20 AND JUST TAKE A MOMENT TO LOOK AT THE FIRST COUPLE OF  
21 NAMES.

22 THE COURT: YOU NEED TO ZOOM IN ON THAT AND  
23 USE THE AUTOFOCUS.

24 MR. COOMBS: WE DON'T NEED TOO MANY OF THESE  
25 NAMES, I DON'T THINK.

1 IS THAT ADEQUATELY FOCUSED, YOUR HONOR?

2 THE COURT: YES.

3 BY MR. COOMBS:

4 Q. ALL RIGHT. THE FIRST DOMAIN NAME ON THAT LIST IS  
5 315EC.COM. DO YOU SEE THAT?

6 A. YES.

7 Q. NOW, LET'S GO BACK TO EXHIBIT 1598, AND ON THE  
8 FIRST PAGE ABOUT HALFWAY DOWN IS 315EC.COM, ONE OF THE  
9 DOMAIN NAMES THAT WAS THE SUBJECT OF A NOTICE ON 1/3/08,  
10 ACCORDING TO THIS CHART?

11 A. YES.

12 Q. LET'S LOOK AT THE SECOND ONE -- AND I WILL ONLY DO  
13 A COUPLE OF THESE BECAUSE I THINK IT WILL HOPEFULLY BE  
14 SUFFICIENT.

15 THE SECOND ONE IS APE168.COM; IS THAT CORRECT?

16 A. (NO AUDIBLE RESPONSE.)

17 Q. I'M SORRY?

18 A. YES.

19 Q. YOUR EYES ARE FASTER THAN MINE.

20 ALL RIGHT. THEN GOING BACK TO 1598, ACCORDING  
21 TO THE CHART, THE APE168.COM WAS ALSO THE SUBJECT OF A  
22 NOTICE ON JANUARY 3RD, 2008; IS THAT CORRECT?

23 A. YES.

24 Q. THANK YOU.

25 NOW, IF WE CONTINUE ON, WE HAVE -- ON PAGE 5

1 OF 1598, WE HAVE SOME DOMAINS WHICH ARE -- WE HAVE SOME  
2 DOMAINS THAT WERE FIRST THE SUBJECT OF NOTICE IN THE  
3 REQUEST FOR PRODUCTION, ACCORDING TO THIS; IS THAT  
4 CORRECT?

5 THE COURT: I'M NOT SURE I UNDERSTAND YOUR  
6 QUESTION.

7 MR. COOMBS: I'M SORRY. I WILL MOVE ON, YOUR  
8 HONOR.

9 BY MR. COOMBS:

10 Q. PULL UP EXHIBIT 13.

11 AND IS THIS THE NOTICE THAT WAS SENT ON  
12 MARCH 3, 2008?

13 A. YES.

14 Q. LET'S GO TO EXHIBIT 482.

15 AND IS THIS THE NOTICE THAT WAS SENT ON  
16 APRIL 7, 2008, SUMMARIZED IN YOUR 1598 CHART?

17 A. YES.

18 Q. AND THE WEBSITE REFERRED TO THERE IS ESHOES99.NET;  
19 CORRECT?

20 A. YES.

21 Q. AND ESHOES99.NET IS NOT THE SAME AS ESHOES99.COM;  
22 CORRECT?

23 A. THAT'S CORRECT.

24 Q. LET'S PULL UP EXHIBIT 483.

25 AND IS THAT THE NOTICE THAT IS SUMMARIZED

1 UNDER THE DATE JUNE 20, 2008 IN YOUR 1598 EXHIBIT?

2 A. YES.

3 Q. LET'S PULL UP EXHIBIT 485.

4 IS THAT THE NOTICE SUMMARIZED UNDER THE DATE  
5 JUNE 24, 2008?

6 A. YES.

7 Q. AND LET'S PULL UP EXHIBIT 488.

8 AND IS THAT THE EXHIBIT SUMMARIZED UNDER THE  
9 DATE JULY 25, 2008?

10 A. YES.

11 Q. AND I THINK, WHEN YOU TESTIFIED ON FRIDAY, YOU  
12 SAID THAT YOU JUST IMMEDIATELY DISABLED MANY OF THE --  
13 IF NOT ALL OF THE DOMAIN NAMES THAT WERE LISTED IN THAT  
14 LETTER BECAUSE THEY APPEARED TO BE ALL ON THE SAME IP  
15 AND COULD NOT REALLY BE FUNCTIONING WEBSITES; IS THAT  
16 CORRECT?

17 A. IT'S A LONG STATEMENT.

18 Q. ALL RIGHT. LET ME BREAK IT DOWN. I'M SORRY.

19 ACTUALLY, LET'S GO BACK TO 1598, PAGE 9.

20 NOW, IS IT CORRECT TO SAY THAT WITH RESPECT TO  
21 THE DOMAIN NAMES THAT ARE IDENTIFIED IN THE JULY 25  
22 LETTER, THE RESPONSE INDICATED ON YOUR CHART IS "IP  
23 ADDRESS DISABLED ON 7/30/2008"?

24 A. YES.

25 Q. THERE WAS NO NOTICE SENT TO THE CUSTOMER IN THAT

1 CASE?

2 A. NO.

3 Q. WHY NOT?

4 A. TOO MUCH WORK. JUST WAY TOO MUCH WORK.

5 Q. SO IT'S NOT BECAUSE IT WOULD BE DIFFICULT TO HAVE  
6 A HUNDRED WEBSITES HOSTED ON ONE IP ADDRESS?

7 A. TECHNICALLY, I JUST DON'T SEE THAT'S ANY GOOD FOR  
8 THE SERVER TO PERFORM.

9 Q. SO IT WOULD BE POOR PERFORMING WEBSITES IF THERE  
10 WERE THAT MANY AT ONE IP ADDRESS?

11 A. MAYBE. NEVER TRIED IT.

12 Q. NOW, LET'S GO BACK TO 488 FOR A MOMENT, AND GO  
13 DOWN TO THE NEXT PAGE.

14 AND YOU WILL SEE THAT MANY -- AFTER THE  
15 FIRST -- WELL, MANY OF THE ONES THAT START ON THIS  
16 PAGE -- ACTUALLY, ALL OF THEM -- ARE AT THE SAME IP  
17 ADDRESS, 204.13.65.49; IS THAT CORRECT?

18 A. YEAH, I THINK I DISABLED THAT ONE, TOO.

19 Q. WHO OWNED THAT IP ADDRESS? WHO WAS THE CUSTOMER?

20 A. I HAVE NO RECOLLECTION.

21 Q. IS THERE ANY WAY YOU COULD GO BACK AND FIND OUT  
22 NOW?

23 A. SURE.

24 Q. HOW?

25 A. BY E-MAIL.

1 Q. WHAT E-MAIL?

2 A. THAT E-MAIL THAT I SENT TO THE CUSTOMER I DISABLED  
3 THIS IP BECAUSE POOR PLANNING. OR I CAN GO TO MY  
4 SUPPORT DEPARTMENT, BECAUSE IF I DISABLE THE IP, THE  
5 SUPPORT DEPARTMENT MUST HAVE SOME SORT OF RECORD THERE.

6 Q. LET'S PULL UP EXHIBIT 489, AND I'LL ASK YOU IF  
7 THAT IS THE NOTICE SENT SEPTEMBER 19, 2008 THAT IS  
8 SUMMARIZED ON PAGE 19 OF 1598?

9 A. YES.

10 Q. NOW, THE ONLY ADDITIONAL DEMANDS INDICATED IN YOUR  
11 SUMMARY ARE THE ONES SENT IN JANUARY OF 2009 AND  
12 FEBRUARY OF 2009; IS THAT CORRECT?

13 A. CAN YOU REPHRASE THAT?

14 Q. LET'S PULL UP EXHIBIT 1598 AGAIN, AND TURN TO  
15 PAGE 19.

16 OKAY. THE LAST DEMANDS THAT WERE RECEIVED  
17 BEFORE TODAY FROM LOUIS VUITTON, AT LEAST AS SUMMARIZED  
18 ON 1598, ARE JANUARY 30TH, 2009 AND FEBRUARY 4TH, 2009;  
19 IS THAT CORRECT?

20 A. I DON'T RECALL THAT PARTICULAR DATE AND INCIDENCE,  
21 BUT I ASSUME THAT THE RECORD IS SHOWING JANUARY 30TH AND  
22 FEBRUARY 4.

23 Q. AND IN RESPONSE TO THOSE DEMANDS, IT APPEARS AS  
24 THOUGH TAKEDOWN NOTICES WERE SENT ON OR ABOUT THE 2ND OF  
25 FEBRUARY; IS THAT CORRECT?

1 A. YES.

2 Q. LET'S PUT UP EXHIBIT 608, TURNING TO THE SECOND  
3 PAGE.

4 I'M SORRY. BEFORE YOU DO THAT, GO BACK.

5 THIS IS A LETTER FROM YOUR ATTORNEYS IN THIS  
6 ACTION; IS THAT CORRECT?

7 A. YES.

8 Q. ADDRESSED TO ME?

9 THE COURT: WE CAN SEE THAT. GO AHEAD. ASK  
10 YOUR QUESTION.

11 BY MR. COOMBS:

12 Q. ALL RIGHT. TURN TO PAGE 2 OF THE EXHIBIT, PLEASE,  
13 AND CONTINUE DOWN. IT SAYS: "AS OF

14 FEBRUARY 9, 2009, OUR CLIENTS  
15 HAVE NOT BEEN ABLE TO IDENTIFY  
16 ANY OF THESE WEBSITES USING AN  
17 IP ADDRESS ASSIGNED TO MANAGED  
18 SOLUTIONS GROUP, INC., OR  
19 AKANOC SOLUTIONS, INC. THESE  
20 WEBSITES ARE EITHER INACCESSIBLE  
21 OR APPEAR TO BE USING IP  
22 ADDRESSES THAT ARE ASSIGNED TO  
23 OTHER UNKNOWN PARTIES. YOUR  
24 FEBRUARY 4, 2009 LETTER LISTED  
25 73 WEBSITES, ALL OF WHICH WERE



1 ALSO LISTED IN THE JANUARY 30,  
2 2009 LETTER. AS OF FEBRUARY 9,  
3 ALL 73 WEBSITES ARE EITHER  
4 INACCESSIBLE OR APPEAR TO BE  
5 USING IP ADDRESSES THAT ARE  
6 ASSIGNED TO OTHER UNKNOWN  
7 PARTIES."

8 SO THESE SITES WERE IN FACT ON SERVERS BEFORE  
9 FEBRUARY 9; IS THAT NOT CORRECT?

10 A. MAY. YES.

11 Q. YES.

12 LET'S TURN TO EXHIBIT 592. WE WILL ROTATE  
13 THAT AND ZOOM IN A LITTLE BIT.

14 LET'S START WITH THE ROW THREE LINES ABOVE THE  
15 HIGHLIGHTED ONE. IT SAYS, "REMOVED 204.13.65.49 FROM  
16 205.209.143.107 HOSTING 100 COUNTERFEIT PRODUCT SITES."  
17 DO YOU SEE THAT?

18 A. YES.

19 Q. IS THAT THE ACTION TAKEN IN RESPONSE TO THE  
20 JULY 25 LETTER THAT WE WERE TALKING ABOUT EARLIER THIS  
21 MORNING?

22 A. I DON'T EXACTLY RECALL -- REMEMBER THE DATE AS  
23 THAT DATE, BUT YES, THAT'S ONE PARTICULAR WEBSITE -- NO  
24 ONE PARTICULAR IP THAT HAS HUNDRED WEBSITES ON IT ON THE  
25 COMPLAINT. I DIDN'T EVEN CHECK WHETHER THEY ARE LIVE,

1 GOOD, ANYTHING; I JUST DISABLE IP.

2 Q. ALL RIGHT. BUT THAT ACTION -- THIS IS AN ENTRY IN  
3 THE CPRO LOG MAINTAINED BY THE DEFENDANTS; CORRECT?

4 A. YES.

5 Q. AND THAT ACTION THAT WE WERE JUST LOOKING AT IS  
6 THE ACTION TAKEN IN RESPONSE TO THE JULY 25 LETTER, GIVE  
7 OR TAKE A DAY OR TWO?

8 A. YES.

9 Q. ALL RIGHT. NOW LOOKING DOWN FIVE ROWS FROM THE  
10 HIGHLIGHTED SECTION, IT SAYS, "REMOVE 205.209.177.131  
11 FROM 205.209.143.107 DUE TO LV COMPLAINTS HOSTING 45  
12 COUNTERFEITERS." DO YOU SEE THAT?

13 A. YES.

14 Q. AND THAT INDICATES THAT ON OR ABOUT FEBRUARY 2ND,  
15 45 WEBSITES ON THAT IP WERE REMOVED FROM -- THAT IP WAS  
16 REMOVED BECAUSE OF 45 COUNTERFEIT WEBSITE COMPLAINTS?

17 A. YES.

18 Q. AND IS THE PRIMARY IP -- I'M SORRY, THE MAIN IP  
19 FOR BOTH ENTRIES, ISN'T THAT THE SAME? ISN'T THAT  
20 CORRECT?

21 A. YES.

22 Q. THAT WOULD INDICATE IT'S THE SAME CUSTOMER;  
23 CORRECT?

24 A. YES.

25 Q. AND DO YOU, AS YOU SIT HERE TODAY, REMEMBER

1 WHETHER ANY OF THE WEBSITES THAT WERE THE SUBJECT OF THE  
2 7/25 TAKEDOWN WERE THE SAME AS THE SUBJECT OF THE  
3 FEBRUARY 2 TAKEDOWN?

4 A. (NO AUDIBLE RESPONSE.)

5 Q. THERE WERE A HUNDRED WEBSITES THAT WERE TAKEN DOWN  
6 FROM THAT IP IN LATE JULY; CORRECT?

7 A. YES.

8 Q. DO YOU KNOW WHETHER ANY OF THE ONES TAKEN DOWN IN  
9 EARLY FEBRUARY WERE THE SAME WEBSITES?

10 A. WHEN I LOOK AT THAT LIST, I DON'T EVEN WANT TO  
11 LOOK AT THE DETAILS. IT'S WAY TOO MUCH WORK TO VERIFY  
12 EACH INDIVIDUAL ONE.

13 Q. ALL RIGHT. LET'S PULL UP EXHIBIT 1598 AGAIN, AND  
14 GO TO PAGE 9.

15 IF WE SCROLL DOWN A LITTLE BIT TO -- FOR  
16 EXAMPLE, ALIJORDAN.COM, DO YOU SEE THAT, A LITTLE OVER  
17 HALF?

18 A. YES.

19 Q. AND IT'S ONE OF THE WEBSITES THAT WAS HOSTED ON  
20 THAT IP ADDRESS THAT WAS TAKEN DOWN ON JULY 25; CORRECT?

21 A. YES.

22 Q. AND THEN IT SAYS HERE IT WAS THE SUBJECT OF  
23 ANOTHER NOTICE ON JANUARY 30TH, 2009. DO YOU SEE THAT?

24 A. YES.

25 Q. OKAY. AND IT INDICATES THAT THE ADDRESS WAS

1 DISABLED ON FEBRUARY 2, 2009?

2 A. YES.

3 Q. SO IT WAS THE SAME WEBSITE IDENTIFIED IN EACH OF  
4 THOSE SUBSEQUENT NOTIFICATIONS; CORRECT?

5 A. THAT WAS WHEN I HAVE TWO SEPARATE COMPLAINTS.  
6 THIS IS AFTER WE COMPILE EVERYTHING TO SEE THE HISTORY  
7 OF A PARTICULAR DOMAIN. SO WHEN YOU DEALING WITH TWO  
8 DIFFERENT COMPLAINTS WHERE I LOOK AT ONE IP HAS 40-SOME,  
9 I WOULD NOT EVEN CHECK WHICH DOMAIN IS ON THE IP; I JUST  
10 DISABLED IT.

11 Q. BUT IT'S TRUE THAT IN TERMS OF JUST ALIJORDAN.COM,  
12 WE ARE TALKING ABOUT THE SAME WEBSITE; CORRECT?

13 A. YES.

14 Q. WE ARE TALKING ABOUT THE SAME MAIN IP NUMBER;  
15 CORRECT?

16 A. YES.

17 Q. WE ARE TALKING ABOUT THE SAME CUSTOMER; CORRECT?

18 A. SAME IP NUMBER.

19 Q. SAME MAIN IP ADDRESS?

20 A. I DON'T KNOW.

21 Q. WELL --

22 A. AT THE TIME WHEN IT HAPPENS, I HAVE NO WAY OF  
23 REMEMBER SOMETHING LIKE FIVE, SIX MONTHS AGO. HOW CAN I  
24 REMEMBER? WHEN I DEAL WITH THIS TYPE OF ISSUE, LIKE,  
25 IT'S A DAILY HAPPENING.

1 Q. SO HOW CAN YOU ESCALATE THE REMEDIES FOR  
2 VIOLATION -- STRIKE THAT.

3 ON FRIDAY YOU SAID THAT, YOU KNOW, YOU CAN  
4 WARN THE CUSTOMER, YOU CAN SUSPEND THE CUSTOMER, YOUR  
5 TERMS OF USE; REMEMBER THAT? WE HAD A DISCUSSION ABOUT  
6 A NUMBER OF DIFFERENT THINGS THAT YOUR CONTRACT ALLOWS  
7 FOR; CORRECT?

8 A. YES.

9 Q. AND DO YOU ESCALATE AT ALL? DO YOU EVER DO  
10 ANYTHING MORE THAN EITHER WARN THE CUSTOMER OR DISABLE  
11 THE IP WHICH IS THE SUBJECT OF THE COMPLAINT?

12 A. IF A CUSTOMER -- WHEN WE FORWARD THE COMPLAINT ON  
13 A PARTICULAR IP AND LATER HE MOVE THAT DOMAIN TO A  
14 DIFFERENT IP WITHIN THE SAME SERVER WITHIN JUST A  
15 FOLLOW-UP PERIOD, WE -- RIGHT AWAY WE ESCALATE THAT BY  
16 TURNING -- BY UNPLUG THE WHOLE SERVER. IT'S PROVEN.  
17 IT'S A STANDARD PROCEDURE.

18 Q. BUT THAT FOLLOW-UP PERIOD IS THAT VERY SHORT  
19 PERIOD OF TIME YOU TESTIFIED TO DURING YOUR DEPOSITION,  
20 A MATTER OF A FEW DAYS; CORRECT?

21 A. IF WE TELL THE CUSTOMER TO --

22 Q. MR. CHEN, YOU USED THE PHRASE "FOLLOW-UP PERIOD."  
23 WHAT IS THAT FOLLOW-UP PERIOD?

24 A. TO RESOLVE THE FIRST PROBLEM, THE FIRST COMPLAINT.

25 THE COURT: I THINK YOU MEAN TO ASK HOW LONG

1 IS THE FOLLOW-UP PERIOD.

2 BY MR. COOMBS:

3 Q. HOW LONG IS THAT FOLLOW-UP PERIOD?

4 MR. COOMBS: YES. THANK YOU.

5 THE WITNESS: WE DON'T CARE HOW LONG. WE  
6 CARE. IF THE FIRST COMPLAINT HAS NOT BEEN CLOSED, THEN  
7 WE WOULD CHASE THAT. WE WANT TO CHASE THE RESULT OF THE  
8 FIRST COMPLAINT. IF THE FIRST COMPLAINT COME BACK  
9 WITHOUT ANY RESPONSE, THEN WE UNPLUG IT. WE WOULD  
10 DISABLE THE IP.

11 IF THE CUSTOMER RESPONDED, WE MOVE THE DOMAIN  
12 NAME, AND HENCE THIS PARTICULAR IP -- THIS PARTICULAR  
13 DOMAIN IS NOT FUNCTION ON THAT PARTICULAR IP ANYMORE.  
14 WE WOULD VERIFY THAT WHERE IS THE DOMAIN NOTES. THEN IF  
15 IT HAPPENS TO BE ON A DIFFERENT IP ON THE SAME SERVER,  
16 WE SEE THAT RECORD, WE UNPLUG THE WHOLE SERVER RIGHT  
17 AWAY.

18 BY MR. COOMBS:

19 Q. HOW LONG DOES IT STAY UNPLUGGED?

20 A. TIL THEY MOVE THE DOMAIN OUT OF THE NETWORK.

21 Q. SO THERE'S NO SUSPENSION BEYOND THE PERIOD THAT'S  
22 REQUIRED FOR THE CUSTOMER TO ENSURE THAT THE ACTIVITY IS  
23 MOVED?

24 A. WE DON'T EVEN KNOW WHEN WE UNPLUG ONE -- DISABLE  
25 ONE IP HOW MANY PEOPLE GOING TO BE AFFECTED, NOT TO

1 MENTION WE UNPLUG THE WHOLE SERVER.

2 Q. WE WERE TALKING A LITTLE EARLIER ABOUT DMC COUNTER  
3 NOTIFICATIONS, THE DMC AGENCY AND PROCEDURES. HAVE YOU  
4 EVER RECEIVED A COUNTER NOTIFICATION UNDER THE DMC ACT?

5 A. DON'T UNDERSTAND THAT TERM.

6 Q. OKAY. SO YOU HAVE NOT SEEN A SITUATION WHERE  
7 SOMEBODY HAS FILED A FORMAL RESPONSE TO A DMC NOTICE  
8 SENT TO ONE OF THE DEFENDANTS?

9 A. NO.

10 Q. AND ON FRIDAY YOU WERE TESTIFYING THAT YOU HAD HAD  
11 PHONE CALLS WITH DIFFERENT PEOPLE WHO WERE COMPLAINING  
12 ABOUT ACTIVITY THAT HAD IN FACT ALREADY BEEN REMOVED  
13 FROM YOUR SERVERS; REMEMBER THAT?

14 A. YES.

15 Q. HAD YOU EVER RECEIVED SUCH A CALL FROM LOUIS  
16 VUITTON OR ANYONE ACTING FOR LOUIS VUITTON?

17 A. NO.

18 MR. COOMBS: I HAVE NO FURTHER QUESTIONS, YOUR  
19 HONOR.

20 THE COURT: ANY REDIRECT?

21 MR. LOWE: YES, YOUR HONOR.

22 REDIRECT EXAMINATION

23 BY MR. LOWE:

24 Q. MR. CHEN, I WOULD LIKE TO START WITH YOUR LOOKING  
25 AT EXHIBIT 1598, PAGE 9, AND THE ALIJORDAN ENTRY THAT

1 MR. COOMBS WAS TALKING ABOUT.

2 A. PAGE 9?

3 Q. PAGE 9 OF 1598, YOUR SUMMARY.

4 A. YES.

5 Q. OKAY. YOU SEE THE LINE ABOUT ALIJORDAN HE WAS  
6 ASKING YOU ABOUT?

7 A. YES.

8 Q. OKAY. SO ACCORDING TO THIS, YOU GOT THE FIRST  
9 NOTICE ON JULY 25, '08, AND YOU DISABLED THE IP ADDRESS.  
10 IS THAT WHAT IT SAYS?

11 A. YES.

12 Q. NOW, YOU DID THIS APPARENTLY FOR ALIJORDAN THREE  
13 TIMES OVER THE COURSE OF A YEAR OR SO?

14 A. YES.

15 Q. THE SECOND TIME --

16 A. I THINK IT IS ONLY -- ACCORDING TO THIS RECORD,  
17 ONLY TWICE.

18 Q. OKAY. THE SECOND TIME, YOU GOT A NOTICE  
19 CONCERNING THIS WEBSITE ON JANUARY 30TH, '09; RIGHT?

20 A. YES.

21 Q. AND UNDER THAT DATE THERE'S A NOTATION. WHAT DOES  
22 THAT NOTATION MEAN?

23 A. DIFFERENT IP.

24 Q. WHAT DOES THAT MEAN?

25 A. DIFFERENT IP THAN THE FIRST NOTICE, THE JULY 25TH



1 NOTICE.

2 Q. OKAY. SO FOR THIS PARTICULAR ONE, THEY WERE ON  
3 DIFFERENT IP ADDRESSES; IT CAME BACK IN DIFFERENT  
4 PLACES?

5 A. YES, THAT'S CORRECT.

6 Q. YOU WERE ASKED A NUMBER OF QUESTIONS ABOUT  
7 WEBSITES THAT LOUIS VUITTON COMPLAINED ABOUT THAT WERE  
8 ON IP'S THAT WERE BEING USED BY ALICE CHEN. DO YOU  
9 RECALL THAT?

10 A. YES.

11 Q. WHAT SORT OF -- WHAT SIZE OF CUSTOMER IS SHE FOR  
12 THE DEFENDANT'S BUSINESS?

13 A. AS IN 2007 -- AROUND THAT TIME, 2007, EARLY 2008,  
14 I THINK SHE IS THE LARGEST OF OUR CUSTOMERS.

15 Q. AND HOW MANY SERVERS WOULD SHE BE LEASING FROM YOU  
16 AT THAT TIME?

17 A. AROUND A HUNDRED.

18 Q. AND THE FACT THAT YOU HAD A DOZEN COMPLAINTS ABOUT  
19 WEBSITES THAT WERE USING THESE HUNDRED SERVERS, WHAT  
20 DOES THAT MEAN TO YOU IN TERMS OF WHETHER SHE WAS A GOOD  
21 CUSTOMER OR A BAD CUSTOMER?

22 A. SO FAR, SHE PROBABLY HAS PROBABLY 30 OR 40 SERVERS  
23 WITH ME RIGHT NOW. I STILL CONSIDER SHE IS A GOOD  
24 CUSTOMER.

25 Q. WHY?

1 A. ALWAYS RESPOND TO ISSUES; ALWAYS RESPOND TO  
2 COMMUNICATIONS; PAY HER BILL.

3 Q. DO YOU HAVE ANY REASON TO BELIEVE THAT SHE IS  
4 TRYING TO HELP ANYBODY WITH A COUNTERFEIT WEBSITE?

5 A. I DON'T THINK SO.

6 Q. HAVE YOU TALKED TO HER ABOUT THIS SITUATION?

7 A. SHE IS LIKE --

8 THE COURT: WELL, I NEED TO BE CAREFUL HERE.  
9 THERE'S NO OBJECTION, BUT THIS MIGHT CALL FOR HEARSAY  
10 INFORMATION, SO -- I'M ALWAYS CONCERNED WHENEVER WE ARE  
11 NOW GOING TO QUOTE WHAT SOMEONE ELSE IS ABOUT TO SAY.  
12 BY MR. LOWE:

13 Q. MR. CHEN, I DON'T WANT YOU TO TELL ME ANYTHING SHE  
14 MAY HAVE TOLD YOU. I JUST WANT TO KNOW IF, IN RESOLVING  
15 SOME OF THESE ISSUES, YOU EVER PERSONALLY TALKED TO HER.

16 THE COURT: THAT WOULD REQUIRE A "YES" OR "NO"  
17 ANSWER.

18 THE WITNESS: E-MAIL COMMUNICATION?

19 BY MR. LOWE:

20 Q. JUST E-MAILS THAT YOU ARE DEALING WITH ON THESE?

21 A. YES.

22 Q. OKAY. DID YOU THINK THAT WAS SUFFICIENT?

23 A. YES.

24 Q. WHY?

25 A. SPECIFICALLY, WHEN I SAID, "MOVE THIS DOMAIN OUT,"

1 SHE RESPONDED. I SHOULDN'T SAY "SHE" RESPONDED, BUT I  
2 SHOULD SAY "HER COMPANY" RESPONDED.

3 Q. NOW, SHE WAS RUNNING OR LEASING, SAY, A HUNDRED  
4 SERVERS AROUND THAT TIME. HOW MANY DOMAIN -- I'M SORRY,  
5 HOW MANY IP ADDRESSES WOULD BE ASSOCIATED WITH THOSE  
6 SERVERS, GENERALLY, OR APPROXIMATELY?

7 A. A THOUSAND.

8 Q. OKAY. AND DO YOU HAVE ANY IDEA WHETHER SHE IS  
9 USING ALL OF THOSE HERSELF OR IS SHE RESELLING, AS FAR  
10 AS YOU UNDERSTAND?

11 A. A LOT OF RESELLINGS.

12 Q. NOW, MR. COOMBS ASKED YOU ABOUT -- LOOKS LIKE NINE  
13 COMPLAINTS DURING THIS PERIOD OF TIME CONCERNING  
14 SERVERS, THE HUNDRED SERVERS, AND A THOUSAND IP  
15 ADDRESSES USED BY ALICE CHEN.

16 A. YES.

17 Q. CONSIDERING THE AMOUNT OF THE QUANTITIES INVOLVED,  
18 DO YOU REGARD THE --

19 THE COURT: THAT IS GOING TO CALL FOR A "YES"  
20 OR "NO," SO PHRASE IT AS A DIRECT QUESTION.

21 BY MR. LOWE:

22 Q. CAN YOU TELL US WHETHER -- WHAT YOU WOULD CONSIDER  
23 AN EXTENSIVE INFRINGEMENT, SUCH AS MR. COOMBS WAS ASKING  
24 YOU ABOUT, IN LIGHT OF THE NUMBER OF SERVERS AND THE  
25 NUMBER OF IP ADDRESSES ALICE CHEN USED?

1 A. I CAN'T -- I DON'T REALLY KNOW MUCH OF MY CUSTOMER  
2 SO I CAN'T DEFINE THE SO-CALLED SERIOUSNESS OF THE  
3 OFFENSE.

4 Q. SO WHY DID YOU NOT FINE HER OR TERMINATE HER OR  
5 SUSPEND HER AS A CUSTOMER BECAUSE YOU GOT THESE NINE  
6 COMPLAINTS FROM LOUIS VUITTON SAYING THAT THERE WAS SOME  
7 INFRINGING ACTIVITY ON CERTAIN WEBSITES?

8 A. IF I REMEMBER CORRECTLY FROM THE DISCUSSION JUST  
9 NOW, THEY ONLY INVOLVE THREE SERVERS ON THE MAIN IP'S  
10 FOR THE NINE COMPLAINTS. AND SO I TERMINATE A CUSTOMER  
11 HAVING A HUNDRED SERVERS WITH US WHERE SHE RESELL  
12 EVERYTHING TO HER CUSTOMER? DOESN'T LOOK LIKE THAT'S A  
13 CORRECT BUSINESS PROPOSITION.

14 Q. NOW, YOU WERE ASKED FRIDAY AND MAYBE THIS MORNING  
15 ABOUT CERTAIN ADDITIONAL ACTIONS THAT YOU HAVE TAKEN  
16 THAT ARE NOT SHOWN ON EXHIBIT 1598. DO YOU RECALL THAT?

17 A. YES.

18 Q. ONCE AGAIN, WHERE DID YOU GET THE INFORMATION FOR  
19 THIS EXHIBIT 1598?

20 A. IT'S ALL THE E-MAIL THAT I PROVIDE, THE E-MAIL TO  
21 YOUR OFFICE. AND BASED ON THAT E-MAILS, WE COMPILE THIS  
22 SUMMARY REPORT.

23 Q. SO IS IT POSSIBLE THAT YOU TOOK ADDITIONAL ACTIONS  
24 BEYOND WHAT YOUR E-MAIL SHOWED?

25 A. YES.

1 Q. NOW, I WOULD LIKE TO GO BACK TO SOMETHING YOU WERE  
2 TESTIFYING ABOUT, I THINK ON FRIDAY.

3 COULD WE SEE EXHIBIT 99.2.

4 NOW, THIS APPEARS TO BE A DOMAIN TOOLS REPORT  
5 FOR EASTARBIZ.COM; IS THAT RIGHT?

6 A. YES.

7 Q. AND WHAT IS THIS -- ON THIS FIRST PAGE, WHAT DO  
8 YOU UNDERSTAND THIS IP HISTORY ADDRESS TO MEAN?

9 A. THAT MEANS THAT THE DOMAIN TOOLS SOMEHOW HAD A WAY  
10 TO TRACK WHERE THIS PARTICULAR DOMAIN HOSTED ON ANY  
11 PARTICULAR IP AT ANY PARTICULAR TIME.

12 Q. OKAY. IT HAS DATES AND IP ADDRESSES?

13 A. YES.

14 Q. YOU WERE ASKED -- ON EXHIBIT 1598, YOU WERE ASKED,  
15 I THINK ON FRIDAY, ABOUT THE NOTICE YOU RECEIVED ON  
16 NOVEMBER 26, '07, JANUARY 3RD, '08, AND MARCH 3RD, '08  
17 CONCERNING EASTARBIZ.COM.

18 COULD YOU LOOK DOWN AT THE DATES ON THE BOTTOM  
19 OF THIS -- GOING BACK TO 99.2, WOULD YOU LOOK AT THE  
20 BOTTOM IP ADDRESSES THERE SHOWING THE ADDRESSES BETWEEN  
21 OCTOBER 21, 2007 AND MARCH 9, '08. DO YOU SEE THOSE?

22 A. YES.

23 Q. WHAT DOES THAT SECOND COLUMN AFTER THE DATE  
24 INDICATE?

25 A. IT SAYS "NON-RESOLVABLE."

1 Q. WHAT DOES THAT MEAN TO YOU?

2 A. I DON'T REALLY KNOW WHAT DOES IT MEAN ON THIS  
3 PARTICULAR REPORT, BECAUSE I --

4 Q. WHAT DOES "NON-RESOLVABLE" MEAN TO YOU?

5 A. NON-RESOLVABLE MEANING THAT WHEN YOU ARE TYPING A  
6 DOMAIN NAME TO THE BROWSER, WHEN YOU ARE TYPING  
7 WWW.EASTARBIZ.COM, IT'S NOT COMING UP.

8 Q. IT DOESN'T COME UP. IT'S NOT OPERATING?

9 A. YES.

10 Q. SO ACCORDING TO THIS, DURING THOSE PERIODS OF  
11 TIME, IT WASN'T RESOLVABLE?

12 A. IT'S NOT RESOLVABLE. YES, THAT'S CORRECT.

13 Q. HOW ABOUT THE IP ADDRESSES THAT ARE LISTED IN  
14 THOSE LAST TWO ENTRIES FOR THIS?

15 A. AS I PREVIOUSLY EXPLAINED -- I MEAN, ALTHOUGH YOU  
16 HAVE AN IP ADDRESS, IT DOESN'T MEAN THAT THE WEBSITE IS  
17 ALWAYS FUNCTION. IT CAN BE TURN ON, TURN OFF, TURN ON,  
18 TURN OFF. BUT ON THE RECORD, YOU ALWAYS -- AS LONG AS  
19 THE MAIN SERVER HAS THAT REGISTERED, THAT IP ADDRESS, IT  
20 WILL SHOW, BUT THE SWITCH ON THE WEBSITE SERVER CAN BE  
21 TURNED ON AND OFF.

22 Q. SO I BELIEVE MR. COOMBS ASKED YOU IF YOU COULDN'T  
23 ASSUME THAT EASTARBIZ.COM WAS ON YOUR SERVERS DURING  
24 THAT ENTIRE PERIOD OF TIME. DO YOU RECALL THAT  
25 QUESTION?

1 A. YES.

2 Q. DOES THIS SUGGEST WHETHER OR NOT IT WAS IN FACT  
3 SOMETHING YOU COULD ASSUME, IF IT'S NOT RESOLVABLE?

4 A. I CAN'T ASSUME ANYTHING UNLESS I'M CHECKING ON THE  
5 WEBSITE EVERY TWO HOURS.

6 Q. NOW I WOULD LIKE TO GO TO EXHIBIT 69.3.

7 THIS IS WHAT; CAN YOU TELL ME?

8 A. ANOTHER IP HISTORY.

9 Q. FROM A DOMAIN TOOLS?

10 A. DOMAIN TOOLS.

11 Q. AND IT'S CONCERNING WHICH DOMAIN NAME?

12 A. THIS APE168.COM.

13 Q. OKAY. LOOKING DOWN AT THE IP ADDRESS HISTORY  
14 LISTING, THE THIRD ENTRY ON HERE, IT APPEARS TO BE  
15 AUGUST 19, 2007. DO YOU SEE THAT?

16 A. YES.

17 Q. AND WHAT DOES IT SAY THE STATUS OF THAT WEBSITE  
18 WAS AT THAT TIME?

19 A. NOT RESOLVABLE.

20 Q. OKAY. AND THAT WAS AROUND THE TIME THAT YOU GOT  
21 NOTICE OF THIS AND THE COMPLAINT IN THIS CASE?

22 A. YES.

23 Q. THE NEXT ENTRY, DATED AUGUST 20TH, 2008, INDICATES  
24 WHAT?

25 A. IT SAYS "NEW."

1 MR. COOMBS: OBJECTION. FOUNDATION, YOUR  
2 HONOR.

3 MR. LOWE: YOUR HONOR, I'M JUST HAVING HIM  
4 READ FROM DEFENDANT'S EXHIBIT --

5 THE COURT: YOU HAVE ASKED A COUPLE OF TIMES  
6 WHAT THOSE THINGS MEAN, WHICH MAY BE FOUNDATIONAL. IF  
7 YOU CAN -- A COUPLE OF TIMES YOU FRAMED IT AS WHAT DOES  
8 HE UNDERSTAND IT TO MEAN -- WHICH MAY BE DIFFERENT THAN  
9 WHAT THE REPORTER WHO WROTE THIS INTENDED BY IT -- BUT  
10 ASKING HIM TO READ THE ENTRY IS PERMISSIBLE.  
11 BY MR. COOMBS:

12 Q. THE FORTH ENTRY THAT STARTS OFF WITH "NEW," WHAT  
13 DO YOU UNDERSTAND THAT TO BE INDICATING?

14 A. I DON'T REALLY KNOW, BUT IT LOOKS LIKE IT'S A NEW  
15 SETUP IP BECAUSE IT BROKE. IN BETWEEN THE THIRD ENTRY  
16 AT THE VERY END HAS A "NONE," AND THEN BEGINNING OF THE  
17 FOURTH ENTRY IT HAS ANOTHER "NONE," SO THEN IT NEED TO  
18 COME UP WITH SOMETHING TO SHOW THAT -- HOW TO -- WHAT  
19 THE RELATIONSHIP BETWEEN THE LAST VISIBLE IP VERSUS THE  
20 NEW IP.

21 Q. AND IS THAT NEW IP ADDRESS IN YOUR RANGE?

22 A. NO.

23 Q. I WOULD LIKE YOU TO LOOK AT EXHIBIT 73.1. AND  
24 ONCE AGAIN, WHAT DO YOU UNDERSTAND THIS TO BE?

25 A. IT'S BAG925.COM IP HISTORY.



1 Q. FROM DOMAIN TOOLS AGAIN?

2 A. YES.

3 Q. I WOULD LIKE YOU TO LOOK AT THE LAST IP HISTORY  
4 LISTING FOR THAT DOMAIN NAME. WHAT DO YOU UNDERSTAND  
5 THAT TO MEAN, THE ONE THAT'S DATED, APPARENTLY, OCTOBER  
6 21ST, 2007?

7 A. NOT RESOLVABLE.

8 Q. AND THEN THERE'S AN IP ADDRESS NEXT TO IT?

9 A. YES.

10 Q. IS THAT IN YOUR RANGE?

11 A. NO, THAT'S NOT.

12 Q. NOW, IF YOU GO BACK TO EXHIBIT 1598, ON THE FIRST  
13 PAGE OF THIS BAG925.COM -- I THINK IT'S THE THIRD ITEM  
14 LISTED -- YOU HAVE A NOTICE DATE AND SOME ENTRIES ABOUT  
15 WHAT YOU FOUND; IS THAT CORRECT?

16 A. YES.

17 Q. AND WHAT DID YOU FIND WITH RESPECT TO BAG925 ON  
18 BOTH OF THE DATES THAT YOU GOT COMPLAINTS, MORE OR LESS?

19 A. IP ADDRESS NOT IN RANGE.

20 MR. LOWE: NO FURTHER QUESTIONS, YOUR HONOR.

21 THE COURT: ANY REQUEST FOR RECROSS?

22 MR. COOMBS: NO, YOUR HONOR.

23 THE COURT: I WANTED TO CLARIFY ONE MATTER,  
24 AND THIS MIGHT PROVOKE QUESTIONS FROM THE ATTORNEYS,  
25 MR. CHEN.

1                   THIS ACTUALLY COMES FROM ONE OF OUR JURORS AND  
2                   THAT HAS TO DO WITH THE PROCESS OF DISABLING A DOMAIN  
3                   NAME. ARE YOU TECHNICALLY QUALIFIED YOURSELF TO GO INTO  
4                   THE SERVER ROOM AND DO THE TASK OF DISABLING A DOMAIN  
5                   NAME?

6                   THE WITNESS: NOT DOMAIN NAME, BUT IP ADDRESS.

7                   THE COURT: AN IP ADDRESS. YOU KNOW HOW TO DO  
8                   THAT YOURSELF?

9                   THE WITNESS: YES.

10                  THE COURT: AND YOU ALSO HAVE STAFF THAT IS  
11                  ABLE TO DO THAT?

12                  THE WITNESS: YES. I ONLY COVER THE WEEKEND  
13                  TIME WHEN THE STAFF IS NOT AVAILABLE.

14                  THE COURT: ALL RIGHT. SO IF THERE'S STAFF  
15                  THERE, YOU WOULD DIRECT YOUR STAFF TO DO IT?

16                  THE WITNESS: YES.

17                  THE COURT: AND THERE WERE ACTUALLY THREE  
18                  LAYERS OF DISABLING THAT WERE AVAILABLE, I UNDERSTOOD  
19                  YOU TO SAY, THAT YOU WOULD DISABLE ACCESS AT THE ROUTER?

20                  THE WITNESS: YES.

21                  THE COURT: WHAT IS THAT?

22                  THE WITNESS: OKAY. SO THE -- IF IT'S AN  
23                  EXTRA IP SITUATION, THEN WE CAN GO INTO THE ROUTER.

24                  FIRST, WHEN WE DEPLOY A SERVER, WE NEED TO ASSIGN A MAIN  
25                  IP. THAT MAIN IP WILL NEVER CHANGE, AND ANY EXTRA IP WE

1 PICK UP FROM THE AVAILABLE POOL THAT WE CAN ASSIGN THOSE  
2 IP ATTACHED TO THAT PARTICULAR MAIN IP. SO WITH A  
3 ROUTER, WE CAN ALWAYS CHANGE THE EXTRA IP.

4 THE COURT: SO THAT AT THE ROUTER, THEN, IF  
5 SOMEONE IS USING AN EXTRA IP IN A WAY THAT YOU WOULD  
6 WISH TO DISABLE THAT IP ADDRESS, YOU COULD DO THAT AT  
7 THE ROUTER?

8 THE WITNESS: YES.

9 THE COURT: AND YOU ARE ABLE ALSO TO GO TO THE  
10 SERVER AND DISABLE THE ENTIRE SERVER?

11 THE WITNESS: YES. THAT'S BASICALLY  
12 DISCONNECT THE NETWORK CABLE.

13 THE COURT: AND THERE WERE OCCASIONS ALSO WHEN  
14 YOU WOULD YOURSELF GO ONTO THE INTERNET USING A BROWSER  
15 LIKE ANY MEMBER OF THE PUBLIC WOULD TO SEE WHAT WAS AT A  
16 PARTICULAR DOMAIN NAME?

17 THE WITNESS: YES.

18 THE COURT: BUT YOU COULDN'T DO THAT FROM  
19 WITHIN YOUR OWN SERVER SYSTEM?

20 THE WITNESS: NO.

21 THE COURT: THE FINAL QUESTION THAT I HAVE,  
22 AND IT HAS TO DO WITH 1598, WHICH WE HAVE BEEN USING --  
23 AND ACTUALLY, IT'S UP ON THE SCREEN STILL.

24 ONE OF THE PARTIES ASKED ABOUT YOUR CUSTOMERS.  
25 THIS SHOWS A COMPLAINT THAT IS ADDRESSED AND INDEXED BY

1 THE VARIOUS DOMAIN NAMES. DID YOU EVER TAKE THE VARIOUS  
2 DOMAIN NAMES AND CROSS-REFERENCE THEM TO YOUR CUSTOMER  
3 LIST TO DECIDE WHETHER OR NOT YOU HAD A CUSTOMER THAT  
4 WAS REGULARLY INVOLVED IN COMPLAINTS?

5 THE WITNESS: NOT REALLY. THIS IS SOMETHING  
6 THAT WE PUT TOGETHER FOR THE PRESENTATION.

7 THE COURT: ALL RIGHT. NOW, DO YOU HAVE A  
8 CUSTOMER LIST?

9 THE WITNESS: IT'S IN OUR DATABASE.

10 THE COURT: ALL RIGHT. BUT YOU DON'T HAVE IT  
11 HERE FOR US? YOU HAVEN'T PRODUCED A CUSTOMER LIST SO WE  
12 COULD SEE A LIST OVER A PERIOD OF TIME OF WHO YOUR  
13 CUSTOMERS WERE?

14 THE WITNESS: NO.

15 THE COURT: AND DID YOU EVER HISTORICALLY  
16 SEARCH FOR DOMAIN NAMES IN YOUR CUSTOMER LIST TO SEE  
17 WHICH CUSTOMERS WERE ASSOCIATED WITH WHICH DOMAIN  
18 NAMES?

19 THE WITNESS: I CAN ONLY -- I ONLY KNOW ONE  
20 CUSTOMER FROM CHINA THAT THEY ARE ACTUALLY A DOMAIN  
21 REGISTRAR, AND THEY MIGHT HAVE -- THEY MIGHT ASSOCIATE  
22 TO A LOT OF DOMAINS THEMSELVES. THE REST OF THE  
23 CUSTOMERS, AS I KNOW, THEY ALL RESELLERS; THEY DON'T OWN  
24 DOMAIN NAMES THEMSELVES.

25 THE COURT: I SEE. BUT THERE WOULD BE AN

1 ASSOCIATION BETWEEN THE CUSTOMER AND A DOMAIN NAME EVEN  
2 IF THEY RESOLD IT? IN OTHER WORDS, YOUR SERVER WOULD BE  
3 MADE AVAILABLE TO YOUR CUSTOMER, AND THEY COULD POST TO  
4 THAT SERVER THEIR OWN CONTENT OR THEY COULD SELL THEIR  
5 ABILITY TO POST CONTENT TO SOMEONE ELSE, AND THAT THIRD  
6 PERSON COULD SAVE INFORMATION TO THE SERVER; IS THAT  
7 CORRECT?

8 THE WITNESS: NO. THE DOMAIN IS OWNED BY THE  
9 DOMAIN OPERATORS OR THE DOMAIN OWNERS SO ANYBODY CAN GO  
10 TO DOMAIN REGISTRAR AND REGISTER THEIR DOMAINS. THAT  
11 DOMAIN IS THEN -- IF YOU RENT A SERVER WITH AN IP  
12 ADDRESS, THAT DOMAIN THEN BE PUT ON THAT PARTICULAR IP  
13 ADDRESS. SO IT'S NOT -- IT'S NOT THE IP OWNER OWNING  
14 THE DOMAIN. THE DOMAIN CAN GO ANYWHERE YOU WANT TO PUT  
15 ON IT.

16 THE COURT: BUT I'M TRYING TO CLARIFY WHAT IS  
17 ACTUALLY ON YOUR SERVER. YOUR SERVER WOULD HAVE -- AS  
18 YOU HAVE TALKED ABOUT -- THE DESCRIPTION OF YOUR  
19 SERVICES. WOULD IT HAVE A HARD DISK DRIVE?

20 THE WITNESS: YES.

21 THE COURT: INFORMATION COULD BE SAVED ON THAT  
22 DISK DRIVE?

23 THE WITNESS: YES.

24 THE COURT: WHEN YOUR SERVICE IS GIVEN TO ONE  
25 OF YOUR CUSTOMERS, THAT CUSTOMER WOULD THEN HAVE THE

1 ABILITY TO SAVE INFORMATION ONTO THAT DISK, WHICH WOULD  
2 BE ACCESSIBLE USING THE INTERNET?

3 THE WITNESS: YES.

4 THE COURT: OR THAT CUSTOMER, INSTEAD OF  
5 ACTUALLY SAVING INFORMATION THEMSELVES, COULD SELL THE  
6 RIGHT TO STORE INFORMATION TO YET A THIRD PERSON, WHICH  
7 WOULD BE STORED ON YOUR SERVERS?

8 THE WITNESS: YES.

9 THE COURT: IF THERE WERE COUNTERFEIT GOODS  
10 BEING ADVERTISED, THE LOCATION OF THE INFORMATION THAT  
11 WOULD BE SEEN ON THE INTERNET WOULD BE ON THE HARD DISK  
12 THAT IS ON YOUR SERVER?

13 THE WITNESS: YES.

14 THE COURT: THANK YOU. I HAVE NO FURTHER  
15 QUESTIONS OF THE WITNESS.

16 DO EITHER OF YOU WISH TO CLARIFY, BASED ON THE  
17 COURT'S QUESTIONS?

18 MR. LOWE: I DO HAVE A COUPLE OF QUESTIONS.

19 THE COURT: VERY WELL.

20 FURTHER REDIRECT EXAMINATION

21 BY MR. LOWE:

22 Q. MR. CHEN, THE COURT, I THINK, INITIALLY ASKED YOU  
23 IF YOU CAN DISABLE A DOMAIN NAME. CAN YOU DO THAT?

24 A. NO.

25 Q. WHY?

1 A. BECAUSE THAT'S CONTROLLED BY -- AT THE DOMAIN  
2 REGISTRAR AND MAIN SERVER LEVEL.

3 Q. AND YOU ARE NOT A DOMAIN REGISTRAR?

4 A. NO.

5 Q. SO ALL YOU CAN DO IS DISABLE AN IP ADDRESS THAT  
6 SOMEBODY IS USING?

7 A. YES.

8 Q. YOU INDICATED THAT THE CUSTOMER LIST WAS ON YOUR  
9 DATABASE. IS THIS THE CPRO DATABASE?

10 A. YES.

11 Q. WAS THAT PROVIDED TO LOUIS VUITTON IN THE COURSE  
12 OF THIS LITIGATION?

13 A. YES.

14 MR. LOWE: THANK YOU.

15 THE COURT: ANY FURTHER QUESTIONS?

16 MR. COOMBS: NO, YOUR HONOR. THANK YOU.

17 THE COURT: I WAS JUDGING FROM THE BODY  
18 LANGUAGE. VERY WELL.

19 IT'S ABOUT 10:35. WE WILL TAKE OUR  
20 MID-MORNING BREAK. WE WILL COME BACK AT ABOUT A  
21 QUARTER OF THE HOUR.

22 (RECESS FROM 10:35 TO 10:50 A.M.)

23 THE CLERK: PLEASE REMAIN SEATED. COME TO  
24 ORDER.

25 THE COURT: BEFORE WE SUMMON THE JURY,

1 MS. GARCIA ALERTED ME THAT MAYBE I HAD GIVEN YOU -- THE  
2 DATE WAS NOT CORRECT ON IT. OUR LAST SESSION WAS  
3 FRIDAY. WHAT DATE WAS FRIDAY?

4 MR. LOWE: THE 21ST, YOUR HONOR.

5 THE COURT: SO MAYBE I'M A DAY BEHIND IN MY --  
6 OH, YES, 8/21. I THINK I MIGHT HAVE MISDATED THE LAST  
7 REPORT. I'LL LOOK AT THAT AND GIVE YOU A BETTER  
8 DOCUMENT.

9 WE ARE NOW ON TUESDAY, THE 25TH, AND AS OF THE  
10 END OF THE MORNING, WE ONLY HAVE 900 OR SO MINUTES LEFT  
11 IN OUR TRIAL, AND THAT SHOULD CORRESPOND TO IT. AS OF  
12 FRIDAY, WE HAD 1080 LEFT; AS OF THURSDAY, 1440. THAT'S  
13 RIGHT.

14 I GAVE YOU AS OF AUGUST 20TH, WE HAD 1440  
15 MINUTES LEFT. SO FRIDAY MORNING YOU WOULD HAVE STARTED  
16 AT 1440, AND AT THE END OF THE DAY YOU WOULD HAVE 1080.

17 LET ME MAKE SURE I GAVE YOU FRIDAY. I THOUGHT  
18 I WAS GIVING YOU FRIDAY, SO THAT'S WHERE I'M A LITTLE  
19 BIT CONFUSED. I'LL CHECK THAT.

20 SUMMON THE JURY.

21 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE  
22 HELD IN OPEN COURT, IN THE PRESENCE OF THE JURY:)

23 THE COURT: VERY WELL. CALL YOUR NEXT  
24 WITNESS.

25 MR. LOWE: DEFENSE CALLS ANDREW CHENG.



1 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

2 ANDREW CHENG,

3 BEING CALLED AS A WITNESS ON BEHALF OF THE DEFENDANTS,  
4 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED  
5 AS FOLLOWS:

6 THE CLERK: PLEASE BE SEATED.

7 WILL YOU PLEASE STATE YOUR FULL NAME AND SPELL  
8 YOUR LAST NAME FOR THE RECORD.

9 THE WITNESS: ANDREW CHENG, C-H-E-N-G.

10 DIRECT EXAMINATION

11 BY MR. LOWE:

12 Q. MR. CHENG, HOW ARE YOU EMPLOYED?

13 A. EXCUSE ME?

14 Q. HOW ARE YOU EMPLOYED?

15 A. I AM EMPLOYED WITH AKANOC.

16 Q. AND WHAT IS YOUR POSITION WITH AKANOC?

17 A. I'M AN ENGINEER.

18 Q. SPECIFICALLY, WHAT ARE YOUR RESPONSIBILITIES FOR  
19 AKANOC SOLUTIONS?

20 A. MY MAIN RESPONSIBILITY IS TO MAKE SURE THAT THE  
21 ROUTERS ARE UP AND RUNNING.

22 Q. WHAT SORT OF AN ENGINEER DO YOU -- WHAT SORT OF  
23 ENGINEERING WORK DO YOU DO? HOW WOULD YOU CHARACTERIZE  
24 THAT, GENERALLY?

25 A. NETWORK ENGINEERING.

1 Q. HOW LONG HAVE YOU WORKED FOR AKANOC?

2 A. I BELIEVE OVER FIVE YEARS.

3 Q. NOW, WHAT IS IT THAT YOU DO AS A NETWORK ENGINEER  
4 FOR AKANOC? CAN YOU EXPLAIN THAT JUST A LITTLE BIT MORE  
5 THAN "KEEP THE ROUTERS RUNNING"?

6 A. WELL, MY PRIMARY RESPONSIBILITY WITH ROUTERS IS TO  
7 ENSURE THAT WE HAVE OUR TRAFFIC THAT GOES OUT TO THE  
8 INTERNET OVER MULTIPLE CARRIERS, TO MAKE SURE THAT WE  
9 ARE BALANCING OUR COMMITMENTS WITH THE CONTRACTS THAT WE  
10 HAVE FOR THOSE, AS WELL AS TO ENSURE THAT THEY ARE  
11 RUNNING WITHOUT ANY ERRORS.

12 Q. DID YOU HAVE ANYTHING TO DO WITH SETTING UP THE  
13 NETWORK INFRASTRUCTURE?

14 A. YES.

15 Q. AND WHAT WAS THAT?

16 A. IT WAS THE ORIGINAL DESIGN OF THE NETWORK AS WELL  
17 AS THE ORIGINAL CONFIGURATION OF THE ROUTERS IN THAT  
18 NETWORK.

19 Q. YOU DESIGNED IT?

20 A. YES.

21 Q. OKAY. AND DID YOU HAVE ANYTHING TO DO WITH THE  
22 DATABASE THAT WE HAVE HEARD REFERRED TO AS CPRO?

23 A. YES.

24 Q. WHAT WAS YOUR ROLE IN THAT?

25 A. ORIGINALLY, WE HAD DEVELOPED CPRO, MYSELF AND ONE

1 OTHER PERSON, AND IT WAS TO CONTAIN CUSTOMER INFORMATION  
2 THAT COMES ACROSS WITH AN ORDER.

3 Q. WHAT SORT OF INFORMATION IS ON THE CPRO DATABASE?

4 A. CPRO HOUSES LIKE THE CUSTOMER'S NAME, COMPANY  
5 NAME, ADDRESS, DIFFERENT TYPES OF BILLING INFORMATION  
6 FOR HOW THEY ARE PAYING FOR THEIR SERVICES.

7 Q. ANYTHING ELSE?

8 A. CPRO ALSO -- IT HAS AN ORDER ID AND WE REFERENCE  
9 THE ACTUAL SERVER ITSELF BY THE IP ADDRESS.

10 Q. I'M NOT SURE IF I UNDERSTOOD WHAT WAS JUST SAID.  
11 CAN YOU EXPLAIN THAT A BIT?

12 A. OH, SURE. SO EVERY SERVER THAT'S IN THE DATA  
13 CENTER HAS A MAIN IP ADDRESS. IT'S KIND OF LIKE A  
14 UNIQUE IDENTIFIER FOR THAT MACHINE. ONLY ONE MACHINE  
15 WILL BE ABLE TO HAVE THAT IP ADDRESS AT A GIVEN TIME.

16 Q. AND THE DATABASE KEEPS TRACK OF THAT MAIN IP  
17 ADDRESS?

18 A. THE DATABASE KEEPS TRACK OF THE CURRENT IP ADDRESS  
19 THAT'S ON A LIVE SERVER.

20 Q. DOES IT KEEP TRACK OF EXTRA IP ADDRESSES THAT  
21 MIGHT GET ASSIGNED TO CUSTOMERS?

22 A. YES. IF A CUSTOMER REQUIRES MORE THAN A MAIN IP  
23 ADDRESS, ADDITIONAL IP ADDRESSES WILL BE ASSIGNED TO  
24 THAT SERVER, AND THEY WILL BE TRACKED WITHIN CPRO.

25 Q. DO YOU DO WORK WITHIN THE DATA CENTER ITSELF OR

1       SOMEWHERE ELSE?

2       A.       I WORK FROM HOME.

3       Q.       HOW DO YOU DO THAT?

4       A.       REMOTELY.

5               I'M NOT SURE I UNDERSTAND YOUR QUESTION.

6       Q.       SO YOU ARE ABLE TO ACCESS THE NETWORK FROM YOUR  
7       HOME?

8       A.       YES, I ACCESS THE NETWORK FROM MY HOME USING MY  
9       INTERNET CONNECTION AT HOME.

10      Q.       THAT WORKS OUT FOR YOU? YOU DO WHAT YOU HAVE TO  
11      DO?

12      A.       YES.

13      Q.       DO YOU DO ANY OTHER WORK OTHER THAN FOR AKANOC?

14      A.       YES.

15      Q.       AND WHAT SORT OF WORK IS THAT?

16      A.       I'M THE DIRECTOR OF NETWORK OPERATIONS.

17      Q.       FOR?

18      A.       WBS CONNECT.

19      Q.       WHAT'S THAT?

20      A.       IT'S A COMPANY THAT PROVIDES INTERNET ACCESS AND  
21      DIFFERENT TYPES OF POINT-TO-POINT CONNECTIONS FOR  
22      COMPANIES ACROSS THE COUNTRY, AND DIFFERENT AREAS OF THE  
23      WORLD AS WELL.

24      Q.       AND HOW DOES THAT BUSINESS COMPARE WITH THE KIND  
25      OF BUSINESS THAT AKANOC AND MANAGED SOLUTIONS OPERATE?

1 A. WBS IS KIND OF IN THE PROVIDER SPACE, SO THEY ARE  
2 GENERALLY LIKE AN ISP. IF A COMPANY WANTS TO HAVE AN  
3 INTERNET CONNECTION AT A DATA CENTER OR AT A CORPORATE  
4 OFFICE, YOU KNOW, WE CAN HAVE A SOLUTION DRAWN UP THAT  
5 WORKS ACROSS DIFFERENT VENDORS OR DIRECTLY WITHIN OUR  
6 OWN NETWORK.

7 Q. SO WHAT EXACTLY DO YOU DO FOR THEM? DO YOU  
8 MAINTAIN THE NETWORK LIKE YOU DO FOR AKANOC, OR  
9 SOMETHING ELSE?

10 MS. WANG: OBJECTION, YOUR HONOR. RELEVANCE.

11 THE COURT: OVERRULED.

12 YOU MAY ANSWER.

13 THE WITNESS: YES. I MANAGE PORTIONS OF THE  
14 NETWORK WHENEVER THERE IS AN EMERGENCY, AS WELL AS  
15 MANAGING THE OTHER TECHNICIANS THAT MAKE UP OUR 24/7  
16 OPERATIONS GROUP.

17 BY MR. LOWE:

18 Q. NOW, I WOULD LIKE TO DIRECT YOUR ATTENTION TO  
19 EXHIBIT 1610. THERE'S A -- YOU WILL SEE IT ON THE  
20 SCREEN AND THERE'S ALSO A CHART BEHIND YOU, A COPY OF  
21 IT.

22 DOES THIS, IN YOUR VIEW, PROPERLY REPRESENT A  
23 SIMPLIFIED OUTLINE OF THE INTERNET?

24 A. YES.

25 Q. ALL RIGHT. CAN YOU INDICATE WHERE IN THIS SORT OF

1 DIAGRAM AKANOC AND MANAGED SOLUTIONS FITS?

2 A. SO AKANOC WOULD BE IN THE INTERNET SERVICE  
3 PROVIDER AND SERVERS.

4 Q. DOWN HERE IN THE MIDDLE OF THIS DIAGRAM?

5 A. YES.

6 Q. OKAY. AND THE OTHER COMPANY THAT YOU WORK FOR,  
7 WHERE IS THAT WITH RESPECT TO THE OTHER ELEMENTS OF THE  
8 INTERNET?

9 A. IN THE INTERNET BACKBONE.

10 Q. SO YOU ARE DEALING WITH THIS (INDICATING) IN THE  
11 CENTER?

12 A. YES.

13 Q. OKAY. IS -- STRIKE THAT.

14 YOU INDICATED THAT YOU DEAL WITH ROUTERS FOR  
15 AKANOC, MANAGE THEM. IS THAT THE WORD YOU USED?

16 A. YES.

17 Q. AND IS THE ROUTER, FOR EXAMPLE, INDICATED HERE  
18 (INDICATING), IS THIS SORT OF A SYMBOL OF A ROUTER IN  
19 THE MIDDLE?

20 A. WHERE?

21 Q. LET ME SHOW YOU WHERE I AM POINTING (INDICATING).

22 A. OH. YES, THAT WOULD BE THE ROUTER.

23 Q. OKAY. AND WHAT IS THE FUNCTION OF THE ROUTER IN  
24 THE AKANOC SYSTEM?

25 A. SO THE ROUTER TAKES PACKETS THAT ARRIVE OVER THE

1 INTERNET AND THEY DELIVER THEM TO A DESIGNATION IP  
2 ADDRESS.

3 Q. AND HOW IS THAT DONE?

4 A. VIA THE ROUTER HARDWARE. SO THE ROUTER, ITSELF --  
5 THERE IS A FORWARDING ENGINE THAT HAS A COPY OF  
6 DIFFERENT WAYS TO REACH DIFFERENT TYPES OF IP ADDRESSES.  
7 IT WILL HAVE A COPY OF LOCAL IP ADDRESSES THAT EXIST  
8 EITHER WITHIN THE NETWORK OR A ROUTE TO, SAY, A MORE  
9 SPECIFIC LOCATION. SO IT ALSO CONTAINS EITHER A  
10 SPECIFIC ROUTE OR A GENERAL ROUTE TO OTHER PORTIONS OF  
11 THE INTERNET.

12 Q. AND DO YOU PROGRAM THE ROUTER TO DO THAT?

13 A. IN A WAY. ITS CONFIGURATION -- AND THEY ARE A  
14 VERY, VERY STANDARD CONFIGURATION. SO YOU BASICALLY  
15 TELL THE ROUTER THAT THIS GROUP OF IP ADDRESSES BELONGS  
16 IN THIS DIRECTION, AND YOU FACE IT TOWARDS A PHYSICAL  
17 CONNECTION EITHER TO ANOTHER ROUTER OR A SET OF SERVERS  
18 OR A SWITCH. FOR TRAFFIC THAT'S DESTINED FOR THE  
19 INTERNET, WE HAVE A PROTOCOL CALLED BGP.

20 Q. BGP?

21 A. BGP.

22 Q. WHAT DOES THAT MEAN?

23 A. IT'S FOR BORDER GATEWAY PROTOCOL, AND IT'S HOW  
24 ISP'S AND END SERVICE PROVIDERS COMMUNICATE THE IP  
25 ADDRESSES THAT ARE EXISTING WITHIN THEIR NETWORKS. SO

1 FOR AKANOC, THE IP ADDRESSES THAT AKANOC RECEIVED ARE  
2 BEING ADVERTISED VIA BGP OUT TO THE DIFFERENT CARRIERS  
3 THAT ARE CONNECTED.

4 Q. WHAT DO YOU MEAN "ADVERTISED"?

5 A. THE ROUTER ITSELF BASICALLY SAYS, YOU KNOW, "HI,  
6 THESE ARE THE IP ADDRESSES THAT I HAVE GOT WITHIN MY  
7 NETWORK," AND THE CARRIER ROUTER WILL SAY, "OKAY," AND  
8 TAKE THEM.

9 Q. WHAT'S A "CARRIER ROUTER"?

10 A. SO A CARRIER WOULD BE THE ISP, BASICALLY THE  
11 ENTITY THAT IS PROVIDING INTERNET ACCESS TO AKANOC. SO  
12 AKANOC PURCHASES CONNECTIONS TO THE INTERNET VIA THESE  
13 DIFFERENT CARRIERS.

14 Q. AND DO YOU KNOW WHO THOSE CARRIERS ARE FOR AKANOC?

15 A. YES. GLOBAL CROSSING AND COGENT.

16 Q. SO WHEN YOU SAY THE ROUTER "ADVERTISES," THEY ARE  
17 ADVERTISING TO COGENT OR GLOBAL CROSSING'S EQUIPMENT?

18 A. YES. IT'S A DIRECT COMMUNICATION WITH GLOBAL  
19 CROSSING AND COGENT'S EQUIPMENT STATING THAT "THESE ARE  
20 THE IP ADDRESSES THAT I HAVE WITHIN MY NETWORK; AND IF  
21 YOU HAVE ANY PACKETS THAT ARE DESTINED FOR THESE IP  
22 ADDRESSES, PLEASE SEND THEM TO ME."

23 Q. AND WHAT DO THESE UPSTREAM PROVIDERS DO WITH THAT  
24 INFORMATION, GLOBAL CROSSING OR COGENT?

25 A. THEY WILL PROFLIGATE IT TO THEIR PEERS, WHO ARE



1 OTHER CARRIERS ON THE INTERNET, OTHER ISP'S. AND AS IT  
2 PROFLIGATES OUT, THE REST OF THE INTERNET WILL SEE THE  
3 ROUTE TO AKANOC'S IP ADDRESSES.

4 Q. THE ROUTERS YOU ARE TALKING ABOUT, DO THEY DEAL IN  
5 NAMES OR NUMBERS OR BOTH?

6 A. JUST IN NUMBERS.

7 Q. JUST NUMBERS?

8 A. YES.

9 Q. SO HOW IS IT THAT A DOMAIN NAME GETS TO A  
10 PARTICULAR LOCATION VIA A ROUTER?

11 A. SO IF I'M SITTING IN FRONT OF MY COMPUTER AT HOME  
12 AND I'M LOOKING FOR, SAY, AKANOC.COM, MY COMPUTER WILL  
13 GO AND QUERY A DNS SERVER.

14 Q. ON THIS EXAMPLE HERE, THIS CHART ON THE SCREEN IN  
15 FRONT OF YOU, IS THIS THE DNS SERVER THAT YOU ARE  
16 TALKING ABOUT?

17 A. YES. SO THE DNS SERVER WILL RETURN TO ME THE IP  
18 ADDRESS THAT IS ASSOCIATED WITH THAT DOMAIN NAME.

19 Q. RETURN TO YOU, THE USER, SITTING AT HOME?

20 A. YES, TO MY COMPUTER THAT I'M SITTING IN FRONT OF  
21 WILL RECEIVE AN IP ADDRESS FROM THE DNS SERVER, AND MY  
22 COMPUTER WILL USE THAT IP ADDRESS TO FORM A REQUEST FOR  
23 THE INFORMATION THAT I'M LOOKING FOR. IF I AM TRYING TO  
24 BROWSE TO WWW.AKANOC.COM, THEN I WILL SEND A REQUEST TO  
25 AKANOC'S WEB SERVER BASED OFF OF THE IP ADDRESS THAT I

1 JUST RECEIVED.

2 Q. SO THE ROUTER RECEIVES JUST THE IP ADDRESS?

3 A. WHEN THAT REQUEST REACHES THE ROUTER, IT IS A  
4 PACKET, AND IT HAS A SOURCE IP ADDRESS AND A DESIGNATION  
5 IP ADDRESS, AND IT HAS SOME DATA. THE DATA ITSELF IS  
6 USED BY THE WEB SERVER, NOT BY THE ROUTER.

7 Q. LET'S TALK ABOUT PACKETS. WHAT DO YOU MEAN BY  
8 THAT?

9 A. SO A PACKET IS A BUNDLE OF INFORMATION AND IT HAS  
10 A HEADER ON IT. THE HEADER IS THE SOURCE IP ADDRESS,  
11 THE DESIGNATION IP ADDRESS, AND ANY PARTICULAR PROTOCOL.  
12 THE DATA ITSELF IS GENERALLY USED BY APPLICATIONS LIKE  
13 INTERNET EXPLORER OR LIKE YOUR WEB SERVER. THE HEADER  
14 INFORMATION, WHICH IS THE IP ADDRESSES, ARE GENERALLY  
15 USED FOR ROUTING PURPOSES. SO THE ROUTER ITSELF WILL  
16 LOOK AT A PACKET. IT WILL SEE -- IT ONLY LOOKS AT THE  
17 DESIGNATION IP ADDRESS AND WILL FORWARD THAT PACKET  
18 TOWARDS THE DESIGNATION ADDRESS.

19 Q. NOW, THE INFORMATION PASSING BETWEEN TWO COMPUTERS  
20 ON THE INTERNET, IS ALL THE INFORMATION IN ONE PACKET?

21 A. NO. DEPENDING ON THE SIZE OF EITHER THE REQUEST  
22 OR THE RESPONSE, THE PACKETS WILL GET FRAGMENTED, AND  
23 THERE ARE STANDARD SIZES THAT ARE USED FOR DIFFERENT  
24 TYPES OF CONNECTIONS FOR THE AMOUNT OF DATA THAT YOU  
25 PASS IN A SINGLE PACKET.

1 Q. WHO DECIDES HOW TO BREAK THESE PACKETS UP?

2 A. THE ROUTER WILL. IF THE ROUTER IS SET AT 1500  
3 BYTES AS A MAXIMUM SIZE AND IT RECEIVES SOMETHING THAT'S  
4 5,000 BYTES, THEN IT WILL FRAGMENT IT.

5 Q. NOW, WHICH ROUTER ARE WE TALKING ABOUT? WHOSE  
6 ROUTER, MAYBE I SHOULD SAY.

7 A. THE FIRST ROUTER THAT RECEIVES THE PACKET. SO IF  
8 I'M AT HOME AND I SEND A REQUEST OUT TO THE INTERNET OF,  
9 YOU KNOW, 5,000 BYTES, CHANCES ARE THAT MY PROVIDER FOR  
10 MY HOME CONNECTION WILL FRAGMENT THAT.

11 Q. NOW, ON THIS EXHIBIT 1610, WE HAVE ILLUSTRATED --  
12 LET'S SAY A RETAIL ISP, SUCH AS MAYBE COMCAST.

13 A. YES.

14 Q. WOULD THAT BE A FAIR REPRESENTATION?

15 A. YES, COMCAST.

16 Q. SO WHEN SOMETHING COMES FROM THIS USER, IT GOES TO  
17 A ROUTER THAT'S OPERATED BY COMCAST, AND THAT ROUTER  
18 BREAKS THE INFORMATION UP INTO SMALLER PACKETS?

19 A. THAT'S CORRECT.

20 Q. OKAY. AND THEN WHAT?

21 A. WELL, THE PACKETS WILL TRAVERSE THE LOAD-BALANCED  
22 ROUTING TABLE THAT WAS GENERATED VIA BGP ANNOUNCEMENTS.

23 Q. BVT?

24 A. BGP.

25 Q. BGP?

1 A. YES. AS THEY TRAVERSE, EACH ROUTER WILL SEND IT  
2 CLOSER TO ITS DESIGNATION. THERE'S NO WAY TO REALLY  
3 KNOW HOW MANY ROUTERS ARE IN BETWEEN BUT, YOU KNOW, THEY  
4 ALL SPEAK THAT KIND OF DYNAMIC ROUTING PROTOCOL. SO AS  
5 THE ADVERTISEMENTS PROFLIGATE, THE GROUP OF ROUTERS IN  
6 THE INTERNET WILL RECEIVE THE ROUTE TO THAT DESIGNATION.

7 Q. AND WE HAVE HEARD SOME TESTIMONY ABOUT HOPS.

8 A. YES.

9 Q. IS THAT RELATED TO WHAT YOU ARE TALKING ABOUT?

10 A. SIMILAR. HOPS ARE THE NUMBER OF ROUTERS THAT PASS  
11 BETWEEN A SOURCE AND A DESIGNATION. WHEN YOU ARE  
12 TALKING ABOUT BGP, IT'S MORE ABOUT DIFFERENT  
13 ORGANIZATIONS. SO I MAY TRAVERSE -- AT HOME I USE  
14 COMCAST, SO I WILL GO OUT TO COMCAST, COMCAST WILL  
15 LIGHTLY PASS IT TO COGENT, COGENT WILL PASS IT TO  
16 AKANOC. IN BGP TERMS, THAT IS ONLY THREE A S HOPS  
17 VERSUS THE, YOU KNOW, 12, 13 ACTUAL PHYSICAL ROUTERS  
18 THAT THE INFORMATION WILL TRAVEL THROUGH.

19 Q. OKAY. AND THEN IT ARRIVES -- THESE PACKETS  
20 ARRIVE, LET'S SAY, AT AKANOC AND IT HITS THE MAIN  
21 ROUTER, AND WHAT DOES THAT ROUTER DO WITH IT?

22 A. SO THE ROUTER HAS INFORMATION THAT WAS  
23 PRECONFIGURED ABOUT WHICH DIRECTION OF A PARTICULAR IP  
24 ADDRESS EXISTS.

25 Q. YOU'RE SAYING WHICH SERVER?

1 A. NOT EXACTLY WHICH SERVER, BUT WHICH PORT THE  
2 INFORMATION SHOULD BE FORWARDED. SO OFF OF A SINGLE  
3 PORT ON A ROUTER, YOU CAN HAVE MULTIPLE SERVERS THAT  
4 ACHIEVE THEIR CONNECTIVITY OFF OF THAT PORT. YOU HAVE A  
5 LAYER 2 SWITCH WHICH SITS BETWEEN THE ROUTER AND SERVERS  
6 THAT CAN BASICALLY USE ANY IP ADDRESS THAT IS CONFIGURED  
7 ON THAT PORT. SO THE ROUTER ITSELF WILL ONLY KNOW THAT  
8 I AM SENDING THIS TRAFFIC TO THIS PARTICULAR PORT.

9 Q. JUST BY LOOKING AT THE ADDRESS?

10 A. YES.

11 Q. THE NUMBERS?

12 A. YES. IT'S LIKE A DIRECTORY.

13 Q. OKAY. AND WHAT HAPPENS IF THERE'S MORE THAN ONE  
14 PACKET FOR THE MESSAGE THAT'S PASSING?

15 A. THE ROUTER WILL FORWARD THEM, REGARDLESS OF THE  
16 NUMBER OF PACKETS THAT'S IN A PARTICULAR COMMUNICATION.  
17 IT IS UP TO THE APPLICATION TO ACCEPT ALL OF THE  
18 DIFFERENT PACKETS AND REASSEMBLE.

19 Q. SO MAYBE YOU CAN EXPLAIN THIS: SOME SOFTWARE  
20 SITTING ON A SERVER IS REASSEMBLING THE PACKETS?

21 A. YES.

22 Q. AND I BELIEVE YOU MENTIONED EARLIER A WEB SERVER;  
23 IS THAT A SOFTWARE OR A HARDWARE THING?

24 A. A WEB SERVER IS A PIECE OF SOFTWARE THAT SITS ON  
25 A SERVER, ON A PHYSICAL SERVER. NOT EVERY SERVER HAS A

1 WEB SERVER OR IT, SO IT'S SOMETHING THAT AN  
2 ADMINISTRATOR OF THAT COMPUTER WOULD NEED TO INSTALL.

3 Q. IS THIS SOMETHING THAT AKANOC OR MANAGED SOLUTIONS  
4 INSTALLS, A WEB SERVER?

5 A. THERE ARE TIMES. I MEAN, THERE ARE CERTAIN  
6 BUNDLED PACKAGES THAT HAVE DIFFERENT TYPES OF SOFTWARE  
7 PREINSTALLED, BUT THEY ARE USUALLY NOT CONFIGURED.

8 Q. SO WHEN A SERVER IS RENTED OUT TO A CUSTOMER, WHO  
9 INSTALLS THE WEB SERVER, IF THEY ARE GOING TO BE TAKING  
10 WEB INFORMATION?

11 A. IF A CUSTOMER IS GOING TO BE RUNNING A WEB SERVER  
12 ON THE PHYSICAL SERVER THEY LEASE, IT'S THEIR  
13 RESPONSIBILITY TO INSTALL AND CONFIGURE.

14 Q. AND YOU DON'T HAVE ANYTHING TO DO WITH THAT?

15 A. NO.

16 Q. SO THE WEB SERVER SOFTWARE IS ABLE TO RECOGNIZE  
17 PACKETS AND PUT THEM TOGETHER AND DO SOMETHING WITH  
18 THEM?

19 A. YES. THE WEB SERVER ITSELF WILL REASSEMBLE THE  
20 PACKETS AND LOOK AT THE PARTICULAR REQUEST. SO THAT  
21 REQUEST IS BASICALLY ONLY RELEVANT TO "A" WEB SERVER.  
22 IF IT WAS A DIFFERENT APPLICATION THAT RECEIVED THAT  
23 REQUEST, IT WOULD LIKELY NOT KNOW WHAT TO DO WITH IT.

24 Q. DO YOU KNOW -- AS YOU ARE SITTING THERE AT AKANOC  
25 IN THE CAGE, OR EVEN SITTING AT HOME WATCHING OPERATIONS

1 ON YOUR COMPUTER, DO YOU KNOW WHAT'S GOING ON IN THOSE  
2 SERVERS AND WHAT THE WEB SERVER SOFTWARE IS DOING WITH  
3 ANY INFORMATION?

4 A. NO. THE ROUTER ONLY TELLS US INFORMATION ABOUT  
5 THE AMOUNT OF DATA THAT'S GOING BY, NOT THE ACTUAL DATA.

6 Q. WHY DO YOU CARE ABOUT THE AMOUNT?

7 A. SO -- WE PAY FOR BANDWIDTH IN MEGABITS, SO WE ARE  
8 ALWAYS WATCHING THE AMOUNT OF DATA THAT IS GOING BY  
9 BECAUSE THAT DIRECTLY AFFECTS THE AMOUNT THAT WE PAY, AT  
10 LEAST TO OUR CARRIERS.

11 Q. AND IF A MESSAGE, LET'S SAY, IS QUERYING THE  
12 SERVER SOFTWARE, THE WEB SERVER SOFTWARE -- LET'S SAY A  
13 USER OUT THERE WANTS SOME INFORMATION ABOUT SOMETHING  
14 THAT'S DIRECTED TO AN ADDRESS SITTING ON A SERVER, DO  
15 YOU HAVE ANY CONTROL OVER WHAT INFORMATION GOES BACK OUT  
16 THE OTHER DIRECTION?

17 A. NO. IT IS JUST ANOTHER PACKET THAT HAS A SOURCE  
18 IP ADDRESS AND A DESIGNATION IP ADDRESS. THE ROUTER  
19 ITSELF WILL JUST FORWARD IT.

20 Q. DO YOU FILTER CONTENT USING THE ROUTERS?

21 A. NO.

22 Q. NOW, YOU INDICATED A FEW MINUTES AGO THAT YOU, I  
23 BELIEVE, SET UP AN ORDER SYSTEM AS PART OF THE DATABASE  
24 WITHIN AKANOC?

25 A. YES.

1 Q. HOW DOES THAT WORK?

2 A. SO A CUSTOMER WILL ARRIVE AT AKANOC'S WEBSITE.  
3 THEY WILL SEE -- IF THEY SEE A PARTICULAR SERVER THAT  
4 THEY ARE INTERESTED IN, THEY WILL CLICK ON IT AND AN  
5 ORDER FORM WILL SHOW UP ON THEIR SCREEN. THAT ORDER  
6 FORM WILL CONTAIN INFORMATION LIKE A NAME, COMPANY NAME,  
7 THE TYPE OF SERVER THAT THEY WANT AND THE OPERATING  
8 SYSTEM THAT THEY WANT TO BE INSTALLED ON IT, AND A PLACE  
9 FOR CREDIT CARD INFORMATION OR PAYPAL ADDRESS OR SOME  
10 WAY THAT THEY WISH TO PAY FOR THE SERVER.

11 Q. AND THEN WHAT IS DONE WITH THAT INFORMATION?

12 A. THE INFORMATION IS SENT TO A DATABASE AND THEN --

13 Q. WHAT DATABASE IS THAT?

14 A. IT IS A PART OF CPRO.

15 Q. OKAY.

16 A. AND OUR BILLING DEPARTMENT WILL VERIFY IF THAT IS  
17 A LEGITIMATE ORDER AND THE ORDER WILL BE PUT THROUGH FOR  
18 PROVISION.

19 Q. WHAT DO YOU MEAN "A LEGITIMATE ORDER"?

20 A. LOTS OF TIMES, YOU KNOW, PEOPLE WILL GO TO A  
21 WEBSITE AND JUST SUBMIT RANDOM DATA, WHETHER IT BE A  
22 LEGITIMATE PERSON WHO WISHES TO ORDER A SERVER OR  
23 SOMEBODY WITH, YOU KNOW, JUST KIND OF CLICKING AND  
24 PUNCHING THINGS IN. OTHER TIMES THERE IS, YOU KNOW,  
25 PEOPLE PUTTING IN FALSE BILLING INFORMATION, AND THOSE



1 THINGS ARE VERIFIED BEFOREHAND.

2 Q. HOW ARE THEY VERIFIED?

3 A. I'M NOT SURE.

4 Q. IT'S LIKE VERIFYING CREDIT CARD INFORMATION, IS  
5 THAT WHAT YOU ARE TALKING ABOUT?

6 A. YES.

7 Q. NOW, ARE YOU FAMILIAR WITH -- ARE YOU FAMILIAR  
8 WITH ARIN?

9 A. YES.

10 Q. AND WHAT IS THAT?

11 A. ARIN IS AN INTERNET REGISTRY AND THEY ARE  
12 RESPONSIBLE FOR ALLOCATING IP ADDRESSES TO ORGANIZATIONS  
13 IN AMERICA.

14 THE COURT: SOME OF THIS HAS BEEN COVERED AND  
15 NOT CONTROVERSIAL, BUT I'LL PERMIT YOU.

16 MR. LOWE: THAT WAS MERELY THE BACKGROUND,  
17 YOUR HONOR.

18 BY MR. LOWE:

19 Q. NOW, DO YOU KNOW WHETHER OR NOT AKANOC AND MANAGED  
20 SOLUTIONS PROVIDES INFORMATION TO ARIN CONCERNING THE  
21 USAGE OF IP ADDRESSES THAT ARE ASSIGNED TO IT?

22 A. SO PER ARIN GUIDELINES WE ARE RESPONSIBLE FOR  
23 KEEPING OUR WHOIS RECORDS UP TO DATE, AND THAT IS  
24 PARTICULARLY, YOU KNOW, COMPANY INFORMATION OF AN  
25 ORGANIZATION THAT IS UTILIZING AN IP ADDRESS.

1 Q. NOW, WHAT DO YOU MEAN AN ORGANIZATION UTILIZING  
2 IT? ARE YOU TALKING ABOUT AKANOC OR A CUSTOMER OF  
3 AKANOC, OR SOMETHING ELSE?

4 A. A LITTLE OF BOTH. SO WHEN ARIN ISSUES A BLOCK OF  
5 IP ADDRESSES, THEY EXPECT THAT IF THE ISP WILL ASSIGN  
6 THOSE TO THEIR CUSTOMERS, THAT THEY WILL ALSO PUT THE  
7 CUSTOMER'S INFORMATION IN THE WHOIS DATABASE.

8 Q. AND HOW IS THAT DONE AT AKANOC, MANAGED SOLUTIONS?

9 A. AT AKANOC THERE IS A WHOIS SERVER, AND ARIN HAS  
10 BASICALLY A LINK TO THAT WHOIS SERVER TO PULL THE  
11 INFORMATION.

12 Q. AND WHAT'S ON THIS WHOIS SERVER?

13 A. THE WHOIS SERVER HAS THE COMPANY NAME AS WELL AS  
14 THE CITY AND STATE OF A PARTICULAR ORGANIZATION THAT IS  
15 RESPONSIBLE FOR THAT IP ADDRESS. IF WE HAVE A CUSTOMER  
16 THAT HAS IP'S FROM US ON ONE OF OUR SERVERS, THEN THAT  
17 INFORMATION WILL GET PUBLISHED TO THE WHOIS SERVER.

18 Q. TO THE WHICH SERVER?

19 A. TO THE WHOIS SERVER.

20 Q. THE WHOIS SERVER. SO YOU ARE TALKING ABOUT  
21 CUSTOMER INFORMATION FROM THE CPRO DATABASE THAT'S ON  
22 THE WHOIS SERVER?

23 A. YES.

24 Q. IF SOMEONE WANTED TO FIND OUT WHO YOUR CUSTOMERS  
25 ARE, COULD THEY FIND THAT OUT THROUGH A QUERY TO ARIN?

1 IN OTHER WORDS, COULD SOMEONE LOOK UP THROUGH ARIN AND  
2 LINK TO YOUR WHOIS --

3 A. YES.

4 Q. -- SERVER INFORMATION ABOUT YOUR CUSTOMERS?

5 A. YES. THAT'S PUBLIC INFORMATION.

6 Q. SO HOW WOULD THEY DO THAT?

7 A. THERE IS A, I GUESS, WHOIS PROTOCOL THAT'S EITHER,  
8 YOU KNOW, FROM A PARTICULAR COMPUTER OR FROM ARIN'S  
9 WEBSITE. YOU CAN GO AHEAD AND TYPE IN AN IP ADDRESS AND  
10 IT WILL RETURN THE WHOIS INFORMATION FOR A PARTICULAR  
11 IP.

12 Q. OKAY. NOW, LET'S GO BACK TO THE OPERATION OF THE  
13 ISP HERE AND THE SERVERS. IF SOMEONE HAS, AS YOU HAVE  
14 DESCRIBED, ORDERED A SERVER, A PACKAGE SO-TO-SPEAK WITH  
15 IPS'S AND BANDWIDTH -- IS THAT THE WAY IT'S SOLD?

16 A. YES.

17 Q. DO YOU HAVE ANY CONTROL OVER WHAT THEY DO WITH  
18 THAT SERVER?

19 A. NO. OUR MODEL IS THAT A CUSTOMER RECEIVES A  
20 DEDICATED SERVER, AND IN THE INDUSTRY TERMS A DEDICATED  
21 SERVER IS, YOU KNOW, FULL ADMINISTRATIVE ACCESS. SO THE  
22 SERVER ITSELF WILL HAVE AN OPERATING SYSTEM INSTALLED, A  
23 PASSWORD WILL BE SET, AND THAT PASSWORD WILL BE SENT TO  
24 THE CUSTOMER. AT THAT POINT IT IS AS IF, YOU KNOW, THE  
25 CUSTOMER IS THE ONLY ADMINISTRATOR OF THAT SERVER. IT

1 IS SIMILAR TO ANYBODY BUYING A COMPUTER FROM ANY  
2 COMPUTER SHOP. YOU WILL BE THE ADMINISTRATOR OF YOUR  
3 OWN COMPUTER THERE.

4 Q. SO EVEN THOUGH THEY DON'T TAKE IT HOME WITH THEM,  
5 THEY RUN IT AS IF THEY HAD?

6 A. YES.

7 Q. SO CAN YOU GET ACCESS TO WHAT'S ON THAT SERVER  
8 AFTER YOU HAVE GIVEN THE CUSTOMER YOUR PASSWORD?

9 A. NOT WITHOUT THE CUSTOMER'S PASSWORD.

10 Q. COULD YOU CHANGE THE PASSWORD?

11 A. THERE ARE DIFFERENT TYPES OF SOFTWARE THAT, IF THE  
12 CUSTOMER DOES LOSE THEIR PASSWORD, WE WOULD NEED TO SHUT  
13 DOWN THE SERVER AND RUN A DIFFERENT TYPE OF SOFTWARE ON  
14 IT THAT CAN RESET THE PASSWORD FOR THE CUSTOMER.

15 Q. AND IF YOU DID THAT, WHAT HAPPENS TO THE CUSTOMER?

16 A. WELL, THE CUSTOMER WOULD BE OFF LINE DURING THE  
17 TIME THAT WE ARE RESETTING THE PASSWORD. AT THAT POINT  
18 WE WOULD ISSUE A NEW PASSWORD AND SEND THAT TO THE  
19 CUSTOMER.

20 Q. BUT IF YOU DIDN'T GIVE THE PASSWORD TO THE  
21 CUSTOMER, WOULD THEY BE ABLE TO ACCESS THE SERVER THAT  
22 THEY RENTED?

23 A. NO.

24 Q. DO YOU EVER MONITOR WHAT CUSTOMERS ARE DOING ON  
25 THOSE SERVERS?

1 A. NO.

2 Q. WHY NOT?

3 A. SO, PARTICULARLY, THE AMOUNT OF DATA THAT IS GOING  
4 BY IS NOT REALLY ACCESSIBLE BY THE ROUTER, YOU KNOW.  
5 THE ROUTER ITSELF ONLY SEES IP ADDRESSES AND IT WILL SEE  
6 THAT THERE IS DATA, BUT WITHOUT ACTUALLY KNOWING, YOU  
7 KNOW, PROTOCOLS AND OTHER THINGS, THE ROUTER ITSELF  
8 DOESN'T SPEAK THOSE. THE ROUTER ONLY SPEAKS BGP, AND IT  
9 UNDERSTANDS THAT THERE'S A SOURCE DESIGNATION AND --  
10 THERE'S A SOURCE IP ADDRESS AND A DESIGNATION IP  
11 ADDRESS. ITS JOB IS TO FORWARD TO THE DESIGNATION.

12 Q. NOW, ONCE YOU HAVE RENTED A SERVER TO A CUSTOMER,  
13 GIVEN THEM THE PASSWORD, WHAT IS THE PROCESS BY WHICH  
14 THEY PUT PROGRAMS OR WHATEVER THEY ARE PUTTING -- DATA  
15 OF ANY KIND ON THE SERVER?

16 A. THAT WILL DEPEND ON THE CUSTOMER. THERE ARE  
17 VARIOUS APPLICATIONS THAT THE CUSTOMER CAN USE TO UPLOAD  
18 INFORMATION TO THEIR SERVER.

19 Q. CAN THEY INSTALL PROGRAMS ON THE SERVER?

20 A. YES.

21 Q. REMOTELY?

22 A. YES. WHEN THEY LOG IN TO THE SERVER, IT IS THE  
23 SAME AS IF THEY WERE LOGGING INTO IT FROM HOME IN  
24 GENERAL. IF IT'S A WINDOWS SERVER, THEY WILL REMOTE IN  
25 AND THEY WILL SEE A WINDOWS DESKTOP. IF IT IS A LINUX

1 SERVER, THEN THEY WILL TERMINAL IN AND THEY WILL SEE A  
2 LINUX TERMINAL, AT WHICH POINT THEY CAN USE IT AS IF  
3 THEY WERE SITTING IN FRONT OF IT AS WELL.

4 Q. AND THEN WHAT? WHAT'S THE PHYSICAL PROCESS BY  
5 WHICH THEY UPLOAD?

6 A. AGAIN, THAT WILL DEPEND ON THE PARTICULAR USER AND  
7 WHAT THEY ARE FAMILIAR WITH. FOR EXAMPLE, THERE'S FTP  
8 WHICH IS A PROTOCOL THAT THEY CAN USE TO UPLOAD, WHICH  
9 IS VERY STANDARD AND WORKS, I BELIEVE, ON BOTH WINDOWS  
10 AND ON LINUX. THERE ARE OTHER ENCRYPTED METHODS AS  
11 WELL, OR THEY COULD PULL UP AN INTERNET BROWSER AND  
12 DOWNLOAD JUST AS IF THEY WERE AT HOME ON THAT COMPUTER.

13 Q. NOW, THIS CHART WE HAVE BEEN SHOWING YOU, EXHIBIT  
14 1610, SHOWS USERS DOWN HERE AT THE BOTTOM SOMETIMES  
15 GOING THROUGH RESELLERS. ASSUMING THAT ONE OF THESE  
16 USERS WANTS TO UPLOAD INFORMATION TO A SERVER, DO THEY  
17 ACTUALLY HAVE A DIRECT LINE LIKE THIS SUGGESTS OR DO  
18 THEY HAVE TO GO THROUGH THE INTERNET BACKBONE AND ALL OF  
19 THAT?

20 A. ALL OF OUR CUSTOMERS WILL NEED TO GO THROUGH THE  
21 INTERNET BACKBONE TO REACH THEIR SERVER. THERE ARE NO  
22 USERS THAT ARE DIRECTLY CONNECTED TO THEIR OWN SERVERS.  
23 THIS IS A CLOSED FACILITY FOR PHYSICAL ACCESS.

24 MR. LOWE: OKAY. I HAVE NO FURTHER QUESTIONS,  
25 YOUR HONOR.

1 THE COURT: VERY WELL.

2 ANY CROSS?

3 CROSS-EXAMINATION

4 BY MS. WANG:

5 Q. GOOD MORNING, MR. CHENG.

6 A. GOOD MORNING.

7 Q. ISN'T IT CORRECT THAT WHEN YOU ARE ASSIGNING AN IP  
8 ADDRESS, IT ONLY GETS ASSIGNED TO ONE CUSTOMER AT A  
9 TIME?

10 A. THAT'S CORRECT.

11 Q. AND WHEN AN INTERNET USER IS TRYING TO ACCESS A  
12 WEBSITE THAT IS ON ONE OF YOUR SERVERS, ISN'T AKANOC'S  
13 SERVER THE FIRST HOP OUT?

14 A. CAN YOU REPEAT THAT?

15 Q. SURE. WHEN INFORMATION IS BEING TRANSMITTED TO AN  
16 INTERNET USER FROM DEFENDANT'S SERVERS, ISN'T THE FIRST  
17 ROUTER OR HOP DEFENDANT'S ROUTER?

18 A. SO THE FIRST HOP FROM A CUSTOMER SERVER WILL BE  
19 AKANOC'S ROUTER.

20 Q. AND YOU STATED EARLIER THAT THE ARIN WHOIS  
21 DATABASE INFORMATION IS UPDATED BY AKANOC OR MSG; IS  
22 THAT CORRECT?

23 A. YES.

24 Q. I'M GOING TO SHOW YOU --

25 THE COURT: YOU MIGHT WANT TO BACK OUT A

1 LITTLE BIT.

2 MS. WANG: IS IT FLASHING ON YOUR SCREENS AS  
3 WELL?

4 THE COURT: KEEP YOUR VOICE UP.

5 BY MS. WANG:

6 Q. MR. CHENG, CAN YOU SEE THAT?

7 A. YES.

8 Q. AND WHAT DOES IT LIST AS MANAGED SOLUTIONS GROUP'S  
9 CONTACT INFORMATION OR ADDRESS?

10 A. IT'S A LITTLE BLURRY.

11 THE COURT: IS THERE AN AUTOFOCUS BUTTON  
12 THERE?

13 MS. WANG: YEAH, I TRIED IT EARLIER, BUT --  
14 YEAH. SORRY, THAT IS ACTUALLY AUTOFOCUSED.

15 THE WITNESS: IT LISTS 46750 FREMONT.

16 BY MS. WANG:

17 Q. IS THAT A CORRECT ADDRESS FOR MANAGED SOLUTIONS  
18 GROUP?

19 A. I BELIEVE THAT IS A -- SOME TYPE OF ADDRESS. IT  
20 MIGHT BE THE REGISTERED ADDRESS FOR THE CORPORATION, I'M  
21 NOT SURE.

22 Q. COULD YOU READ THE DATE THERE?

23 A. THAT SAYS "8/24/2009."

24 Q. AND, MR. CHENG, YOU ALSO TESTIFIED THAT THE ARIN  
25 WHOIS DATABASE WOULD REFLECT YOUR -- OR DEFENDANT'S



1 CUSTOMERS?

2 A. YES.

3 Q. AND THAT WOULD BE ACCORDING TO A SEARCH FOR A  
4 PARTICULAR IP ADDRESS?

5 A. YES.

6 Q. I'M SHOWING YOU EXHIBIT 625, WHICH APPEARS TO BE A  
7 WHOIS SEARCH FOR A PARTICULAR IP ADDRESS.

8 LOOKING AT THAT RESULT, CAN YOU TELL ME WHICH  
9 CUSTOMER THAT IP ADDRESS BELONGED TO?

10 A. I DON'T SEE ANY INFORMATION.

11 MS. WANG: NO FURTHER QUESTIONS, YOUR HONOR.

12 THE COURT: ANY FURTHER QUESTIONS?

13 MR. LOWE: NO, YOUR HONOR.

14 THE COURT: VERY WELL. THE WITNESS IS  
15 EXCUSED.

16 THANK YOU VERY MUCH.

17 CALL YOUR NEXT WITNESS.

18 MR. LOWE: I CALL RICHARD GRALNIK.

19 (PAUSE IN PROCEEDINGS.)

20 THE COURT: IS THERE SOMEONE WHO HAS SUMMONED  
21 HIM?

22 MR. LOWE: I BELIEVE SO. HE IS STANDING IN  
23 THE HALL.

24 THE COURT: COME ALL THE WAY FORWARD HERE AND  
25 BE SWORN BY THE CLERK.

1 THE CLERK: WOULD YOU PLEASE RAISE YOUR RIGHT  
2 HAND.

3 RICHARD GRALNIK,  
4 BEING CALLED AS A WITNESS ON BEHALF OF THE DEFENDANTS,  
5 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED  
6 AS FOLLOWS:

7 THE CLERK: PLEASE BE SEATED.

8 WOULD YOU PLEASE STATE YOUR FULL NAME, AND  
9 SPELL YOUR LAST NAME.

10 THE WITNESS: MY NAME IS RICHARD GRALNIK. MY  
11 LAST NAME IS SPELLED G-R-A-L-N-I-K.

12 DIRECT EXAMINATION

13 BY MR. LOWE:

14 Q. WHAT IS YOUR BUSINESS ADDRESS, SIR?

15 A. MY BUSINESS ADDRESS IS 5870 WEST JEFFERSON  
16 BOULEVARD, SUITE A, LOS ANGELES, CALIFORNIA, 90016.

17 Q. AND WHAT BUSINESS IS LOCATED AT THAT ADDRESS?

18 A. THE NAME OF THE COMPANY IS ONLINE SECURITY.

19 Q. AND WHAT IS YOUR POSITION WITH ONLINE SECURITY?

20 A. I AM A SENIOR FORENSIC INVESTIGATOR.

21 Q. AND HAVE YOU BEEN RETAINED BY THE DEFENSE AS AN  
22 EXPERT WITNESS IN THIS CASE?

23 A. YES, I HAVE.

24 Q. CAN YOU TELL US HOW LONG YOU HAVE BEEN WORKING IN  
25 THE COMPUTER INDUSTRY, FIRST OF ALL?

1 A. I HAVE WORKED IN THE COMPUTER INDUSTRY SINCE 1981.

2 Q. THAT'S ABOUT HOW MANY YEARS?

3 A. ABOUT 27 YEARS, 28 YEARS.

4 Q. WHAT WAS YOUR TRAINING IN THE COMPUTER INDUSTRY,  
5 INITIALLY?

6 A. MY INITIAL TRAINING WAS AS A COMPUTER PROGRAMMER.

7 Q. AND THEN WHAT?

8 A. AND FROM THERE I WENT INTO NETWORKING, COMPUTER  
9 NETWORKS.

10 Q. WHAT SORT OF NETWORKING EXPERIENCE AND TRAINING  
11 HAVE YOU HAD CONCERNING THE INTERNET?

12 A. CONCERNING THE INTERNET, I HAVE HAD TRAINING ON  
13 ROUTERS. I HAVE HAD TRAINING ON THE DESIGN AND  
14 IMPLEMENTATION OF A LARGE AMOUNT OF DATABASE NETWORKS.  
15 I HAVE DESIGNED VARIOUS SIZE NETWORKS THAT WERE BOTH  
16 WIDE AND LOCAL AREA.

17 Q. CAN YOU BRIEFLY DEFINE WIDE AREA AND LOCAL AREA  
18 NETWORKS?

19 A. A WIDE AREA NETWORK IS BASICALLY A NETWORK THAT  
20 INVOLVES LONG DISTANCE CONNECTIONS, ALTHOUGH IT CAN EVEN  
21 BE A SHORT DISTANCE IF IT INVOLVES CROSSING PUBLIC  
22 THOROUGHFARES. BOTH AREA NETWORKS ARE TYPICALLY THOUGHT  
23 OF AS ONES THAT ARE IN A SINGLE BUILDING.

24 Q. WHAT SORT OF WORK DO YOU DO -- WELL, WHY DON'T YOU  
25 GO THROUGH YOUR HISTORY, IF YOU WILL, IN THE COMPUTER

1 INDUSTRY. VERY BRIEFLY, WHAT SORT OF WORK HAVE YOU  
2 DONE?

3 A. I STARTED OUT AS A PROGRAMMER. I WORKED FOR A  
4 COUPLE YEARS DOING PROGRAMMING ORIGINALLY ON IBM  
5 PERSONAL COMPUTERS. I THEN WORKED ON IBM MAINFRAMES AS  
6 A PROGRAMMER. I THEN WORKED FOR AN INTERNATIONAL  
7 COMPUTER VENDOR NAMED CRIME COMPUTER AND I WORKED FOR  
8 THEM INITIALLY AS A TECHNICAL CONSULTANT IN DATABASES  
9 AND TRADITIONAL PROGRAMMING LANGUAGES.

10 I THEN MOVED INTO COMPUTER NETWORKS AND BECAME  
11 THE SPECIALIST OF THE WESTERN UNITED STATES ON  
12 NETWORKING. I WENT FROM THERE TO A COMPANY IN LOS  
13 ANGELES TO A CONSULTING COMPANY THAT DESIGNED AND BUILT  
14 AND DID EVALUATIONS OF VARIOUS SIZE NETWORKS, TYPICALLY  
15 ROUTER-BASED NETWORKS. THAT COMPANY GRADUALLY CHANGED  
16 INTO A SOFTWARE COMPANY, AND I WROTE THE DOCUMENTATION  
17 AND TRAINED ON A NETWORK MANAGEMENT APPLICATION.

18 AND FROM THERE I WENT INTO INFORMATION  
19 SECURITY FOR A COUPLE OF YEARS, AND THEN MOVED INTO  
20 COMPUTER FORENSICS.

21 Q. WHAT DO YOU DO IN THE COMPUTER FORENSICS FIELD?

22 A. A VARIETY OF THINGS. MOST OF THE CASES INVOLVE  
23 ANALYSIS OF DIFFERENT KINDS OF COMPUTER STORAGE DEVICES  
24 AND ESTABLISHING VALIDITY OF INFORMATION ON THOSE  
25 DEVICES. OTHER CASES INVOLVE DIFFERENT KINDS OF

1 COMPUTER TECHNOLOGY WHERE AN EVALUATION AND  
2 UNDERSTANDING OF THE TECHNOLOGY IS NECESSARY TO DEFEND  
3 WHATEVER IS BEING DONE WITH THOSE COMPUTERS IN COURT.

4 Q. CAN YOU TELL US BRIEFLY ABOUT YOUR EDUCATION,  
5 FORMAL EDUCATION?

6 A. I HAVE A DEGREE IN ECONOMICS FROM THE UNIVERSITY  
7 OF CALIFORNIA IN SANTA BARBARA THAT WAS AWARDED IN 1981  
8 THAT INVOLVED THREE YEARS OF STUDY IN ENGLAND. AND I  
9 HAVE A CERTIFICATE OF DATA PROCESSING FROM A JUNIOR  
10 COLLEGE IN TORRANCE, EL CAMINO COLLEGE.

11 Q. ARE YOU AFFILIATED WITH ANY PROFESSIONAL  
12 ORGANIZATIONS?

13 A. YES, I AM.

14 Q. WHAT ARE THOSE?

15 A. I'M A MEMBER OF THE HIGH TECH CRIME INVESTIGATOR  
16 ASSOCIATION. I'M A MEMBER OF THE INFORMATION SYSTEMS  
17 SECURITY ASSOCIATION. I AM A MEMBER OF THE FBI NATIONAL  
18 MEMBERS ALLIANCE. THEY CHANGED IT -- I FORGOT WHAT THEY  
19 CALLED IT ORIGINALLY; THEY CHANGED THE NAME.

20 Q. HAVE YOU EVER TESTIFIED AS AN EXPERT WITNESS IN  
21 ANY LAWSUIT?

22 A. YES, I HAVE.

23 Q. APPROXIMATELY HOW OFTEN HAVE YOU BEEN RETAINED AS  
24 AN EXPERT WITNESS AND PROVIDED SOME SORT OF TESTIMONY IN  
25 COMPUTER FORENSICS?

1 A. IT VARIES AS FAR AS TIMING. IN THE LAST FIVE  
2 YEARS, I HAVE WORKED ON PROBABLY A COUPLE HUNDRED CASES.  
3 I HAVE TESTIFIED IN DEPOSITIONS ON A DOZEN OR SO OF  
4 THOSE. I HAVE TESTIFIED IN TWO JURY TRIALS BEFORE THIS,  
5 AND I HAVE TESTIFIED IN AN ARBITRATION.

6 Q. HAVE YOU EVER ACTED AS AN EXPERT WITNESS IN  
7 FEDERAL COURT PROCEEDINGS?

8 A. YES, I HAVE.

9 Q. AND IN WHAT OTHER COURTS?

10 A. CALIFORNIA STATE SUPERIOR COURTS, STATE OF  
11 ARKANSAS SUPERIOR COURT, AND A COUPLE OTHERS I DON'T  
12 REMEMBER.

13 Q. OKAY. IN THE COURSE OF YOUR WORK, HAVE YOU BECOME  
14 FAMILIAR WITH INTERNET SERVICE PROVIDERS?

15 A. YES, I HAVE.

16 Q. AND WHAT IS YOUR UNDERSTANDING OF WHAT AN INTERNET  
17 SERVICE PROVIDER IS OR DOES?

18 A. MY UNDERSTANDING OF AN INTERNET SERVICE PROVIDER  
19 IS A COMPANY THAT GIVES -- THAT MAKES ACCESS TO THE  
20 INTERNET AVAILABLE FOR OTHER COMPANIES IN VARIOUS WAYS,  
21 SOMETIMES BY PROVIDING MACHINES THAT ARE CONNECTED TO  
22 THE INTERNET THAT COMPANIES CAN USE FOR THEIR OWN  
23 PURPOSES, SOMETIMES BY PROVIDING THE ABILITY TO PUT A  
24 SERVICE ON THE INTERNET, SUCH AS A WEBSITE.

25 MR. LOWE: YOUR HONOR, I BELIEVE THAT WE HAVE

1 STIPULATED TO THE ADMISSION OF EXHIBIT 1612,  
2 MR. GRALNIK'S CV?

3 THE COURT: YES. YOU MAY DISPLAY IT.

4 CV'S ARE NOT EVIDENCE, BUT SOMETIMES IT'S  
5 CONVENIENT FOR YOU, RATHER THAN HAVE THE WITNESS GO  
6 THROUGH HIS CV AND TESTIFY ABOUT IT, TO DISPLAY IT,  
7 AND I WILL ALLOW THAT.

8 BY MR. LOWE:

9 Q. WHAT WERE YOU ENGAGED BY THE DEFENDANTS TO DO IN  
10 THIS CASE, GENERALLY SPEAKING?

11 A. I WAS ENGAGED BY THE DEFENDANTS IN THIS CASE TO  
12 LOOK AT THE NATURE OF THEIR BUSINESS AS A HOSTING  
13 PROVIDER AND TO COMPARE THEM TO OTHER SIMILAR TYPES OF  
14 BUSINESSES AND TO ESTABLISH, I GUESS, THE COMMONALITY OF  
15 THAT KIND OF BUSINESS MODEL ON THE INTERNET, AND ALSO TO  
16 LOOK AT THEIR ABUSE RESPONSE, POLICIES AND PROCEDURES,  
17 AND COMPARE THOSE TO OTHER COMPANIES IN SIMILAR  
18 BUSINESS.

19 Q. AND IN DOING THAT, WHAT SORT OF INFORMATION DID  
20 YOU RELY UPON?

21 A. THE INFORMATION I RELIED ON INCLUDED INTERVIEWS  
22 WITH EMPLOYEES AT AKANOC, RESEARCH I DID ON OTHER  
23 COMPANIES IN THE INDUSTRY THAT ARE OTHER HOSTING  
24 COMPANIES AND -- I'M SORRY, IN ISP'S, LOOKING AT THEIR  
25 BUSINESS MODELS, LOOKING AT THE WAY THAT THEY WORK WITH

1 RESELLERS AND PROVIDE ALL KINDS OF HOSTING SERVICES, AND  
2 TO EVALUATE THEIR VARIOUS POLICIES FOR ABUSE RESPONSE.

3 Q. CAN YOU LOOK AT EXHIBIT 1543, PLEASE.

4 CAN YOU TELL US WHAT THIS IS?

5 A. THIS IS A DIAGRAM OF A MAP THAT WAS CREATED OF A  
6 SECTION OF THE INTERNET USING A PROGRAM THAT SENT  
7 TRAFFIC TO 20,000 DIFFERENT SITES ON THE INTERNET AND  
8 MAPPED THE LOCATIONS -- WELL, THE PATHS THROUGHOUT THOSE  
9 LOCATIONS, SPECIFICALLY.

10 Q. AND IS THIS ALL OF THE INTERNET THAT'S SHOWN ON  
11 THIS MAP?

12 A. NO. NOT EVEN CLOSE.

13 Q. WHAT IS IT, AS YOU UNDERSTAND IT, DOES IT SHOW?

14 A. MY UNDERSTANDING IS IT SHOWS -- I THINK I SAID  
15 BEFORE, 20,000 DIFFERENT SITES IN THE UNITED STATES,  
16 SWEDEN, I THINK THE U.K. AND ITALY, AND THEN THE REST OF  
17 IT IS KIND OF LUMPED TOGETHER.

18 Q. AND WHAT ARE ALL OF THESE LITTLE LINES AND  
19 BRANCHES, LOOKS LIKE A SNOWFLAKE OR SOMETHING, BUT NOT  
20 QUITE?

21 A. IT'S MY UNDERSTANDING THAT THESE ARE BASICALLY  
22 PATHS THROUGH THE INTERNET TO THE VARIOUS SITES THAT  
23 WERE CONTACTED.

24 Q. HOW MANY -- HOW LARGE IS THE INTERNET?

25 A. I'M NOT SURE I CAN ANSWER THAT. IT'S WORLDWIDE.



1 Q. AND YOU SAID THERE WERE 20,000 SITES THAT WERE  
2 BEING QUERIED TO CREATE THIS PARTICULAR DOCUMENT, THIS  
3 PARTICULAR PICTURE. DO YOU KNOW HOW MANY SITES THERE  
4 ARE ON THE INTERNET?

5 A. I DON'T KNOW IF ANYONE KNOWS THE ANSWER TO THAT  
6 QUESTION. THERE ARE MILLIONS.

7 Q. I WOULD LIKE YOU TO LOOK BRIEFLY AT EXHIBIT 1610,  
8 THIS CHART BEHIND YOU, AND WE WILL PUT IT ON THE SCREEN  
9 AS WELL.

10 CAN YOU TELL ME WHAT THAT IS?

11 A. THIS IS SORT OF A FLOWCHART OF THE SERIES OF STEPS  
12 THAT OCCUR BEHIND THE SCENES WHEN A USER WANTS TO  
13 CONNECT TO A WEBSITE ON THE INTERNET.

14 Q. AND, JUST ROUGHLY, CAN YOU TELL US WHAT THE STEPS  
15 ARE FOR SOME USER TO CONNECT TO SOMEBODY ON THE  
16 INTERNET?

17 A. YES. TYPICALLY WHAT THE USER WILL SEE, OF COURSE,  
18 IS ON THEIR COMPUTER SCREEN, AND THEY WILL TYPE IN THE  
19 NAME OF THE WEBSITE ON THEIR BROWSER, FOR EXAMPLE. WHAT  
20 HAPPENS BEHIND THE SCENES IS THAT THE FIRST THING THE  
21 COMPUTER HAS TO DO IS FIND OUT WHAT'S CALLED THE IP  
22 ADDRESS OF THAT SITE. THE INTERNET DOESN'T USE SITE  
23 NAMES LIKE GOOGLE.COM OR AKANOC.COM TO COMMUNICATE OVER  
24 THE INTERNET. ALL THE DIFFERENT SITES HAVE ADDRESSES  
25 ASSIGNED TO THEM BY THE PHONE NUMBER. YOU DON'T CALL

1 SOMEONE BY NAME, YOU CALL THE PHONE NUMBER, AND THE  
2 INTERNET WILL TRANSLATE THE NAME YOU REQUESTED INTO  
3 WHAT'S CALLED THEIR IP ADDRESS THROUGH A PROCESS USING  
4 WHAT'S CALLED THE DOMAIN NAME SERVICE, AND THAT'S STEPS  
5 ONE THROUGH FOUR -- ONE THROUGH THREE HERE.

6 Q. SO THE DOMAIN NAME SERVICE IS, FOR EXAMPLE,  
7 REFLECTED HERE IN THE TOP RIGHT CORNER OF THIS CHART --  
8 DIAGRAM?

9 A. YES.

10 Q. OKAY. THEN WHAT HAPPENS?

11 A. ONCE YOUR COMPUTER KNOWS THE IP ADDRESS OF THE  
12 SITE THAT YOU WANT TO TALK TO, IT WILL THEN SEND DATA TO  
13 THAT SITE, AND HOW IT GETS THERE IS BASICALLY DEPENDING  
14 ON THE INTERNET.

15 WHAT WILL HAPPEN IS THAT YOUR SYSTEM WILL SEND  
16 A REQUEST, WHATEVER TYPE OF ACTION YOU TRY TO DO, SEND  
17 THAT KIND OF DATA OVER THE INTERNET. IT WILL BE SENT TO  
18 THE IP ADDRESS THAT WAS RETURNED BY THE DNS RESPONSE BY  
19 WHATEVER PATH MAKES THE MOST SENSE AT THAT TIME, AND  
20 THAT PATH CAN CHANGE AT ANY TIME. THERE'S NO FIXED  
21 ROUTE THROUGH THE INTERNET FROM ONE POINT TO ANY OTHER  
22 POINT -- IT'S CONSTANTLY CHANGING -- AND THE NETWORK  
23 ITSELF WILL DECIDE ON THE BEST WAY TO ROUTE YOUR PACKET  
24 FROM YOUR LOCATION TO THE DESIGNATION.

25 ONCE IT REACHES THE DESIGNATION, THE COMPUTER

1 ON THE OTHER SIDE WILL RECEIVE IT, PROCESS IT, AND SEND  
2 BACK THE RESPONSE, WHICH MAY OR MAY NOT TAKE THE SAME  
3 PATH BACK TO YOU THAT YOUR PACKET TOOK TO THEM.

4 Q. ALL RIGHT. NOW, HERE IN THE CENTER OF THIS  
5 PARTICULAR EXHIBIT IS SOMETHING REFERRED TO AS THE  
6 "INTERNET BACKBONE." CAN YOU TELL US WHAT THAT IS?

7 A. THE INTERNET BACKBONE IS SORT OF A GENERIC TERM  
8 FOR THE HIGHER-LEVEL TRAFFIC ROUTES AROUND THE WORLD.

9 TYPICALLY, WHAT WILL HAPPEN IS IF SOMEONE HAS  
10 A CONNECTION TO THEIR OFFICE IN THEIR HOME, IT WILL BE  
11 CONNECTED TO A HIGHER-TIER CARRIER IN THE INTERNET, AND  
12 THEN THE TRAFFIC WILL GO FROM THAT LEVEL TO WHATEVER  
13 LEVEL IT NEEDS TO TAKE TO GET TO THE FINAL DESTINATION.  
14 IT COULD BE LOCALLY WITHIN A PARTICULAR CITY; IT COULD  
15 BE INTERNATIONAL; IT COULD BE ANYWHERE.

16 AND THE ROUTERS ON THE INTERNET THAT KEEP  
17 TRACK OF THE DIFFERENT PATHS THAT ARE AVAILABLE FROM ONE  
18 POINT TO ANOTHER WILL DETERMINE THE BEST WAY FOR YOUR  
19 DATA TO THE DESIGNATION, AND THEN THE RESPONSE CAN THEN  
20 BE MAPPED BY THE SAME OPTION.

21 Q. IS THE PERSON, LET'S SAY SITTING HERE SENDING A  
22 MESSAGE TO SOMEBODY ELSE ON THE INTERNET -- SEEKING  
23 INFORMATION FROM SOMEBODY ELSE ON THE INTERNET --  
24 ANALOGOUS TO MAILING A LETTER, OR NOT?

25 A. YOU COULD LOOK AT IT THAT WAY AS A COMPARISON,

1 YES.

2 Q. WOULD YOU PLEASE TAKE A LOOK AT EXHIBIT 1544.

3 TELL US WHAT THIS IS.

4 A. THIS IS A DIAGRAM THAT IS SIMILAR TO THE PREVIOUS  
5 DIAGRAM. IT'S ON MORE OF AN INFRASTRUCTURE LEVEL THAN A  
6 FLOWCHART, BUT IT DOES ALSO SHOW A SIMILAR KIND OF LOGIC  
7 INVOLVED IN DATA CROSSING THE INTERNET.

8 Q. CAN YOU BRIEFLY DESCRIBE WHAT IT'S SHOWING?

9 A. WHAT IT WILL SHOW IS A PERSON ON THEIR SYSTEM  
10 TRYING TO ACCESS A PARTICULAR WEBSITE. THEIR REQUESTS  
11 WILL GO TO A SERVER, WHICH WILL TURN THE -- ACTUALLY  
12 TRANSLATE THE NAME THAT THEY REQUESTED INTO THE IP  
13 ADDRESS OF THE COMPUTER THAT ACTUALLY PROVIDES THAT  
14 PARTICULAR SERVICE OR HAS THAT PARTICULAR FACILITY ON  
15 IT. AND THEN THE TRAFFIC FROM THE USER TO THE ACTUAL  
16 SITE, ONCE THE IP ADDRESS HAS BEEN DETERMINED, WILL  
17 CROSS THE INTERNET THROUGH ANY NUMBER OF POSSIBLE PATHS  
18 TO REACH THE DESIGNATION, WHICH IS IN THE LOWER  
19 RIGHT-HAND CORNER -- IN THIS CASE IT'S A WEBSITE DATA  
20 CENTER.

21 AND THEN THE TRAFFIC GOING BACK THE OTHER WAY  
22 AGAIN WILL GO BACK BY WHATEVER PATH MAKES THE MOST SENSE  
23 AT THE TIME.

24 Q. IS IT APPROPRIATE TO THINK ABOUT THE INTERNET AND  
25 THE WORLD WIDE WEB AS THE SAME THING?

1 A. THEY ARE NOT THE SAME THING.

2 Q. HOW ARE THEY DIFFERENT?

3 A. THE INTERNET IS -- WELL, IT'S REFERRED TO AS A  
4 NETWORK OF NETWORKS, BUT THE WORLD WIDE WEB IS JUST ONE  
5 FUNCTION THAT'S AVAILABLE ON THE INTERNET. THE INTERNET  
6 DOES ALL SORTS OF OTHER -- PROVIDES A LOT OF OTHER KINDS  
7 OF DATA SERVICES BESIDES THE WORLD WIDE WEB ITSELF.  
8 THESE DAYS TO MANY PEOPLE, BECAUSE THEY TEND TO DO SO  
9 MANY THINGS THROUGH THE WEB, IT SEEMS TO BE SYNONYMOUS,  
10 BUT THE WORLD WIDE WEB IS A SUBSET OF THE INTERNET; IT'S  
11 ONE PARTICULAR SOFTWARE SERVICE AVAILABLE ON THE  
12 INTERNET.

13 Q. IS THE WORLD WIDE WEB OR WEB TRAFFIC A MAJOR PART  
14 OF INTERNET OPERATIONS OF TRAFFIC, AS FAR AS YOU KNOW?

15 A. TO MY KNOWLEDGE, NO, IT'S NOT.

16 Q. WOULD YOU LOOK AT EXHIBIT 1545 AND TELL US WHAT  
17 THAT REPRESENTS?

18 A. THIS IS A SERIES OF BAR CHARTS SHOWING A BREAKDOWN  
19 OF THE TYPE OF INTERNET TRAFFIC THAT IS SEEN ON THE  
20 INTERNET BY CATEGORY.

21 Q. IN DIFFERENT YEARS?

22 A. YES, FOR 2008. 2009 AND 2010 ARE PROJECTED.

23 Q. SO JUST VERY BRIEFLY, IT'S INDICATING A VARIETY OF  
24 SERVICES IN ROUGH QUANTITY OF USAGE OF THE INTERNET?

25 A. YES.

1 Q. SO HOW MUCH IN 2008, APPROXIMATELY, OF ALL  
2 INTERNET USAGE, WAS WEB AND E-MAIL TRAFFIC?

3 A. BASED ON THIS GRAPH, I WOULD SAY ABOUT 20, 25  
4 PERCENT.

5 Q. CAN YOU TELL US YOUR UNDERSTANDING OF AN IP  
6 ADDRESS?

7 A. AN IP ADDRESS IS A NETWORK ADDRESS OR IDENTIFIER  
8 GIVEN TO A PARTICULAR COMPUTER ON A NETWORK.

9 Q. AND WHO ASSIGNS THOSE ADDRESSES?

10 A. DEPENDING ON THE NETWORK, THE ADDRESSES ARE  
11 TYPICALLY ASSIGNED BY AN ADMINISTRATOR.

12 Q. AND IS THERE -- ARE THERE ORGANIZATIONS THAT DO  
13 THIS, OR HOW IS IT DONE?

14 A. IP ADDRESS ASSIGNMENT ON THE INTERNET, I'M JUST --  
15 IT'S A LITTLE CONFUSING BECAUSE IP ADDRESSES REALLY  
16 APPLY TO COMPUTERS ON A NETWORK IN GENERAL. YOU DON'T  
17 HAVE TO BE ON THE INTERNET TO HAVE AN IP ADDRESS, SO  
18 THAT MIGHT BE WHERE THE CONFUSION COMES IN.

19 Q. SO LET'S FOCUS ON INTERNET, IP ADDRESSES ON THE  
20 INTERNET, FOR THE MOMENT. WHO ASSIGNS THOSE?

21 A. IP ADDRESS ASSIGNMENT ON THE INTERNET IS  
22 CONTROLLED BY THE TOP LEVEL OF THAT ORGANIZATION CALLED  
23 THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS.  
24 THAT ORGANIZATION THEN HAS DELEGATED RESPONSIBILITY FOR  
25 IP ADDRESSES AROUND THE WORLD TO FIVE DIFFERENT

1 ORGANIZATIONS CALLED REGIONAL INTERNET REGISTRIES.  
2 THOSE REGISTRIES, IN TURN, ASSIGN BLOCKS OF ADDRESSES TO  
3 ISP'S, AND ISP'S THEN ASSIGN IP ADDRESSES FOR SPECIFIC  
4 MACHINES TO PARTICULAR COMPUTERS.

5 Q. THIS FIRST ORGANIZATION YOU TALKED ABOUT, IS IT  
6 ALSO KNOWN AS ICANN?

7 A. YES, IT IS.

8 Q. AND WHO MAKES THE RULES FOR THE USE OF IP  
9 ADDRESSES?

10 A. THE RULES FOR HOW THEY ARE ASSIGNED ON THE  
11 INTERNET ARE BASICALLY DEFINED BY ICANN.

12 Q. HOW DOES AN IP ADDRESS RELATE TO A DOMAIN NAME, IF  
13 AT ALL?

14 A. AN IP ADDRESS YOU COULD THINK OF AS BEING THE  
15 TELEPHONE NUMBER OF THE COMPUTER WHERE YOU HAVE A  
16 PERSON'S NAME. OF COURSE, MY TELEPHONE HAS MY NAME ON  
17 IT, BUT WHEN YOU WANT TO CALL ME, YOU CALL MY TELEPHONE  
18 NUMBER. BY THE SAME LOGIC, A COMPUTER WILL HAVE A NAME  
19 ASSOCIATED WITH IT, SOMETIMES MORE THAN ONE NAME,  
20 BECAUSE THESE ARE FOR PEOPLE TO THINK OF NAMES IN TERMS  
21 OF NUMBERS. BUT COMPUTERS THINK IN TERMS OF NUMBERS,  
22 AND DATA ON THE INTERNET IS ADDRESSED AND TRANSMITTED  
23 BASED ON THOSE NUMBERS.

24 SO THE RELATIONSHIP BETWEEN A DOMAIN NAME SUCH  
25 AS GOOGLE.COM AND AN IP ADDRESS, WHATEVER ADDRESS

1 HAPPENS TO BE ASSIGNED, WILL BE AN ASSOCIATION OF THE  
2 TWO WHERE ONE REPLACES THE OTHER, DEPENDING ON WHETHER  
3 YOU ARE TALKING ON A HUMAN LEVEL OR A COMPUTER LEVEL.

4 Q. AND DOMAIN NAMES, HOW ARE THEY REGULATED OR  
5 ASSIGNED?

6 A. DOMAIN NAMES, AGAIN, AT THE HIGHEST LEVEL ARE  
7 UNDER THE COORDINATION AND CONTROL OF ICANN, BUT THAT,  
8 IN TURN, IS DELEGATED TO A SERIES THAT ARE CALLED  
9 REGISTRIES.

10 Q. NOT THE SAME AS, FOR EXAMPLE, ARIN, OR THESE  
11 REGIONAL NUMBER REGISTRIES?

12 A. NO. THE NUMBER REGISTRIES ARE RESPONSIBLE FOR IP  
13 ADDRESSES, WHAT ARE CALLED AUTONOMOUS SYSTEM NUMBERS.

14 Q. JUST THE NUMBERS?

15 A. JUST THE ADDRESSES, YES.

16 Q. WELL, NUMBER ADDRESSES WE ARE TALKING ABOUT?

17 A. YES.

18 Q. OKAY. AND A DIFFERENT SET OF ORGANIZATIONS DEALS  
19 WITH DOMAIN NAMES, BUT THEY ARE STILL UNDER THE CONTROL  
20 OF ICANN?

21 A. YES, THE DOMAIN NAMES ARE UNDER THE CONTROL OF A  
22 SERIES OF WHAT ARE CALLED REGISTRIES AT THE HIGHEST  
23 LEVEL. FOR EXAMPLE, THE DOT-COM DOMAIN IS UNDER THE  
24 CONTROL OF A COMPANY CALLED VERISIGN, AND VERISIGN HAS  
25 AN AGREEMENT WITH ICANN TO ADMINISTER THE DOT-COM



1 DOMAIN, THE TOP LEVEL DOMAIN. AND THEN ICANN -- I'M  
2 SORRY. THEN VERISIGN, IN TURN, CAN REGISTER WHAT ARE  
3 CALLED REGISTRARS. REGISTRY, REGISTRARS; IT'S GOING TO  
4 GET WORSE.

5 AND THE REGISTRIES ARE THE ONES THAT ACTUALLY  
6 WILL TAKE REQUESTS FOR A DOMAIN NAME TO BE ASSIGNED,  
7 CHECK TO MAKE SURE THAT THE NAME IS UNIQUE AND THAT IT  
8 MEETS THE NAMING GUIDELINES, AS FAR AS WHAT'S ALLOWED  
9 AND THE CHARACTERS THAT CAN BE IN A NAME. IT WILL --  
10 THE REGISTRAR ITSELF WILL ALSO GET THE INFORMATION ABOUT  
11 THE REGISTRANT. THE PERSON IN THE COMPANY THAT WANTS TO  
12 REGISTER THE NAME HAS TO IDENTIFY THEMSELVES, SO THE  
13 REGISTRANT WILL PROVIDE THE REGISTRAR WITH INFORMATION  
14 ABOUT THEMSELVES AND REQUEST A PARTICULAR DOMAIN NAME,  
15 WHICH THE REGISTRAR WILL THEN PUT INTO THE REGISTRY.

16 Q. NOW, DO THESE NAMES ALL HAVE TO BE UNIQUE?

17 A. YES, THEY DO.

18 Q. ARE THERE ANY SPECIAL RULES FOR WHAT YOU CAN HAVE  
19 AS A DOMAIN NAME? COULD YOU HAVE ABCD123?

20 A. THE RULES ON WHAT IS A LEGAL DOMAIN NAME BASICALLY  
21 ONLY CONSIDER THE LENGTH OF THE NAME AND THE CHARACTERS  
22 THAT ARE ALLOWED TO BE IN THE NAME, SO ANY MIXTURE OF  
23 LETTERS AND NUMBERS, FOR EXAMPLE, AS LONG AS IT'S NOT  
24 ALREADY ASSIGNED TO SOMEBODY ELSE, IS A VALID DOMAIN  
25 NAME.

1 Q. NOW, WHAT SORT OF ORGANIZATIONS ACT AS REGISTRAR  
2 OF DOMAIN NAMES?

3 A. ANY NUMBER OF COMPANIES CAN BE REGISTRARS. IT'S A  
4 MATTER OF SIGNING UP TO BE ONE, AND IT'S A BUSINESS, BUT  
5 IT'S JUST A MATTER OF SIGNING YOURSELF UP WITH THE  
6 APPROPRIATE REGISTRY.

7 Q. ARE THERE ANY MAJOR ONES THAT YOU COULD IDENTIFY  
8 THAT WE MIGHT RECOGNIZE?

9 A. THE BIGGEST ONE IS CALLED GO DADDY; THAT'S THE  
10 LARGEST SINGLE REGISTRAR. THERE ARE QUITE A FEW OTHERS.  
11 I THINK IN THE UNITED STATES THERE ARE OVER 500 OF THEM.

12 Q. AND OTHERS AROUND THE WORLD?

13 A. YES.

14 Q. BUT ALL OF THEM ASSIGNING DOT-COM DOMAIN NAMES  
15 ULTIMATELY HAVE TO GO TO VERISIGN TO GET APPROVAL OR  
16 AUTHORIZATION?

17 A. YES, THEY DO. THAT'S RIGHT.

18 Q. AND ARE THERE OTHER ENDINGS OF DOMAIN NAMES OTHER  
19 THAN DOT-COM?

20 A. YES, THERE ARE.

21 Q. SUCH AS?

22 A. DOT-COM, DOT-NET, DOT-GOV, DOT-INFO, DOT-ORG.  
23 THOSE ARE THE MAIN -- WHAT ARE CALLED GENERIC TOP-LEVEL  
24 DOMAINS. THERE ARE ALSO WHAT ARE CALLED COUNTRY CODE  
25 TOP-LEVEL DOMAINS; FOR EXAMPLE, DOT-US, DOT-CA FOR

1 CANADA, DOT-UK. SO PRETTY MUCH EVERY COUNTRY HAS A  
2 TWO-LETTER SUFFIX OR IDENTIFIER ASSIGNED TO IT, AND THAT  
3 BECOMES THE COUNTRY CODE TOP-LEVEL DOMAIN.

4 AND THERE'S A REGISTRY -- I'M SORRY,  
5 REGISTRAR -- I BEG YOUR PARDON -- I'M SORRY, I WAS RIGHT  
6 THE FIRST TIME -- REGISTRY FOR EACH OF THOSE AS WELL.

7 Q. AND ARE THOSE REGISTRIES DIFFERENT THAN, FOR  
8 EXAMPLE, VERISIGN?

9 A. IN TERMS OF WHAT THEY DO, THEY ARE REALLY NOT.

10 Q. ARE THEY DIFFERENT LEGAL ENTITIES, AS FAR AS YOU  
11 KNOW?

12 A. AS FAR AS I KNOW, YES. VERISIGN IS RESPONSIBLE  
13 FOR A NUMBER OF TOP-LEVEL DOMAINS, BUT THERE ARE OTHER  
14 COMPANIES OR ORGANIZATIONS THAT HANDLE ONES BEYOND THE  
15 ONES THAT VERISIGN HAS.

16 Q. CAN YOU BE AN ISP AND A REGISTRAR OF DOMAIN NAMES?

17 A. YES, YOU CAN.

18 Q. DO YOU HAVE TO BE?

19 A. NO.

20 Q. DOES EVERY ISP HAVE TO BE A REGISTRAR?

21 A. NO.

22 Q. IS IT COMMON OR UNCOMMON FOR AN ISP TO BE A  
23 REGISTRAR?

24 A. IT'S NOT UNCOMMON. THERE'S AN OVERLAPPING OF  
25 COMPLIMENTARY FUNCTION TO THE TWO ROLES. I MEAN, THE

1       ISP ASSIGNS THE IP ADDRESS, AND THE REGISTRAR REGISTERS  
2       THE DOMAIN NAME AND NEEDS TO KNOW THE IP ADDRESS THAT  
3       WAS GIVEN TO THE DOMAIN NAME, AND SO IT MAKES SENSE FOR  
4       ONE ORGANIZATION TO HANDLE BOTH FUNCTIONS.

5       Q.       SO SOME OF THEM MAY OFFER SORT OF ONE-STOP  
6       SHOPPING FOR PEOPLE TO GET BOTH?

7       A.       YES.

8       Q.       NOW, I BELIEVE YOU INDICATED WHEN YOU WERE  
9       DISCUSSING THIS CHART THAT THERE IS A -- WHEN YOU SAY  
10      YOU ARE A USER SEEKING TO GO SOMEPLACE AND YOU HAVE A  
11      DOMAIN NAME, YOU INDICATED THAT YOU GO TO A DOMAIN NAME  
12      RESOLVER OR DOMAIN NAME SERVER HERE.

13               HOW DO THOSE SERVERS GET THE INFORMATION IN  
14      ORDER TO TRANSLATE THE NAME INTO A NUMBER?

15      A.       THE DOMAIN NAME SERVER INFORMATION IS PUT ON THE  
16      DOMAIN SERVER BY THE REGISTRAR WHEN THEY REGISTER A  
17      DOMAIN NAME. PART OF THEIR FUNCTION IS TO GET  
18      INFORMATION ABOUT THE COMPANY BEHIND THE DOMAIN NAME AND  
19      PUT THAT INFORMATION INTO THE DOMAIN NAME SERVICE  
20      DATABASES.

21      Q.       DOES ANYONE ELSE HAVE ACCESS TO DO THAT, OTHER  
22      THAN THE REGISTRAR WHO HANDLES THAT PARTICULAR NAME?

23      A.       THEY ARE THE FINAL CONTROLLER OF THE INFORMATION,  
24      ALTHOUGH THEY ALLOW PEOPLE TO GO IN AND CORRECT  
25      INFORMATION ON THEIR OWN BEHALF.

1 Q. NOW, WHAT IS A WEBSITE?

2 A. A WEBSITE IS A -- GENERIC DEFINITION FOR IT IS A  
3 DOCUMENT. I DON'T KNOW A WAY TO EXPLAIN THIS. A  
4 WEBSITE WOULD BE A SET OF INFORMATION ABOUT A PARTICULAR  
5 TOPIC THAT'S ACCESSIBLE THROUGH A WEB BROWSER USING  
6 ASSOCIATED PROTOCOLS.

7 Q. IS A WEBSITE ALWAYS RESIDENT ON A PARTICULAR ISP  
8 OR A PARTICULAR SERVER WITHIN AN ISP?

9 A. A WEBSITE WILL RUN ON A PARTICULAR COMPUTER WHERE  
10 IT'S ACTUALLY LOCATED. OF COURSE, IT DEPENDS ON WHOSE  
11 WEBSITE IT IS.

12 Q. IS IT ALWAYS ONE PACKAGE OF INFORMATION OR NOT?

13 A. NOT NECESSARILY, NO.

14 Q. WHY IS THAT?

15 A. A WEBSITE IS USUALLY A COLLECTION OF WEB PAGES,  
16 AND THE INDIVIDUAL PAGES ARE IN TURN COLLECTIONS OF TEXT  
17 AND VIDEO AND IMAGES AND ALL SORTS OF OTHER KINDS OF  
18 DIFFERENT BITS AND PIECES, AND THOSE PIECES MAY OR MAY  
19 NOT ACTUALLY BE ON THE SAME COMPUTER.

20 FOR EXAMPLE, A WEB PAGE COULD HAVE A LINK TO  
21 ANOTHER WEBSITE AND PULL INFORMATION FROM ANOTHER  
22 WEBSITE AT THE TIME THAT YOU HAVE THE PAGE DISPLAYED ON  
23 YOUR COMPUTER. IT'S CALLED A "LIVE LINK." SO THE  
24 INFORMATION ON A WEB PAGE CAN ACTUALLY COME FROM A  
25 VARIETY OF SOURCES AND IT'S ALL PULLED TOGETHER FOR

1       DISPLAY IN THE BROWSER.

2       Q.       SO IF I AM ASKING FOR, LET'S SAY GOOGLE.COM LIKE  
3       THIS CHART SUGGESTS, IS THERE ANY WAY FOR ME TO KNOW  
4       THAT THE INFORMATION IS COMING FROM A PARTICULAR SERVER  
5       OR MORE THAN ONE SERVER?

6       A.       NOT REALLY.  THE INFORMATION ABOUT WHAT'S ACTUALLY  
7       ON THE PAGE IS DEFINED THROUGH A LANGUAGE CALLED THE  
8       HYPERTEXT MARKUP LANGUAGE AND THAT INFORMATION IS  
9       USUALLY VISIBLE IF YOU WANT TO LOOK AT IT THROUGH YOUR  
10      BROWSER AND DISPLAY THE SOURCE BEHIND IT, BUT IF YOU ARE  
11      JUST LOOKING AT A WEB PAGE ITSELF AND WHAT COMES UP ON  
12      YOUR SCREEN, THERE'S USUALLY NOTHING THERE TO INDICATE  
13      WHERE ANY PARTICULAR IMAGE OR WORD OR ANYTHING ELSE ON  
14      THE PAGE ACTUALLY ORIGINATED.

15      Q.       SO YOU MIGHT BE ABLE TO LOOK AT -- I THINK THE  
16      LETTERS ARE "HTML" FOR THIS HYPERTEXT MARKUP LANGUAGE?

17      A.       YES, THAT'S TRUE.

18      Q.       SO A USER COULD LOOK AT THAT TO TRY TO FIGURE OUT  
19      SOMETHING ABOUT THE SOURCE OF THE INFORMATION?

20      A.       IT WOULD GIVE US SOME IDEA, YES.

21      Q.       WHAT DO YOU MEAN "SOME IDEA"?  DO YOU FIND OUT THE  
22      SOURCE OR NOT?

23      A.       WELL, IT WILL SHOW YOU, FOR EXAMPLE, THE PATH TO A  
24      PARTICULAR PICTURE, THE TEXT IT ASSUMES THAT WILL BE IN  
25      THE HTML PAGE, AND THERE MAY BE REFERENCES TO OTHER

1 SITES OR OTHER OUTSIDE LOCATIONS, BUT IT WON'T  
2 PARTICULARLY BE SAYING WHERE THAT PARTICULAR OTHER  
3 COMPUTER WILL BE, FOR EXAMPLE. IT WILL REFER TO IT BY  
4 NAME, GENERALLY.

5 MR. LOWE: YOUR HONOR, I'M GOING TO GO INTO A  
6 NEW TOPIC. WOULD THIS BE A GOOD TIME TO TAKE A BREAK?

7 THE COURT: CERTAINLY. ALL RIGHT. WE ARE  
8 ABOUT THE NOON HOUR.

9 WE WILL COME BACK TO THIS MATTER AT 1 O'CLOCK.

10 REMEMBER MY ADMONITIONS.

11 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE  
12 HELD IN OPEN COURT, OUT OF THE PRESENCE OF THE JURY:)

13 THE COURT: YOU MAY STEP DOWN.

14 WE ARE OUT OF THE PRESENCE OF THE JURY.

15 WHAT'S YOUR ESTIMATION FOR THE AFTERNOON?

16 MR. LOWE: WELL, I WOULD ESTIMATE, YOUR HONOR,  
17 THAT I MAYBE HAVE ABOUT AN HOUR'S WORTH OF DIRECT  
18 EXAMINATION OF THIS WITNESS. I HAVE NEVER BEEN GOOD AT  
19 THESE ESTIMATES, BUT THAT'S MY ROUGH IDEA, AND OBVIOUSLY  
20 THERE'S CROSS-EXAMINATION.

21 THE COURT: DO YOU HAVE A FURTHER WITNESS?

22 MR. LOWE: POSSIBLY, YOUR HONOR. I WANTED TO  
23 RAISE AN ISSUE ABOUT RECALLING MR. LIVADKIN OUTSIDE OF  
24 THE PRESENCE OF THE JURY.

25 THE COURT: DO YOU HAVE A REBUTTAL CASE?

1 MR. COOMBS: NOT AT THIS POINT, YOUR HONOR.

2 THE COURT: SO IT SOUNDS LIKE WE WOULD USE THE  
3 REST OF THE DAY WITH EVIDENCE, BUT IT DOESN'T SOUND LIKE  
4 THERE WILL BE FURTHER TESTIMONY TOMORROW MORNING.

5 MR. LOWE: POSSIBLY NOT, IF THIS GOES  
6 RELATIVELY QUICKLY, AS I EXPECT.

7 THE COURT: SO I WILL -- WHAT I WILL EXPECT IS  
8 THAT WHAT I SHOULD DO IS WORK HERE DURING THE NOON HOUR  
9 TO GET YOU A DRAFT OF INSTRUCTIONS AND BE PREPARED TO  
10 REVIEW THOSE WITH YOU AT 4 O'CLOCK WITH THE IDEA THAT I  
11 INSTRUCT FOR THE ARGUMENT TOMORROW MORNING, OR SOMEPLACE  
12 CLOSE TO TOMORROW MORNING.

13 WHEN WE START, I WILL INSTRUCT THE JURY AND  
14 TALK THIS AFTERNOON ABOUT HOW MUCH TIME TO ALLOW YOU FOR  
15 THE ARGUMENT, AND THE CASE WILL BE SENT TO THE JURY  
16 AFTER THAT.

17 MR. COOMBS: THAT'S FINE, YOUR HONOR.

18 YOUR HONOR, THERE WAS ONE OTHER ISSUE. WE  
19 FILED A MOTION OPPOSING MR. GRALNIK'S TESTIMONY.

20 THE COURT: WHEN WAS THAT?

21 MR. COOMBS: YESTERDAY, WITH A COURTESY COPY.

22 THE COURT: YOU GAVE A COURTESY COPY TO  
23 MS. GARCIA?

24 MS. WANG: TO THE CLERK.

25 MR. COOMBS: I GUESS IT WENT TO THE CLERK



1 DOWNSTAIRS.

2 THE COURT: YOU NEED TO GET IT TO ME. THE  
3 BUREAUCRACY DOWNSTAIRS MAY NOT WORK.

4 YOU MAY STEP DOWN.

5 A QUESTION FROM THE JURY IS: CAN MULTIPLE  
6 ADMINISTRATIVE PASSWORDS BE SET FOR ONE SERVER? AND SO  
7 YOU MIGHT WANT TO CLARIFY THAT IN THE COURSE OF YOUR  
8 EXAMINATION. AND IF IT CAN, WHAT HAS BEEN THE POLICY OF  
9 AKANOC WITH RESPECT TO ASSIGNING MULTIPLE ADMINISTRATIVE  
10 PASSWORDS TO A SINGLE SERVER?

11 AGAIN, MS. GARCIA WILL REVISE THE TIME SHEETS.  
12 IN VIEW OF YOUR TIME ESTIMATES HERE, YOU WON'T USE SOME  
13 OF THE TIME THAT YOU HAVE, BUT THAT'S ALWAYS GOOD IN  
14 TERMS OF THE JURY.

15 AND WITH RESPECT TO THIS WITNESS AS WE COME  
16 BACK THIS AFTERNOON, THERE'S A REPEAT OF MUCH OF WHAT  
17 WE'VE HEARD, AND I UNDERSTAND THAT, BUT I WILL ASK YOU  
18 TO WORK MORE EXPEDITIOUSLY TOWARD ANY EXAMINATION HE  
19 MADE OF THE DEFENDANTS' OR THE PLAINTIFF'S CASE AND GET  
20 TO HIS OPINIONS.

21 MR. LOWE: THAT WAS MY INTENTION.

22 (RECESS FROM 12:02 P.M. TO 1:04 P.M.)

23 THE CLERK: PLEASE REMAIN SEATED. COME TO  
24 ORDER.

25 THE COURT: READY TO RESUME?

1 MR. LOWE: YES, YOUR HONOR.

2 THE COURT: SUMMON THE JURY.

3 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE  
4 HELD IN OPEN COURT, IN THE PRESENCE OF THE JURY:)

5 THE COURT: VERY WELL. YOU MAY RESUME YOUR  
6 EXAMINATION.

7 MR. LOWE: IF IT PLEASE THE COURT.

8 DIRECT EXAMINATION (CONTINUED)

9 BY MR. LOWE:

10 Q. MR. GRALNIK, IN CONNECTION WITH INTERNET SERVERS,  
11 ARE YOU FAMILIAR WITH THE TERM "ROOT ACCESS"?

12 A. YES, I AM.

13 Q. WHAT DOES THAT MEAN?

14 A. ROOT ACCESS IS ADMINISTRATIVE CONTROL OF THE  
15 SYSTEM. IF SOMEONE HAS ROOT ACCESS, THEY CAN BASICALLY  
16 DO ANYTHING THEY WANT WITH THE MACHINE.

17 Q. IS THAT TRUE OF ALL COMPUTERS, EVERY COMPUTER HAS  
18 ROOT ACCESS, SO TO SPEAK?

19 A. I DON'T KNOW IF EVERY COMPUTER IN THE WHOLE WORLD.  
20 THERE ARE DIFFERENT NAMES FOR IT AS WELL. AN  
21 ADMINISTRATOR HAS ROOT ACCESS. MOST SYSTEMS HAVE SOME  
22 KIND OF OVERRIDING ADMINISTRATIVE CONTROL WHERE THEY CAN  
23 DO ANYTHING ON THE SYSTEM.

24 Q. AND IS THAT A PASSWORD-PROTECTED ACCESS,  
25 TYPICALLY?

1 A. HOPEFULLY.

2 Q. CAN YOU HAVE MORE THAN ONE ADMINISTRATIVE PASSWORD  
3 TO GAIN ROOT ACCESS TO A SERVER AT A TIME?

4 A. NOT TYPICALLY, NO.

5 Q. WHY NOT?

6 A. ROOT ACCESS IS USUALLY INTENDED FOR A SPECIFIC  
7 PERSON OR VERY LIMITED GROUP OF PEOPLE, AND YOU WANT TO  
8 PROTECT IT AS CAREFULLY AS YOU CAN. HAVING MORE THAN  
9 ONE PASSWORD FOR ANY ACCOUNT MEANS THERE CAN BE MORE  
10 THAN AN INTENDED NUMBER OF PEOPLE ABLE TO ACCESS THAT  
11 PARTICULAR ROLE.

12 Q. SO IF A CUSTOMER OF AN INTERNET SERVICE PROVIDER  
13 IS RENTING A SERVER, FOR EXAMPLE, WOULD YOU NORMALLY  
14 HAVE MORE THAN ONE ADMINISTRATIVE PASSWORD TO CONTROL  
15 THAT COMPUTER?

16 (OVERLAPPED TALKING.)

17 A. I'M SORRY. NOT USUALLY, NO.

18 THE COURT: WELL, LET ME JUST CLARIFY THIS  
19 BECAUSE IT DID COME FROM ONE OF OUR JURORS.

20 I TAKE IT THAT YOU CAN HAVE AN ADMINISTRATIVE  
21 PASSWORD THAT MORE THAN ONE PERSON CAN KNOW?

22 THE WITNESS: THAT'S CORRECT, YOUR HONOR.

23 THE COURT: SO THAT MULTIPLE PEOPLE CAN THEN  
24 ACCESS IT. AND THEN IF THERE IS AN ADMINISTRATIVE  
25 PASSWORD THAT ONLY ONE PERSON KNOWS, THAT ONE PERSON IS

1 THE ONLY ONE WHO CAN ACCESS THE COMPUTER AT THE  
2 ADMINISTRATIVE LEVEL?

3 THE WITNESS: IT IS POSSIBLE TO HAVE MORE THAN  
4 ONE ADMINISTRATOR SET UP. PEOPLE WITH MORE THAN ONE  
5 ACCOUNT CAN HAVE ADMINISTRATIVE PRIVILEGES. BUT  
6 GENERALLY SPEAKING, ONE ACCOUNT, ONE PASSWORD.

7 THE COURT: AND IT IS POSSIBLE TO GIVE TO A  
8 USER WHO IS NOT THE ADMINISTRATOR THE SAME POWERS AS THE  
9 ADMINISTRATOR WITH A SEPARATE PASSWORD?

10 THE WITNESS: YES.

11 THE COURT: BUT WHEN YOU SAY "NOT NORMALLY,"  
12 THAT'S NOT NORMAL SECURITY, TO HAVE MORE THAN ONE PERSON  
13 WITH ADMINISTRATIVE RIGHTS AND TO GIVE TO SUB-USERS FULL  
14 ADMINISTRATIVE RIGHTS?

15 THE WITNESS: I DON'T THINK IT'S A GOOD IDEA.

16 THE COURT: BUT IT IS POSSIBLE?

17 THE WITNESS: IT IS POSSIBLE, YES.

18 THE COURT: GO AHEAD.

19 BY MR. LOWE:

20 Q. IN YOUR EXPERIENCE ON INTERNET SERVERS, IS IT  
21 CUSTOMARY FOR ANYONE TO GIVE AWAY MULTIPLE PASSWORDS, OR  
22 JUST HAVE THE ONE ADMINISTRATIVE PASSWORD?

23 A. FROM AN INFORMATION SECURITY POINT OF VIEW, YOU  
24 WANT TO KEEP THAT AS TIGHTLY CONTROLLED AS POSSIBLE, SO  
25 YOU ARE NOT LIKELY TO GIVE IT OUT TO A GROUP OF PEOPLE.

1 Q. IF YOU HAVE A CUSTOMER WITH AN ISP, FOR EXAMPLE,  
2 THAT HAS RENTED A SERVER FOR SOME PERIOD OF TIME AND  
3 THEY HAVE BEEN GIVEN THE ONLY ADMINISTRATIVE PASSWORD  
4 FOR THAT, IS THERE ANOTHER WAY FOR THE PERSON WHO  
5 PHYSICALLY HAS CUSTODY OF THE MACHINE TO GAIN ACCESS TO  
6 IT WITHOUT THE PERMISSION OF THE CUSTOMER?

7 A. IF THE CUSTOMER HAS ROOT ACCESS AND CONTROL OF THE  
8 SYSTEM, THEY CAN ACTUALLY LOCK OUT THE IN ROUTE OF THE  
9 MACHINE. IN MANY CASES THERE ARE WAYS TO OVERRIDE THAT,  
10 OR TO BYPASS IT, BUT IN STANDARD USAGE, WHOEVER HAS ROOT  
11 ACCESS CAN LOCK EVERYBODY ELSE OUT.

12 Q. SO SOMEBODY MIGHT GET IN BY HACKING INTO THE  
13 COMPUTER, SO TO SPEAK?

14 A. THERE'S ALWAYS A POSSIBILITY OF BEING HACKED,  
15 SURE.

16 Q. ARE YOU FAMILIAR WITH THE TERMS OF MANAGED AND  
17 UNMANAGED SERVERS WITHIN AN INTERNET SERVICE  
18 ENVIRONMENT, INTERNET SERVICE PROVIDER ENVIRONMENT?

19 A. YES, I AM.

20 Q. AND WHAT IS THE DIFFERENCE BETWEEN THEM?

21 A. TYPICALLY, A MANAGED SYSTEM IS ONE WHERE THE ISP  
22 OR THE HOSTING COMPANY ACTUALLY WILL TAKE CARE OF THE  
23 SYSTEM -- THEY WILL BE RESPONSIBLE FOR UPGRADES AND  
24 ADD-ONS; THEY WILL DO THE ADMINISTRATION OF THE  
25 SYSTEM -- WHEREAS, AN UNMANAGED SYSTEM IS ONE WHERE THE