

EXHIBIT A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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

Plaintiffs,

v.

GOOGLE, INC.,

Defendant.

Case No.
05-03639 JW

Confidential
Portions Bound
Separately

-----X
August 18, 2006

9:45 a.m.

30(b)(6) VIDEOTAPED DEPOSITION

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

1 B. Hanson

10:11 2 program?

10:11 3 A. Yes, sir.

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

10:11 6 A. Correct.

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

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

10:11 16 Q. Somehow you were there?

10:11 17 A. I got there.

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

10:11 20 A. Yes, sir.

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

10:12 24 A. I have no idea.

10:12 25 Q. More than 10?

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B. Hanson

A. Yes.

Q. More than 20, you think?

A. Yes.

Q. And how long did it take for you to go through the sign-up process for the AdWords program?

A. As I recall, I think I was quite amazed at how quick it was. Less than a minute, I believe.

Q. And was it a situation where you actually looked at the site and saw how the sign-up process worked and said, I'm going to sign up later or this intrigues me, or you just went to the site and then immediately signed on?

A. I went to the site. I believe I immediately signed on, and --

Q. Okay. And do you remember at some point in time during the sign-in process you were asked for --

MR. BIDERMAN: Withdraw the question.

Q. At some point in time in the sign-in process you were asked for certain

1 B. Hanson

10:13 2 information; correct?

10:13 3 A. Yes, sir.

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

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

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

10:14 20 A. No, sir.

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

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

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B. Hanson

and Conditions, marked for
identification as of this date.)

Q. I show you a document which is
Exhibit 22. It's a three-page document
entitled "Google AdWords, Google AdWords
Select Standard Terms and Conditions."

Do you see that document?

A. Yes, sir.

Q. I'll represent to you that this
was the document with the Google terms and
conditions as of July 2002. Do you recall
seeing these terms and conditions at or about
the time that you signed on to the program?

A. I do not.

Q. And have you ever seen these
terms and conditions?

A. Not that I can recall.

Q. Have you ever seen any Google
AdWords terms and conditions?

A. I have -- the most recent ones
that were submitted as -- as -- the documents
you provided.

Q. Okay. But other than in
connection with this litigation and documents

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B. Hanson

and conditions in connection with that
sign-up process?

A. Can you ask that question again,
please.

Q. Sure. Trying to identify the
time you signed up on behalf of -- I
mispronounce the name of that.

MR. LEVY: SECOA.

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

Q. Not like the tree. I keep
thinking about the tree.

A. SECOA.

Q. SECOA. On behalf of SECOA,
going back to that time, any recollection of
reviewing the terms and conditions for the
AdWords program at that time?

A. Not that I recall.

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

A. Can you ask that question again,
please.

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B. Hanson

Q. Sure. At the time that you signed up for SECOA --

MR. BIDERMAN: Off the record.

(Discussion off the record.)

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

A. I recall one time a screen came up that denied access to our account, to the CLRB account. And it said that there were new terms and conditions. And if you wanted to use -- continue use of the AdWords programs you had to agree to the terms and conditions.

Q. Okay.

A. And you didn't get past that screen once you typed in your user name and your password.

Q. Okay. And then what happened after you hit that screen that denied you access?

A. It -- it gave you a link to, I

1 B. Hanson

10:38 2 believe, review and/or accept the terms and
10:38 3 conditions.

10:38 4 Q. And did you hit that link?

10:38 5 A. Yes, sir.

10:38 6 Q. And did you review the terms and
10:38 7 conditions?

10:38 8 A. No, sir.

10:38 9 Q. Did you accept them?

10:38 10 A. Yes, sir.

10:38 11 Q. And do you remember when that
10:38 12 happened?

10:38 13 A. I don't. I want to say it
10:38 14 was -- I recall it was -- I want to say it
10:38 15 was like in the April to June of 2005 period.

10:38 16 Q. And did that happen at any other
10:38 17 time?

10:38 18 A. Not that I -- I remember that
10:38 19 because I was going in to make a change in
10:38 20 the budget. Not that I recall.

10:38 21 Q. And then going back to SECOA,
10:39 22 when you signed up for SECOA, do you remember
10:39 23 in some fashion electronically signifying
10:39 24 your acceptance to the terms and conditions
10:39 25 as part of the sign-up process for the Google

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B. Hanson

2 AdWords program?

3 A. I don't recall.

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

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

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

16 A. No, sir.

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

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

24 Q. Okay.

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

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B. Hanson

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was.

Q. Do you know who did that?

A. I believe, Cindy Hanson, the owner, manager.

Q. And with respect to your understanding of what terms and conditions govern your relationship with SECOA, Inc. or you on behalf of SECOA, Inc. and the Google AdWords program, is that the same as your understanding as described with respect to Industrial Printing?

A. Yes, sir.

Q. And the same would be true of Hanson Industries?

A. I believe that to be correct, yes.

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

A. Not -- not -- not -- not that -- I may have -- not that I recall.

Q. And have you ever looked at any tutorials for the Google AdWords program?

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B. Hanson

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A. No, sir.

10:42 3

Q. Have you ever consulted with

10:42 4

anyone other than at Google about how to use

10:42 5

the AdWords program?

10:42 6

A. No, sir.

10:42 7

Q. In other words, you haven't

10:42 8

taken any courses on like optimization or

10:42 9

anything like that?

10:42 10

A. No, sir.

10:42 11

Q. No -- no training in how to use

10:42 12

the AdWords program, is that fair to say,

10:42 13

formal training?

10:42 14

A. No, sir. May I qualify that

10:42 15

answer?

10:42 16

Q. Sure, absolutely.

10:42 17

A. I want to add to that.

10:42 18

Q. Sure.

10:42 19

A. There was a program that Google

10:42 20

introduced in November of 2004 called AdWords

10:42 21

Pro that allowed you to sign up to become a,

10:43 22

quote, AdWords pro. And I signed up for it

10:43 23

but I never did -- never proceeded past the

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initial sign-up page.

10:43 25

Q. Okay.

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B. Hanson

MR. BIDERMAN: We've been going

about an hour. Do you want to take

like four, five minutes?

MR. LEVY: Sure.

THE VIDEOGRAPHER: The time is

10:44 a.m. We're off the record.

(Recess taken.)

THE VIDEOGRAPHER: The time is

10:55 a.m. We're back on the record.

BY MR. BIDERMAN:

Q. And just one question while

we're getting a document. With respect to

the daily budget, how -- what is your

understanding of how a daily budget works on

the Google AdWords program?

A. That whatever our budget is

we'll not be charged more than that certain

amount.

Q. Okay. And how did you come to

that understanding?

A. That's what was presented to me

by Google.

Q. In what form?

A. The on-line page. The initial

B. Hanson

1
2 page.

10:56 3 Q. Okay. And have you ever been
10:56 4 told that you can be charged up to
10:56 5 120 percent of your daily budget on a given
10:56 6 day?

10:56 7 A. I was told that by a
10:56 8 representative of Google in an e-mail.

10:56 9 Q. Okay. And other than that, have
10:56 10 you ever received that information?

10:56 11 A. No, sir.

10:56 12 Q. And I'll show you a document
10:56 13 which are the FAQ's that were operative as of
10:57 14 the time that you signed up for the AdWords
10:57 15 program. We'll mark those next in order.

10:57 16 (Exhibit No. 23, FAQ's operative
10:57 17 as of the time Mr. Hanson signed up for
10:57 18 the AdWords programs, bearing Bates
10:57 19 Nos. 20835 through 21343, marked for
10:57 20 identification as of this date.)

10:57 21 Q. 23 are a series of documents
10:57 22 that are clipped together. Bates number on
10:57 23 the first document is 20835. Bates number on
10:57 24 the last document is 21343. Mr. Hanson, I'd
10:57 25 ask you if you'd refer to the document which

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B. Hanson

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

A. 20904?

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

A. Yes.

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

Do you see that?

A. Yes.

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

Do you see that?

A. Yes.

Q. Have you ever seen that language
before?

A. Only in the documents that were

1 B. Hanson

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A. No, sir. No street drugs.

11:24 10

Never -- never used any street drugs of any

11:24 11

sort. I had cervical spinal fusion

11:24 12

January 4th of this year on my neck, and

11:24 13

perhaps used just a daily budget while I was

11:25 14

under some pain medication during that period

11:25 15

for a couple of weeks while I recovered. I

11:25 16

had four disks fused in my neck. But other

11:25 17

than that, no.

11:25 18

Q. Then going back, what I'm going

11:25 19

to do -- going back to the daily budget

11:25 20

issues, at some point in time did you

11:25 21

become --

11:25 22

MR. BIDERMAN: Withdraw the

11:25 23

question.

11:25 24

Q. At some point in time did you --

11:26 25

let me try another question.

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B. Hanson

11:26 2

How often did you look at the

11:26 3

billing information on your Google AdWords

11:26 4

program?

11:26 5

A. Just about daily.

11:26 6

Q. Okay. And when you say the

11:26 7

billing information, what pages did you

11:26 8

review?

11:26 9

A. The summary that indicated what

11:26 10

was charged against the daily budget.

11:26 11

Q. And how do you access that

11:26 12

summary?

11:26 13

A. Sign in with a user name,

11:26 14

password, and go to billing history.

11:26 15

Q. And so has it been your practice

11:26 16

since you signed up for the program to look

11:26 17

at that on a daily basis?

11:26 18

A. Just about, yes, sir.

11:26 19

Q. And how about pausing, have you

11:26 20

ever paused using the Google AdWords program?

11:27 21

A. Yes.

11:27 22

Q. When did you first start to

11:27 23

pause?

11:27 24

A. I believe almost immediately.

11:27 25

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

1 B. Hanson

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

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

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

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

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

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

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

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

1 B. Hanson

13:12 2 Bates stamp P0507 by quarter.

13:13 3 Q. Uh-huh.

13:13 4 A. And there, looking to the far --
13:13 5 far right, we've got the overcharge
13:13 6 percentage, and immediately to the left of
13:13 7 that is a number of what we were overcharged
13:13 8 on a daily basis cumulative per quarter. And
13:13 9 the total -- the totals is marked as
13:13 10 \$16,507.27.

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

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

13:13 15 Q. Okay.

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

13:13 18 Q. Yes.

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

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

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

1 B. Hanson

13:14 2 budget is just a function of summarizing

13:14 3 the -- the totals. It has no meaning to

13:14 4 what -- what I was trying to do here.

13:14 5 Q. The quarter budget totals up the
13:14 6 daily budget?

13:14 7 A. Right.

13:14 8 Q. Times the number of days in a
13:14 9 quarter?

13:14 10 A. Right.

13:14 11 Q. And have you ever tried to do
13:14 12 this on a monthly basis?

13:14 13 A. No, I have not.

13:14 14 Q. And do you know whether, if you
13:14 15 did this on a monthly basis, whether the
13:14 16 total budget, that would be the number of
13:15 17 days in the month times the daily budget,
13:15 18 would be more or less than the total charges?

13:15 19 A. I don't know what -- I don't
13:15 20 know what a monthly budget is to Google for
13:15 21 me for the purposes of this, because I work
13:15 22 from a daily budget.

13:15 23 Q. I didn't use the term "monthly
13:15 24 budget." I said do you know whether on a
13:15 25 monthly basis, if you took the total number

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B. Hanson

of days in the month, multiplied that by the daily budget, do you know whether that amount would exceed the total cost for that particular number of days?

A. I do not.

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

A. Yes, sir.

Q. And there are some instances, for example, looking at page 43 of 56 or Bates No. 0494 --

A. Okay.

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

A. Yes.

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

A. Yes.

1 B. Hanson

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

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

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

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

13:18 14 Q. Yes.

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

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

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

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

13:19 23 A. Yes.

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

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B. Hanson

amount 360737.02 during the time period
that's reflected on Exhibit 36?

A. This is part -- part of the
documents, yes.

Q. Okay. And what were the other
documents that you used?

A. I haven't been able to locate
the other credit card statements.

Q. And then --

A. At the present time.

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

A. That's the report right from
Google, what they charge -- that report's a
summary of what Google actually charged the
credit card.

Q. Is that your understanding?

A. Yes.

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

1 B. Hanson

13:25 2 understand whether you received any

13:25 3 overdelivery credits?

13:25 4 A. I have not.

13:25 5 Q. And did you go to the Google

13:25 6 AdWords web site and log on and retrieve

13:25 7 invoices from Google that corresponded to the

13:25 8 period that is reflected on Exhibit 36?

13:25 9 A. I have not.

13:25 10 Q. Any reason why not?

13:25 11 A. I don't understand Google's

13:25 12 invoicing process. I believe -- I just don't

13:25 13 understand how Google invoices.

13:25 14 Q. And can you tell me what you've

13:25 15 done to try to understand Google's invoicing

13:26 16 process?

13:26 17 A. Well, I've tried to foot -- I'd

13:26 18 tried to tie out an invoice to a credit card

13:26 19 statement -- a credit card charge. I've

13:26 20 contacted via e-mail asking, I believe,

13:26 21 specifically of Google what's -- how they do

13:26 22 the billing, and that's the extent.

13:26 23 Q. Have you spoken to anybody at

13:26 24 Google?

13:26 25 A. I have.

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B. Hanson

Q. On this particular subject?

A. No, sir.

Q. And what have you spoken to people at Google about?

A. The overcharges.

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

A. No, sir.

Q. And have you ever made any such effort on behalf of SECOA, Inc., that entity?

A. No, sir.

Q. And have you ever made any efforts to do so on -- on behalf of Hanson Industries?

A. No, sir.

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

1 B. Hanson

13:37 2 information.

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

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

13:38 12 Do you see that?

13:38 13 A. I do.

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

13:38 18 A. I do not.

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

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

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

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

1 B. Hanson

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

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

13:38 4 verify my information.

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

13:39 7 A. Exhibit 36.

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

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

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

13:39 19 A. I have not.

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

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B. Hanson

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

Do you see that?

A. Yes.

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

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

Q. So is it fair to say that at

1 B. Hanson

13:41 2 some point in time you did understand that
13:41 3 whether you agreed with it or not, Google's
13:41 4 practice under the AdWords program was to
13:41 5 charge up to 120 percent of your daily
13:41 6 budget?

13:41 7 A. Can you ask that question again,
13:41 8 please.

13:41 9 Q. Is it fair to say that in some
13:41 10 point in time you did understand that,
13:41 11 whether you agreed with it or not, Google's
13:41 12 practice under the AdWords program was to
13:41 13 charge up to 120 percent of your daily
13:41 14 budget?

13:41 15 A. Yes.

13:41 16 Q. And when did you come to that
13:41 17 understanding?

13:41 18 A. Well, as I'm becoming frustrated
13:41 19 with my -- with my dialogue with Google, my
13:42 20 exchange of e-mails back and forth.

13:42 21 Q. Okay. And was it sometime in
13:42 22 2002 that you came to that understanding?

13:42 23 A. No. Quite to the contrary. If
13:42 24 you look at Exhibit 36, which is an
13:42 25 interesting point in itself, if you look on

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B. Hanson

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

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

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

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

13:43 Q. Okay.

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

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

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

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

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

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B. Hanson

day we were going over budget.

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

A. No, sir. No, sir.

Q. Okay. You did come to that understanding at some point in time; right?

A. That wasn't the question you asked me.

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

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

1 B. Hanson

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

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

13:45 7 A. Yes.

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

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

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

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

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

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

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

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

1 B. Hanson

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

13:46 5 Q. Okay.

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

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

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

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

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

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

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

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

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B. Hanson

this is from me or not.

Q. Have you ever been told by Google that you needed to refine your keyword list?

A. I do not believe so.

Q. If you look under tab 95, please.

A. Okay.

Q. If you turn to page 6 of 33. You see this is a series of e-mail strings; correct?

A. Yes.

Q. And the e-mail that actually begins on page 5 of 33 at the very bottom says, "From Brett Hanson, g-mail. Overbilling based on bugjet," B-U-G-J-E-T. "Why," W-H-Y, question mark. And is this an e-mail that you wrote?

A. It appears to be, yes.

Q. And it looks as if the format got lost. Do you remember what format you were sending -- what format you were using and what information you were sending?

A. Just cutting and pasting the

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B. Hanson

screen from the Google report.

Q. And was it the daily Google report?

A. I don't remember.

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

Do you see that?

A. Yes.

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

Do you recall receiving that information?

A. I don't remember.

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

A. I don't doubt it, no.

1 B. Hanson

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

14:44 7 Do you see that?

14:44 8 A. I do see that.

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

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

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

1 B. Hanson

14:45 2 charges accrued over 20 percent over your set
14:45 3 daily budget will be credited to your account
14:45 4 at the end of the month."

14:45 5 Does that refresh your
14:45 6 recollection of a conversation with somebody
14:45 7 at Google?

14:45 8 A. I remember this e-mail because I
14:45 9 thought it was a preposterous e-mail.

14:45 10 Q. And why did you believe it was a
14:45 11 preposterous e-mail?

14:45 12 A. Well, to tell me to adjust my
14:45 13 budget downward. Basically, the way I read
14:45 14 this, it's telling me to reduce my daily
14:45 15 budget so I don't go over my set budget. I
14:45 16 mean, what's the point?

14:45 17 Q. And do you also recall being
14:45 18 told --

14:45 19 A. I turn my budget off and on.
14:45 20 Pardon me. I pause the campaign. I turn the
14:45 21 campaign back on. I pause the campaign. I
14:45 22 turn the campaigns on. So what
14:45 23 constitutes -- in my opinion, the daily
14:45 24 budget's the set amount that I say it is, not
14:45 25 what Google says over 30 days.

1 B. Hanson

14:46 2 Q. And so you understood, as of
14:46 3 March 31, 2005, that you disagreed with the
14:46 4 way Google interpreted --

14:46 5 A. This is not --

14:46 6 MR. LEVY: Let him finish the
14:46 7 question.

14:46 8 MR. BIDERMAN: Let me withdraw
14:46 9 the question.

14:46 10 MR. LEVY: Again, let him finish
14:46 11 the question.

14:46 12 Q. Going back to this e-mail. And
14:46 13 then you recall you were also told that
-14:46 14 anything over 20 percent would be credited to
14:46 15 your account at the end of the month?

14:46 16 A. I believe so.

14:46 17 Q. And then other than what we've
14:46 18 discussed thus far today, have you ever done
14:46 19 anything to look for those credits?

14:46 20 A. Only in my -- in the most rawest
14:46 21 form of calculation. I've taken -- I've
14:46 22 taken a look at what our daily budget is,
14:47 23 going back to Exhibit 36.

14:47 24 Q. Yup.

14:47 25 A. In the rawest form. That was

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B. Hanson

14:47 the only way I could really understand -- get
14:47 my hands around what we were overcharged. I
14:47 could not do it from my one or two attempts
14:47 at looking at the invoicing.

14:47 MR. LEVY: Mr. Biderman, I have
14:47 a question.

14:47 MR. BIDERMAN: Yeah?

14:47 MR. LEVY: Have you produced to
14:47 us all the overdeliverry credits that
14:47 Google claims they gave to this
14:47 plaintiff?

14:47 MR. BIDERMAN: We produced all
14:47 the records we have relating to the
14:47 account.

14:47 MR. LEVY: Relating to that?
14:47 Including overdelivery credits?

14:47 MR. BIDERMAN: I'll confirm that
14:47 we've produced everything that we have
14:47 relating to the account.

14:47 MR. LEVY: Okay.

14:48 Q. And other than the one or two
14:48 times that you've looked at the invoices, any
14:48 other times that you've looked at the
14:48 invoices to look for overdelivery credits?

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B. Hanson

A. Not that I can recall.

Q. And if you look to -- under

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

Do you see that reference?

A. Yes, sir.

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

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

Q. And how did you conclude that?

A. From Google's reports.

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

A. Yes, sir.

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

1 B. Hanson

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

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

14:51 11 A. Yes.

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

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

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

14:52 19 A. Yes.

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

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

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

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A. It appears, yes.

Q. And then --

(Discussion off the record.)

Q. And then on Friday,

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

A. On 2 of 41?

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

A. Yes.

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

You actually spoke to Bethanie about that issue?

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

Q. Coming back from Mississippi?

A. Right.

Q. In the car?

A. Right.

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B. Hanson

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

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

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

A. I don't -- I don't recall.

Q. Do you --

MR. BIDERMAN: Withdraw that question.

Q. Do you recall --

MR. BIDERMAN: Withdraw that question.

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

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B. Hanson

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

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

A. Yes.

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

Q. And then going back to tab 96 again.

A. Okay.

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

MR. LEVY: What page?

MR. BIDERMAN: I'm sorry.

Page 1 of 41.

A. Yes.

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

A. Vaguely.

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B. Hanson

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

A. I'm looking at 2 of 41. But what am I looking for?

Q. "I would like to clarify that I have taken over as the direct representative for your account." Do you see that?

It's in the middle of the string of text at the top of the page.

A. Yes.

Q. And she gave you her e-mail address; correct?

A. Yes.

Q. And she gave you her phone number?

A. It appears to be, yes.

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

A. That appears to be, yes.

Q. And she told you also that if

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B. Hanson

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

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

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

Dated _____.

(Signature of Deponent)

C E R T I F I C A T E

STATE OF NEW YORK)

:SS

COUNTY OF NEW YORK)

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

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

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

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

Amy E. Sikora

AMY E. SIKORA, CRR,