

EXHIBIT 6

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

MATTHEW CAMPBELL, MICHAEL HURLEY,)
and DAVID SHADPOUR,)
Plaintiffs,)
vs.) Case No.
FACEBOOK, INC.,) C 13-05996 PJH
Defendant.)
_____)

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF ALEX HIMEL
Palo Alto, California
February 4, 2016
Volume I

Reported by:
KELLI COMBS, CSR No. 7705
JOB No. 2224922

PAGES 1 - 266

1 EntGlobalShare within this lawsuit, have you -- are 3:22:21PM
 2 there any specific examples you can point to of that
 3 term being used the way that it's being used in your
 4 declaration?
 5 A It's not clear to me what would or would 3:22:37PM
 6 not be included on the definition you're giving me.
 7 Q You don't understand what I mean when I
 8 say "outside the context of this lawsuit"?
 9 A That's correct.
 10 Q Are people who -- Facebook employees who 3:22:50PM
 11 are not discussing material that's directly related
 12 to the litigation in this case, has that term been
 13 used to refer to EntShare and EntGlobalShare?
 14 A The -- one of the things that I'm getting
 15 tripped up on here is I believe EntShare and 3:23:25PM
 16 EntGlobalShare are the material relevant to this
 17 case. So I can't -- I'm having trouble figuring out
 18 where in the Venn diagram this would be.
 19 Q If a Facebook engineer were to refer to an
 20 EntShare object or EntGlobalShare object, they'd be 3:23:50PM
 21 more likely to use those terms than "share object,"
 22 the term "share object"; is that correct?
 23 A I'd be speculating at that point.
 24 Q What do you think the answer to that
 25 question is? 3:24:02PM

Page 154

1 MR. JESSEN: Objection; calls for 3:24:03PM
 2 speculation, lacks foundation.
 3 THE WITNESS: I can tell you I would say
 4 "EntShare" or "EntGlobalShare," and I find that
 5 engineers tend to like to be specific, but it's 3:24:13PM
 6 really difficult for me to talk on behalf of
 7 other -- others.
 8 BY MR. RUDOLPH:
 9 Q Paragraph -- paragraph 16, line 1 says:
 10 "These URL share objects are 3:24:56PM
 11 stored in a system called TAO."
 12 What is TAO?
 13 A TAO is -- TAO is similar to what we were
 14 talking about a minute or two ago. TAO is what I
 15 would call an abstraction. In the -- in the past, 3:25:15PM
 16 before TAO, engineers would have to write SQL
 17 statements to directly read and write from databases
 18 and then would have to explicitly set the cache keys
 19 and in what would or wouldn't be stored in our
 20 Memcached layer. 3:25:45PM
 21 The beauty of TAO, which is a system that
 22 was built at Facebook, is that it abstracts that
 23 away and makes it so that engineers don't have to
 24 worry about nuances of that logic and can just
 25 interact directly with objects. 3:26:05PM

Page 155

1 Q Paragraph 20, you state: 3:26:25PM
 2 "There are many circumstances
 3 in which no" --
 4 It's at line 26:
 5 "There are many circumstances 3:26:33PM
 6 in which no URL preview will be
 7 generated, including if the user
 8 does not have JavaScript enabled."
 9 Do you see that?
 10 A I do. 3:26:43PM
 11 Q Why would a URL preview not be generated
 12 if JavaScript was not enabled?
 13 A So -- so this -- the answer to this
 14 question is what we covered right before the last
 15 break where we were looking at one of the exhibits 3:27:00PM
 16 in the previous declaration that had the word
 17 "Titan" in it. It's when you asked about that.
 18 Q Uh-huh.
 19 A The answer to this is that the code that
 20 detects a URL is present and then renders an 3:27:15PM
 21 attachment, is written in JavaScript, and so if
 22 JavaScript is not enabled and/or there is a -- an
 23 error in JavaScript, because it's a single-threaded
 24 language, it means that it would be physically
 25 impossible for a code to be brought in to generate a 3:27:37PM

Page 156

1 URL preview in that case. 3:27:39PM
 2 Q Is it possible to send a private message
 3 on Facebook without JavaScript enabled?
 4 MR. JESSEN: Object to the form.
 5 THE WITNESS: Where would I be sending -- 3:27:57PM
 6 in your question, where would the message be sent
 7 from?
 8 BY MR. RUDOLPH:
 9 Q A standard desktop computer. Are you
 10 saying geographic location? 3:28:12PM
 11 A No, not saying geographic location. So
 12 desktop computer, a Web browser on a desktop
 13 computer?
 14 Q Right. Yeah.
 15 A It would be possible to send a private 3:28:22PM
 16 message without JavaScript enabled on a desktop
 17 computer in most cases. I -- yes, it would be
 18 possible to send.
 19 Q Okay.
 20 If a typical user disables JavaScript in 3:28:47PM
 21 their browser and they try to send a private
 22 message, the private message field, composition
 23 field, will still show up to them?
 24 MR. JESSEN: You're talking about messages
 25 without URLs? 3:29:04PM

Page 157

[REDACTED]

5:15:46PM

Page 206

[REDACTED]

5:18:54PM

16 MR. RUDOLPH: Let's take a break.
17 THE VIDEOGRAPHER: We're going off the
18 record at 5:19.
19 (Recess taken.)
20 THE VIDEOGRAPHER: We're now going back on 5:19:32PM
21 the record. The time is 5:38.
22 MR. RUDOLPH: I'd like to have the next
23 exhibit marked.
24 (Deposition Exhibit 4 marked for
25 identification.) 5:38:57PM

Page 208

[REDACTED]

5:17:40PM

Page 207

1 BY MR. RUDOLPH: 5:39:00PM
2 Q Mr. Himel, do you know what this document
3 is?
4 A This is not something that I looked at
5 before. 5:39:19PM
6 Q Okay.
7 Do you know what data is represented in
8 this document?
9 A IP -- I mean, I can -- I'm reading the
10 names of the fields and the content in here, but 5:39:35PM
11 this is not something that I've looked at before.
12 Q Okay.
13 You see at the top, it says "Titan Info
14 for 1556441609"?
15 A I see it says that at the top. 5:39:54PM
16 Q And do you have any idea what that's
17 referring to?
18 A I would just be speculating.
19 Q To the best of your knowledge, what does
20 that refer to? 5:40:07PM
21 MR. JESSEN: Objection; calls for
22 speculation.
23 THE WITNESS: I would just be speculating
24 on this.
25

Page 209

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

1 BY MR. RUDOLPH: 7:00:02PM
2 **Q What else? Let me withdraw that.**
3 **Did you write any of the content that is**
4 **contained in this response to Interrogatory No. 2?**
5 MR. JESSEN: Object to the form. 7:00:34PM
6 THE WITNESS: I contributed content.
7 BY MR. RUDOLPH:
8 **Q Interrogatory No. 2.**
9 **Any of the other interrogatory responses?**
10 A Number 3. 7:01:26PM
11 **Q Mr. Himel, I'm going to withdraw that**
12 **question.**
13 **If you look at page 47, do you see the**
14 **verification?**
15 A Uh-huh. 7:02:55PM
16 **Q Can you read into the record the sentence**
17 **starting with "I understand," starting at line 6,**
18 **please.**
19 A (Reading):
20 "I understand that the facts 7:03:29PM
21 stated in Facebook's responses were
22 assembled by authorized employees,
23 agents and/or legal representatives
24 of Facebook and am informed and
25 believed that, subject to any 7:03:41PM

Page 242

1 inadvertent errors or omissions, 7:03:43PM
2 the information contained in those
3 responses is true and correct based
4 on the records of Facebook and
5 information reasonably available to 7:03:52PM
6 its employees, agents and/or legal
7 representatives."
8 **Q Did you do anything to verify that,**
9 **subject to any inadvertent errors or omissions, the**
10 **information contained in these responses is true and 7:04:14PM**
11 **correct?**
12 MR. JESSEN: And you should exclude from
13 your answer anything you did at the direction of
14 counsel or any conversations you had with counsel.
15 MR. RUDOLPH: I don't think that's a 7:04:30PM
16 proper instruction. I'm not asking for the
17 substance of communications. I'm just asking what
18 he did.
19 MR. JESSEN: If he did something to verify
20 at the direction of counsel, you're getting into 7:04:36PM
21 privileged communications.
22 THE WITNESS: I'm -- I'm not sure how to
23 answer the question because I don't understand if
24 there's overlap, substantial overlap, between the
25 content that's in here and the content that you find 7:04:59PM

Page 243

1 in my declarations and in preparation for this 7:05:01PM
2 deposition, and so I -- I can't tell if you're
3 asking me, did I do special stuff in addition to
4 what is already relevant to these other documents in
5 preparation, or if you're asking me in general, did 7:05:17PM
6 I do things to prepare, verify and respond.
7 BY MR. RUDOLPH:
8 **Q So let me ask you this: Prior to signing**
9 **this verification, did you review the entirety of**
10 **this document to ensure that it is true and correct, 7:05:39PM**
11 **subject to any inadvertent errors or omissions?**
12 A I did review the content of this document
13 to make sure it's correct, subject to any
14 inadvertent errors or omissions.
15 **Q Okay. 7:06:00PM**
16 **Did you speak with anyone within Facebook**
17 **to verify the contents of this document are true and**
18 **correct?**
19 A You mean outside of the -- outside of
20 counsel and outside of the presence of counsel? 7:06:12PM
21 **Q No. Did you speak to any Facebook**
22 **employees, with or without counsel, to verify the**
23 **responses in this document are true and correct?**
24 A I don't remember talking to anyone beyond
25 counsel while I reviewed this. 7:06:35PM

Page 244

1 **Q Is it your belief still today that these 7:06:43PM**
2 **responses are true and correct?**
3 A I haven't read every word of this
4 document, but if you want me to, I can read it again
5 today. 7:06:59PM
6 **Q Well, you've read every word of it prior**
7 **to signing this verification, though, right?**
8 A As of September 8th, 2015, when I signed
9 it, it was my belief that the facts stated in this
10 document were correct. I haven't reread it today 7:07:11PM
11 on -- in February of 2016. But if you want me to
12 reread it and verify, I can do that now.
13 **Q No, that's fine. You don't need to do**
14 **that.**
15 **If you could look at Exhibit 5 again, 7:07:34PM**
16 **please. Did you have any conversations with Mark**
17 **Zuckerberg regarding the decision to drop private**
18 **message sends from contributing to the "Like"**
19 **button?**
20 MR. JESSEN: Object to the form. 7:08:11PM
21 THE WITNESS: I do not recall having any
22 in-person discussions with Mark with respect to the
23 counter that we rendered next to the social plug-in
24 on third-party websites.
25

Page 245

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

1 BY MR. RUDOLPH: 7:08:28PM
2 Q Did you have any conversations with him
3 over the phone or over Video Chat?
4 A I did not have any phone or video
5 conversations with Mark relative to the same thing. 7:08:36PM
6 Q Did you have any conversations with Cheryl
7 Sandberg related to this issue?
8 A I did not have any conversations with
9 Cheryl Sandberg related to the counter next to
10 social plug-ins. 7:08:57PM
11 Q In October, let's say, the latter half of
12 2012, how often did you speak with Mark Zuckerberg?
13 MR. JESSEN: Object to the form.
14 In October?
15 MR. RUDOLPH: Let me withdraw that. 7:09:17PM
16 BY MR. RUDOLPH:
17 Q In the -- let's just say in 2012 in
18 general, how often did you speak with Mark
19 Zuckerberg?
20 MR. JESSEN: Object to the form. 7:09:26PM
21 THE WITNESS: In 2012 -- 2012, I lived in
22 New York, and so I didn't see or speak to Mark or
23 other people who were in California very frequently.
24 BY MR. RUDOLPH:
25 Q But you can't remember whether or not you 7:09:57PM

Page 246

[REDACTED]

Page 248

1 had a conversation with him related to this topic; 7:09:59PM
2 is that correct?
3 A That's -- that's not what I said. I do --
4 do not believe I had a conversation with Mark
5 relative -- relevant to this conversation -- to this 7:10:11PM
6 topic.
7 Q Are you sure you did not have a
8 conversation with him related to this topic?
9 MR. JESSEN: Object to the form.
10 THE WITNESS: It's -- it's impossible for 7:10:22PM
11 me to state if I talked to someone three and a half
12 years ago. I very strongly do not recall having a
13 conversation with Mark about this topic in person.
14 BY MR. RUDOLPH:
15 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
25

Page 247

[REDACTED]

5 Q Did anyone ever complain to Facebook about 7:13:26PM
6 the incrementing of the Like counter based on URLs
7 sent in private messages that was made public in
8 October 2012?
9 MR. JESSEN: Object to the form; lacks
10 foundation. 7:13:48PM
11 THE WITNESS: In the exhibits you placed
12 in front of me, I believe there is a Wall Street
13 Journal article that's referenced where there is a
14 vocal user complaining about incrementing the
15 counter next to social plug-ins from private 7:14:09PM
16 messages.
17 BY MR. RUDOLPH:
18 Q Did any users contact Facebook directly
19 regarding this issue?
20 A I can't answer that question confidently. 7:14:23PM
21 I was not a -- I did not work in -- I did not -- my
22 e-mail was not public to be contacted. I did not
23 work in a capacity of where I would handle incoming
24 bugs or, otherwise, see directly what users were
25 liking or not liking. 7:14:49PM

Page 249

1 **Q Was there a team within Facebook that 7:14:53PM**
2 **fielded those sorts of complaints?**
3 A There's a -- there's a -- if you -- well,
4 if you go through the Help Center on Facebook.com
5 and fill out -- fill out what's not working for you 7:15:09PM
6 or -- or what is -- what features are -- are
7 frustrating, it gets routed to our Internal
8 Operations team who is able to respond to customers,
9 is available to look at aggregate sentiment and
10 bubble-up issues. 7:15:38PM
11 **Q Is there a group within the Internal**
12 **Operations team who's responsible to look at**
13 **aggregate sentiment?**
14 MR. JESSEN: Objection; calls for
15 speculation. 7:15:58PM
16 THE WITNESS: I don't work on the
17 Operations team and -- and never have, but I think
18 that's a core part of what they do.
19 BY MR. RUDOLPH:
20 **Q Did you ever hear of Facebook users 7:16:15PM**
21 **contacting Facebook to complain about this practice?**
22 MR. JESSEN: Object to the form; vague as
23 to time.
24 THE WITNESS: The first I personally heard
25 about this was around the time that this Wall Street 7:16:35PM

Page 250

1 Journal article was published. 7:16:38PM
2 BY MR. RUDOLPH:
3 **Q But after the article was published.**
4 A After the article was published, it was a
5 few days later that we removed the feature, and 7:16:49PM
6 so -- or we changed the way the feature works, and
7 so it would have been surprising to hear sentiment
8 after we changed the way the feature worked.
9 **Q And -- and -- and what did you change with**
10 **respect to how the feature worked? 7:17:13PM**
11 MR. JESSEN: Objection; asked and
12 answered.
13 THE WITNESS: As we've gone over in detail
14 previously today, the change that was made in
15 October of 2012 was to no longer include the 7:17:23PM
16 share_count field as part of the counter next to the
17 social plug-in.
18 BY MR. RUDOLPH:
19 **Q So when I asked a little bit earlier, "Did**
20 **you ever hear of Facebook users contacting Facebook 7:17:56PM**
21 **to complain about this practice?" you said, "The**
22 **first time I personally heard about this was around**
23 **the time that this Wall Street Journal article was**
24 **published."**
25 **What -- what do you mean by "this"?** 7:18:10PM

Page 251

1 A We thought we were -- we thought we were 7:18:17PM
2 building a feature that was good for users. We
3 thought we were building a feature that would give
4 users a more comprehensive and accurate sense of how
5 much engagement there was for a particular URL. 7:18:30PM
6 However, in October of 2012, it became
7 apparent that there was a very vocal set of users
8 who really did not like the feature, and we reacted
9 to that vocal sentiment of a set of users by
10 changing the way the feature was implemented, 7:18:54PM
11 specifically by no longer including the share_count
12 as part of the count that was rendered next to a
13 social plug-in.
14 **Q But Facebook continued to and continues to**
15 **this day to keep track of the share_count, correct? 7:19:11PM**
16 MR. JESSEN: Object to the form.
17 THE WITNESS: As is stated in one of the
18 other declarations, the share_count allows us to do
19 a bunch of other features that provide benefit and
20 safety to the users of our site. 7:19:27PM
21 MR. RUDOLPH: Why don't you let us take a
22 quick break. How much time is left?
23 THE REPORTER: 6:52.
24 MR. RUDOLPH: Okay. Let's take a quick
25 break, and if I have any more questions, I'll ask 7:20:10PM

Page 252

1 them. 7:20:12PM
2 THE VIDEOGRAPHER: Off the record at 6:20
3 [sic].
4 THE REPORTER: 7:20.
5 VIDEOGRAPHER: 7:20, sorry. 7:20:16PM
6 (Recess taken.)
7 THE VIDEOGRAPHER: We're now going back on
8 the record. The time is 7:25.
9 BY MR. RUDOLPH:
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED] 7:26:58PM

Page 253

[REDACTED]

7:29:02PM

Page 254

[REDACTED]

7:32:23PM

Page 256

[REDACTED]

7:30:33PM

Page 255

[REDACTED]

7:33:48PM

Page 257

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

<p>1 I, the undersigned, a Certified Shorthand 2 Reporter of the State of California, do hereby certify: 3 That the foregoing proceedings were taken 4 before me at the time and place herein set forth; that 5 any witnesses in the foregoing proceedings, prior to 6 testifying, were administered an oath; that a record of 7 the proceedings was made by me using machine shorthand 8 which was thereafter transcribed under my direction; 9 that the foregoing transcript is a true record of the 10 testimony given. 11 Further, that the foregoing pertains to the 12 original transcript of a deposition in a Federal Case, 13 before completion of the proceedings, a review of the 14 transcript [] was [X] was not requested. 15 I further certify I am neither financially 16 interested in the action nor a relative or employee of 17 any attorney or any party to this action. 18 IN WITNESS WHEREOF, I have this date 19 subscribed my name. 20 Dated: 2/8/2016 21 22 23 24 <%signature%> 25 KELLI COMBS CSR No. 7705</p> <p style="text-align: right;">Page 266</p>	