

EXHIBIT 3

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1
 2 UNITED STATES DISTRICT COURT
 3 DISTRICT OF DELAWARE
 4 C.A. No. 10-136-LPS-MPT
 5 ----- x
 6
 7 XEROX CORPORATION,
 8
 9 Plaintiff and
 10 Counterclaim Defendant,
 11
 12 - against -
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 14 GOOGLE, INC., YAHOO! INC.,
 15 RIGHT MEDIA, INC., RIGHT MEDIA, LLC,
 16 YOUTUBE, INC. and YOUTUBE, LLC,
 17
 18 Defendants.
 19 ----- x
 20
 21 April 1, 2011
 22 9:06 a.m.
 23 51 Madison Avenue
 24 New York, New York
 25
 26 CONFIDENTIAL
 27
 28 DEPOSITION of JAMES SHANAHAN, held at the
 29 above time and place, taken before Randi
 30 Friedman, a Registered Professional Reporter,
 31 within and for the State of New York.
 32
 33 * * * *
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 2 STIPULATIONS
 3 IT IS HEREBY STIPULATED AND AGREED, by
 4 and among counsel for the respective parties
 5 hereto, that the filing, sealing and
 6 certification of the within deposition shall be
 7 and the same are hereby waived;
 8 IT IS FURTHER STIPULATED AND AGREED that
 9 all objections, except as to form of the
 10 question, shall be reserved to the time of the
 11 trial;
 12 IT IS FURTHER STIPULATED AND AGREED that the
 13 within deposition may be signed before any Notary
 14 Public with the same force and effect as if
 15 signed and sworn to before the Court.
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 2 APPEARANCES:
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 21 RIGHT MEDIA, INC. and RIGHT MEDIA, LLC
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 23 Menlo Park, California 94025
 24 BY: ANTHONY I. FENWICK, ESQ.
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 26
 27 ALSO PRESENT:
 28 DEVERELL WRITE, Videographer
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 2 MR. WRITE: We are on the record.
 3 This date is April 1st, 2011. The time on
 4 the video monitor is 9:06 a.m. This is the
 5 beginning of Tape No. 1 in the videotaped
 6 deposition of James Shanahan in the case of
 7 Xerox Corporation versus Google,
 8 Incorporated, Yahoo!, Incorporated, et al.
 9 Civil Action No. 10-136-LTS-MPT. This case
 10 is filed in the U.S. District Court for the
 11 District of Delaware. We are at the offices
 12 of Quinn Emanuel, located 51 Madison Avenue,
 13 New York, New York. My name is Deverell
 14 Write and I represent Veritext, New Jersey.
 15 At this time will counsel please note their
 16 appearances.
 17 MR. FENWICK: Tony Fenwick from
 18 Davis, Polk & Wardwell for defendants,
 19 Yahoo! and Right Media.
 20 MR. PERLSON: David Perlson from
 21 Quinn Emanuel for defendant Google.
 22 MR. HARASYMIAK: Andrei
 23 Harasymiak, Cravath, Swaine & Moore, for
 24 plaintiffs Xerox Corporation.
 25 MR. LESLIE: Scott Leslie,

<p style="text-align: right;">189</p> <p>1 Confidential</p> <p>2 Topic 4 of Exhibit S-1.</p> <p>3 You're prepared to testify as Xerox's</p> <p>4 corporate designee regarding Topic 4; is that</p> <p>5 correct?</p> <p>6 A. Yes, I am.</p> <p>7 Q. What were the most difficult technical</p> <p>8 challenges that were encountered and overcome</p> <p>9 during the conception or reduction of practice of</p> <p>10 the alleged inventions of the 979 Patent?</p> <p>11 A. I'll say information overload was one</p> <p>12 of the biggest challenges that we faced in the</p> <p>13 context of our Document Souls' system.</p> <p>14 Q. Anything other than information</p> <p>15 overload that you would categorize as a</p> <p>16 particularly difficult challenge that were</p> <p>17 encountered and overcome?</p> <p>18 A. From a technical perspective?</p> <p>19 Q. A technical challenge, yes.</p> <p>20 A. I think we placed difficulty</p> <p>21 challenges on scalability.</p> <p>22 Q. I'm trying to make a list of the most</p> <p>23 difficulty technical challenges that were</p> <p>24 overcome -- encountered and overcome during the</p> <p>25 conception and reduction of practice of the</p>	<p style="text-align: right;">191</p> <p>1 Confidential</p> <p>2 information that was conveyed to the user and</p> <p>3 also limit the scope of the information that had</p> <p>4 to be stored in association with a document; is</p> <p>5 that right?</p> <p>6 A. That was one of our considerations,</p> <p>7 yes.</p> <p>8 Q. One of the ways that you addressed the</p> <p>9 problem of limiting the scope of information was</p> <p>10 by formulating queries that would restrict</p> <p>11 searches to specify folders of web directories;</p> <p>12 true?</p> <p>13 A. I'm not sure that's an accurate</p> <p>14 characterization.</p> <p>15 Q. What's not accurate about my</p> <p>16 characterization?</p> <p>17 A. Can you repeat that?</p> <p>18 Q. One of the ways in which you attempted</p> <p>19 to overcome the challenge of appropriately</p> <p>20 limiting the scope and volume of information that</p> <p>21 was conveyed to the user, Document Souls' user,</p> <p>22 and the scope and volume of the information that</p> <p>23 had to be stored in association with a given</p> <p>24 document of the Document Souls' system, was to</p> <p>25 develop the Document Souls' system such that it</p>
<p style="text-align: right;">190</p> <p>1 Confidential</p> <p>2 alleged inventions of the 979 Patent. So far</p> <p>3 you've given me one, information overload and;</p> <p>4 two, scalability.</p> <p>5 Are there any other technical</p> <p>6 challenges that you want to be on that list?</p> <p>7 A. I don't recall others at this point.</p> <p>8 Q. Okay. Now, information overload, is</p> <p>9 that really a technical challenge?</p> <p>10 A. The Document Souls' system is a</p> <p>11 technology that was created to better address the</p> <p>12 information needs of a user, end-user, human</p> <p>13 user. And as such, the user was interacting with</p> <p>14 this technology and the results presented by</p> <p>15 Document Souls' system could have been -- the</p> <p>16 results presented could have been quite a lot if</p> <p>17 we didn't bring a system like that described in</p> <p>18 Patent 979 to bear. And, therefore, it was a</p> <p>19 technical challenge to limit the information that</p> <p>20 was being purveyed to the user. And in addition,</p> <p>21 store the information. The information space</p> <p>22 around the document could be -- could end up</p> <p>23 being pretty large, and the 979 Patent was a way</p> <p>24 or a means to control that.</p> <p>25 Q. So you wanted to limit the scope of</p>	<p style="text-align: right;">192</p> <p>1 Confidential</p> <p>2 would restrict -- it would formulate queries to</p> <p>3 restrict searches to a specific category of</p> <p>4 information from the information retrieval</p> <p>5 system; true?</p> <p>6 A. The Document Souls' system that we</p> <p>7 implemented would automatically construct queries</p> <p>8 based on entities that are automatically</p> <p>9 extracted from the document content. And based</p> <p>10 upon categories that were automatically assigned</p> <p>11 based on their content. The automatic</p> <p>12 construction of these queries facilitated a more</p> <p>13 precise expression of information needed and,</p> <p>14 therefore, led to a reduction of the number of</p> <p>15 documents that would be actually associated with</p> <p>16 this document and potentially stored with this</p> <p>17 document and communicated to the user.</p> <p>18 Q. And one of the ways that you actually</p> <p>19 overcame the problem of information overload in</p> <p>20 practice of the Document Souls' system was to</p> <p>21 generate queries that restricted searches to</p> <p>22 specified folders in web directories; true?</p> <p>23 A. We generate queries using the query</p> <p>24 language available to us through these external</p> <p>25 information services. To the extent possible,</p>

<p style="text-align: right;">193</p> <p>1 Confidential</p> <p>2 the system was sufficiently flexible such that</p> <p>3 the end-user who defined the personality who --</p> <p>4 I'm sorry. Excuse me. Who specified the</p> <p>5 information service, they had control over the</p> <p>6 scope of the query. So they had control over</p> <p>7 saying that I want documents that are associated</p> <p>8 with a particular category in the third-party</p> <p>9 service. And -- so the framework was</p> <p>10 sufficiently flexible to enable this hard</p> <p>11 requirement that the documents returned should be</p> <p>12 associated with this node and third-party</p> <p>13 taxonomy. Or the query should focus on that</p> <p>14 particular node, but it may not be a requirement</p> <p>15 to have documents from that node. But that all</p> <p>16 depended on how rich the query language was for</p> <p>17 the third-party -- the external system.</p> <p>18 Q. If the query language employed in the</p> <p>19 third-party information service was rich enough</p> <p>20 to facilitate a strict constraint of the search</p> <p>21 to documents associated with a specified node,</p> <p>22 then you wanted Document Souls to be able to</p> <p>23 fully take advantage of that query language to</p> <p>24 that fact; true?</p> <p>25 A. The Document Souls' system that we</p>	<p style="text-align: right;">195</p> <p>1 Confidential</p> <p>2 I'll ask it again.</p> <p>3 How did the 979 Patent relate, if at</p> <p>4 all, to addressing the technical challenge of</p> <p>5 scalability?</p> <p>6 A. The 979 Patent would enable the</p> <p>7 reduction of the number of documents that will</p> <p>8 respond to an information need.</p> <p>9 Q. So is what you're saying that the 979</p> <p>10 Patent enabled a filtering of responsive</p> <p>11 documents to reduce the number of documents</p> <p>12 identified in a search result to a number that</p> <p>13 would be more manageable for the user? Is that</p> <p>14 what you're getting at?</p> <p>15 A. Depending on the expressivity of the</p> <p>16 query language made available through the</p> <p>17 external information source, that could be the</p> <p>18 case.</p> <p>19 Q. And the fewer -- the fewer the number</p> <p>20 of documents and the more relevant the documents,</p> <p>21 the better; is that right?</p> <p>22 A. That would be desirable, yes.</p> <p>23 MR. FENWICK: I'm going to turn</p> <p>24 over the questioning to Mr. Perlson, and I</p> <p>25 will say on behalf of myself, that I think</p>
<p style="text-align: right;">194</p> <p>1 Confidential</p> <p>2 implemented was highly configurable, so this was</p> <p>3 possible.</p> <p>4 Q. When you referred to the technical</p> <p>5 challenge of scalability, are you referring to</p> <p>6 scalability with respect to number of users or</p> <p>7 scalability with respect to volume of documents</p> <p>8 or both?</p> <p>9 A. I think all of those would be</p> <p>10 challenges, yes.</p> <p>11 Q. Do those challenges of scalability</p> <p>12 have anything to do with the 979 Patent?</p> <p>13 A. The 979 Patent addressed some of these</p> <p>14 issues.</p> <p>15 Q. How did the 979 Patent address issues</p> <p>16 of scalability?</p> <p>17 A. It certainly would reduce the number</p> <p>18 of documents that would respond to an information</p> <p>19 need that had that capability.</p> <p>20 MR. FENWICK: Could I have that</p> <p>21 answer read back.</p> <p>22 (Whereupon, the requested portion</p> <p>23 of the record was read by the reporter.)</p> <p>24 BY MR. FENWICK:</p> <p>25 Q. Maybe we ought to try that one again.</p>	<p style="text-align: right;">196</p> <p>1 Confidential</p> <p>2 the production of the source code,</p> <p>3 especially that's referenced in the</p> <p>4 testimony exhibits concerning reduction to</p> <p>5 practice on the eve of the deposition, did</p> <p>6 not give the defendants a fair opportunity</p> <p>7 to question the witness regarding, at least,</p> <p>8 that subject matter.</p> <p>9 And so I don't know whether we're</p> <p>10 going to request more time with the witness</p> <p>11 or need more time, but I'm certainly</p> <p>12 reserving the right to make that request and</p> <p>13 express that need in the future.</p> <p>14 MR. PERLSON: Google joins that</p> <p>15 position.</p> <p>16 MR. FENWICK: Take a short break.</p> <p>17 MR. WRITE: The time on the video</p> <p>18 monitor is 5:04 p.m. We're off the record.</p> <p>19 (Whereupon, a short recess was</p> <p>20 taken.)</p> <p>21 MR. WRITE: We're back on the</p> <p>22 record. The time on the video monitor is</p> <p>23 5:11 p.m.</p> <p>24 BY MR. PERLSON:</p> <p>25 Q. Good afternoon, Mr. Shanahan. My name</p>