EXHIBIT BB

Case No. 1:14-cv-00857-TSC-DAR

Page 1

 1   UNITED STATES DISTRICT COURT

 2   for the

 3   DISTRICT OF COLUMBIA
   _____
 4   AMERICAN EDUCATIONAL   )

 5   RESEARCH ASSOC., INC.,   )

 6   et al.   )

 7   Plaintiffs   )

 8   )   Civil Action No.:

 9   v.   )   1:14-cv-00857-TSC

10   )

11   PUBLIC.RESOURCE.ORG, INC.,   )

12   Defendant.   )
   _____)
13

14   San Francisco, California

15   Tuesday, December 2, 2014

16   Videotaped deposition of CHRISTOPHER BUTLER,

17   a witness herein, called for examination by counsel

18   for Plaintiffs in the above-entitled matter, the

19   witness having been by me first duly sworn, taken

20   at the offices of Harvey Siskind, LLP, Four

21   Embarcadero Center, 39th Floor, San Francisco,

22   California at 9:10 a.m., on Tuesday, December 2,

23   2014, and the proceedings being taken down by

24   Stenotype by CINDY TUGAW, RPR, CSR and transcribed

25   under her direction.

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                                                              Page 2

 1   APPEARANCES:

 2

 3   On behalf of the Plaintiffs:

 4        JONATHAN HUDIS, ESQ.

 5        OBLON, SPIVAK, McCLELLAND, MAIER &

 6        NEUSTADT, LLP

 7        1940 Duke Street

 8        Alexandria, Virginia  22314

 9        (703) 413-3000

10

11   On behalf of the Defendant:

12        KATHLEEN LU, ESQ.

13        Fenwick & West, LLP

14        555 California Street, 12th Floor

15        San Francisco, California  94104

16        (415) 875-2300

17

18   On behalf of the Witness

19        STEPHANIE D. AHMAD, ESQ.

20        Greenberg Traurig, LLP

21        Four Embarcadero Center, Suite 3000

22        San Francisco, California  94111

23        (415) 655-1303

24

25   ALSO PRESENT:  Sean McGrath, Video Operator
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                                                           Page 3

 1                    C O N T E N T S

 2   THE WITNESS                                        PAGE

 3   CHRISTOPHER BUTLER

 4     Examination by Mr. Hudis                            5

 5

 6                    E X H I B I T S

 7   EXHIBIT NO.                                        PAGE

 8   Exhibit 1   Subpoena to Testify at a                  7

 9               Deposition in a Civil Action

10   Exhibit 2   Subpoena to Produce Documents,           15

11               Information, or Objects or to Permit

12               Inspection of Premises in a Civil Action

13   Exhibit 3   Internet Archive Bios                    23

14   Exhibit 4   Internet Archive About IA                31

15   Exhibit 5   Terms of Use 10 March 2001               41

16   Exhibit 6   Web pages for AERA57                      57

17   Exhibit 7   Item History for                         63

18               gov.law.aera.standards.1999

19   Exhibit 8   30 pages of task logs                    67

20   Exhibit 9   Log for task 315793300                  112

21   Exhibit 10  Internet Archive Error                  120

22   Exhibit 11  Mac Terminal screen capture page        124

23   Exhibit 12  12/19/2013 E-mail from Carl Malamud     132

24               to Christopher Butler with attachments

25                        ---o0o---
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 1              VIDEO OPERATOR:  Good morning.  We're on

 2   the video record, ladies and gentlemen, at 9:10

 3   a.m.  I am Sean McGrath from Alderson Court

 4   Reporting in Washington, DC.  The phone number is

 5   (202) 289-2260.

 6              This is a matter pending before the United

 7   States District Court for the District of Columbia,

 8   in the case captioned, American Educational

 9   Research Association, Incorporated, et al., versus

10   Public.Resource.Org, Inc., Case No.

11   1:14-cv-00857-TSC.

12              This is the beginning of disk 1, volume 1

13   of the deposition of Chris Butler on December 2nd,

14   2014.  We're located at Four Embarcadero Center,

15   San Francisco, California.  This is taken on behalf

16   of the plaintiffs.

17              Counsel, would you please identify

18   yourselves, starting with the questioning attorney.

19              MR. HUDIS:  Jonathan Hudis, representing

20   plaintiffs.

21              MS.LU:  Kathleen Lu, Fenwick & West, for

22   defendant Public Resource.

23              MS. AHMAD:  Stephanie Ahmad, Greenberg

24   Traurig, for non-party Internet Archive.

25              VIDEO OPERATOR:  Will the court reporter
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 1   please swear in the witness and then you can

 2   proceed.

 3                 CHRISTOPHER BUTLER,

 4   being first duly affirmed by the Certified

 5   Shorthand Reporter to tell the truth, the whole

 6   truth, and nothing but the truth, testified as

 7   follows:

 8                 EXAMINATION BY MR. HUDIS

 9        MR. HUDIS:

10        Q.   Sir, if I could have your full name and

11   address for the record.

12        A.   Christopher Scott Butler.  And my address

13   is 152 Caine Avenue, Caine is spelled C-a-i-n-e, in

14   San Francisco, California 94112.

15        Q.   Mr. Butler, have you been deposed before?

16        A.   Yes.

17        Q.   In what kinds of matters?

18        A.   In matters relating to archived records of

19   websites that Internet Archive has preserved and

20   maintained on its site.  I was deposed as a third

21   party.

22        Q.   And how many such times have you been

23   deposed in that capacity?

24        A.   If I remember correctly, it's five times.

25        Q.   Other than those five times being deposed
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 1    follow up with any necessary communication

 2    thereafter.

 3         Q.  And so if a take-down request meets

 4    certain criteria, what criteria would that be?

 5              MS. LU:  Objection as to relevance.

 6              MR. HUDIS:

 7         Q.  You may answer.

 8         A.  Sure.  I hadn't understood that the scope

 9    of the subpoena would include this information.

10    but there can be take-down requests on -- on

11    various grounds, so the criteria would be specific

12    to -- to sometimes even the particular case, but

13    the most basic example is a complaint of -- of

14    copyright infringement brought to our attention on

15    the site.

16              And we would ask for a take-down notice

17    with the standard information requested as outlined

18    in the Digital Millennium Copyright Act.  And if it

19    meets that criteria, we will typically take down

20    the item, notify both the uploading party and the

21    requesting party.

22         Q.  And what about your being the point of

23    contact for information requests from attorneys?

24              MS. LU:  Objection as to relevance.

25              MR. HUDIS:
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 1        Q.  You may answer.

 2        A.  The most common example of that is an

 3   attorney who is interested in using archived

 4   material from our web archive in one of their cases

 5   and would like to have those records authenticated

 6   by Internet Archive.

 7        Q.  And as point of contact, you were also

 8   part of Internet Archive's compliance with document

 9   subpoenas such as the one we served on Internet

10   Archive?

11        A.  That's correct.

12        Q.  Have you told me all of your

13   responsibilities as office manager for Internet

14   Archive?

15        A.  Yes.

16             MR. HUDIS:  Off the record.

17             VIDEO OPERATOR:  The time is 9:51 a.m.,

18   and we are off the record.

19             (Discussion off the record.)

20             VIDEO OPERATOR:  The time is 9:52 a.m.,

21   and we are on the record.

22             (Plaintiffs' Exhibit 4 marked for

23             identification.)

24             MR. HUDIS:

25        Q.  Mr. Butler, what is the Internet Archive?
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 1        A.   Internet Archive is a nonprofit

 2   organization.  We are attempting to maintain a

 3   digital library online at our website, archive.org.

 4   We preserve many types of media and make much of

 5   that media available in digital format via our

 6   website, archive.org, and also openlibrary.org.

 7        Q.   Mr. Butler, do you recognize what I now

 8   have marked as deposition Exhibit 4 as a portion of

 9   Internet Archive's website?

10        A.   Yes.

11        Q.   And it's the About page?

12        A.   Yes.

13        Q.   And the first paragraph up at the top

14   right beneath "About the Internet Archive," it

15   says, "The Internet Archive is a 501(c) non-profit

16   that was founded to build an Internet library.  Its

17   purposes include offering permanent access for

18   researchers, historians, scholars, people with

19   disabilities, and the general public to historical

20   collections that exist in digital format.

21             Do you see that?

22        A.   Yes.

23        Q.   Is that an accurate description of

24   Internet Archive's mission and business?

25        A.   Yes.
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 1   Q. And it says below that, in the end of the

 2   second paragraph, "the Internet Archive includes

 3   text, audio, moving pictures" -- "moving images,

 4   and software as well as archived web pages in our

 5   collections."

 6   Do you see that?

 7   A. Yes.

 8   Q. And that's a part of the business of

 9   Internet Archive?

10   A. Yes.

11   Q. All right. If you would go to Page 5 of 5

12   of Exhibit 4, please. It's the last page of the

13   exhibit.

14   Do you see the descriptive text under

15   where it says, "Storage"?

16   A. Yes.

17   Q. And it says, "Storing the Archive's

18   collections involves parsing, indexing, and

19   physically encoding the data. With the Internet

20   collections growing at exponential rates, this task

21   poses an ongoing challenge."

22   Is this part of the business of Internet

23   Archive storage as it's described here?

24   A. Yes.

25   Q. And then immediately below that, there is

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 1    a descriptive text under the title, "Preservation,"

 2    do you see that?

 3        A.  Yes.

 4        Q.  And it says there, "Preservation is the

 5    ongoing test of permanently protecting stored

 6    resources from damage or destruction.  The main

 7    issues are guarding against the consequences of

 8    accidents and data degradation and maintaining the

 9    accessibility of data as formats become obsolete."

10            Is that part of the mission and business

11    of Internet Archive?

12        A.  Yes.

13        Q.  Mr. Butler, what is an Internet library?

14        A.  From our standpoint, as I understand

15    Internet library, it would be an organization that

16    offers library services, including access to -- to

17    the types of resources on Internet Archive texts,

18    movies, audio, software, information and artwork

19    and literature and scientific data.  It makes it

20    available for the public benefit.

21        Q.  Have you completely described what you

22    believe to be an Internet library?

23        A.  That's -- that's my definition in a

24    nutshell.

25        Q.  At the Internet Archive, what is a
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 1   collection?

 2   A. A collection is roughly defined as a set

 3   of posted items. An item would be defined as a

 4   page beginning with archive.org/details and ending

 5   in an identifier. It would be assigned a media

 6   type such as text, movie, audio. Multiple files

 7   could be uploaded to that page. It would be

 8   assigned a title. And perhaps other metadata

 9   submitted by the uploader of the item.

10   A collection would be a list of items that

11   is associated with a separate landing page, its own

12   summary page where a visitor could -- can see

13   summary information about that list of items. It's

14   often organized around a theme.

15   Some of the functions of a collection

16   include being able to search within just that list

17   of items, being able to sort those items, for

18   example, sorting them by title, alphabetically or

19   by author.

20   A collection is generally set up for any

21   archive.com user who contacts Internet Archive.

22   And generally we ask that they have uploaded

23   50 items to the site already that we can then form

24   into a collection and assign a collection page.

25   Q. Have you described the entirety of what

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 1   you believe is a collection?

 2          MS. LU:  Objection, argumentative.

 3          MR. HUDIS:

 4      Q.  Did you leave anything out?

 5      A.  I don't think of anything offhand.

 6      Q.  How does Internet Archive build an

 7   Internet library?

 8      A.  Through multiple ways.  Our web archive is

 9   collected both by Internet Archive and by outside

10   organizations that donate data to Internet Archive.

11      Q.  Let's take that separately.

12      A.  Okay.

13      Q.  What part of building Internet Archive's

14   library is done by Internet Archive itself?

15      A.  Much of the web archive is -- is crawled

16   and collected by Internet Archive directly.

17      Q.  So that we have a good record, what do you

18   mean by "crawled and collected"?

19      A.  I mean that automated programs operated by

20   Internet Archive visit web pages and store web

21   files that are transmitted to Internet Archive by

22   the web servers that they visit.  That information

23   is then processed in such a way that it's rendered

24   searchable and browseable by visitors to the

25   website.
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1   Q.   And the searchable and browseable

2   functions, that's done by Internet Archive's web

3   engineers?

4   A.   Correct.

5   Q.   And I believe the other way you said that

6   Internet Archive builds Internet library is by

7   donations of content by outside organizations?

8   A.   Correct.

9   Q.   How does that work?

10   A.   So in the instance of the web archive

11   organizations, the biggest one of which is Alexa

12   Internet, who regularly perform web crawling, would

13   donate bulk data of historical web files to

14   Internet Archive to be incorporated into the

15   Wayback Machine.

16   Q.   And are there other organizations that

17   donate content to the Internet Archive?

18   MS. LU: Objection, misstates prior

19   testimony.

20   MR. HUDIS:

21   Q.   Are there any other organizations that

22   donate content to the Internet Archive?

23   A.   Yes.   So private individuals and

24   institutions may establish a user account with

25   archive.org and post material in the movies, texts,

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 1    audio and software collections.

 2         Q.   How many individuals or organizations have

 3    established user accounts for uploading purposes to

 4    Internet Archive?  Tens, hundreds, thousands, tens

 5    of thousands?

 6         A.   At a minimum, thousands, perhaps tens of

 7    thousands, perhaps hundreds of thousands.

 8              MS. LU:  I'll object that this is outside

 9    the scope of the deposition topics.

10              MR. HUDIS:  I would disagree, Counsel.

11         Q.   You may go.  Are you finished with your

12    answer?

13         A.   I am.

14         Q.   Have you described all the ways that

15    Internet Archive builds its collections or builds

16    its libraries, to be correct?

17         A.    Internet Archive may also digitize text

18    materials or other materials.

19         Q.   Is this printed text materials?

20         A.   Yes.

21         Q.   You may go on.

22         A.   Yes.  Typically, those are supplied by

23    libraries and state agencies.

24         Q.   So the three ways that Internet Archive

25    can build a library is Internet Archive's own
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1   crawling and archiving, donations by outside

2   organizations, and digitization of text materials

3   donated by libraries and state agencies, correct?

4   MS. LU: Objection, misstates prior

5   testimony.

6   MR. HUDIS: I disagree.

7   Q. Go on. You may answer.

8   A. I would also add that private individuals

9   can digitize materials themselves and upload them

10   to our service.

11   Q. Have you told me all the different ways

12   that Internet Archive can build its libraries?

13   A. Again, I think that's -- that's a fair

14   nutshell description. I don't think of anything

15   specific to add.

16   Q. So we have some definitions of terms, what

17   does it mean to post content to a website?

18   MS. LU: Objection to the extent it calls

19   for expert testimony.

20   MR. HUDIS:

21   Q. Do you understand the question?

22   A. Yes. In the basic sense, I understand it

23   to -- to be something that an individual or an

24   automated program does to -- to transmit content to

25   a website.

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 1        Q.   Is that otherwise known as uploading?

 2        A.   I think that the two terms are used

 3   interchangeably a lot.

 4             MS. AHMAD:   Can we take a break?

 5             MR. HUDIS:   Yes.

 6             VIDEO OPERATOR:   The time is 10:04 a.m.,

 7   and we are off the record.

 8             (Brief recess.)

 9             VIDEO OPERATOR:   The time is 10:11 a.m.,

10   and we are on the record.

11             MR. HUDIS:

12        Q.   Mr. Butler, just so we have a frame of

13   reference, individuals not employed by Internet

14   Archive are allowed to post content to Internet

15   Archive's website?

16        A.   That's correct.

17        Q.   And I believe we discussed people who have

18   such posting or uploading access could be anywhere

19   in the thousands to hundreds of thousands?

20        A.   Correct.

21        Q.   And why are these nonemployee individuals

22   allowed to post content to Internet Archive's

23   website?

24             MS. AHMAD:   Objection, outside the scope

25   of the deposition topics.
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 1            MR. HUDIS:

 2       Q.  You may answer.

 3       A.  One of the reasons why is to enable

 4  sharing of information and to -- to expand the

 5  amount of materials that's available for public use

 6  and sharing at archive.org.

 7            MR. HUDIS:  Off the record.

 8            VIDEO OPERATOR:  The time is 10:12 a.m.,

 9  and we are off the record.

10            (Discussion off the record.)

11            (Plaintiffs' Exhibit 5 marked for

12            identification.)

13            VIDEO OPERATOR:  The time is 10:13 a.m.

14  We are on the record.

15            MR. HUDIS:  We've now marked as Exhibit 5

16  a document which says at the top, "Terms of Use

17  10 March 2001," bearing production numbers IA-AERA

18  38 through 40.

19            Counsel for Internet Archive, can you

20  stipulate this is a business record of your client?

21            MS. AHMAD:  Yes.

22            MR. HUDIS:  Any objections, Ms. Lu?

23            MS. LU:  No objection.

24            MR. HUDIS:

25       Q.  Mr. Butler, do you recognize this document
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 1   of Exhibit 5?

 2         A.   Yes.

 3         Q.   What is it?

 4         A.   This is the Internet Archive's terms of

 5   use.

 6         Q.   And to what activity associated with

 7   Internet Archive are these terms of use applied?

 8              MS. LU:   Objection, vague and ambiguous.

 9              MR. HUDIS:

10         Q.   You may answer if you understand the

11   question.

12         A.   Use of the website both by individuals who

13   establish an account and also by users who visit

14   the website without establishing an account.

15         Q.   So if I understand your answer, and if I'm

16   wrong, correct me, if I'm an individual or an

17   outside organization, not employed with Internet

18   Archive, who wants to post content to Internet

19   Archive's website, I would have to comply with

20   these terms of use, is that correct?

21         A.   Yes.

22              MS. LU:   Objection, misstates prior

23   testimony.

24              MR. HUDIS:

25         Q.   You may answer.
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 1   and location structure of materials posted to its

 2   website by submitters?

 3           MS. LU:  Objection, vague and ambiguous.

 4           THE WITNESS:  Can you reread the question,

 5   please?

 6           MR. HUDIS:

 7       Q.   Does Internet Archive control the URL name

 8   or location structure of materials posted to

 9   Internet Archive's website by submitters?

10           MS. LU:  Objection, lack of personal

11   knowledge.

12           MS. AHMAD:  Objection, vague as to

13   "control."

14           MR. HUDIS:  Q.  I'll give you an example

15   of what I mean.

16           In our subpoena of Exhibit 1, deposition

17   subpoena, Exhibit A-1 to deposition Exhibit 1, has

18   a URL associated with the posting of the

19   1999 standards to Internet Archive's website and it

20   reads as follows --

21           MS. LU:  What page are you on, Jonathan?

22           I'm afraid this might be a little

23   confusing for the record.

24           MR. HUDIS:  And I will read the URL into

25   the record:  https://archive.org/details/gov.law.
```

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1   aera.standards.1999."

2   Q.   Mr. Butler, when the material posted to

3   Internet Archive's website on Exhibit A-1 of

4   deposition Exhibit 1 was put there, who created the

5   name of this URL at the bottom left-hand corner?

6   MS. LU: Objection, vague and ambiguous

7   and lack of personal knowledge.

8   THE WITNESS: The prefix

9   "archive.org/details" is the default URL prefix

10   assigned by the archive.org website.   The following

11   text is what we call the identifier.   That is

12   something that is submitted by the submitter.

13   MR. HUDIS:

14   Q.   Mr. Butler, to the best of your knowledge,

15   what is Public.Resource.Org, Inc., which I will

16   refer to for the rest of this deposition as Public

17   Resource?

18   MS. LU: Objection, lack of personal

19   knowledge.

20   MR. HUDIS:

21   Q.   You may answer to the extent you know.

22   A.   What I know about Public.Resource.Org is

23   that it makes available government documents to the

24   public, and that's part of its mission.

25   Q.   And how do you know about Public Resource?

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    1   A.   I know about Public.Resource.Org through

    2   their posting of material on archive.org.

    3   Q.   That's the other name of Internet

    4   Archive's website?

    5   A.   That's correct.

    6   Q.   What else, if anything, do you know about

    7   Public Resource?

    8   MS. AHMAD: Objection, vague and

    9   ambiguous.

   10   MR. HUDIS:

   11   Q.   Other than its posting of what you call

   12   government documents on internetarchive.org's

   13   website, what else, if anything, do you know about

   14   Public Resource?

   15   A.   I believe that that -- that generally

   16   covers what I know about Public Resource.

   17   Q.   Do you know Carl Malamud?

   18   A.   Yes.

   19   Q.   How do you know him?

   20   A.   I've met him on brief occasion when he was

   21   at Internet Archive.

   22   Q.   And why did Carl Malamud visit Internet

   23   Archive?

   24   MS. LU: Objection, lack of personal

   25   knowledge.

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 1   THE WITNESS: The instance when I met him,

 2   he was speaking at a public function that Internet

 3   Archive was hosting. It was a memorial service for

 4   Aaron Swartz.

 5   MR. HUDIS:

 6   Q. Who was Aaron Swartz?

 7   MS. LU: Objection, relevance.

 8   THE WITNESS: Aaron Swartz was a public

 9   figure and former employee of Internet Archive.

10   MR. HUDIS:

11   Q. Other than speaking at this memorial

12   function, do you remember any other times that

13   Mr. Malamud visited Internet Archive when you were

14   present?

15   A. Yes. Perhaps a total of four or five

16   times.

17   Q. What were the purpose of those visits?

18   A. I don't know.

19   Q. Did he make any speeches other than the

20   one at the memorial service?

21   MS. LU: Objection, lack of personal

22   knowledge.

23   THE WITNESS: I'm not aware of any.

24   MR. HUDIS:

25   Q. Do you know what the nature of his

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 1    meetings at Internet Archive was those other four

 2    or five times?

 3         A.   No.

 4         Q.   What else do you know about Mr. Malamud?

 5              MS. AHMAD:  Objection, outside the scope

 6    of the deposition topics.

 7              MR. HUDIS:

 8         Q.   You may answer.

 9         A.   I know he's involved with Public Resource.

10         Q.   That was my next question.

11              What, if anything, do you know about

12    Mr. Malamud's relationship to Public Resource?

13         A.   As I understand it, he -- he's very

14    central at Public Resource.  I don't know his exact

15    title and responsibilities at the organization.

16         Q.   Is that the extent of your knowledge of

17    the relationship between Mr. Malamud and Public

18    Resource?

19         A.   Yes.

20         Q.   Is Public Resource allowed to post content

21    to Internet Archive's website?

22         A.   Yes.

23         Q.   Is Carl Malamud allowed to post content

24    into Internet Archive's website?

25         A.   Yes.
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 1          MS. LU:  Objection, vague and ambiguous.

 2          MR. HUDIS:

 3      Q.  When was Public Resource given access to

 4  publish content to Internet Archive's website?

 5          MS. LU:  Vague and ambiguous.

 6          THE WITNESS:  I don't know.

 7          MR. HUDIS:

 8      Q.  When was Carl Malamud given access to post

 9  content to Internet Archive's website?

10          MS. LU:  Lack of personal knowledge, vague

11  and ambiguous.

12          MR. HUDIS:

13      Q.  You may answer.

14      A.  I don't know.

15      Q.  Is there a formal agreement between

16  Internet Archive and Public Resource that

17  memorializes, if there is one, posting rights to

18  the Internet Archive website?

19          MS. LU:  Objection, lack of personal

20  knowledge, assumes facts not in evidence.

21          MR. HUDIS:

22      Q.  You may answer.

23      A.  If a -- if a user account was set up

24  through the -- through the site and our terms of

25  use were agreed to, then our terms of use would
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1   fall under that description. I'm not aware of any

2   other agreements.

3   Q. Do you know whether the terms of use were

4   agreed to by Public Resource or Carl Malamud or

5   both?

6   MS. LU: Objection, lack of personal

7   knowledge, assumes facts not in evidence.

8   MR. HUDIS:

9   Q. You may answer if you know.

10   A. I don't know.

11   Q. Other than the terms of use of Exhibit 5,

12   you said there was no formal agreement between

13   Public Resource or Carl Malamud and Internet

14   Archive for posting rights.

15   Was there any informal agreement?

16   MS. LU: Objection, misstates prior

17   testimony.

18   MR. HUDIS:

19   Q. You may answer.

20   A. Can you define "posting rights"?

21   Q. Permission to upload content to Internet

22   Archive's website.

23   A. I'm not aware of any.

24   MR. HUDIS: Off the record.

25   VIDEO OPERATOR: The time is 10:33 a.m.

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 1   We are off the record.

 2   (Discussion off the record.)

 3   (Plaintiffs' Exhibit 6 marked for

 4   identification.)

 5   VIDEO OPERATOR: The time is 10:41 a.m.

 6   We are on the record.

 7   Mr. HUDIS: I've now marked as Exhibit 6 a

 8   web page with different views which I will discuss

 9   with the witness in a moment. It's a total of

10   eight pages.

11   Q. Mr. Butler, what we did -- it's on the

12   date stamped up in the upper left-hand corner,

13   March 14, 2014.

14   The way that we understand the material

15   which we call the 1999 standards was uploaded to

16   Internet Archive's website. The material in this

17   frame here, showing the witness, has the ability so

18   that electronically you read it like a book.

19   So we took a first shot of the web page

20   with the first page of the '99 standards, and then

21   the second page which is the front cover of the

22   '99 standards, and then we took another shot,

23   screenshot, of the inside cover and copyright page,

24   and then finally the table of contents.

25   Do you see that?

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 1   A. Yes.

 2   Q. So these are, in fact, different shots of

 3   the same page with different turns, electronically,

 4   of the book.

 5   Do you understand that?

 6   A. I understand.

 7   Q. Okay. So --

 8   MS. AHMAD: Yes. So you should answer

 9   questions about this exhibit assuming that that

10   description is accurate.

11   THE WITNESS: I understand.

12   MR. HUDIS:

13   Q. Mr. Butler, do you recognize Exhibit 6 as

14   a web page from Internet Archive's website that

15   existed at one time?

16   MS. LU: Objection, lack of personal

17   knowledge.

18   THE WITNESS: This has the layout of an

19   Internet Archive details page. I recognize it as

20   the layout and design of an Internet Archive

21   details page.

22   MR. HUDIS:

23   Q. Do you know what material is posted on

24   this web page of Exhibit 6?

25   MS. LU: Objection, lack of personal

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 1   knowledge.

 2           THE WITNESS:  I see a title for the

 3   material.

 4           MR. HUDIS:

 5      Q.  What title is that?

 6      A.  The title is "AERA:  Standard for

 7   Educational and Psychological Testing," and then

 8   there's a date in parentheses following that,

 9   "1999."

10      Q.  According to this exhibit, the bottom of

11   the second page, who posted the 1999 standards to

12   this web page?

13           MS. LU:  Objection, lack of personal

14   knowledge.

15           THE WITNESS:  On the -- on the second

16   page, I see a metadata tag entitled, "Credits" that

17   reads "Uploaded by Public.Resource.Org.

18           As I understand the function of our

19   website, the submitter would have submitted that

20   tag and the text displayed beside it, reading

21   "Uploaded by Public.Resource.Org."

22           MR. HUDIS:  Counsel, can you stipulate

23   that Exhibit 6 is a business record of Internet

24   Archive that existed at one time, at least on

25   March 14th, 2014?
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 1              MS. AHMAD:  No, I can't.

 2              MR. HUDIS:

 3         Q.  On the second page of Exhibit 6, it says,

 4    "Identifier-access."

 5              Do you see that?

 6         A.  Yes.

 7         Q.  Based upon your knowledge of an Internet

 8    Archive details page, who created this identifier

 9    access string?

10              MS. LU:  Objection, vague and ambiguous,

11    lack of personal knowledge.

12              MR. HUDIS:

13         Q.  You may answer.

14         A.  I don't know.  I don't know whether a

15    submitter would have created that or whether the

16    Internet Archive's automated processes created it.

17         Q.  To the best of your knowledge it's one or

18    the other?

19              MS. LU:  Objection, lack of personal

20    knowledge.

21              THE WITNESS:  To the best of my knowledge,

22    it would either have been performed by Internet

23    Archive's automated processes or an account holder

24    with requisite permission to edit this item's

25    metadata.
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 1              MR. HUDIS:

 2        Q.  To the best of your knowledge, if you

 3   could look on Page 1, beneath the -- beneath the

 4   frame containing the 1999 standards, who wrote the

 5   text under where it says, "Description"?

 6              MS. LU:  Objection, lack of personal

 7   knowledge.

 8              THE WITNESS:  The service requires a

 9   description to be provided by the submitter at the

10   time of upload.  That information may subsequently

11   be edited by an account that has permissions to do

12   so.

13              MR. HUDIS:

14        Q.  And in this context, that account would

15   have been by Public.Resource.Org?

16              MS. LU:  Objection, lack of personal

17   knowledge and argumentative.

18              THE WITNESS:  Sorry, could you repeat the

19   question, please?

20              MR. HUDIS:

21        Q.  Yes, yes.

22              Is it correct to say that the text on this

23   web page of Exhibit 6, beneath the frame containing

24   the 1999 standards, was provided by the submitter?

25              MS. LU:  Objection, lack of personal
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 1   knowledge, vague and ambiguous.

 2   THE WITNESS: In the instance of the item

 3   with this identifier, our records show that the

 4   description was provided by the submitter.

 5   MR. HUDIS:

 6   Q. Who was the submitter, to the best of your

 7   knowledge, looking at this exhibit?

 8   MS. LU: Objection, lack of personal

 9   knowledge, vague and ambiguous.

10   THE WITNESS: Our records list an account,

11   a user account, as the submitter for this -- for

12   the item with this identifier.

13   MR. HUDIS:

14   Q. And do you know whose account that is?

15   MS. LU: Objection, lack of personal

16   knowledge, vague and ambiguous.

17   THE WITNESS: The -- I know that the user

18   account is associated with an e-mail address which

19   is carl@media.org.

20   MR. HUDIS:

21   Q. Do you know whether carl@media.org is Carl

22   Malamud's e-mail address?

23   MS. LU: Objection, lack of personal

24   knowledge.

25   THE WITNESS: I recognize that e-mail

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 1   address as Carl Malamud's e-mail address.

 2   MR. HUDIS:

 3   Q. At the bottom of Page 1 of Exhibit 6, it

 4   says, "Downloaded 1,113 times."

 5   What does that downloaded number reflect?

 6   MS. LU: Objection, lack of personal

 7   knowledge.

 8   THE WITNESS: That number, the -- the

 9   downloaded number?

10   MR. HUDIS:

11   Q. Yes.

12   A. Is the same as the download account to

13   which we referred earlier today.

14   MR. HUDIS: Off the record.

15   VIDEO OPERATOR: The time is 10:50 a.m.,

16   and we are off the record.

17   (Discussion off the record.)

18   (Plaintiffs' Exhibit 7 marked for

19   identification.)

20   VIDEO OPERATOR: The time is 10:52 a.m.,

21   and we are on the record.

22   MR. HUDIS:

23   Q. I've marked as deposition Exhibit 7 a

24   document that is a single page entitled, "Item

25   History for gov.law.aera.standards.1999."

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 1   MS. LU: Can you say that again?

 2   MR. HUDIS: Okay, I'll do it again.

 3   MS. LU: Jonathan, if you could repeat the

 4   Bates number on that.

 5   MR. HUDIS: Sure. I'll do both.

 6   It's a document that's named at the top,

 7   "Item History for gov.law.aera.standards.1999."

 8   Bears production number IA-AERA-036.

 9   Q. Mr. Butler, I'll show you again what's

10   been marked as Exhibit 2 which is the document

11   subpoena. Please look at items 1 through 4 for a

12   minute.

13   A. Okay.

14   Q. Thank you, Mr. Butler.

15   In order to comply with the document

16   subpoena, or Exhibit 2, who at Internet Archive

17   searched your company's records to determine how

18   the 1999 standards were posted to the Internet

19   Archive's website?

20   MS. LU: Objection, assumes facts not in

21   evidence and argumentative.

22   MR. HUDIS:

23   Q. You may answer.

24   A. Would you read that for me, please?

25   Q. Sure. In order to comply with our

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 1   document subpoena of Exhibit 2, you've read items 1

 2   through 4.

 3   Who at Internet Archive searched your

 4   company's records to determine how the

 5   1999 standards were posted to your company's

 6   website?

 7   A. I did.

 8   Q. Mr. Butler, I now show you Exhibit 7 and

 9   ask you if you recognize the document.

10   A. Yes.

11   Q. What is it?

12   A. This document is a history showing a

13   summary of all of the technical tasks submitted for

14   the item with the identifier gov.law.aera.

15   standards.1999.

16   Q. And how is the results of that search in

17   any way related to the content of Exhibit 6?

18   MS. LU: Objection, lack of personal

19   knowledge.

20   THE WITNESS: This is Exhibit 6?

21   MR. HUDIS: Yes.

22   MS. LU: Let the record reflect the

23   witness was pointing to what I believe is Page 2 of

24   8 of Exhibit 6.

25   MR. HUDIS: Yes. It's my copy.

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1   THE WITNESS: And would you repeat

2   question, please?

3   MR. HUDIS:

4   Q. Yes. And I will state it a different way.

5   Is Exhibit 7 the results of a search to

6   determine who posted the content on the web page of

7   Exhibit 6?

8   MS. LU: Objection, lack of personal

9   knowledge.

10   THE WITNESS: The Exhibit 7 is a result of

11   a search to determine who posted the item

12   associated with the URL listed on the printout for

13   Exhibit 6.

14   MR. HUDIS:

15   Q. And what was the results of that search?

16   MS. LU: Objection, vague and ambiguous.

17   THE WITNESS: One document located was

18   the -- the item history that is Exhibit 7.

19   MR. HUDIS: Counsel for Internet Archive,

20   can you stipulate that Exhibit 7 is a business

21   record of Internet Archive?

22   MS. AHMAD: Yes.

23   MS. LU: No objection.

24   MR. HUDIS: No objection, okay.

25   Q. And you performed the search, the results

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 1   of which are reflected as Exhibit 7?

 2        A.   Yes, I -- I clicked the link to get to

 3   this history page.

 4             MR. HUDIS:   Off the record.

 5             VIDEO OPERATOR:   The time is 10:57 a.m.,

 6   and we are off the record.

 7             (Discussion off the record.)

 8             (Plaintiffs' Exhibit 8 marked for

 9             identification.)

10             VIDEO OPERATOR:   The time is 10:59 a.m.,

11   and we are on the record.

12             MR. HUDIS:   I now mark as Exhibit 8 a

13   multipage document bearing the production numbers

14   IA-AERA 5 through 34.

15             MS. LU:   And I'll just state for the

16   record that it appears to me that this is actually

17   several documents that were produced consecutively

18   and now are entered as one exhibit together.  Is

19   that --

20             MR. HUDIS:   That is correct, Counsel.

21        Q.   Mr. Butler, do you recognize the

22   collection of documents now marked as Exhibit 8?

23        A.   Yes.

24        Q.   What are they?

25        A.   These documents are the logs for -- for
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 1   the tasks that are summarized in the item history.

 2   They represent the technical tasks submitted for

 3   the item with identifier gov.law.aera.standards

 4   .1999.

 5       Q.  Is it correct to say that the search

 6   summary of Exhibit 7 resulted in retrieval of the

 7   logs of Exhibit 8?

 8           MS. LU:  Objection, vague and ambiguous.

 9           THE WITNESS:  I was able to access the

10   logs of Exhibit 8 through hyperlinks that were

11   available on the page for Exhibit 7.

12           MR. HUDIS:  Counsel, can you stipulate

13   that Exhibit 8 is a collection of the business

14   records of Internet Archive?

15           MS. AHMAD:  Yes.

16           MR. HUDIS:  Any objection, Counsel?

17           MS. LU:  No objection.

18           MR. HUDIS:

19       Q.  Mr. Butler, how does -- how long does

20   Internet Archive maintain logs of the type shown in

21   Exhibit 8?

22           MS. LU:  Objection, lack of personal

23   knowledge.

24           THE WITNESS:  As a general practice, these

25   logs are not deleted unless the item itself is
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 1   deleted.

 2           MR. HUDIS:

 3       Q.  And when you say "the item itself," what

 4   do you mean?

 5           MS. LU:  Objection, vague and ambiguous.

 6           MR. HUDIS:

 7       Q.  Do you mean the item of Exhibit 6?

 8           MS. LU:  Objection, vague and ambiguous,

 9   argumentative.

10           THE WITNESS:  By "item," I mean the -- the

11   collection of files and metadata that are posted

12   associated with a URL archive.org/details/ the

13   identifier.

14           MR. HUDIS:

15       Q.  And you were able to retrieve these logs

16   of Exhibit 8 associated with the identifier

17   gov.law.aera.standards.1999?

18       A.  That's correct.

19       Q.  So the item has not yet been deleted from

20   Internet Archive's website?

21           MS. LU:  Objection, vague and ambiguous.

22           MR. HUDIS:

23       Q.  You may answer.

24       A.  That's correct.

25       Q.  From where did you gather the logs of
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 1   Exhibit 8?

 2        A.  The logs of Exhibit 8 were gathered from

 3   Internet Archive's servers that serve the site

 4   archive.org.

 5        Q.  Who at Internet Archive maintains those

 6   servers?

 7            MS. LU:  Objection, lack of personal

 8   knowledge.

 9            MR. HUDIS:

10        Q.  If you know.

11        A.   Internet Archive's engineers maintain

12   those servers.

13        Q.  Who has access to those servers?

14            MS. LU:  Objection, lack of personal

15   knowledge.

16            THE WITNESS:  Internet Archive's

17   engineers.

18            MR. HUDIS:

19        Q.  Internet engineers?

20            MS. LU:  Objection.

21            MR. HUDIS:

22        Q.  What type of engineers have access to

23   these servers?

24            MS. LU:  Objection, lack of personal

25   knowledge, and vague and ambiguous.
```

Christopher Butler   December 2, 2014
San Francisco, CA

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 1   MR. HUDIS:

 2   Q.   You may answer.

 3   A.   Internet Archive's Petabox team is the

 4   name of the team.

 5   Q.   Could you spell Petabox?

 6   A.   Yes. P-e-t-a-b-o-x.

 7   Q.   And who comprises Internet Archive's

 8   Petabox team?

 9   A.   Several engineers who work with data

10   clusters, physical hardware and also support the --

11   the back end of Internet Archive, of the

12   archive.org website.

13   Q.   So, generally, the Petabox team is

14   comprised of computer hardware and software

15   engineers?

16   A.   That's correct.

17   Q.   What tool was used to extract these logs

18   of Exhibit 8?

19   MS. LU: Objection, lack of personal

20   knowledge.

21   THE WITNESS: I obtained these records

22   through the web browser Firefox.

23   MR. HUDIS:

24   Q.   And through the Firefox web browser, did

25   you use the Mac Terminal application?

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 1   MS. LU: Objection, incomprehensible.

 2 Misstates prior testimony. Facts not in evidence.

 3   MR. HUDIS:

 4   Q. Besides the Firefox web browser, what

 5 other tools, if any, did you use to procure the

 6 logs of Exhibit 8?

 7   MS. LU: Objection, lack of personal

 8 knowledge.

 9   THE WITNESS: The -- I used the Firefox

10 web browser with the site archive.org to -- to

11 obtain these -- these records from archive.org's

12 records of the task history of the item.

13   MR. HUDIS:

14   Q. And the task history is Exhibit 7?

15   A. Yes, the -- the summary is Exhibit 7 and

16 then the specific tasks are Exhibit 8.

17   Q. Now, in Exhibit 7, it says, "submitter

18 carl@media.org."

19   You associate that -- that e-mail address

20 with Carl Malamud?

21   A. Yes.

22   Q. Looking at the logs of Exhibit 8, at the

23 top of each grouping of pages, first grouping is

24 three pages, the second grouping is thirteen pages,

25 the third grouping is two pages, the fourth

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 1   grouping is three pages, the fifth grouping is two

 2   pages, the sixth grouping is five pages, and the

 3   final grouping is two pages.

 4   Each one of them has a task ID at the

 5   upper left-hand corner. Do you see that?

 6   A. Yes.

 7   Q. How did you determine which tasks to

 8   search for?

 9   MS. LU: Objection, misstates prior

10   testimony.

11   THE WITNESS: I obtained the task -- the

12   task logs by selecting the hyperlink for each task

13   under "task id" on Exhibit 7.

14   MR. HUDIS:

15   Q. Now, each of these documents of Exhibit 8

16   includes a line that states, "submitter

17   carl@media.org."

18   This is the e-mail associated with Carl

19   Malamud?

20   A. Yes.

21   Q. And Mr. Malamud has access to Internet

22   Archive's system by a user name and password?

23   MS. LU: Objection, lack of personal

24   knowledge.

25   THE WITNESS: Yes, I understand this

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 1   account to be associated with Carl Malamud.

 2   MR. HUDIS:

 3   Q. And he accesses Internet Archive's systems

 4   for upload purposes by a user name and password?

 5   MS. LU: Objection, lack of personal

 6   knowledge, calls for speculation.

 7   THE WITNESS: Would you say the question

 8   one more time, please?

 9   MR. HUDIS: Yes.

10   Q. How does Mr. Malamud gain access to

11   Internet Archive's systems to submit a post?

12   MS. LU: Objection, lack of personal

13   knowledge, calls for speculation.

14   THE WITNESS: In the instance of this

15   item, it would be through the use of -- this item

16   was submitted through the user account associated

17   with carl@media.org and was used by submission

18   of -- and gained access by submission of the e-mail

19   address and log-in credentials.

20   Q. What are log-in credentials?

21   A. Log-in credential would be an e-mail

22   address and password.

23   Q. Did Internet Archive monitor the materials

24   posted to its servers as reflected by these logs of

25   Exhibit 8?

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1   MS. LU: Objection, vague and ambiguous,

2   lack of personal knowledge.

3   MR. HUDIS:

4   Q. You may answer.

5   A. One more time, please.

6   Q. Yes. Did Internet Archive monitor the

7   materials posted to its servers as reflected by

8   these logs of Exhibit 8?

9   A. To the best of my knowledge, no person

10   working on behalf of Internet Archive monitored --

11   personally reviewed the processes at work for each

12   one of these tasks.

13   Q. And after the material was posted, did

14   Internet Archive exercise any quality control of

15   the materials once submitted?

16   MS. LU: Objection, lack of personal

17   knowledge. And vague and ambiguous.

18   THE WITNESS: To the best of my knowledge,

19   no.

20   MR. HUDIS:

21   Q. And according to Exhibit 8, when did you

22   search for these logs?

23   A. According to Exhibit 8, the search was

24   performed on October 30th, 2014 at 9:40:49 Pacific

25   time.

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 1   Q.   Thank you for a precise answer.

 2   A.   You're welcome.

 3   Q.   What are the dates of these logs?

 4   MS. LU: Objection, vague and ambiguous.

 5   MR. HUDIS: All right.

 6   Q.   Can you tell from Exhibit 8 the dates of

 7   these logs on Exhibit 8?

 8   MS. LU: Objection, vague and ambiguous.

 9   MR. HUDIS: Okay.

10   Q.   Do you want to go through them one at a

11   time?

12   A.   There's a -- there's a line at the

13   beginning of each log that reads, "Task started at"

14   that has a record -- has Internet Archive's record

15   of the time of submission for each task.

16   Q.   And then at the end of each log is there a

17   time of finish?

18   A.   Yes.

19   Q.   So, the first task, 107010707, what time

20   was this task started?

21   MS. LU: Objection, lack of personal

22   knowledge.

23   THE WITNESS: The task log states the task

24   was started on May 26, 2012 at 11:48 a.m. Pacific

25   time.

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 1              MR. HUDIS:

 2       Q.  Let's go to task No. 107010788.  That's on

 3   Page -- production Page 8.

 4              What time was this task started?

 5              MS. LU:  Objection, lack of personal

 6   knowledge.

 7              THE WITNESS:  I can only state that our

 8   record -- our record states that the task was

 9   started at the same date, May 26th, 2012, at

10   11:48 a.m. Pacific time.

11              MR. HUDIS:

12       Q.  And if we go to production Page 21 of

13   Exhibit 8, when was task 107019567 started?

14              MS. LU:  Objection, lack of personal

15   knowledge.

16              THE WITNESS:  Again, I only have the

17   record created by our system.  That record states

18   the task was started at -- on the same date,

19   May 26th, 2012, at, let's see, 1:07 Pacific time.

20   1:07 p.m.

21              MR. HUDIS:

22       Q.  And if you could turn to page --

23   production Page 23 of Exhibit 8, what time was task

24   107034141 started?

25              MS. LU:  Objection, lack of personal
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```
 1   knowledge.

 2           THE WITNESS:  The task log reads that the

 3   task started on the same date, May 26th, 2012, at

 4   4:46 p.m. Pacific time.

 5           MR. HUDIS:

 6       Q.  Mr. Butler, please turn to Page 26 of

 7   Exhibit 8.

 8           What time was task 107040689 started?

 9           MS. LU:  Objection, lack of personal

10   knowledge.

11           THE WITNESS:  The task log states that the

12   task was started on May 27th, 2012, at 6:43 p.m.

13   Pacific time.

14           MR. HUDIS:

15       Q.  Mr. Butler, please turn to Page 28 of

16   Exhibit 8.

17           Task No. 107040792, according to your

18   records, when did this task start?

19           MS. LU:  Objection, lack of personal

20   knowledge.

21           THE WITNESS:  The task log reads that the

22   task started on May 27th, 2012 at 6:43 p.m. Pacific

23   time.

24           MR. HUDIS:

25       Q.  Mr. Butler, please turn to Page 33 of
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 1    Exhibit 8.

 2              What time did Task ID 107040809 start?

 3              MS. LU:  Objection, lack of personal

 4    knowledge.

 5              THE WITNESS:  The task log reads that the

 6    task started at -- on May 27th, 2012 at 6:44 p.m.

 7    Pacific time.

 8              MS. AHMAD:  Let's take a break.

 9              MR. HUDIS:  Yes.

10              VIDEO OPERATOR:  This marks the end of

11    volume 1, disk 1 in the deposition of Chris Butler.

12    the time is 11:16 a.m.  We're off the record.

13              (Brief recess.)

14              VIDEO OPERATOR:  This marks the beginning

15    of volume 1, disk 2 in the deposition of Chris

16    Butler.  The time is 11:24 a.m., and we are on the

17    record.

18              MR. HUDIS:

19         Q.  Mr. Butler, each of these logs of

20    Exhibit 8 reflects a process of content submission

21    by Mr. Malamud or somebody using his credentials?

22              MS. LU:  Objection, lack of personal

23    knowledge, and misstates prior testimony.

24              MR. HUDIS:

25         Q.  You may answer.
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 1        A.   What was the question again, please?

 2             MR. HUDIS:

 3        Q.   Yes.  Do the logs of Exhibit 8 reflect the

 4   activity of submitting content to Internet

 5   Archive's website by Carl Malamud or somebody using

 6   his log-in credentials?

 7             MS. LU:  Objection, lack of personal

 8   knowledge, assumes facts not in evidence.

 9             THE WITNESS:  The -- these records --

10             MR. HUDIS:  Of Exhibit 8.

11             THE WITNESS:  -- of Exhibit 8 reflect the

12   tasks submitted for -- for this item.

13             MR. HUDIS:

14        Q.   What item is that?

15        A.   The item is gov.law.aera.standards.1999.

16        Q.   Uh-huh.

17        A.   The record of the submitter in -- in these

18   logs is the account associated with the e-mail

19   address carl@media.org.

20        Q.   Which you associate with Carl Malamud?

21             MS. LU:  Objection, misstates prior

22   testimony.

23             THE WITNESS:  I associate the e-mail

24   address carl@media.org with Carl Malamud.

25             MR. HUDIS:
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 1        Q.   And each of these logs reflect processes

 2   that were performed on May 26th and May 27th of

 3   2012?

 4             MS. LU:   Objection, lack of personal

 5   knowledge.

 6             THE WITNESS:   The question one more time,

 7   please.

 8             MR. HUDIS:   Yes.

 9        Q.   Each of these logs reflects processes that

10   were performed on May 26th and May 27th, 2012?

11        A.   The logs list the dates that these were

12   performed as May 27th -- May 26th and May 27th of

13   2012.

14        Q.   Each of these documents of Exhibit 8 is a

15   log that resulted from a command being run on

16   Internet Archive's web servers?

17             MS. LU:   Objection, lack of personal

18   knowledge.

19             THE WITNESS:   The question one more time,

20   please.

21             MR. HUDIS:   Yes.

22        Q.   Each of these documents of Exhibit 8 is a

23   log that resulted from a command being run on

24   Internet Archive's servers?

25             MS. LU:   And also add, vague and ambiguous
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```
 1   objection.

 2          THE WITNESS:  This is the Internet

 3   Archive's log of the -- of the tasks submitted,

 4   including commands submitted to Internet Archive's

 5   website for the identifier previously mentioned.

 6          MR. HUDIS:

 7      Q.  And each of these logs has a command line

 8   that is reflected by the line [cmd] right arrow, do

 9   you see that?

10          MS. LU:  Counsel, sorry, where are you,

11   on which page of which --

12          MR. HUDIS:  According to Page 5 of

13   Exhibit 8, the command line.

14          MS. LU:  I think, for the record, you're

15   talking about [cmd] two equal signs and then

16   greater than symbol?

17          MR. HUDIS:  Yes, which I define as right

18   arrow.

19      Q.  Do you see that?

20      A.  Yes.

21      Q.  And if you go back to Exhibit 7, the

22   different commands that were performed starting

23   from the bottom are archive.php, derive.php,

24   bup.php, again twice archive.php, derive.php and

25   bup.php.
```

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```
 1              Do you see that?

 2       A.   Yes.

 3       Q.   And we will leave for later the last one

 4   at the top, says, "make_dark."  We'll leave that

 5   for later.

 6              Each of these commands has a "php" file

 7   extension.  Do you know what a "php" is?

 8              MS. LU:  Objection, lack of personal

 9   knowledge.

10              THE WITNESS:  I don't know what "php"

11   stands for.  It's an extension that I've seen

12   associated with -- with web pages.

13              MR. HUDIS:

14       Q.   Is it a scripting language, to the best of

15   your knowledge?

16              MS. LU:  Objection, lack of personal

17   knowledge.

18              THE WITNESS:  I don't know.

19              MR. HUDIS:

20       Q.   Do you know where the php files are

21   stored?

22              MS. LU:  Objection, lack of personal

23   knowledge, vague and ambiguous.

24              THE WITNESS:  No.

25              MR. HUDIS:
```

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 1   Q.   Do you know who wrote the php scripts?

 2   MS. LU: Objection, lack of personal

 3   knowledge.

 4   THE WITNESS: No.

 5   MR. HUDIS:

 6   Q.   Do you know if the php file extensions

 7   were Carl Malamud's scripts?

 8   MS. LU: Objection, lack of personal

 9   knowledge, and vague and ambiguous.

10   THE WITNESS: I know that -- that these

11   commands that you see listed in the command

12   column --

13   MR. HUDIS: The witness is pointing --

14   THE WITNESS: -- on Exhibit 7 and also

15   listed by the bracketed command tag by the right

16   arrow previously mentioned are generic commands

17   that are associated with many, many items. They

18   are very common commands and functions of the

19   archive.org website.

20   MR. HUDIS:

21   Q.   Looking at Exhibit 7, you see there is a

22   column that says "args," do you see that?

23   A.   Yes.

24   Q.   Do you know whether that stands for

25   arguments?

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```
 1              MS. LU:  Objection, lack of personal

 2    knowledge.

 3              THE WITNESS:  No.

 4              MR. HUDIS:

 5         Q.  Do you know what arguments were supplied

 6    for each of the commands for each of these logs so

 7    that -- so that the process described in the log

 8    would run?

 9              MS. LU:  Objection, lack of personal

10    knowledge, and vague and ambiguous.

11              THE WITNESS:  There are records of -- of

12    information associated with the term "args" in

13    each -- in each task log.

14              MR. HUDIS:

15         Q.  So, for example, looking at Exhibit 7,

16    does the submission of the argument

17    "done=delsrc&from_url=ry" -- excuse me, "rsyn..."

18    enable archive.php to run?

19              MS. LU:  Objection, lack of personal

20    knowledge.

21              THE WITNESS:  I don't know that that's

22    what enables archive.php to run.

23              MR. HUDIS:

24         Q.  Looking at Exhibit 7, do you know what

25    each of these commands do?
```

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 1   MS. LU: Objection, lack of personal

 2   knowledge, and vague and ambiguous.

 3   THE WITNESS: I have a general

 4   understanding of the function of each of these

 5   commands.

 6   MR. HUDIS:

 7   Q. What does the archive.php command do?

 8   A. Archive.php is associated with the

 9   submission of files or information by a user to be

10   incorporated into the item and displayed, made

11   available with that item.

12   Q. Do you know why the archive.php command

13   was run three times?

14   MS. LU: Objection, lack of personal

15   knowledge. And objection, assumes facts not in

16   evidence.

17   THE WITNESS: Generally, the first

18   archive.php is associated with the submission of --

19   of a -- a file relating to a work that is a text or

20   movie or audio recording. It also contains

21   metadata that needs to be submitted with the

22   initiating task for an item.

23   Subsequent archive.php commands may

24   correspond to the submission of further files --

25   excuse me, further files for information to be

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 1   incorporated with the item.

 2   MR. HUDIS:

 3   Q.   Do you know what the derive.php file does?

 4   MS. LU: Objection, lack of personal

 5   knowledge.

 6   THE WITNESS: Derive.php is associated

 7   with the creation of derivative file formats that

 8   the archive.org website automatically generates

 9   from the original file and -- and presents on the

10   item -- on the item's details page.

11   MR. HUDIS:

12   Q.   On the website?

13   A.   On archive.org.

14   Q.   What does the bup.php command do?

15   MS. LU: Objection, lack of personal

16   knowledge.

17   THE WITNESS: "Bup" is associated with

18   creation of a backup of -- of the files, of the

19   item's files, as Internet Archive uses two copies,

20   creates and maintains two copies of a file in case

21   one server has issue that prevent those files from

22   being available.

23   MR. HUDIS:

24   Q.   Do you know why the backup.php command was

25   run twice?

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```
 1              MS. LU:  Objection, lack of personal

 2      knowledge.  And assumes facts not in evidence.

 3              THE WITNESS:  The backup.php command is

 4      typically run after a change is made to an item,

 5      and it is the updating of the backup copy.

 6              MR. HUDIS:

 7         Q.  Mr. Butler, all of the logs produced by

 8      Internet Archive which are now reflected in

 9      Exhibit A have the identifier gov.law.area

10      .standards.1999.  What is this?

11              MS. LU:  Objection, lack of personal

12      knowledge, and misdescribes the documents.

13              THE WITNESS:  The question is asking what

14      the identifier is?

15              MR. HUDIS:

16         Q.  Yes.

17         A.  The identifier is a string of characters

18      that is submitted with an item by the submitter

19      that is unique to the item and then is incorporated

20      into the URL for the public page for the item.

21              MR. HUDIS:

22         Q.  And that in this instance is reflected in

23      Exhibit 6?

24              MS. LU:  Objection, vague and ambiguous.

25              THE WITNESS:  The same identifier listed
```

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```
 1   for the tasks on Exhibit 8 appears in the URL at

 2   the bottom of the printouts for Exhibit 6.

 3             MR. HUDIS:

 4        Q.   So if Mr. Malamud was the submitter in

 5   this case, was it Mr. Malamud who named this

 6   particular identifier "gov.law.aera.standards

 7   .1999"?

 8             MS. LU:  Objection, lack of personal

 9   knowledge, calls for speculation.

10             THE WITNESS:  The records of the task log

11   state that the identifier submitted for this item

12   by the submitter is gov.law.aera.standards.1999.

13             MR. HUDIS:

14        Q.   In each of the logs of Exhibit 8, there is

15   a line that says, "server."

16             Do you see that?

17        A.   I see a line that begins with "server."

18        Q.   All right.  And then it follows with

19   "ia600500.us.archive.org."

20             What is this identifier?

21             MS. LU:  Objection.

22             MR. HUDIS:  Next to -- sorry, next to

23   "server"?

24             MS. LU:  Objection, lack of personal

25   knowledge, vague and ambiguous.
```

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```
 1            THE WITNESS:  The string of characters

 2   next to "server" is the location of a server

 3   maintained by Internet Archive that has a server

 4   name of "ia600500."

 5            MR. HUDIS:

 6       Q.  Do you know what is stored on this

 7   particular server?  The one you just named,

 8   "ia600500"?

 9            MS. LU:  Objection, lack of personal

10   knowledge and misstates prior testimony.

11            THE WITNESS:  Generally, servers

12   referenced in task logs store information posted to

13   archive.org's website.

14            MR. HUDIS:

15       Q.  And if you notice, the server name for

16   task 107010707 is different from the server of the

17   task 107010788.

18            Do you see that?

19            MS. LU:  Objection, vague and ambiguous.

20            THE WITNESS:  Yes, I see a different

21   server name for these two tasks.

22            MR. HUDIS:

23       Q.  What's -- if you know, what is the

24   difference between the server from the task

25   107010707 and the server of task 107010788?
```

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```
 1            MS. LU:  Objection, lack of personal

 2   knowledge, assumes facts not in evidence.

 3            THE WITNESS:  I don't know of a

 4   substantial difference between these two servers.

 5            MR. HUDIS:

 6       Q.  So if I were to go through the rest of the

 7   logs of Exhibit 8 and there were different named

 8   servers, you would not know the difference from one

 9   server to the next?

10            MS. LU:  Objection, assumes facts not in

11   evidence.

12            THE WITNESS:  Correct.

13            MR. HUDIS:

14       Q.  Mr. Butler, let's go back to Exhibit 6,

15   and that's the 1999 standards posted to Internet

16   Archive's website.

17            MS. LU:  Objection, misstates prior

18   testimony.

19            MR. HUDIS:

20       Q.  Do the logs of Exhibit 8 reflect Carl

21   Malamud or someone with his log-on credentials

22   posting the 1999 standards to Internet Archive's

23   website?

24            MS. LU:  Objection, lack of personal

25   knowledge, calls for speculation, and misstates
```

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```
 1    prior testimony.  And argumentative.

 2            THE WITNESS:  The logs in Exhibit 8 have a

 3    recorded submitter of carl@media.org for the item

 4    with the identifier gov.law.aera.standards.1999.

 5    This is the same identifier that is listed at the

 6    bottom of the printout for Exhibit 6.

 7            MR. HUDIS:

 8        Q.  When the 1999 standards were posted to

 9    Internet Archive's website in May of 2012, were any

10    other materials posted with them?

11            MS. LU:  Objection, lack of personal

12    knowledge and relevance.

13            THE WITNESS:  Can you define "materials"?

14            MR. HUDIS:

15        Q.  Metadata.

16        A.  The -- the task log indicates that a file

17    named "aera.standards.1999.pdf_meta.text" was

18    submitted.  It also indicates that a file named

19    "gov.law.aera.standards.1999_meta.xml" was created.

20    Typically, these are associated with the submission

21    of metadata from a submitter.

22        Q.  For what purpose?

23            MS. LU:  Objection, lack of personal

24    knowledge, calls for speculation.

25            THE WITNESS:  Generally, the -- the
```

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1   metadata is submitted to archive.org and displayed.

2   Sometimes it has -- it has informational value for

3   the item. An example would be the submission of a

4   title for an item or an author.

5   MR. HUDIS:

6   Q. So, for example, on Exhibit 6, it says,

7   "Author: American Educational Research

8   Association."

9   Is that the type of metadata you were

10   talking about?

11   MS. LU: Objection, lack of personal

12   knowledge.

13   THE WITNESS: Yes, that would be an

14   example of metadata that would typically be

15   submitted by a submitter to be -- to be displayed,

16   along with a posted item.

17   MR. HUDIS:

18   Q. Did any Internet Archive employees have

19   any participation in posting the 1999 standards or

20   associated metadata to Internet Archive's website?

21   A. One more time, please.

22   Q. Sure. Did any Internet Archive employees

23   have any participation in posting the

24   1999 standards or associated metadata to Internet

25   Archive's website?

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```
 1        A.   To the lack [sic] of my knowledge, no

 2   Internet Archive employee directly participated in

 3   the posting of this item to archive.org.

 4        Q.   What involvement, if any, did Internet

 5   Archive have in the posting of the 1999 standards

 6   or associated metadata to Internet Archive's

 7   website?

 8             MS. LU:  Objection, vague and ambiguous.

 9             THE WITNESS:  The Internet Archive

10   website, according to this task log, appears to

11   have run standard automated processes responsive to

12   commands submitted by a submitter.

13             MR. HUDIS:

14        Q.   Once posted by Mr. Malamud, where on

15   Internet Archive's website could the 1999 standards

16   be found?  I'm talking about the URL.

17             MS. LU:  Objection, assumes facts not in

18   evidence.

19             THE WITNESS:  The -- the URL associated

20   with this identifier would be archive.org/details/

21   gov.law.aera.standards.1999.

22             MR. HUDIS:

23        Q.   Was the uploaded metadata also posted to

24   this same URL?

25             MS. LU:  Objection, lack of personal
```

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 1   knowledge.

 2   THE WITNESS: It seems that a metadata

 3   file was created and associated with the item. I

 4   don't see any signs of -- of error in that process

 5   from looking at these logs.

 6   MR. HUDIS: So let's go through each one

 7   of the logs one at time.

 8   Q. What is happening -- this is in

 9   Exhibit 8 -- in the log of task 107010707?

10   MS. LU: Objection, lack personal

11   knowledge, and vague and ambiguous. It calls for a

12   narrative.

13   THE WITNESS: Can you be more specific --

14   MR. HUDIS: Yes.

15   THE WITNESS: -- with the question?

16   MR. HUDIS:

17   Q. What function is being recorded by the log

18   of 107010707?

19   MS. LU: Same objections.

20   THE WITNESS: The log is associated with

21   an archive.php command which I understand to relate

22   to the submission of files and/or metadata.

23   MR. HUDIS:

24   Q. Now, you see below the definition of the

25   task, it says, "Getting file(s) from," and it gives

Page 96

 1   you a very long URL which starts with "rsync."

 2   Do you see that?

 3   A. Sorry, this is near the bottom of the

 4   first page?

 5   Q. Yes.

 6   MR. HUDIS: May I point to the witness,

 7   Counsel?

 8   MS. AHMAD: Yes.

 9   MR. HUDIS:

10   Q. So you see "Getting file(s)" and "Getting

11   file(s)"?

12   MS. LU: Objection, lack of personal

13   knowledge.

14   THE WITNESS: I see -- I see where the log

15   says, "Getting file(s)."

16   MR. HUDIS:

17   Q. Now, is that the URL from which the

18   document was uploaded?

19   MS. LU: Objection, lack of personal

20   knowledge.

21   THE WITNESS: This is a URL associated

22   with a submission of information to archive.org for

23   posting with the item.

24   MR. HUDIS:

25   Q. And the item, the first item is

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 1   1,825 bytes, do you see that?

 2   MS. LU: Objection, lack of personal

 3   knowledge.

 4   THE WITNESS: I see a line that it states

 5   that 1,825 bytes received.

 6   MR. HUDIS:

 7   Q.   And the second "Getting file" then results

 8   in a receipt of --

 9   A.   I see a line that states that 1,000,493 --

10   excuse me -- 14,934,120 bytes received.

11   Q.   Does the log say received from where?

12   MS. LU: Objection, lack of personal

13   knowledge.

14   THE WITNESS: The notes indicating the --

15   or stating the receipts of this amount of

16   information directly -- directly follow tasks

17   stating that files are being retrieved from the

18   long URL following the term "rsync."

19   MR. HUDIS:

20   Q.   Could you please turn to Page --

21   production Page 6 of Exhibit 8, the next page.

22   Now, you see towards the middle, it says,

23   "Now synchronizing item to the backup server."

24   Do you see that?

25   A.   Yes.

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```
 1        Q.  At how many locations are the

 2   1999 standards stored within Internet Archive, if

 3   know?

 4            MS. LU:  Objection, lack of personal

 5   knowledge, assumes facts not in evidence.

 6            THE WITNESS:  Generally, items submitted

 7   to archive.org are stored on two different servers.

 8            MR. HUDIS:

 9        Q.  For what purpose?

10            MS. LU:  Objection, lack of personal

11   knowledge.

12            THE WITNESS:  As -- as I had stated

13   earlier, Internet Archive uses paired storage in

14   the instance that one server becomes inaccessible.

15            MR. HUDIS:

16        Q.  Now, lower down on the same page,

17   production Page 6 of Exhibit 8, it says, "Deleting

18   from hd.www37," et cetera, et cetera,

19   "us.archive.org."

20            Why are these files being deleted?

21            MS. LU:  Objection, lack of personal

22   knowledge, and assumes facts not in evidence.

23            THE WITNESS:  I don't know exactly what

24   files are being deleted pursuant to this line.

25            MR. HUDIS:  Let's turn to production
```

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```
 1    Page 8 of Exhibit 8.  And we're now on the 13-page

 2    task with the ID 107010788.

 3         Q.   What task is this log reflecting?

 4              MS. AHMAD:  Objection, lack of personal

 5    knowledge.

 6              THE WITNESS:  This log is associated with

 7    task No. 107010788.  This task ID is associated

 8    with a derive.php command both in the task log and

 9    in the item history.

10              MR. HUDIS:

11         Q.   And what function is being performed

12    according to this log which has a derive.php

13    command?

14              MS. LU:  Objection, lack of personal

15    knowledge, assumes facts not in evidence.

16              THE WITNESS:  Derive.php is associated

17    with the automated creation of derivative file

18    formats by the archive.org website.

19              MR. HUDIS:

20         Q.   Do you know what the BookOp module does?

21              MS. LU:  Objection, lack of personal

22    knowledge.

23              THE WITNESS:  No, I don't know what that

24    specific -- I don't know what the BookOp module

25    does.
```

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 1   MR. HUDIS: Could we turn to production

 2   Page 10 of Exhibit 8.

 3   Q. Do you see towards the top of the page, it

 4   says, "Heuristic Resolution Analysis"?

 5   A. Yes.

 6   Q. And underneath it, it says, "number of

 7   pages in PDF: 211"?

 8   A. Yes.

 9   Q. Is this the PDF file corresponding to the

10   uploaded 1999 standards?

11   MS. LU: Objection, lack of personal

12   knowledge.

13   THE WITNESS: This task appears to be

14   being performed on a file named "aera.standards

15   .1999.pdf." The initial task for this item with

16   task No. 107010707 states that this file was

17   submitted to the item by the submitter.

18   MR. HUDIS:

19   Q. And my question from Page 10, Exhibit 8,

20   task 107010788 is, what was the size of that PDF

21   file?

22   MS. LU: Objection, lack of personal

23   knowledge.

24   THE WITNESS: The task history has a

25   reading that says that the PDF file has 211 pages.

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```
 1              MR. HUDIS:

 2      Q.   And if you could turn to Page 11 --

 3  production Page 11 of Exhibit 8, do you know what

 4  is happening where it says formatting gifs?

 5              MS. LU:   Objection, lack of personal

 6  knowledge.

 7              THE WITNESS:   As clarification, the log

 8  states "forming gifs."

 9              MR. HUDIS:   Thank you, "forming gifs."

10  Thank you.

11              THE WITNESS:   This appears to be the

12  generation of random images taken from a submitted

13  text which are then displayed alongside the item.

14  This is a standard process performed for texts that

15  are posted to archive.org.

16              MR. HUDIS:

17      Q.   Do you know what the AnimatedGIFT --

18  excuse me, the AnimatedGIF, G-I-F, module does?

19              MS. LU:   Objection, lack of personal

20  knowledge.

21              THE WITNESS:   AnimatedGIF module creates

22  random images from a submitted text to be displayed

23  alongside a posted text to archive.org.

24              MR. HUDIS:

25      Q.   And what is the function of these random
```

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 1   images?

 2   MS. LU: Objection, lack of personal

 3   knowledge.

 4   THE WITNESS: The random images, as I

 5   understand it, are generated to -- to provide an

 6   example of pages that may exist in a text.

 7   MR. HUDIS:

 8   Q. And do you know what the AbbyyXML module

 9   does?

10   MS. LU: Objection, lack of personal

11   knowledge.

12   THE WITNESS: As I understand it, the

13   AbbyyXML module plays a role in generating a text

14   file, a plain text file, of a submitted text.

15   MR. HUDIS:

16   Q. Mr. Butler, could you turn to Page 13 of

17   Exhibit 8. At the bottom, it says, DjvuXML module.

18   Do you know what this module does?

19   MS. LU: Objection, lack of personal

20   knowledge.

21   THE WITNESS: As I understand it, this

22   module creates a derivative of the initially

23   submitted text in a -- that functions with a

24   special reader called a DjVu reader or deja vu

25   reader.

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```
 1            MR. HUDIS:

 2       Q.  Do you know what a DjVu reader does?

 3            MS. LU:  Objection, lack of personal

 4  knowledge.

 5            THE WITNESS:  The extent of my knowledge

 6  is that a -- a reader will display a -- a DjVu text

 7  for -- for display for a user.

 8            MR. HUDIS:

 9       Q.  On a website?

10            MS. LU:  Objection, lack of personal

11  knowledge.

12            THE WITNESS:  I'm afraid I don't recall if

13  it's used within a browser or if it's -- if it is

14  used as a stand-alone application.

15            MR. HUDIS:

16       Q.  Looking at Exhibit 6, the top third of the

17  page, the 1999 standards were within a framed

18  document which I told you basically turns the

19  pages.

20            Do you know what kind of reader this is?

21            MS. LU:  Objection, lack of personal

22  knowledge, and assumes facts not in evidence.

23            THE WITNESS:  Yes, this is the Internet

24  Archive's BookReader application.

25            MR. HUDIS:
```

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```
 1        Q.  And is that created by the DjVu module or

 2   the BookOp module, or do you not know?

 3        MS. LU:  Objection, lack of personal knowledge

 4   and compound.

 5            THE WITNESS:  I know that it's not created

 6   by the DjVu module.  I don't know whether are not

 7   the BookOp module plays a role in that.

 8            MR. HUDIS:

 9        Q.  Do you know what the EPUB module does?

10        MS. LU:  Objection, lack of personal

11   knowledge.

12            THE WITNESS:  Generally, the EPUB module

13   creates another derivative format that is a -- a

14   .epub file, e-p-u-b.

15            MR. HUDIS:

16        Q.  And what does that do?

17        MS. LU:  Objection, lack of personal

18   knowledge.  Vague and ambiguous.

19            MS. AHMAD:  For the record, we're on

20   Page 14 now?

21            MR. HUDIS:  Page 15 -- excuse me.  Yes, we

22   are on Page 14 of Exhibit 8.  Thank you.

23            THE WITNESS:  I'm sorry, the question was?

24            MR. HUDIS:  Yes.

25        Q.  Do you know what the EPUB file does once
```

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```
 1   created by the EPUB module?

 2         A.   An EPUB file is a file format that is

 3   associated with an electronic text and must be read

 4   by software that's specifically designed to display

 5   an EPUB file.

 6         Q.   Do you know what TOC module does?  This is

 7   on Page 15 of Exhibit 8.

 8              MS. LU:  Objection, lack of personal

 9   knowledge.

10              THE WITNESS:  No.

11              MR. HUDIS:

12         Q.   Do you know what a scandataXML module

13   does?

14              MS. LU:  Objection, lack of personal

15   knowledge.

16              THE WITNESS:  No.

17              MR. HUDIS:

18         Q.   Do you know what a PDF module does?  And

19   that's on page 16 of Exhibit 8.

20              MS. LU:  Objection, lack of personal

21   knowledge.

22              THE WITNESS:  PDF module creates a

23   derivative file of an initial file.  It may create

24   a black and white PDF that's smaller in size than

25   any initial PDF that had been submitted.
```

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```
 1            MR. HUDIS:

 2       Q.  Do you know what a HackPDF does?

 3            MS. LU:  Objection, lack of personal

 4   knowledge.

 5            THE WITNESS:  No.

 6            MR. HUDIS:  Excuse me, HackPDF module.

 7       Q.  And the answer is no?

 8       A.  No.

 9       Q.  Could you turn to Page -- production

10   Page 20 of Exhibit 8.  This is the last page of

11   task 107010788.

12            Do you know why each of these files on

13   Page 20 of Exhibit 8 are being autocleaned?

14            MS. LU:  Objection, lack of personal

15   knowledge, and assumes facts not in evidence.

16            THE WITNESS:  No, I don't know.

17            MR. HUDIS:

18       Q.  Could you go to the next task, please,

19   production Page 21 of Exhibit 8.  This is now

20   starting task 107019567.  And being performed here,

21   according to this log, is the backup command?

22            MS. LU:  Objection, lack of personal

23   knowledge, assumes facts not in evidence.

24            THE WITNESS:  The command associated with

25   this task is bup.php, which I understand to be
```

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```
 1   associated with the creation of a backup of an

 2   item.

 3            MR. HUDIS:

 4       Q.   And the back -- and the item being backed

 5   up is gov.law.aera.standards.1999?

 6       A.   The identifier listed on this task in this

 7   task history is that identifier.

 8       Q.   And this was, as we discussed before,

 9   placing the item on a backup server to make sure,

10   if one server is not accessible, another server

11   could be accessible at Internet Archive?

12            MS. LU:   Objection, lack of personal

13   knowledge, and assumes facts not in evidence.

14            THE WITNESS:   That is the operation that's

15   associated with the bup.php command.

16            MR. HUDIS:

17       Q.   Could we go to Page 23 of Exhibit 8.   This

18   is now starting the task 107034141.

19            What task is being performed here?

20            MS. LU:   Objection, lack of personal

21   knowledge.

22            THE WITNESS:   The command associated

23   listed on this task log is archive.php which is

24   associated with the submission of files or metadata

25   for an item.
```

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```
 1            MR. HUDIS:

 2       Q.  So this was the submission of metadata in

 3  this task?

 4            MS. LU:  Objection, lack of personal

 5  knowledge.

 6            THE WITNESS:  The task -- the task log

 7  states that it was an archive -- states that it was

 8  an archive.php command which is associated with the

 9  submission of -- of metadata or files.

10            MR. HUDIS:

11       Q.  Could you turn to Page -- production

12  Page 24 of Exhibit 8.  And there are warning

13  messages at the bottom of this page.  It says

14  "Warning:  Possible DNS Spoofing Detected!"

15  "Warning:  Remote Host Identification has Changed!

16  It is possible that someone is doing something

17  nasty!"

18            Do you know what the purpose of these

19  warnings are?

20            MS. LU:  Objection, lack of personal

21  knowledge.

22            THE WITNESS:  No, I don't.

23            MR. HUDIS:

24       Q.  Please turn to production Page 26 of

25  Exhibit 8.  This is now starting task
```

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```
 1   No. 107040689.

 2           And is this another archive.php command

 3   being performed here?

 4           MS. LU:  Objection, lack of personal

 5   knowledge.

 6           THE WITNESS:  The command associated -- or

 7   the command listed on this task log is a command

 8   archive.php.

 9           MR. HUDIS:

10      Q.  Do you know what function is being

11   performed in this task?

12           MS. LU:  Objection, lack of personal

13   knowledge.

14           THE WITNESS:  Archive.php, again, is

15   associated with the submission of files or metadata

16   for an item.

17           MR. HUDIS:

18      Q.  And, again, the item is gov.law.aera

19   .standards.1999?

20      A.  The identifier listed in these task logs

21   is that identifier.

22      Q.  And, again, we see on Page 27 of Exhibit 8

23   the same warnings.  And you don't know what those

24   warnings are about?

25      A.  That's correct.
```

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```
 1        Q.   Could we please turn to Page 28 of

 2   Exhibit 8.   This starts task 107040792.

 3             And the derive.php command is being

 4   performed here?

 5             MS. LU:   Objection, lack of personal

 6   knowledge.

 7             THE WITNESS:   The command listed on this

 8   task log for this task is derive.php.

 9             MR. HUDIS:

10        Q.   In this specific log, do you know what is

11   happening here?

12             MS. LU:   Objection, lack of personal

13   knowledge, vague and ambiguous.

14             THE WITNESS:   Generally, a -- an

15   archive.php task may trigger a derive task to

16   update the derivative files after any change has

17   been made to the initially submitted metadata or

18   file.

19             MR. HUDIS:

20        Q.   Could we turn to Page 31 of Exhibit 8.

21             At the bottom of that page, do you know

22   why the files are being autocleaned?

23             MS. LU:   Objection, lack of personal

24   knowledge, assumes facts not in evidence.

25             THE WITNESS:   No.
```

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```
 1              MR. HUDIS:

 2       Q.  Could we turn now to Page 33 of Exhibit 8.

 3  This is the final task and it is identified with

 4  107040809.

 5              Do you know what task is being performed

 6  here, bup.php?

 7              MS. LU:  Objection, lack of personal

 8  knowledge.

 9              THE WITNESS:  The command listed on this

10  task log is bup.php.  This is associated with the

11  creation of a backup file -- backup copies of the

12  file for the item.

13              MR. HUDIS:

14       Q.  And the item being backed up here is

15  gov.law.aera.standards.1999?

16              MS. LU:  Objection, lack of personal

17  knowledge, assumes facts not in evidence.

18              THE WITNESS:  That is the identifier that

19  is listed on this task log.

20              MR. HUDIS:

21       Q.  And this is a backup task log?

22              MS. LU:  Objection, lack of personal

23  knowledge, assumes facts not in evidence, and

24  argumentative.

25              THE WITNESS:  The command listed for this
```

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```
 1    task log is bup.php which is a backup task.

 2              MR. HUDIS:  Off the record.

 3              VIDEO OPERATOR:  The time 12:12 p.m.  We

 4    are off the record.

 5              (Brief recess.)

 6              (Plaintiffs' Exhibit 9 marked for

 7              identification.)

 8              VIDEO OPERATOR:  The time is 12:20 p.m.,

 9    and we are on the record.

10              MR. HUDIS:

11        Q.  Mr. Butler, I'd like you to refer back to

12    Exhibit 7.  And you see at the very top, there's a

13    command that says, "make_dark.php."

14              Do you see that?

15        A.  Yes.

16        Q.  What does the make_dark command do?

17              MS. LU:  Objection, lack of personal

18    knowledge.

19              THE WITNESS:  Make_dark takes down files

20    from public access.

21              MR. HUDIS:

22        Q.  I'd like you to now look at what has been

23    marked as Exhibit 9.

24              What is this one-page exhibit?

25        A.  This exhibit is a log for a task
```

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```
 1  associated with the item with identifier

 2  gov.law.aera.standards.1999.

 3       Q.  And what is the command being run as

 4  reflected in this log of Exhibit 9 which bears task

 5  ID 315793300?

 6       A.  The command listed in this task log is

 7  make_dark.php.

 8       Q.  When we looked at the commands and tasks

 9  of Exhibit 8, you saw that the commands were being

10  run on multiple servers, correct?

11           MS. LU:  Objection, lack of personal

12  knowledge, and assumes facts not in evidence.

13           THE WITNESS:  I saw that there were

14  different server addresses listed in -- throughout

15  the task -- throughout the various tasks associated

16  with this item.

17           MR. HUDIS:

18       Q.  And the task of Exhibit 9, 315793300, on

19  how many servers was this task run?

20           MS. LU:  Objection, lack of personal

21  knowledge, assumes facts not in evidence, vague and

22  ambiguous.

23           MR. HUDIS:

24       Q.  According to this tag, there is one server

25  identified.  Do you see it?
```

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```
 1              MS. LU:  Objection, lack of personal

 2   knowledge, assumes facts not in evidence, and

 3   argumentative.

 4              MR. HUDIS:

 5      Q.  And you see that the server is ia600500?

 6              MS. LU:   Objection, vague and ambiguous.

 7              MR. HUDIS:

 8      Q.  You may answer.

 9      A.  I see that an address for a server is

10   listed in this task log with the server name of

11   ia600500.

12      Q.  Do you see any other servers listed on

13   this log of Exhibit 9?

14      A.  I see a listing associated with a backup

15   server near the bottom with server address

16   ia700500.us.archive.org.

17      Q.  So do you know if the make_dark command

18   was being run, according this log, on one server or

19   two?

20              MS. LU:  Objection, lack of personal

21   knowledge, and vague and ambiguous.  And assumes

22   facts not in evidence.

23              THE WITNESS:  The item -- the task log

24   states that the item is being synchronized to the

25   backup server.  I would associate that with the --
```

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```
 1   content on Exhibit 6 was there and then the content

 2   in Exhibit 10 is gone?

 3           MS. LU:  Objection --

 4           MR. HUDIS:

 5       Q.  Replaced by the placeholder?

 6           MS. LU:  Objection, assumes facts not in

 7   evidence, and calls for speculation.

 8           THE WITNESS:  Typically, when the

 9   placeholder message is displayed on a page that

10   previously displayed a live item, it is an

11   indication that the item has been taken down.

12           MR. HUDIS:

13       Q.  And is that the result of a make_dark

14   command?

15           MS. LU:  Objection, lack of personal

16   knowledge.

17           THE WITNESS:  It can be the result of a

18   make_dark command.  Uh -- it can be the result of a

19   make_dark command.

20           MR. HUDIS:

21       Q.  Do you know whether the change of the live

22   content of Exhibit 6 and then the placeholder that

23   says this item is not available of Exhibit 10

24   resulted from the make_dark command shown in log

25   315793300 of Exhibit 9?
```

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```
 1            MS. LU:  Objection, vague and ambiguous,

 2   assumes facts not in evidence and lack of personal

 3   knowledge.

 4            THE WITNESS:  I can state that this is the

 5   message and this is how I would expect the page to

 6   appear following the submission of a make_dark

 7   command for a live item.

 8            MR. HUDIS:  Note that the witness is

 9   pointing to Exhibit 10.

10       Q.  On Exhibit 10, who, if you know, inserted

11   the language "The item is not available due to

12   issues with the item's content"?

13            MS. AHMAD:  Objection, outside the scope

14   of the deposition topics.

15            MR. HUDIS:  I would disagree with that.

16            MS. LU:  And lack of personal knowledge.

17            MR. HUDIS:  I would disagree with that,

18   Counsel.  Public Resource's counsel can assert her

19   objections.

20            So I'll reask the question subject to all

21   objections.

22       Q.  Do you know who inserted the language in

23   Exhibit 10, "The item is not available due to

24   issues with the item's content"?

25            THE WITNESS:  This is a placeholder
```

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```
 1   message that was determined years ago.  I don't

 2   know who drafted that message and selected it.

 3   It's the general message that is displayed on an

 4   item's page after a make_dark command has been

 5   submitted for that item.

 6              MR. HUDIS:  Off the record.

 7              VIDEO OPERATOR:  The time is 12:41 p.m.

 8   and we are off the record.

 9              (Discussion off the record.)

10              (Plaintiffs' Exhibit 11 marked for

11              identification.)

12              VIDEO OPERATOR:  The time is 12:42 p.m.,

13   and we are on the record.

14              MR. HUDIS:

15       Q.  Mr. Butler, once content is taken down

16   from an Internet Archive web page from public

17   access, can your company still track the number of

18   visits to that page while the content was still

19   there?

20              MS. LU:  Objection, vague and ambiguous.

21              THE WITNESS:  The record that we have

22   is -- is called a download count and relates to the

23   number of visits to -- to pages with files for the

24   item.  So it's our -- it's our best record of the

25   number of HTTP requests from -- from an IP address
```

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```
 1   where multiple visits from the same IP address in

 2   the same day have been counted as one download.

 3           MR. HUDIS:

 4       Q.  Mr. Butler, have you ever heard of the

 5   term "hit count"?

 6       A.  Yes.

 7       Q.  What does "hit count" refer to?

 8       A.  Hit count --

 9           MS. LU:  Objection to the extent it calls

10   for expert testimony.

11           MR. HUDIS:

12       Q.  You may answer.

13       A.  Hit count, as I understand it, relates to

14   the amount of visits to a given web page.

15       Q.  So we've talked about today a number of

16   views, a number of downloads, correct, to a web

17   page?

18       A.  Yes.

19           MS. LU:  Objection, misstates prior

20   testimony.

21           MR. HUDIS:

22       Q.  You may answer.

23        A.  We've talked about the definition of our

24   download count number and discussed a little bit

25   how that relates to downloading and viewing.
```

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```
 1            MR. HUDIS:

 2       Q.  So your company defines download count.

 3   Does the download count distinguish between an

 4   Internet user's view of a page versus capturing and

 5   copying content to go to another computer?

 6            MS. LU:  Objection, vague and ambiguous.

 7            THE WITNESS:  The download count does not

 8   distinguish between, for example, a visit to a web

 9   page without, for instance, saving that file

10   through the -- a browser's downloader or selecting

11   files' save-as from the browser.

12            MR. HUDIS:

13       Q.  Does Internet Archive's download count

14   distinguish between visits from human beings over

15   the Internet versus Internet crawling robots, or

16   bots, or uploaders, or internal visits from

17   Internet Archive processes or staff?

18            MS. LU:  Objection, vague and ambiguous.

19            THE WITNESS:  No.  The download count does

20   not distinguish between all of those different

21   types of access.

22            MR. HUDIS:

23       Q.  For the purposes of my next question, I

24   need your definition of what an IP address is.

25       A.  Okay.
```

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```
 1      Q.  What is an IP address?

 2          MS. LU:  Objection, to the extent it calls

 3   for expert testimony.

 4          THE WITNESS:  What I know about an

 5   IP address is that it is a unique number associated

 6   with a computer that is connected to a network.

 7          MR. HUDIS:

 8      Q.  Does Internet Archive's download count

 9   include or exclude multiple visits from the same

10   IP address during a given day?

11          MS. LU:  Objection, vague and ambiguous.

12          THE WITNESS:  During a day, as defined by

13   UTC time, Internet Archive's systems are designed

14   to log multiple visits from the same IP -- count,

15   excuse me, count multiple visits from the same

16   IP address as only one download.

17          MR. HUDIS:

18      Q.  Does Internet Archive maintain any records

19   or other information that would enable it to be

20   more specific about what is included or excluded

21   from a download count?

22          MS. LU:  Objection, vague and ambiguous.

23          THE WITNESS:  Can you read the question

24   again, please?

25          MR. HUDIS:  Yes.
```

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 1   Q.   Does Internet Archive maintain any records

 2 or other information that would enable it to be

 3 more specific about what is included or excluded

 4 from a download count?

 5   MS. LU: Same objection.

 6   THE WITNESS: I'm not aware of any further

 7 information that we would be able to supply.

 8   MR. HUDIS:

 9   Q.   How does Internet Archive obtain the

10 download count of a specific web page after the

11 uploaded content is removed?

12   MS. LU: Objection, lack of personal

13 knowledge, assumes facts not in evidence.   Counsel,

14 if you want to ask him about how someone retrieved

15 this Exhibit 11, then I would not object to that.

16   MR. HUDIS:

17   Q.   All right.   I'm going to ask you

18 specifically about Exhibit 11.   I'd like to know

19 generally how the information was obtained.

20   We've established that a make_dark command

21 was run for the content of the 1999 standards in

22 June of 2014, correct?

23   MS. LU: Objection, misstates prior

24 testimony, lack of personal knowledge.

25   MR. HUDIS:

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 1   Q.   When was this make_dark command of

 2   Exhibit 9 run?

 3   A.   The date listed on the task log for this

 4   task which has a command listed of make_dark.php is

 5   June 11th, 2014.

 6   Q.   I've now marked as Exhibit 11 a one-page

 7   document that's in front of you.

 8   What is the date of this document?

 9   A.   The date of Exhibit 11 is November 25th,

10   2014.

11   Q.   What is this document?

12   A.   This document is a screen capture of the

13   Mac Terminal application. The Terminal was used by

14   myself to submit a query to archive.org's systems

15   to obtain archive.org's records for the download

16   count for the item with identifier gov.law.aera

17   .standards.1999.

18   Q.   The make_dark command of Exhibit 9

19   associated with that identifier was run in June of

20   2014, correct?

21   A.   The task log lists that date -- the task

22   log associated with the make_dark command lists

23   that date.

24   Q.   And the same identifier you got at a

25   download -- a set of download information on

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```
 1   November 25th, 2014, according to Exhibit 11,

 2   correct?

 3           MS. LU:  Objection, vague and ambiguous.

 4           THE WITNESS:  Sorry, one more time,

 5   please.

 6           MR. HUDIS:  Yes.

 7       Q.  We established that make_dark command for

 8   gov.law.aera.standards.1999 was run in June of

 9   2014, correct?

10           MS. LU:  Objection, lack of personal

11   knowledge.

12           THE WITNESS:  The task logs list that

13   date.

14           MR. HUDIS:

15       Q.  So you got download information for the

16   same identifier on November 25th, 2014, correct?

17           MS. LU:  Objection, vague and ambiguous.

18           THE WITNESS:  I ran a query for Internet

19   Archive's download count for that same identifier.

20           MR. HUDIS:

21       Q.  So I now ask the same question that I

22   asked before.

23           How does Internet Archive obtain a

24   download count for a specific Internet Archive web

25   page after the uploaded content has been removed?
```

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```
 1              MS. LU:  Objection, lack of personal

 2   knowledge, misstates prior testimony, and assumes

 3   facts not in evidence, and vague and ambiguous.

 4              THE WITNESS:  A SQL query can be run on

 5   Internet Archive's system to obtain a metadata

 6   value that has been associated with this item and

 7   generated by archive.org.

 8              MR. HUDIS:

 9       Q.  And the item again is gov.law.aera

10   .standards.1999?

11       A.  That's correct.

12       Q.  And according to your search and the

13   results that came back on Exhibit 11, how many

14   downloads are reflected for this item while live

15   content was up on the web page associated with

16   gov.law.aera.standards.1999?

17              MS. LU:  Objection, vague and ambiguous,

18   assumes facts not in evidence, lack of personal

19   knowledge.

20              THE WITNESS:  The download count of record

21   from the archive.org system for the identifier that

22   you read is 1,290.

23              MR. HUDIS:  Counsel, will you stipulate

24   that Exhibit 11 is a business record of Internet

25   Archive?
```

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```
 1              MS. AHMAD:  Yes.

 2              MR. HUDIS:  Any objections?

 3              MS. LU:  No objections.

 4              (Plaintiffs' Exhibit 12 marked for

 5              identification.)

 6              MR. HUDIS:  I'm going to have to make a

 7    quick copy.

 8              VIDEO OPERATOR:  Do you want to go off?

 9              MR. HUDIS:  Yes, please.

10              VIDEO OPERATOR:  The time is 12:54 p.m,

11    and we're off the record.

12              (Brief recess.)

13              VIDEO OPERATOR:  The time is 12:58 p.m.,

14    and we're on the record.

15              MR. HUDIS:

16        Q.  Mr. Butler, all of my following questions

17    are all relative to the 1999 standards.

18              Do we understand each other for purposes

19    of these questions?

20        A.  Yes.

21        Q.  Between May of 2012 and June of 2014, have

22    you ever communicated with Carl Malamud?

23        A.  I have received e-mail from Carl Malamud.

24        Q.  So that was my next question.

25              Mr. Malamud initiated the communication?
```

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```
 1        A.  Yes.

 2        Q.  And how did he make that contact?  By

 3   e-mail?

 4        A.  Yes.

 5        Q.  Besides that one e-mail, on the subject of

 6   the 1999 standards, did you have any other exchange

 7   of communications with Mr. Malamud?

 8             MS. LU:  Objection, relevance.

 9             MR. HUDIS:

10        Q.  You may answer.

11        A.  No.

12        Q.  Are you aware of anyone else from Internet

13   Archive communicating with Mr. Malamud regarding

14   the 1999 standards between May of 2012 and June of

15   2014?

16        A.  No.

17        Q.  Do you remember the purpose of

18   Mr. Malamud's communication with you regarding the

19   1999 standards?

20             MS. LU:  Objection, vague and ambiguous.

21             MR. HUDIS:

22        Q.  You may answer.

23        A.  Mr. Malamud sent me an e-mail with an

24   attachment relating to a take-down request that he

25   had received relating to the standards.
```