

1 Okay.

2 BY MR. DELGADO:

3 Q. Take a look at that and let me know when you've had a
4 chance.

5 A. Okay.

6 Q. Now, you recognize this as a Quantcast printout?

7 A. Correct.

8 Q. With data for Weather Underground, correct?

9 A. Correct.

10 Q. This one gives the number of visitors in terms of
11 daily people as opposed to monthly, but seems to
12 indicate daily for a period of time there, July 14th,
13 2009, through January 9, 2010, has approximately
14 938,000 for the U.S. and 1.3 million for global, do
15 you see that?

16 A. Yes.

17 Q. Is there any reason to believe that these numbers are
18 inaccurate?

19 A. No.

20 Q. Just look at the top here. The top right-hand corner
21 does show that you're quantified, but --

22 A. Doesn't say when, right.

23 Q. Looking at the middle of the page where it gives U.S.
24 demographic information.

25 A. Okay.

1 if they take into account two people using the same
2 computer at home. We don't know if it takes into
3 account a teacher showing it to a classroom of
4 students. We don't know how they came up with this
5 people.

6 What this is trying to do is come up with a
7 way of getting from Quantcast pages to Quantcast
8 people, but we don't know how they've come up with
9 Quantcast people and that's where this ratio comes
10 from.

11 Our tallies, I'm confident in our tallies.
12 Those, I mean, we're pretty good with numbers and
13 keeping data and stuff like that. As far as what
14 Quantcast does statistically with these numbers, it's
15 a little bit of a black box.

16 Q. For purposes of today's record, can you tell us what a
17 tally is?

18 A. Every time we serve a web page, we tally it. It's
19 just a simple increment. We increment the tally by
20 one when a page with that property goes out to the
21 general public. When we serve a page, there's -- we
22 just tally, just add one to the tally.

23 Q. Is that every page within the website or is that just
24 like the main page?

25 A. It should be, I think it's every page in the website.

1 Q. So let's use the first number there, May 2003 has
2 121,886,995, do you see that?

3 A. Yes.

4 Q. That means 121 million pages were served up in that
5 month?

6 A. Yes, that's my understanding.

7 Q. And that would have been every time any page on the
8 website, not just the main page?

9 A. That's my understanding, yes.

10 Q. So going back to your hypothetical, there's two people
11 in a house using a single computer, husband checks it
12 in the morning, wife checks it in the afternoon,
13 just -- that would be two tallies?

14 A. That would be two tallies for a page tally, for a
15 tally page. We keep multiple tallies. So for
16 instance if you were going to look at a radar page,
17 that would have a page tally and a radar tally. This
18 is the page tally sums.

19 Q. How many different tallies do you keep?

20 A. I don't know. I believe there's one for each ZIP code
21 plus one for each language and one for each country.
22 So I think it's on the order of 10,000, or
23 thereabouts.

24 Q. Other than page, radar, language, and ZIP code, are
25 you aware of any other tallies that you keep?

1 A. There would be blog pages and photo pages and each
2 blog has their own tally file, and so each photo page
3 and photo handles and individuals' blogs, and the
4 tallies, as it becomes more important, we add tallies
5 as we go into the future.

6 So it's possible that a page wasn't created
7 for a few years, it wouldn't have a tally until that
8 page showed up. Marine pages, tropical pages,
9 hurricane pages, hurricane tracking pages, there's a
10 lot, a lot of tallies, and then ZIP codes too, and I
11 mean ZIP codes, there's what, there's 99,000, so
12 there's lots of ZIP codes.

13 Q. What we're seeing here is the total tally number.

14 A. Yes.

15 Q. And but each page has its own individual tally?

16 A. Possibly, if there's something on that page that we
17 feel like tallying.

18 Q. So you can tell how many times an individual page has
19 been served up?

20 A. In aggregate like this, right. We don't keep them
21 individually.

22 Q. Could you do a search to combine all these different
23 elements, for example, you can figure out that your
24 photo page had been served up to a particular ZIP code
25 in a particular language in a certain month?

1 A. No. Because each tally, it's just, we just increment
2 it by one when we count that type of page. There's no
3 interaction between the pages, between ZIP codes.

4 Q. This was previously marked as 44. I had asked
5 Mr. Steremburg about this. The ad that appears on
6 this piece of paper says 22 million unique monthly
7 users and it gives a source credit of Quantcast of
8 January 2010. When I look back at Exhibit 43, the
9 Quantcast data for January of 2010 was just shy of
10 over 17 million. So my question was, do you know
11 where the 22 million comes from?

12 A. No. These are all 29. Quantcast does the
13 Wunderground network and also wunderground.com. See
14 how those numbers are different?

15 Q. Yes.

16 A. I suspect the 22 is the network number and we could
17 easily pull up Quantcast and see if that's what the
18 number is.

19 Q. And network number is the what?

20 A. That would be weatherunderground.com. If we possibly
21 have a misspelled domain that gets rerouted to
22 wunderground.com, that would be part of the network.
23 wun.com. What else do we have? If we had Wunder
24 Photos, we could have put that one in there, we don't
25 have that one. But the network is all of our stuff

1 and the wunderground.com is just the specific site,
2 wunderground.com.

3 Q. So when Quantcast puts out the network number, is it
4 just aggregating all of those?

5 A. I don't know what Quantcast does.

6 Q. So you don't know where that -- those two different
7 numbers are coming from, the network number and then
8 the individual website number?

9 A. On this -- on which sheet of paper?

10 Q. The one you showed me, 48.

11 A. Yeah, the network number comes from all the different
12 websites that we've hooked up into Quantcast that say
13 it's the Weather Underground network. See it says
14 four sites? And then wunderground.com is just one
15 site.

16 So as we get more URLs, we put them in
17 there, if we have any pages on them. We could bounce
18 it internally and just turn it all into Wunderground
19 pages, but Weather Underground is going to have a
20 different count than Wunderground.

21 Q. My question was, for those four sites, all Quantcast
22 is doing is just adding number of visitors and coming
23 up with the total number for the network?

24 A. That's my understanding. There's a question mark
25 there if we want to see their methodology.

1 Q. And again, other than these categories that we've just
2 discussed, is there any other category of damages that
3 you're seeking as part of this lawsuit?

4 A. Not that I can think of now.

5 Q. Why don't you put this aside. I'm going to come back
6 and ask you some more questions about those later.

7 A. Okay.

8 Q. Well, let's just do it now.

9 Go to paragraph 23 of that. Actually, I
10 should ask, before the Complaint was filed, did you
11 have a chance to review it?

12 A. Yes.

13 Q. Did you in fact review it?

14 A. Yes.

15 Q. Did anybody else at Weather Underground review it
16 before it was filed?

17 A. I don't know.

18 Q. Paragraph 23 alleges:

19 "Wunderground also advertises on over 15
20 million third-party websites by providing an
21 application that displays Wunderground's logo and name
22 along with local temperature."

23 Do you see that?

24 A. Yes.

25 Q. How was the 15 million number determined?

1 A. We know how many stickers we send out each day and
2 that's where that 15 million would have come from.

3 Q. When you say you know how many stickers were sent out
4 each day, what's that mean?

5 A. Each day we serve out stickers to third-party
6 websites, and we know that people are looking at these
7 stickers because we've served them to them. That's
8 where that number comes from.

9 Q. Do you keep track of just the number of stickers that
10 are served or the number of places you're serving them
11 to or both?

12 A. In some instances we'll keep track of the places, not
13 the places we're serving them to, but the websites
14 from which they're being clicked on, if in fact that's
15 a client that pays us typically, otherwise we don't
16 keep track of where those websites are.

17 Q. So I guess my confusion is that say your system is
18 telling you we have served 10 million stickers today,
19 how do you know that was to 10 million websites versus
20 just 10 million stickers to one website?

21 A. That would be difficult to figure out, yes.

22 Q. So the 15 million third-party websites that's
23 referenced here is basically an estimate?

24 A. It is an estimate, yes.

25 Q. Based on the number of stickers that went out on,

1 what, a monthly or daily basis?

2 A. That would be daily. Well, 15 million here looks like
3 it's the overall total. That's what that number is,
4 what we serve. We serve an awful lot each day.

5 Q. Do you know approximately how many are served each
6 day?

7 A. I haven't looked in a while. Last time I looked it
8 was about 18 or 19 million a day.

9 Q. And when was the last time you looked?

10 A. I suspect when I produced discovery to you, so that
11 was six months ago.

12 Q. Just so we're clear, these third-party websites are
13 not necessarily clients?

14 A. Correct.

15 Q. But they can be clients?

16 A. They can be, yes.

17 Q. Look now at paragraph 35. This paragraphs alleges
18 that Wunderground is also the owner of all rights,
19 common law or otherwise, in and to the mark WUND, do
20 you see that?

21 A. Yes.

22 Q. So that I am clear, when you're referring to WUND,
23 that is the mark just WUND standing alone?

24 A. Yes.

25 Q. So if I were to combine W-U-N-D with some other set of