1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

------------------------------------X

VIACOM INTERNATIONAL, INC., COMEDY
PARTNERS, COUNTRY MUSIC
TELEVISION, INC., PARAMOUNT
PICTURES CORPORATION, and BLACK
ENTERTAINMENT TELEVISION, LLC,

　　　　　　　Plaintiffs,
vs.　　　　　　　　　　　　　　　No. 07-CV-2103

YOUTUBE, INC., YOUTUBE, LLC,
and GOOGLE, INC.,

　　　　　　　Defendants.

------------------------------------X

HIGHLY CONFIDENTIAL

VIDEOTAPED DEPOSITION OF
NICHOLAS SEET/AUDITUDE, INC.
SAN FRANCISCO, CALIFORNIA
TUESDAY, NOVEMBER 24, 2009

JOB NO. 18254

1   Nicholas Seet San Francisco, CA November 24, 2009

2 09:24:09 to that we did broadcast-based music identification,

3 09:24:16 and that turned into broadcast television and radio

4 09:24:21 ad tracking technology.

5 09:24:25   And then we changed our business model in

6 09:24:28 2006 to focus on online media.

7 09:24:38   Q.   Okay. So -- so when -- when was the

8 09:24:41 company actually incorporated?

9 09:24:43   A.   In 2006.

10 09:24:46   Q.   And how -- how many employees did Auditude

11 09:24:49 have at the time that it opened for business in

12 09:24:51 2006?

13 09:24:56   MR. PLATZER: Object to the form.

14 09:24:57   MR. WILLEN: Excuse me.

15 09:24:59   MR. CARDON: So this is -- Mr. Platzer is

16 09:25:01 just making an objection for the record. So you can

17 09:25:04 go ahead and answer it.

18 09:25:05 BY MR. WILLEN:

19 09:25:06   Q.   If you -- if you understand my question,

20 09:25:08 you can answer it.

21 09:25:09   A.   Less than five.

22 09:25:10   Q.   Okay. So at the time that the company was

23 09:25:13 incorporated in 2006, what would you say was the --

24 09:25:16 the primary business model at that time?

25 09:25:19   A.   Tracking ads on TV and radio.

Nicholas Seet San Francisco, CA November 24, 2009

09:25:23   Q.   Can you just describe briefly how that --

09:25:26 how that business model works?

09:25:30   A.   We have a -- a nation-wide system of

09:25:36 broadcast fingerprinters that would fingerprint

09:25:44 television and radio signal, and we would be

09:25:48 provided with media from advertisers and agencies to

09:25:52 look for in that broadcast fingerprint.

09:25:56   So essentially we were tracking ads on TV

09:25:59 and radio, and we could tell the advertiser or the

09:26:02 agency exactly when and where their ads played,

09:26:06 which was previously not something that -- that

09:26:09 either they were not doing it, or they were doing it

09:26:13 by hand, manually going through and listening and

09:26:17 watching television, which was obviously not very

09:26:19 accurate, and -- and quite labor-intensive.

09:26:23   Q.   And -- and that business was based on an

09:26:27 audio fingerprint technology that Auditude had

09:26:31 developed?

09:26:32   A.   That is correct.

09:26:32   Q.   And was it you who developed that

09:26:34 technology?

09:26:35   A.   I was the CEO at the time that technology

09:26:38 was developed, but I wasn't personally the -- the

09:26:40 author of the technology.

1   Nicholas Seet San Francisco, CA November 24, 2009

2 09:26:42   Q.   Who -- who was the actual author of the

3 09:26:44 technology?

4 09:26:45   A.   We have a chief scientist named Sergiy

5 09:26:52 Bilobrov who is the -- as we say -- the rocket

6 09:26:57 scientist who developed the technology.

7 09:27:00   Q.   At a high level of generality, can you

8 09:27:02 describe for me what the technology actually is?

9 09:27:05   A.   Certainly --

10 09:27:06   MR. CARDON: And -- and I'll object. It's

11 09:27:07 vague as to time.

12 09:27:08   MR. WILLEN: Sure.

13 09:27:08 BY MR. WILLEN:

14 09:27:08   Q.   In 2006, the time that the company was

15 09:27:12 incorporated.

16 09:27:12   A.   Right. So digital fingerprinting is an

17 09:27:19 area of audio science or video or media science, I

18 09:27:22 would say, that extracts a set of key frequency

19 09:27:28 characteristics from the signal, and assembles

20 09:27:35 those -- extracts from those key frequency

21 09:27:39 characteristics, or compiles them into a signature,

22 09:27:42 as it were, a digital fingerprint.

23 09:27:46   This fingerprint can then be utilized to

24 09:27:49 find that same signature in media, even if it has

25 09:27:53 been highly altered, distorted, compressed.

1   Nicholas Seet San Francisco, CA November 24, 2009

2 09:28:00   The key to a good fingerprinting system is

3 09:28:05 being very accurate, very robust to noise and

4 09:28:11 distortions, and very fast.

5 09:28:16   Q.   So in -- at the time the company opened,

6 09:28:20 was the fingerprinting technology that Auditude had

7 09:28:23 developed being used for anything else other than

8 09:28:25 what you described as tracking advertisements on

9 09:28:29 broadcast media?

10 09:28:30   A.   At -- at what time?

11 09:28:31   Q.   Yeah, 2006, the company -- when the

12 09:28:34 company was founded.

13 09:28:36   A.   We were doing ad tracking, but we were

14 09:28:41 also doing music identification, based on radio air

15 09:28:47 play.

16 09:28:48   Q.   Okay. Were you -- were you also doing

17 09:28:51 Internet content monitoring at that time?

18 09:28:53   A.   Not at -- not at that time, no.

19 09:28:56   Q.   Okay. But -- but I think you testified

20 09:28:58 earlier that there -- there came a time when

21 09:29:00 Auditude started getting in the business of Internet

22 09:29:03 content monitoring?

23 09:29:04   A.   That is correct.

24 09:29:05   Q.   Now, when was the first time that Auditude

25 09:29:08 had the idea of shifting its business to focus on

1   Nicholas Seet San Francisco, CA November 24, 2009

2 | 09:29:11

3 | 09:29:15

4 | 09:29:24

5 | 09:29:30

6 | 09:29:35

7 | 09:29:41

8 | 09:29:45

9 | 09:29:52

10 | 09:29:56

11 | 09:30:02

12 | 09:30:03

13 | 09:30:05

14 | 09:30:08

15 | 09:30:10

16 | 09:30:11

17 | 09:30:14

18 | 09:30:21
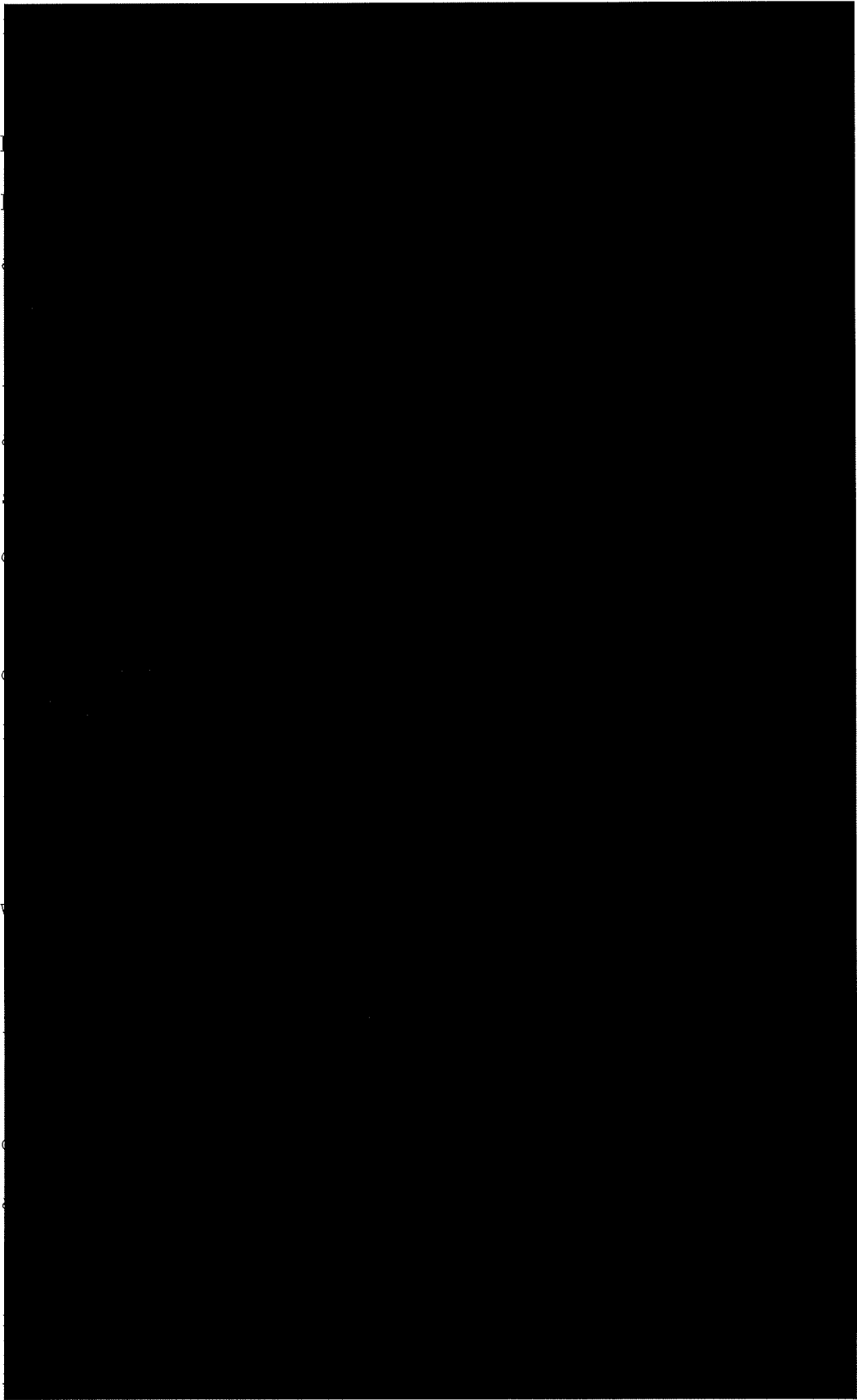
19 | 09:30:25

20 | 09:30:30

21 | 09:30:32
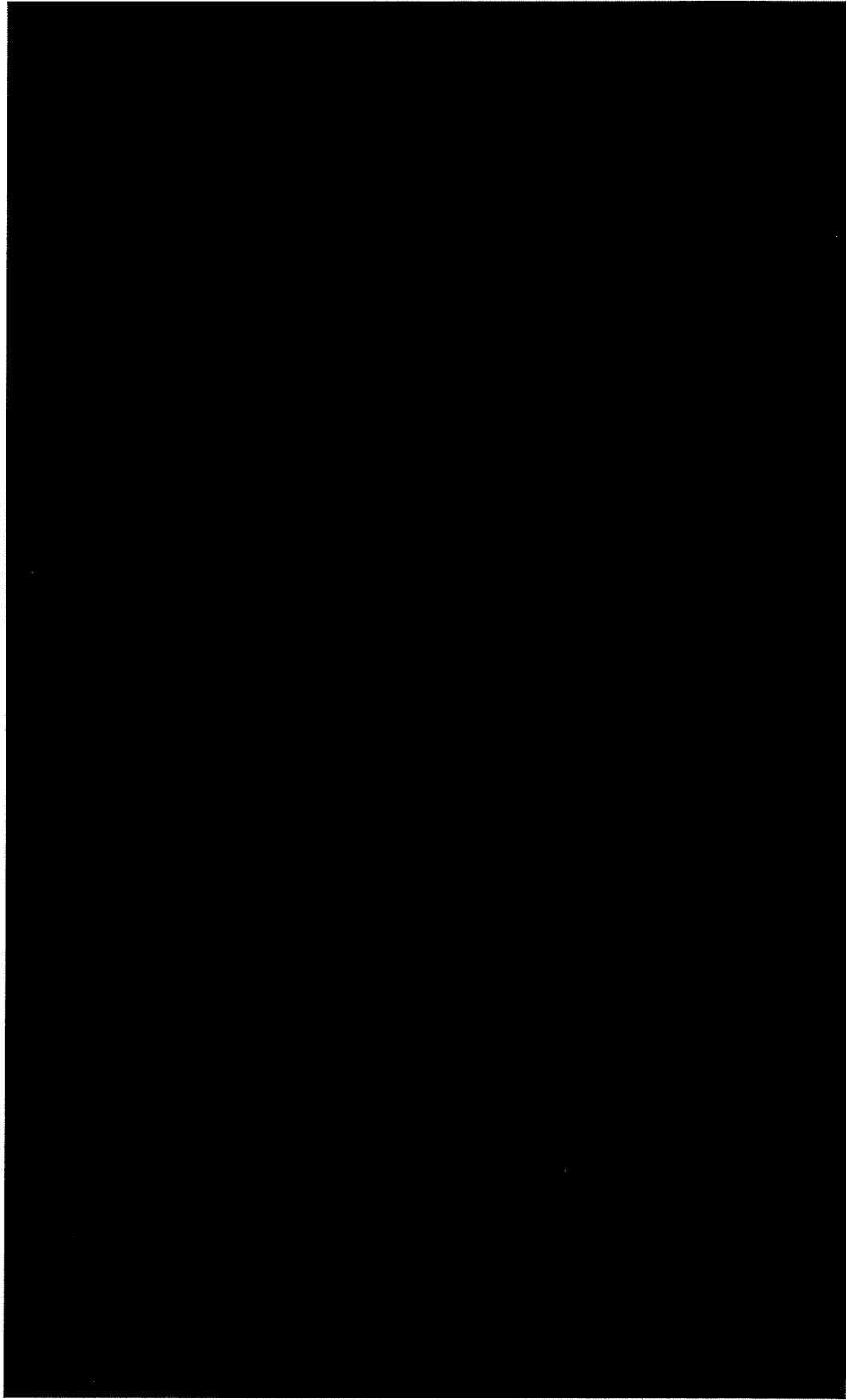
22 | 09:30:35

23 | 09:30:37

24 | 09:30:41

25 | 09:30:48

1   Nicholas Seet San Francisco, CA November 24, 2009

2   09:30:50

3   09:30:53

4   09:30:55

5   09:30:56

6   09:30:57

7   09:31:01

8   09:31:02

9   09:31:04

10   09:31:07

11   09:31:12

12   09:31:14

13   09:31:16

14   09:31:20

15   09:31:24

16   09:31:26

17   09:31:29

18   09:31:31

19   09:31:32

20   09:31:33

21   09:31:33

22   09:31:36

23   09:31:39

24   09:31:41

25

1   Nicholas Seet San Francisco, CA November 24, 2009

2   10:45:06   A.   Yes.

3   10:45:07   Q.   So was there a specific discussion that

4   10:45:09 you recall about using Auditude to monetize Viacom

5   10:45:16 content on YouTube?

6   10:45:18   A.   Not specifically on YouTube. It was a

7   10:45:20 general statement that they were interested in that

8   10:45:23 data for monetization, amongst other things.

9   10:45:26   Q.   And what were the other things, in

10   10:45:28 addition to monetization, that Viacom was

11   10:45:30 interested?

12   10:45:32   A.   I would be assuming that copyright

13   10:45:37 enforcement was one of them, and that may have been

14   10:45:40 mentioned at that meeting. I don't recall,

15   10:45:44 specifically.

16   10:45:46   Q.   Did Viacom, in -- in those meetings that

17   10:45:49 you had, ever tell Auditude that it was important to

18   10:45:52 Viacom that Auditude develop a video-based

19   10:45:57 fingerprinting technology, in addition to its

20   10:45:59 audio-based fingerprinting technology?

21   10:46:03   A.   In the initial meetings, no.

22   10:46:05   Q.   In any subsequent meetings?

23   10:46:09   A.   Yes. The subsequent meetings pointed out

24   10:46:12 that having video fingerprinting would make the

25   10:46:20 manual review process of the detections much more

1   Nicholas Seet San Francisco, CA November 24, 2009

2 10:46:24 efficient.

3 10:46:26   So, in other words, video fingerprinting

4 10:46:30 was looked at as a significant time saver for the

5 10:46:35 manual review process of the Auditude results.

6 10:46:38   Q.   And why was that?

7 10:46:43

8 10:46:45

9 10:46:53

10 10:47:00

11 10:47:07

12 10:47:12

13 10:47:17

14 10:47:25

15 10:47:33

16 10:47:34

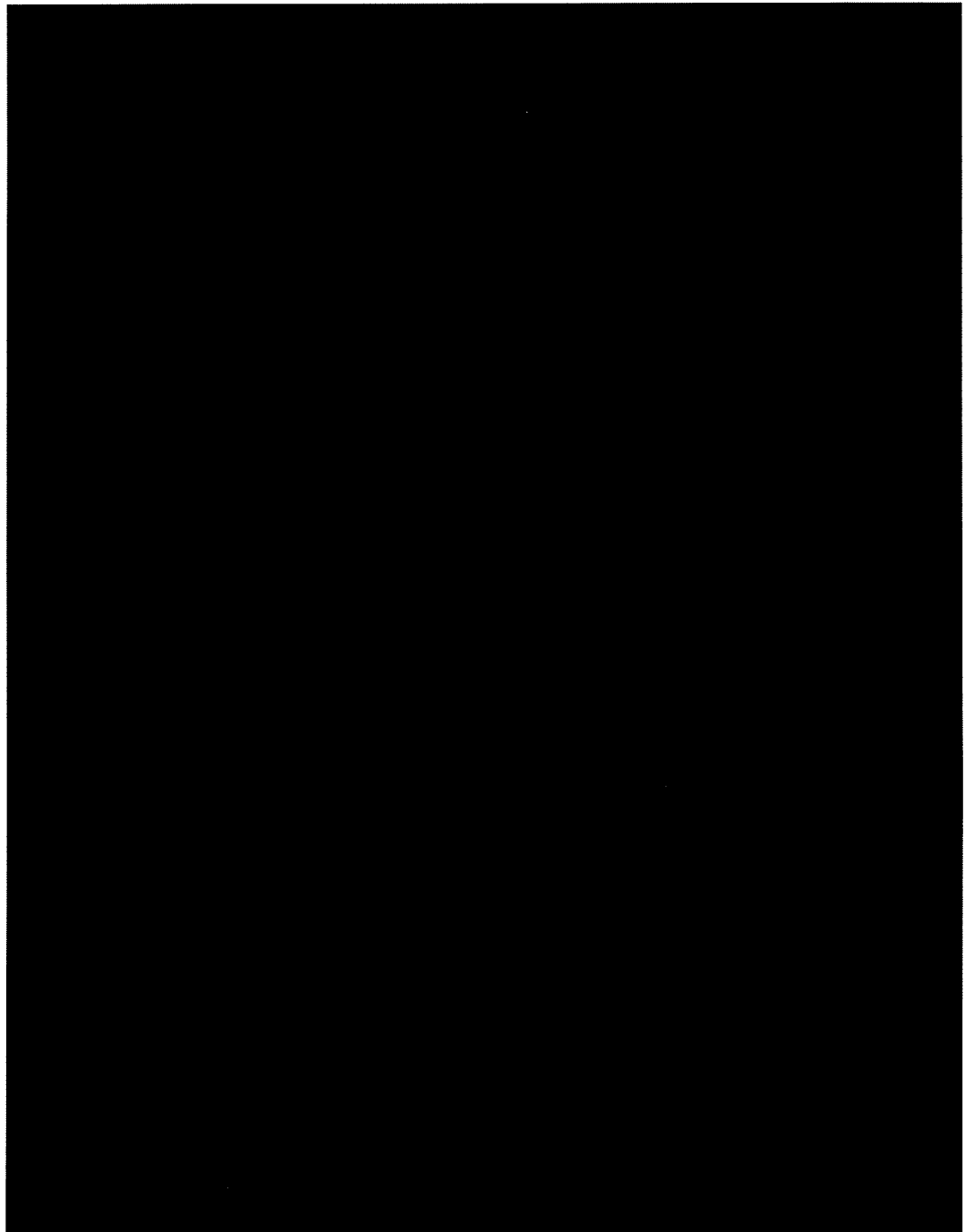17 10:47:37

18 10:47:40

19 10:47:44

20 10:47:46

21 10:47:49

22 10:47:50

23 10:47:52

24 10:47:54

25 10:47:56

Nicholas Seet   San Francisco, CA   November 24, 2009

2	10:48:00
3	10:48:05
4	10:48:05
5	10:48:06
6	10:48:12
7	10:48:17
8	10:48:20
9	10:48:21
10	10:48:24
11	10:48:26
12	10:48:31
13	10:48:38

10:48:39   Q.   All right.   So Viacom and Auditude

10:48:42 ultimately signed a contract for Viacom to use

10:48:45 Auditude's CopyID tool?

10:48:48   A.   That's correct.

10:48:53   MR. WILLEN: Okay.   Let's actually

10:48:55 introduce that agreement, so we can all be on the

10:48:59 same page.   This will be Exhibit --

10:49:03   THE REPORTER: 7.

10:49:04   MR. WILLEN: Exhibit 7.

10:49:04   (Deposition Exhibit Number 7 was marked

10:49:04   for identification.)