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July 16, 2009

8:09 a.m.

VIDEOTAPED DEPOSITION OF SHASHI  
SETH, held at the offices of Jenner &  
Block, 919 Third Avenue, New York,  
New York, pursuant to notice, before  
before Erica L. Ruggieri, Registered  
Professional Reporter and Notary Public of  
the State of New York.

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A P P E A R A N C E S

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A P P E A R A N C E S (Cont'd)  
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KELLY TRUELOVE, Viacom Consultant  
JUAN ORTIZ, Videographer

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IT IS HEREBY STIPULATED AND  
AGREED, by and between the attorneys  
for the respective parties herein,  
that filing and sealing be and the  
same are hereby waived.

IT IS FURTHER STIPULATED AND  
AGREED that all objections, except as  
to the form of the question, shall be  
reserved to the time of the trial.

IT IS FURTHER STIPULATED AND  
AGREED that the within deposition may  
be sworn to and signed before any  
officer authorized to administer an  
oath, with the same force and effect  
as if signed and sworn to before the  
Court.

1 SETH

2 A. It's about a dozen.

3 Q. Now, while you were still  
4 product lead of search, do you recall  
5 08:19:51 Google acquiring YouTube?

6 A. Yes.

7 Q. And were you involved in any way  
8 in the decision by Google to acquire  
9 YouTube?

10 08:20:02 A. No.

11 Q. And while you were product lead  
12 of search at Google, did you work on any  
13 aspect of YouTube?

14 A. No.

15 08:20:12 Q. Now, if you go back to  
16 Exhibit 1, it indicates that when you left  
17 your position as product lead of search,  
18 January of 2007, you subsequently became  
19 the head of monetization at YouTube  
20 08:20:33 thereafter, in the same month, January of  
21 2007; is that correct?

22 A. That is correct. There wasn't a  
23 title defined right away, but over the  
24 course of next couple months that was the  
25 08:20:47 title that I set into the job with.

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Q. So within a couple months of joining YouTube, you received a title of head of monetization?

08:20:57 A. Uh-hum.

Q. And was there any title that you had when you first started?

A. No.

Q. Just going back for a moment to your time as product lead of search, did you work on any aspect of search for video?

A. No.

Q. And how long were you head of monetization -- sorry. How long were you working at YouTube?

A. Roughly 16 months, 17 months, something like that.

Q. And am I correct that you left in about May of 2008?

A. Right. My exit from Google was in June of 2008.

Q. And were you working on YouTube-related projects until June of 2008?

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A. Yes.

Q. And what was the reason for your leaving your job at YouTube?

08:22:00 A. I wanted to go back to a slightly smaller setup. And the industry looked inside Google for other opportunities, and once I couldn't find anything, I decided to go join Cooliris.

08:22:23 Q. So did you leave your job at YouTube voluntarily?

A. Yes.

Q. Now, going back to January of 2007, when you switched from product lead of search to head of -- to YouTube, what were your job responsibilities?

A. Initially, my job was to help figure out what the business model for YouTube was. And I would say we probably spent four to eight weeks looking at various aspects of that, and then over the course of that period it became clear that taking on this role would make a lot of sense.

08:23:10 Q. And when you say "this role" --



1 SETH

2 A. As head of monetization of  
3 YouTube.

4 Q. When you -- just a moment ago  
5 08:23:25 you said, we probably spent four to eight  
6 weeks looking at various aspects of the  
7 business model for YouTube.

8 Who were you referring to, when  
9 you said "we"?

10 08:23:35 A. I was working closely with Steve  
11 and Chad, the founders of YouTube, as well  
12 as with some engineers and product  
13 managers at YouTube.

14 Q. And when you say "Steve and  
15 08:23:53 Chad." You were referring to Steve Chen  
16 and Chad Hurley?

17 A. That's correct.

18 Q. With respect to the other  
19 engineers and product managers, do you  
20 08:24:01 recall who they were?

21 A. Yes. Matthew Liu, L-I-U, Shiva  
22 Rajaraman and Franck Chastagnol, Maryrose  
23 Duntan. And one more, Jamie Byrne,  
24 J-A-M-I-E, B-Y-R-N-E.

25 08:24:41 Q. And over the course of the, I



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business models and cases around these different ways to monetize YouTube, was that documented in a written form?

08:26:11 A. Yes. And they most likely are on my computer.

Q. And you are referring to a computer you still have in your possession?

08:26:24 A. No. This is the computer that I turn in to Google when I left the company.

Q. And those types of, the business models that you mentioned, what kinds of -- were those -- what kinds of

08:26:41 documents, what types of written documents would those be?

MR. WILLEN: Objection to the

form. It's ambiguous.

Q. Would they be Word documents, 08:26:52 Excel documents, Powerpoints?

A. Yes, all of those.

Q. And do you recall whether you e-mailed those documents, or those documents were e-mailed back and forth 08:27:14 between the various persons you listed

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earlier?

A. I am certain, yes.

Q. And do you also during this  
08:27:32 period, this four- to eight-week period,  
do you recall using Google Docs or  
spreadsheets or I think what internally  
might have been called Rightly or Tricks?

A. For some aspects, yes.

08:27:50 Q. So some aspects of the business  
models that you were discussing and were  
documented in written form were documented  
on Rightly or Tricks?

A. Could be.

08:28:13 To further answer the question,  
I don't recall exactly which documents,  
but in the course of working, we use all  
the sources you mentioned, like Excel,  
Powerpoint, Word, as well as Google Docs.

08:28:27 Q. And did you also -- just to  
clarify, your statement just now about the  
types of documents that you used, does  
that extend throughout the time that you  
worked at YouTube?

08:28:39 A. Yes.

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Q. And did you also use any type of wiki when you were at YouTube?

A. Yes.

08:28:57 Q. Can you describe generally how you would use the wiki, what types of information you would document on the wiki?

A. Mostly project-related information. So if it were a certain project and the information related to the project, what we were going to work on, who was working on it, what problems, et cetera, would be documented in the wiki.

08:29:22 Q. And did --

MR. WILKENS: Strike that.

Q. When you first joined YouTube, did you interview with anybody for that position?

08:29:46 A. Steve Chen and Chad Hurley.

Q. Anybody else besides those two?

A. No.

Q. And in those interviews did they describe to you the kinds of work that they envisioned for the position that you

1 SETH

2 were interviewing for?

3 A. Yes. I wouldn't describe it as  
4 much as an interview as a very long  
5 08:30:14 conversation.

6 Q. And can you just describe the --  
7 in that, those very long conversations,  
8 what -- how Steve Chen and Chad Hurley  
9 envisioned the position that you were  
10 08:30:34 considering taking?

11 A. So we discussed what, their  
12 thoughts about what the important things  
13 related to YouTube's both near-term and  
14 long-term future were and where they could  
15 08:30:56 use the most amount of help from an  
16 experienced person like me.

17 Q. And what were the important  
18 things that they -- that they mentioned  
19 for the future of YouTube?

20 08:31:09 A. From what I can recall, mobile  
21 was a very important aspect that we  
22 discussed and how being on mobile  
23 platforms would be something that would be  
24 extremely useful for users; as well as  
25 08:31:39 expanding into international locales,



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A. From what I can recall, it was a conversation with Steve Chen where he thought that the community aspects were one reason why YouTube was so successful and that we should spend more time refining that process.

Q. When you first joined YouTube, can you describe how, if at all, the YouTube website was being monetized?

A. When I first came to YouTube, I believe that for a short period of time before I arrived it had been running remnant advertising inventory on pages of YouTube in the form of a leader board or banner advertising as someone in the industry.

Q. And when you say that the remnant ads or banner ads were being run on pages, were they being run on watch pages?

MR. WILLEN: Objection to the extent that I think you inflated remnant ads and banner ads. I don't know if that was intended.



1 SETH

2 Q. If you understand the question,  
3 you can answer it.

4 A. There were banner ads being run.

5 08:34:53 I do not distinctly remember all the pages  
6 they were being run in, but there is a  
7 good chance that they were being run on  
8 the watch pages.

9 Q. Do you recall any pages that the  
10 08:35:11 banner ads were being run on when you  
11 first joined YouTube?

12 A. From what I recall, I recall  
13 them being on many, many pages. I cannot  
14 tell you exactly which pages they were on,  
15 08:35:27 but they were -- they are on many pages.

16 Q. And I think you said earlier,  
17 that -- let me ask you, sorry to go back  
18 to this issue, about remnant versus banner  
19 ads.

20 08:35:45 Can you define what a remnant ad  
21 is?

22 A. A remnant ad is an ad that comes  
23 from a network that is being used by the  
24 website as a fallback to some other form  
25 08:36:04 of advertising; meaning if you cannot fill

1 SETH

2 partners?

3 A. No.

4 Q. Now, with regard to the UGC

5 08:45:42 partners that you mentioned you had

6 contact with, was that in connection with

7 the project that you mentioned discussing

8 with Steve and Chad, I believe maybe

9 originally it was referred to as Claim

10 08:46:07 Your Content for users; is that correct?

11 A. That is correct.

12 Q. And then the name of that

13 changed later?

14 A. To the YouTube User Partner

15 08:46:15 program.

16 Q. And is it in connection with

17 that program that you had contact with the

18 UGC partners?

19 A. Yes.

20 08:46:26 Q. When you first started at

21 YouTube what -- what projects -- what

22 monetization-related projects were you

23 involved in?

24 MR. WILLEN: Objection to the

25 08:46:45 form.

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Q. You can answer.

A. The first project that we undertook was the YouTube User Partner program. And at the same time we were experimenting with various ideas on how to monetize YouTube content, and I would say we ran those experiments for a period of three to four months, testing ideas like how pre-rolls performed and other forms of video advertising-related ideas. That's how we started.

Q. And in addition to those -- in addition to the YouTube Partner program and the experiments in advertising you just mentioned, over the course of your time at YouTube what, if any, other projects on monetization did you work on?

A. Sure. The first one would be the video advertising units that we created. So on the watch pages we developed the overlay ad model, launched that in August of 2007; and combined the overlay with a companion banner unit, also on the watch page, and held a price and

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advertising units, the targeting ads, the  
home page monetization, search-related  
advertising components and user -- and  
08:50:22 user engagement.

Are there any other monetization  
projects that you can recall working on  
while you were at YouTube?

A. Each of these projects have many  
08:50:36 components to it, so it's hard to break  
each one of them down. But anything  
related to these ad models or revenue  
models was undertaken by my team.

Q. And for each one of these, if we  
08:51:01 can maybe just go through them in order.  
I'm going to ask you sort of who else on  
your team or who else at YouTube worked  
with you on them, I guess taking first the  
YouTube User Partner program.

A. I built the YouTube partner  
program myself in the beginning and  
provided all care and feeding for it until  
we decided to take it out of the pilot  
program, which probably ran through August  
08:51:33 of 2007, and then handed it over to Thai

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Tran on my team, who then took it from there to the next level.

Jay Akkad built the contest platform, the user engagement platforms.

Matthew Liu worked on the search elements.

Shiva Rajaraman worked on the video advertising, on the watch page, the overlays and the companion banner units.

And Tracy Patrick Chan worked on all date-related projects.

My team also owned all data-related projects. And this group of product managers had a team of engineers dedicated for these projects, which was managed by Franck Chastagnol.

Q. I think you said before that Franck Chastagnol didn't report to you.

But he -- but am I correct that he -- he managed this team of engineers that did service the team that you just listed?

A. Exactly.

Q. Now, earlier when you listed the

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The pilot was meant to last several months. I think we ran it for literally five or six months. And the goal was to see how well the user partners would perform, how motivated and engaged they would be and how successful we would be in monetizing that content and, in return, sharing that money with the user partners.

Q. And how successful did that pilot turn out to be?

A. I would describe it as very successful. We started with, from what I can recall, roughly about 35 people, I believe. And by the time the pilot finished, we probably had 100 to 150 people in the program.

And each of those partners was engaged in creating new content and uploading new content, and we were definitely successful in monetizing and sharing revenues back with them. So overall, I think all the partners were happy that they were now receiving a

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compensation for their efforts.

Q. And then did that project move  
beyond the pilot phase to roll out to a  
08:59:26 larger number of partners?

A. Yes. In, from what I can  
recall, in November 2007 we decided to  
expand the program, and Thai Tran was  
leading the effort at that time with the  
08:59:46 goal to expand that program to several  
thousands of users and provide better  
targeting, better advertising  
opportunities and so on.

But also to scale the program,  
08:59:58 so that there was very limited, if any,  
human involvement in running of the  
program.

Q. And do you recall approximately  
how many users were in this program when  
09:00:27 you -- in the YouTube user program when  
you left the company?

A. I would say several thousand.

Q. And going back to the pilot for  
a minute. How did you select the users  
09:00:54 that would be included in the pilot?

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technologies or human review applied to  
ensure that the content that was part of  
the program did not have copyright  
09:27:48 violations?

MR. WILLEN: Objection to the  
form.

A. Repeat that question, please, or  
rephrase it. I'm not sure how to answer  
09:28:04 that.

Q. So you mentioned that the videos  
that were part of the program underwent  
audio fingerprinting and then subsequently  
video fingerprinting when that came  
09:28:16 on-line; is that correct?

A. That is correct.

Q. Was any other kind of technology  
to detect copyright violations or any kind  
of human review applied to those videos,  
09:28:31 before they were monetized through the  
program?

A. In the pilot process we did, for  
a period of time, have all videos go  
through a human review process, just to  
09:28:50 make sure that the pilot would get off the



1 SETH

2 ground well. As time went on, we removed  
3 prescreening, so to speak, of the videos  
4 and moved the human review process to only  
5 09:29:09 apply if any of those monetized videos  
6 were flagged by the user community.

7 So the process is run it through  
8 the fingerprinting technology to whatever  
9 capability existed at that point. If it  
10 09:29:34 passed that test, monetize the video.

11 Should any of those videos get  
12 flagged, then perform a human review to  
13 pass an additional judgment whether there  
14 was any infringing -- sorry, copyright  
15 09:29:52 violations, so to speak.

16 Q. But -- and the process you just  
17 described is the process that was adopted  
18 after you stopped prescreening; is that  
19 correct?

20 09:30:08 A. Repeat that.

21 Sorry, my mind was --

22 Q. Sorry about that. I wasn't very  
23 clear.

24 So from my understanding, there  
25 09:30:19 were two, kind of two phases --

1 SETH

2 A. Yes.

3 Q. -- for the pilot, and I don't  
4 know for what period. There was a  
5 09:30:25 prescreening human review before  
6 monetizing the videos in the program; is  
7 that correct?

8 A. That is correct.

9 Q. And then at some point the  
10 09:30:32 prescreening was stopped, and instead the  
11 human review would only occur if there was  
12 a flag by someone in the user community  
13 when they watched a video that was already  
14 up -- available for monetization?

15 09:30:46 A. That is correct.

16 Q. All right. Do you recall  
17 approximately when this switch from the  
18 prescreening to the review after flagging  
19 occurred?

20 09:30:58 A. My guess would be three months  
21 after we started the pilot project.

22 Q. And why was there a switch in  
23 the process from prescreening to the  
24 review after flagging?

25 09:31:29 MR. WILLEN: I don't know

1 SETH

2 A. For a very short period of time,  
3 I would say five days or so at the start  
4 of the program, I myself as well as a  
5 09:36:55 gentlemen by the name of George Strompolos  
6 who was part of the business development  
7 and operations team, reviewed the videos.  
8 And then at the end of that five-day,  
9 roughly five-day period, we handed it off  
10 09:37:15 to the operations team. I do not know  
11 exactly the names of the people who were  
12 involved on the operations side.

13 Q. Do you know who was kind of  
14 heading up the operations team that did  
15 09:37:34 the review?

16 A. The review process was headed by  
17 the name of Shenaz, S-H-E-N-A-Z, Zack,  
18 Z-A-C-K.

19 Q. And during the five days or so  
20 09:37:51 that you were, yourself, involved in the  
21 prescreening, what were you looking for  
22 when you were reviewing these videos?

23 A. Just a cursory glance to kind of  
24 ensure that the content being uploaded  
25 09:38:16 actually did belong to the user partners

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any written or oral guidelines about what  
to look out for?

A. No.

09:54:43 Q. Do you know whether, after your  
involvement ceased, and I think you said  
the operations team took over, whether  
there were written guidelines for the  
reviewers about what to look for?

09:55:06 A. From my recollection, I think  
there was.

Q. And did you -- do you know what  
any of those guidelines were?

A. No.

09:55:12 Q. You mentioned, I think, that  
someone named Shenaz Zach was in charge of  
the team that was doing the human review,  
correct?

A. Yes.

09:55:26 Q. And so -- I'm sorry, is that a  
she or a he?

A. She.

Q. Would she be the best person to  
talk to about what written guidelines  
09:55:39 there were for review?

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Q. And then what's your general understanding of what the squad operations team was responsible for at YouTube?

10:03:20 A. It was responsible for, and this is my understanding. I'm sure you may get a very different answer from people who ran that program or that group. My understanding is, very simply, that they provided the human review process for all flagged videos, regardless of whether they were in this program or not.

Q. And so, just returning for one second to squad's role with respect to the specific User Partner program, I think, correct me if I'm wrong, my understanding is they got involved with the human review after you stopped doing it after the first five days; is that correct?

10:04:07 A. That is correct.

Q. You can put that one aside.

MR. WILKENS: Let me mark another one.

(Seth Exhibit 3, document produced by Google, Bates stamp

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G00001-03037036 through 03037065,  
marked for identification, as of  
this date.)

10:04:55 Q. This is another document  
produced by Google in the litigation,  
with, starts with the Bates stamp  
G00001-03037036, and it ends with  
03037065.

10:05:34 Having had a chance to at least  
page through it, do you recognize this  
document, Mr. Seth?

A. Yes.

Q. Can you describe what it is?

10:06:15 A. It is a document that I  
produced, I believe in my third month at  
YouTube, to give the management team at  
both YouTube as well as Google a sense of  
what our long-term monetization strategy  
10:06:36 could be.

Q. So you created this  
presentation?

A. Yes.

Q. And if you turn to the second  
10:06:53 page of the presentation, which I think at

1 SETH

2 answer?

3 Q. Yes. If you understand the  
4 question, you can answer it.

5 10:14:54 A. This document that we produced  
6 was with very basic understanding and a  
7 limited strategy of various elements  
8 described here. I am not entirely sure  
9 that there was too much thought given to  
10 10:15:20 exactly how things would get implemented  
11 down the road.

12 Q. Can you just explain your  
13 understanding of what "PVA for search  
14 results, PVs," means?

15 10:15:37 A. PV essentially stands for  
16 promoted videos. And it is the idea that  
17 a video owner, for example Warner Music,  
18 wanting to promote a Shakira video could  
19 go and somehow purchase advertising, or  
20 10:16:02 promotions in this case, to promote that  
21 video on YouTube.

22 Q. And at the time of the  
23 presentation in March of '07, the  
24 spreadsheet shows that, or this chart  
25 10:16:20 shows that you were predicting a total

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02:01 2 actually, in effect, a signature on file for -- you  
02:01 3 know, so they file basically one DMCA notice, and then  
02:01 4 every time they use the tool, they're effectively  
02:01 5 amending, I believe -- I don't know if that's legally  
02:01 6 technically correct, but essentially updating the notice  
02:01 7 to include the additional content.

02:01 8 Q. Are you aware that my client, the Premier  
02:01 9 League, has sent DMCA notices for the removal of Premier  
02:02 10 League content?

02:02 11 A. I believe so.

02:02 12 Q. And you understand that the Premier League does  
02:02 13 not want its soccer content on YouTube?

02:02 14 A. I'm not personally familiar with their content,  
02:02 15 but that's my understanding.

02:02 16 Q. What's YouTube doing to actively or proactively  
02:02 17 scan for Premier League content?

02:02 18 A. So are you asking in the sense of the --

02:02 19 Q. What you were doing for --

02:02 20 A. For the RIAA?

02:02 21 Q. Correct.

02:02 22 A. I'm not aware of scans being done in this  
02:03 23 fashion for the Premier League.

02:03 24 Q. Why do you think YouTube was proactively  
02:03 25 scanning to remove RIAA-identified content, but not

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02:08 2 proactively scanning for the content.

02:08 3 How did you go about doing it in that case?

02:08 4 A. I think in this case it was just that, someone  
02:08 5 entering in, you know, maybe the word "Wheezer" and  
02:08 6 looking for their music videos or something like that.

02:08 7 Q. So using that methodology, when is the last  
02:08 8 time you recall YouTube engaging in proactive removal?

02:08 9 A. I don't recall when that was.

02:08 10 Q. This year?

02:08 11 A. Not to my knowledge.

02:08 12 Q. Could you put it in any time frame?

02:08 13 A. Certainly around the time this e-mail was sent.  
02:09 14 I don't know exactly the evolution.

02:09 15 And as I said earlier, I don't think it was a  
02:09 16 bright line moment in time when the practices changed.  
02:09 17 I think they evolved based on the needs of individual  
02:09 18 rights holders and the scale of the site.

02:09 19 Q. Did you participate in any discussions or  
02:09 20 communications within YouTube about whether or not to  
02:09 21 continue the practice of proactively scanning for  
02:09 22 content that appeared to infringe copyrights?

02:09 23 A. I'm not sure I would phrase it exactly as you  
02:09 24 have, but I'm sure I was probably involved in some  
02:09 25 discussions around our practices on these types of

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1                                 SETH

2                     we also spoke briefly earlier about  
3                     targeting advertising to keywords or  
4                     different levels of advertising.

5 10:25:07                     But just speaking about the  
6                     search page monetization at a more general  
7                     level, what kinds of monetization  
8                     initiatives for the search page were  
9                     undertaken while you were the head of  
10 10:25:23 monetization at YouTube?

11                     A.       Two projects.  One that was  
12                     implemented very early on and literally  
13                     had one Click To Play video ad or CTP  
14                     video ad against search results.  And the  
15 10:25:59 second one was the larger initiative of  
16                     integrating into Google AdWords and  
17                     allowing the advertising community to buy  
18                     advertising options against YouTube search  
19                     as well.

20 10:26:18                     That's as much detail as I can  
21                     give you.  Beyond that, I am not certain  
22                     of all the details.

23                     Q.       And I think you mentioned  
24                     earlier Matthew Liu as being in charge of  
25 10:26:37 search-related monetization projects; is

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Seth Exhibit 4.

(Seth Exhibit 4, document produced by Google, Bates stamp G00001-01016844 through 01016845, marked for identification, as of this date.)

10:28:35

10:28:30

MR. WILKENS: And it's a document produced by Google in the litigation with the Bates stamp G00001-01016844 through 01016845.

Q. Do you recognize this document, Mr. Seth?

A. I do.

10:29:12

10:29:30

10:29:53

Q. And does this refresh your recollection about why you undertook a classification of YouTube search queries?

A. From the people who are on the list or based on the people who are on the list, I believe that I undertook this exercise to help the business development team at YouTube figure out what verticals made sense for furthering partnership opportunities or personal partnership opportunities.





1 SETH

2 A. Yes.

3 Q. Do you see where it says that?

4 A. Yes. I think that was just a  
5 10:32:50 collection of various verticals combined  
6 together. Or at least that's how I would  
7 have done it. I don't know where that  
8 number came from, but I would surmise that  
9 I had added up a couple of these verticals  
10 10:33:08 together.

11 Q. And then Chris Maxcy, looks like  
12 the e-mail above that, in response to your  
13 e-mail, asks you for a further breakdown  
14 of entertainment.

15 10:33:17 A. That is exactly it, yes.

16 Q. That's what's reflected even  
17 further up at the very top of the page; is  
18 that correct?

19 A. That is correct.

20 10:33:24 Q. So that's a breakdown of what  
21 was in the 47 percent under entertainment?

22 A. That is correct.

23 Q. And those are also, I guess,  
24 just verticals at a different level, the  
25 10:33:34 entertainment/celebrities,

1 SETH

2 entertainment/clubs and nightlife; is that  
3 correct?

4 A. That's correct. Those would be  
5 10:33:41 described by this algorithm as  
6 subverticals.

7 Q. Those are coming from the Google  
8 algorithm you mentioned?

9 A. Exactly.

10 10:33:48 Q. Do you know if anything was done  
11 as a result or stemming from the analysis  
12 that you provided here?

13 A. No.

14 Q. Do you recall if there was any  
15 10:34:02 follow-up with you, based on the analysis  
16 that you sent in this e-mail?

17 MR. WILLEN: Objection to the  
18 form. Vague.

19 A. From my recollection, there were  
20 10:34:14 many conversations with various people in  
21 the business development team. I may have  
22 briefed some people on what this data  
23 suggests; but I wasn't involved in  
24 business development, and I had no idea  
25 10:34:33 how people took this data and what did





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looking for, correct?

A. Correct.

Q. And if you look at the first

10:44:33 page of the attachment to Exhibit 5, where

it lists all -- begins listing all of the

queries. Just so I understand how this

works, and maybe we won't pick the first

one, but maybe the third one, Paris

10:44:48 Hilton, the number that comes after the

comma, the 155769, what does that

represent?

A. I believe that Paris Hilton and

all synonyms related to Paris Hilton were

10:45:09 looked for, you know, 1.5 million times,

roughly.

Q. I think it might be --

A. Sorry, 155,000.

Q. And it appeared --

10:45:28 A. So the ordering here is the top

query and all synonyms and so on.

Q. We can put that to the side.

THE WITNESS: Can I take a very

quick bathroom break?

10:45:58 MR. WILKENS: Yes.

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THE VIDEOGRAPHER: The time is  
10:46 a.m., and we are going off the  
record.

10:46:03 (Whereupon, there is a recess in  
the proceedings.)

THE VIDEOGRAPHER: The time is  
10:56 a.m., and we are back on the  
record.

10:56:36 Q. Hi, Mr. Seth.

If we can go back to Exhibit 4  
for a minute.

A. Yes.

Q. Just looking at the group of  
10:56:53 numbers at the top, maybe the first line,  
which says "Entertainment celebrities,"  
and then it has a 184 then it has a 2.77  
number.

Can you explain what the 2.77 --

10:57:10 A. It's a percentage point.

Q. It's a percentage.

A. The 184 is, from what I can  
recollect and that I think this e-mail  
suggests as well, is just a classification  
10:57:22 number that reflects that first line.



1 SETH

2 Q. So --

3 A. These analyses had nothing to do  
4 with product development at all.

5 10:58:48 Q. You may have said this earlier,  
6 but can you just explain what the purpose  
7 of them was? Or what --

8 A. From what I can recall, these  
9 two analyses were to help the partnership  
10 10:59:04 team determine where their focuses should  
11 lie.

12 Q. And when you say "the  
13 partnership team," are you referring to  
14 what content partners they should be  
15 10:59:16 approaching?

16 A. That would be projecting what  
17 they were thinking. My goal was to just  
18 help them understand what the user demands  
19 were, and then they could use it any which  
20 10:59:36 way they were. So one could guess that  
21 maybe that is what they were planning to  
22 do, but I don't know for a fact.

23 Q. But those, I guess the people  
24 that were are listed on Exhibit 4 and  
25 10:59:51 Exhibit 5 that you were e-mailing with,

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mischaracterizes what he said.

A. I believe that the one box solution was implemented. I do not know 11:18:49 when or exactly how the implementation was done, but I do recall that it was implemented some time.

MR. WILKENS: Actually, this is a good time to break. We have to switch the videotape. 11:19:26

THE VIDEOGRAPHER: The time is 11:19 a.m. This ends tape number two of the videotaped deposition of Mr. Shashi Seth.

(Whereupon, there is a recess in the proceedings.) 11:29:30

THE VIDEOGRAPHER: The time is 11:30 a.m. This begins tape number three of the videotape deposition of Mr. Shashi Seth. 11:30:04

Q. Turning back to, well, our discussion a little bit earlier on the two search-related monetization projects that you mentioned, Click To Play video ad and 11:30:22 integrating into AdWords. I know you said

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you are not the expert on those two, but  
can you just describe in general terms  
those two projects?

11:30:34 A. The Click To Play video ad unit  
was, very simply, a single ad unit located  
in the top right corner of the search  
results page that was somehow tied to  
broad targeting or category-based  
11:30:56 targeting in YouTube search.

So people could buy broad  
categories rather than keywords for the  
Click To Play video ad units. So for  
example, if you were Gatorade, you may  
11:31:14 want to buy the sports categories and then  
maybe specifically the  
17 sports/soccer/tennis and so on.

That project ran for a fairly  
long period of time, and it did distinctly  
11:31:35 well.

And the next project, where the  
details are a lot fuzzier for me, is the  
integration into AdWords, where broadly  
the idea was that people could log into  
11:31:46 the AdWords system on Google.com, collect



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I remember doing some broader study than the e-mail that we had here and which may have resulted in a presentation or two.

MR. WILKENS: This is Seth Exhibit 8. And it's a document produced by Google in the litigation. The Bates number GOO001-00237294 to 237295.

(Seth Exhibit 8, document produced by Google, Bates number GOO001-00237294 to 237295, marked for identification, as of this date.)

A. Uh-hum.

Q. Do you recognize this e-mail, Mr. Seth?

A. Yes.

Q. And at the very top it's an e-mail, the last in time e-mail from you to Steve Chen, with a cc to David Eun and Chad Hurley, correct?

A. That's correct.

Q. And does this e-mail relate to



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the project that you were just talking  
about a moment ago?

MR. WILLEN: Objection to the  
11:38:00 form, vague.

A. I think this was the start of  
the conversation, if I remember correctly.  
And I think what I'm doing is describing a  
methodology that one could adopt.

11:38:23 And then I believe, as time went  
by, we discovered that there were maybe  
simpler and better ways to get at the data  
and maybe -- it may even be that the  
question at hand may have changed  
11:38:40 slightly; and so I believe we ended up  
with a completely different methodology  
than the one that I'm describing here.  
And I don't think we ever ended up using  
this methodology.

11:38:53 Q. Do you see I guess in the e-mail  
toward the bottom, where Steve Chen says,  
he's responding I believe to David Eun, he  
says he's cc'ing you on this e-mail,  
although I guess the cc isn't shown, for  
11:39:10 whatever reason.

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Do you see where he says, "We are trying to get to the bottom of the question regarding the value of premium content, and this will guide us where to focus. As Dave mentioned, should we focus on our user-generated content or should we continue pushing with large content partnership deals."

11:39:20

11:39:31

Do you see that?

A. Yes.

11:39:41

Q. And is that your understanding of the question you were asked to weigh in on, at least in the beginning of the project?

A. Yes, I think so. As it relates to this question, this is the methodology at the top of the page that I suggested.

11:39:53

But I'm also suggesting that from what I can recollect, I don't think we ever went down this path or used this methodology. My recollection says that we used a very different methodology.

11:40:11

Q. Can you -- at the very top of it mentions Palash and Julia.

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Do you know who's being referred  
to there?

A. Palash and Julia are engineers  
11:40:18 at YouTube. Julia was specifically an  
engineer on the data team.

Q. What's her last name, by the  
way?

A. Peker, P-E-K-E-R.

11:40:31 Q. And what's Palash's last name?

A. No. No idea.

Q. Does --

A. I can't recall.

Q. Does Palash Nandy, N-A-N-D-Y,  
11:40:49 sound familiar?

A. Yes, yes, sounds familiar.

Q. So what team was he on? You  
said he was an engineer on what team?

A. He was an engineer -- he was on  
11:40:59 the team that provided or that built the  
recommendation engine, all the, you know,  
once you watch a video, at the end it  
comes two or three other videos that you  
may want to watch. That technology, I  
11:41:19 think, was built by Palash.

1 SETH

2 Q. And why did -- why were those  
3 the two people that you brainstormed with  
4 about this request from Steve Chen?

5 11:41:40 A. Both had interesting ideas on  
6 how we could approach the problem. And  
7 then, like I said, I think there's  
8 probably a dozen or more ways to get to  
9 the same answer, using different

10 11:41:58 techniques. And this was one such  
11 technique that we discussed and said may  
12 be a good place to start.

13 Q. And if you look at the first, I  
14 guess dash or bullet point.

15 11:42:11 A. Yeah.

16 Q. When it says, "Compare total  
17 view counts of PC, premium content, versus  
18 UGC content," what do you mean by "premium  
19 content"?

20 11:42:27 A. I think at that time we used  
21 partner content, professional content,  
22 premium content not only interchangeably,  
23 but often liberally, without having a  
24 particular meaning assigned to it. What  
25 11:43:08 it meant, very simply, is a partner with

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whom we had a contract to use their  
content on YouTube.

Q. And what did you mean by "UGC  
11:43:36 content"?

A. A user who isn't in the  
profession of creating video on a regular  
basis. They do it as a hobby, so to  
speak.

Q. So are premium content and --  
11:43:57 are there videos -- at this time, I guess,  
are there videos on YouTube that would not  
fall within one of these two categories?

A. No. I'd say videos could be  
11:44:35 classified in one or the other category.

Q. So a video is either premium  
content from a partner with whom YouTube  
had a contract, or it was from a content  
owner -- I'm sorry, or it was from a user  
11:44:53 who wasn't in the profession of creating  
content, who didn't have a contract with  
YouTube?

A. Yes.

And one thing to think about  
11:45:01 here is that although that may not have

1                                 SETH

2                     been the intent for this particular case,  
3                     partners, in my opinion, fall both on the  
4                     professional side as well as the UGC side.

5 11:45:17 So even if they weren't part of the User  
6                     Partner program, they were a partner.

7                     Q.       And so videos of users that were  
8                     in the User Partner program would have  
9                     fallen on the premium content side of the  
10 11:45:31 analysis?

11                    A.       Could be. I really cannot  
12                    speculate to whether I was exactly  
13                    thinking that when I wrote this e-mail,  
14                    but just broadly speaking, partners would  
15 11:45:41 include both professional as well as UGC  
16                    partners.

17                    Q.       And then the next sentence where  
18                    it says, "We will remove all premium  
19                    content that was uploaded by users from  
20 11:45:52 these counts to make sure we are comparing  
21                    apples to apples," what did you mean by  
22                    that?

23                    A.       I believe what I was alluding to  
24                    was the scenario. I'll just describe the  
25 11:46:12 scenario.

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Imagine Shakira's video is owned by Warner Brothers. Just imagine for a second that that is true, that all copies of that video or versions of that video uploaded by users who may not own the rights to that video, if they could be removed, it would be an apples to apples comparison.

11:46:24

11:46:41

Q. So from the UGC content category you are suggesting that you would remove the non-Warner version, Warner Brothers version of the Shakira videos and take those out of that bucket?

11:46:58

A. Count. Correct, yes.

16

Q. And then can you just explain for the next bullet, the purpose of the signals that you are suggesting there?

19

What they were meant to do in

11:47:19

the analysis?

21

A. Just give me a minute to just read through the whole thing so I can start building my analysis of why I -- we were going down this path. Okay.

11:48:31

So here, just to compare -- the





1 SETH

2 At the Numbers.

3 Who is Jordan Hoffner?

4 A. He is the director of business

5 12:00:05 development at YouTube.

6 Q. And why were you sending a first  
7 peek at the numbers to him?

8 A. Most likely because we may have  
9 had a hallway conversation about

10 12:00:24 something, and it was in response to that.

11 I don't remember for sure.

12 Q. If you look down at sort of the  
13 middle of the first page, where it's an  
14 e-mail from Julia Pekar that starts with,

15 12:00:46 "Hey, Shashi, "and ends with "Let me know  
16 if you have questions."

17 Do you see that?

18 A. Yeah.

19 Q. And she says that she's

20 12:00:54 attaching some numbers and that she's

21 analyzing all views for the week of

22 May 6th --

23 A. Right.

24 Q. -- do you see that?

25 12:01:07 Is there any particular reason

1 SETH

2 why that week was selected?

3 A. No. Just a random selection of  
4 one week.

5 12:01:18 Q. The analysis was of all views  
6 for that week?

7 A. One week, yes.

8 Q. That would --

9 A. And then one week period was  
10 12:01:27 chosen, as that was what was possible to  
11 do in a fairly short period of time run.  
12 Running anything more than that would have  
13 taken many days.

14 Q. Is it your understanding that  
15 12:01:41 refers to the week of May 6, 2007?

16 A. Right, yes.

17 Q. And the numbers that she says  
18 she's attaching, those are the numbers  
19 that appear on the last page of this  
20 12:01:55 exhibit; is that right?

21 A. Yes. And I don't understand  
22 everything about this --

23 MR. FRANKS: There's no question  
24 pending. You answered the question.

25 12:02:10 Q. I guess sort of flipping back

1                                 SETH

2                                 between the first page and the last page,  
3                                 she says she "has total views used for  
4                                 premium partners only and views for  
5 12:02:29 content that was taken down for copyright  
6                                 issues (some interesting numbers there)."

7                                 Do you understand why she  
8                                 included numbers for total views, views  
9                                 for premium partners only and views for  
10 12:02:49 content that was taken down for copyright  
11                                 issues?

12                                 MR. WILLEN:  Objection.  Calls  
13                                 for speculation.

14                                 A.     No, I have no idea.

15 12:02:54                         Q.     Now, if you look at the last  
16                                 page, you see on the left where it says,  
17                                 "All premium and copyright."

18                                 Is that referring to the three  
19                                 categories that Julia Peker mentioned in  
20 12:03:23 the e-mail that we were just reviewing?

21                                 A.     Yeah.  This is what I don't  
22                                 understand.

23                                 MR. FRANKS:  You want to look at  
24                                 this one, so you can see two at the  
25 12:03:52                         same time?

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THE WITNESS: No, this is good.

Q. You may not want to write on the actual exhibit. You just want to see the  
12:03:59 commas?

A. Yeah.

MR. FRANKS: You can do it on mine. You can write the commas on there.

12:04:14 Q. I had the same desire.

THE WITNESS: Thank you.

MR. WILLEN: Sorry. What was the question?

MR. WILKENS: Yeah, whether -- I  
12:04:33 asked whether the words on the left, leftmost column of the last page, "all premium and copyrighted," correspond to the categories that are in Julia Peker's e-mail on the first page that  
12:04:49 we just talked about.

MR. WILLEN: Objection. Calls for speculation.

A. From what I can understand of the document, it breaks down into three  
12:05:03 buckets of all views of all content for

1 SETH

2 that one-week period, views for content  
3 that came from a list of partners under  
4 the line item Premium, and then a list  
5 12:05:28 of -- or views of content that were  
6 removed from YouTube, for a number of  
7 reasons.

8 Q. And Julia says in the first page  
9 this is for copyright issues, correct?

10 12:05:45 MR. WILLEN: Objection. The  
11 document speaks for itself.

12 Q. You can answer the question.

13 A. That's what she says, yes.

14 Q. Now, just moving over a few  
15 12:06:04 columns to the Count Videos column.

16 A. Uh-hum, yes.

17 Q. Is it your understanding that  
18 that represents the videos that were --  
19 the number of videos that were viewed with  
20 12:06:19 the views that are in the, I guess the  
21 first column of numbers?

22 MR. WILLEN: Objection to the  
23 form.

24 A. It refers to the actual number  
25 12:06:31 of individual videos.



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numbers on to Mr. Hoffner?

MR. FRANKS: Objection. Calls  
for speculation. Incomplete  
12:09:42 hypothetical.

A. I think, as I said in that  
e-mail, that this is very early analysis,  
and that's it. I'm guessing from the  
content of the e-mail, I would guess that  
12:10:02 was too early to start even thinking about  
any details at that point.

MR. WILKENS: This is Seth  
Exhibit 11. It's a document produced  
by Google with the Bates number  
12:10:52 GOO001-03241189 through 3241192.

(Seth Exhibit 11, document  
produced by Google, Bates numbers  
GOO001-03241189 through 3241192,  
marked for identification, as of  
12:11:50 this date.)

A. Yeah.

Q. And do you recognize this  
document, Mr. Seth?

A. Uh-hum.

12:12:01 Q. It's an, at least the top, the

1 SETH

2 first, last-in-time e-mail, the top e-mail  
3 on the first page, is from Julia Peker to  
4 Shashi Seth, with a copy to Jordan Hoffner  
5 12:12:15 and Palash Nandy. And in that first  
6 e-mail Julia Peker says that she's sending  
7 the same spreadsheet with numbers for  
8 favorites, comments and subscriptions.

9 Do you see that?

10 12:12:29 A. Uh-hum.

11 Q. And then, if you turn to the  
12 last -- the last two pages, you see at the  
13 top of the Bates numbered page beginning  
14 3241191, the top there and extending over  
15 12:12:53 to the next page, 3241192, the same  
16 numbers that we were just discussing in  
17 Seth Exhibit 10, correct?

18 A. Correct.

19 Q. And then below that Julia Peker  
20 12:13:11 has added additional numbers, which she  
21 mentions on the first page, right?

22 A. Correct.

23 Q. And I believe these are the  
24 signals that we were talking about earlier  
25 12:13:23 for favorites, UGC content -- favorites





1 SETH

2 A. -- those 7,678 videos.

3 Q. So all 7,678 videos were  
4 favorited in an aggregate number of  
5 12:15:13 115,027 times, correct?

6 A. That's correct.

7 Q. The next number, it says Average  
8 Fave Per Video. I think that means  
9 average favorite for video?

10 12:15:21 A. That's correct.

11 Q. Is the number of videos divided  
12 by the number of -- the number of  
13 favorites divided by the number of videos,  
14 correct?

15 12:15:29 A. That's correct.

16 Q. So it's 14.98 times favorite per  
17 video, correct?

18 A. Correct.

19 Q. And that's for the Premium  
20 12:15:37 Content bucket, right?

21 A. That is correct.

22 Q. And then, if you go to the next  
23 bucket, the UGC -- what's called here the  
24 UGC Content bucket, the average number of  
25 12:15:49 favorites per video is 3.76; is that

1 SETH

2 correct?

3 A. That is correct.

4 Q. And just going further down to  
5 12:16:01 the Comments Analysis, the average  
6 comments per video for premium content is  
7 7.05, and it's -- and the average --

8 MR. WILKENS: Sorry, strike  
9 that.

10 12:16:13 Q. If you go down to the Comments  
11 Analysis for the premium content bucket  
12 the average comments per video is 7.05,  
13 correct?

14 A. That is correct.

15 12:16:21 Q. And then for the UGC content  
16 bucket, the average comments per video is  
17 2.8, correct?

18 A. Correct.

19 Q. And for -- the very bottom here,  
20 12:16:36 the Subscription Analysis, can you explain  
21 what a subscription is?

22 A. When a user subscribes to a  
23 video, they are subscribing both to the  
24 creator of the video or the user who  
25 12:16:54 uploaded that video as well as the video

1 SETH

2 itself. And based on that subscription,  
3 they get notifications of what is  
4 happening with that user.

5 12:17:04 So every time a new video is  
6 uploaded by that user, you would get a  
7 notification, for example, an e-mail, that  
8 says, this user has uploaded a new video.  
9 Or if it's the video, you may get

10 12:17:20 notifications of, hey, there's a new  
11 comment, et cetera.

12 So it's a pretty important  
13 element as well, in terms of signals of  
14 how users interact with the video.

15 12:17:41 Q. And I guess underneath here  
16 there's a Premium Channels heading or  
17 subheading.

18 Do you know if there was any  
19 analysis done on any other categories or  
20 12:18:00 buckets, like UGC channels?

21 MR. WILLEN: Objection to the  
22 form.

23 A. I believe this e-mail is -- I  
24 believe in this e-mail Julia has left out  
25 12:18:34 the word UGC Count Subscribers, but that's

1 SETH

2 what it's meant to be, is that the first  
3 line item under the Subscription Analysis  
4 is meant to be for premium channels, and  
5 12:18:47 the second one is supposed to be for UGC  
6 channels. And she may have left that out,  
7 but that's what it's meant to do, is to  
8 compare those two, much like how she's  
9 done it for the other categories.

10 12:19:04 Q. And do you know whether any  
11 further analysis of, along the lines of  
12 what's an Exhibit 10 and Exhibit 11, was  
13 done after Julia Peker sent Seth  
14 Exhibit 11?

15 12:19:33 MR. WILLEN: Objection to the  
16 form.

17 A. I don't recall.

18 Q. Do you recall reporting these  
19 numbers or -- to anyone at YouTube, other  
20 12:19:54 than Jordan Hoffner?

21 A. No. Unfortunately, I do not  
22 recall.

23 MR. WILLEN: Is this a good time  
24 for lunch, or do you want to --

25 12:20:42 MR. WILKENS: Actually, it is a

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A F T E R N O O N     S E S S I O N

(Time noted: 1:12 p.m.)

S H A S H I   S E T H ,     resumed and

testified as follows:

EXAMINATION BY (Cont'd.)

MR. WILKENS:

THE VIDEOGRAPHER: The time is

1:12 p.m., and we are back on the

01:12:42 record.

MR. WILKENS: Mark the next

exhibit. This is number 12.

(Seth Exhibit 12, document

produced by Google, Bates numbers

01:13:41 GOO001-0943950 through 5943959,

marked for identification, as of

this date.)

MR. WILKENS: This is a document

produced by Google in the litigation,

01:13:39 beginning with the Bates number

GOO001-0943950, ending 5943959.

Q. Do you recognize this document,

Mr. Seth?

A. Yes.

01:14:09 Q. Is this a cover e-mail with a



1 SETH

2 hypotheses, but that's what we had to go  
3 by.

4 Q. And when you were just talking a  
5 01:15:52 minute ago about segmenting the views into  
6 different buckets or types of content  
7 that's on page 3, on page 3 --

8 MR. WILKENS: Strike that.

9 Q. The methodology you were just  
10 01:16:14 referring to a moment ago that you applied  
11 in this analysis to -- where an algorithm  
12 was applied to develop these different  
13 breakdowns of content, is that reflected  
14 on page 3 of Exhibit 12?

15 01:16:28 A. That is correct.

16 Q. And then that same analysis is  
17 used on page 4 to indicate what percent of  
18 content that's being watched is premium  
19 content; is that correct?

20 01:16:49 A. What I'm referring to here in  
21 bullet points 1 and 2 is one of the  
22 exhibits that we talked about where Juliet  
23 Peker had summarized it in those three  
24 lines. The percent points are derived by  
25 01:17:11 that, the point 1 and point 2.



1 SETH

2 Q. And if you turn to page 5, where  
3 it says, "We also know that there is  
4 significantly more community interaction  
5 01:17:23 with premium videos than UGC videos," do  
6 you see that?

7 A. I see that.

8 Q. The two bullets below those, the  
9 numbers in those bullets, are those also  
10 01:17:34 derived from the analysis that we were  
11 looking at before from Julia Peker?

12 A. That is correct.

13 Q. So these are results that you --

14 MR. WILKENS: Strike that.

15 01:17:48 Q. So there are portions of Julia  
16 Peker's analysis that you put into this  
17 presentation and then provided to the  
18 individuals listed on the front of Seth  
19 Exhibit 12, correct?

20 01:18:00 A. That is correct.

21 Q. And did you also discuss the  
22 contents of this presentation with them?

23 A. Yes.

24 Q. And did they have questions  
25 01:18:16 about the methodology?