

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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

Plaintiffs,)

vs.)

NO. 07-CV-2203)

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

Defendants.)

THE FOOTBALL ASSOCIATION PREMIER)
LEAGUE LIMITED, BOURNE CO., et al.,)
on behalf of themselves and all)
others similarly situated,)

Plaintiffs,)

vs.)

NO. 07-CV-3582)

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

Defendants.)

HIGHLY CONFIDENTIAL
VIDEOTAPED DEPOSITION OF CUONG DO
SAN FRANCISCO, CALIFORNIA
FRIDAY, FEBRUARY 13, 2009

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR
JOB NO. 16417

FEBRUARY 13, 2009

9:01 a.m.

HIGHLY CONFIDENTIAL VIDEOTAPED DEPOSITION OF
CUONG DO, SHEARMAN & STERLING, LLP 525 Market
Street, San Francisco, California, pursuant to
notice, before ANDREA M. IGNACIO HOWARD, CLR,
CCRR, RPR, CSR License No. 9830.

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1 A P P E A R A N C E S:
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1 A P P E A R A N C E S (Continued.)

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10
11 ALSO PRESENT:

12 Adam Barea, Google, Inc.

13 Kelly Truelove, Consultant

14 Lou Meadows, Videographer.

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09:09:21 A They -- the -- my group of engineers were
09:09:25 responsible for implementing the features for the end
09:09:32 users of the YouTube site.

09:09:45 Q And is that group of engineers that we're
09:09:47 talking about responsible for anything else other than
09:09:50 those duties on the YouTube site?

09:09:53 MR. WILLEN: Objection as to the form.

09:09:55 THE WITNESS: I mean, it's hard for me to
09:10:07 answer exactly, because that's a broad question.

09:10:09 MR. DESANCTIS: Okay.

09:10:10 Q I'm just trying to get at, is it a team
09:10:12 that's -- that's dedicated to the YouTube site or do
09:10:15 they also do other things at Google?

09:10:18 A Just -- just -- well, just like any other --
09:10:23 just like any engineer at Google, they have a primary
09:10:26 responsibility, and they can, at their discretion, as
09:10:31 well as that of their manager, engage in side
09:10:35 projects.

09:10:36 Q Okay. And those side projects might involve
09:10:39 YouTube or might involve something else at Google?

09:10:42 A All of the above are possible.

09:10:43 Q Okay. I understand from your prior
09:10:48 deposition that you began work at YouTube in 2005; is
09:10:53 that correct?

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DO

2 09:10:53 A Yes.

3 09:10:53 Q And you were its fifth employee?

4 09:10:55 A I believe I was the fifth.

5 09:10:56 Q Okay. What was your title then, when you

6 09:11:01 started, if -- if there were titles then?

7 09:11:05 A The only title I've -- I heard or saw was an
8 09:11:11 offer letter, and I believe that was senior engineer.

9 09:11:13 Q Okay. And what were your duties when you
10 09:11:15 started?

11 09:11:15 A My duties were to -- primarily to ensure the
12 09:11:21 scaleability of the YouTube website --

13 09:11:26 Q Okay.

14 09:11:26 A -- as well as do other -- any kind of
15 09:11:28 infrastructure work in general.

16 09:11:30 Q Can you define what you mean by "ensure the
17 09:11:33 scaleability."

18 09:11:34 A So at that point the YouTube site was
19 09:11:38 already -- you know, was -- was already growing. The
20 09:11:42 numbers were certainly very modest compared to the
21 09:11:45 present day, but it was -- nonetheless, it was still
22 09:11:48 growing percentage-wise quite a bit. So the -- the
23 09:11:51 challenge was to keep up with that. So by
24 09:11:54 "scaleability," I mean the ability to keep pace with
25 09:11:57 the user demands on the site.

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2 09:11:59 Q Okay. Were there other engineers at YouTube

3 09:12:04 at that time?

4 09:12:06 A There were -- there were some other
5 09:12:08 engineers, yes.

6 09:12:08 Q So of the four other employees that were
7 09:12:11 there when you arrived -- first of all, what were
8 09:12:15 their names?

9 09:12:17 MR. WILLEN: Objection; whose names?

10 09:12:20 MR. DESANCTIS: I'm sorry. The witness
11 09:12:21 testified that he was the fifth employee at YouTube,
12 09:12:24 and I'm wondering who the previous four were.

13 09:12:26 THE WITNESS: Okay. So excluding the
14 09:12:28 cofounders, they were Brent Hurley, Christina
15 09:12:42 Brodbeck, Yu Pan, Mike Solomon, and -- yeah, those
16 09:12:58 were four employees, I believe.

17 09:12:58 MR. DESANCTIS: Okay.

18 09:13:01 Q And of those, are any of them software
19 09:13:04 engineers?

20 09:13:05 A Two were software engineers.

21 09:13:07 Q Who were those?

22 09:13:09 A They were Yu Pan and Mike Solomon.

23 09:13:12 Q Okay. Did they have distinct engineering
24 09:13:22 duties from yours?

25 09:13:35 A No.

1 DO

2 09:18:31 MR. DESANCTIS: Okay. Let me break it apart

3 09:18:33 then.

4 09:18:35 Q What do you mean by "transcoding"?

5 09:18:39 A My understanding of the definition of

6 09:18:40 "transcoding" is to the -- the -- the computerized

7 09:18:50 process of converting from one computer format to

8 09:18:56 another one.

9 09:18:57 Q Okay. And is there a single format that

10 09:19:17 YouTube converts videos into?

11 09:19:23 A Again, what time period are we referring to?

12 09:19:27 Q Let's say in that -- that early 2005 --

13 09:19:31 sorry -- late 2005, early 2006 period.

14 09:19:35 A It -- we were converting to the flash video

15 09:19:40 or FLV format.

16 09:19:42 Q Okay. Were any videos transcoded into a

17 09:19:47 different format?

18 09:19:48 MR. WILLEN: Objection; vague as to time.

19 09:19:50 Are we still talking about --

20 09:19:52 MR. DESANCTIS: At that time. All this line

21 09:19:53 of questioning is going to be at that time.

22 09:19:57 THE WITNESS: Not to my recollection.

23 09:19:57 MR. DESANCTIS: Okay.

24 09:20:03 Q Why did this transcoding take place?

25 09:20:07 MR. WILLEN: Objection as to the form.

1 DO

09:20:09 2 THE WITNESS: The transcoding took place to
09:20:17 3 provide -- so that the YouTube website could provide
09:20:22 4 the video to its end users in a -- in a form that was,
09:20:30 5 you know, accessible to the greatest, you know,
09:20:32 6 percentage of our users.

09:20:40 7 MR. DESANCTIS: I see.

09:20:52 8 Q And when a file is transcoded, is the
09:21:00 9 original video that the user uploaded altered somehow?

09:21:07 10 MR. WILLEN: Objection; vague.

09:21:09 11 THE WITNESS: In the process of transcoding
09:21:14 12 it, the system does not modify the original file.

09:21:19 13 MR. DESANCTIS: Okay.

09:21:20 14 Q So is a copy made and -- and that copy is put
09:21:25 15 into whatever format YouTube wishes?

09:21:27 16 MR. WILLEN: Objection as to the form.

09:21:29 17 THE WITNESS: Please clarify. I --

09:21:32 18 MR. DESANCTIS: Okay. I'll break -- I'll
09:21:34 19 break it apart.

09:21:35 20 Q Is a copy made of the video -- of the
09:21:39 21 original video that is uploaded by the user?

09:21:45 22 A A copy is made to -- I believe, originally
09:21:53 23 in -- in those days, a copy was made to another video
09:21:58 24 server.

09:22:08 25 Q So then the original video that's uploaded by

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1 DO

2 09:22:11 the user, if I understand, is on one server, and a

3 09:22:15 copy -- a separate copy was made to another -- a

4 09:22:18 different server?

5 09:22:19 MR. WILLEN: Objection.

6 09:22:21 MR. DESANCTIS: I'm just trying to understand

7 09:22:22 the testimony.

8 09:22:26 THE WITNESS: I believe that was the case in

9 09:22:28 the early days.

10 09:22:29 MR. DESANCTIS: Okay.

11 09:22:36 Q And the copy that is made and put on the

12 09:22:39 other server, is that the one that's -- that was in

13 09:22:43 the flash format that YouTube desired?

14 09:22:47 MR. WILLEN: Objection as to the form.

15 09:22:51 THE WITNESS: The flash video files were on

16 09:22:56 both machines, and the original files were on both

17 09:22:59 machines.

18 09:23:01 MR. DESANCTIS: I see. Okay.

19 09:23:09 Q I'm still a little bit unclear, and I

20 09:23:12 apologize if I'm not following well enough.

21 09:23:16 Let's just talk about a single video that's

22 09:23:18 uploaded by a user in its original format. It's

23 09:23:26 stored on a particular server, and then a copy is made

24 09:23:32 of that in flash format and stored on a different

25 09:23:35 server; is that correct?

1 DO

2 09:23:44 A No.

3 09:23:44 Q Okay.

4 09:23:44 A It is converted into flash format and both

5 09:23:47 the original and the flash copy are retained on the --

6 09:23:52 on the first server and replicated to a second server.

7 09:23:59 Q I see.

8 09:23:59 Just so I know the terminology, when you say

9 09:24:11 "replicated to another server," does that mean an

10 09:24:15 additional copy is made?

11 09:24:18 MR. WILLEN: Objection.

12 09:24:22 THE WITNESS: A -- the -- the system makes

13 09:24:24 a -- a -- a copy of the files to the second machine.

14 09:24:28 MR. DESANCTIS: Okay.

15 09:24:30 Q So the -- I just want to make sure you and I

16 09:24:33 are using the same terminology. When we say

17 09:24:36 "replicate" or "copy," is that the same thing?

18 09:24:38 A In a technical -- in a technical scenario

19 09:24:45 like this, I -- I use them synonymously, so yes.

20 09:24:49 Q What do we -- what do you call the first

21 09:24:52 server where, as I understand it, the original and the

22 09:24:57 initial flash formatted version are kept?

23 09:25:00 MR. WILLEN: Objection as to the form.

24 09:25:06 THE WITNESS: I -- I typically would call

25 09:25:08 that machine the "upload server."

1 DO

09:33:00 2 of either the original or the reformatted videos?

09:33:03 3 MR. WILLEN: Objection to the form and calls
09:33:05 4 for speculation.

09:33:06 5 THE WITNESS: I don't believe there were.

09:33:23 6 MR. DESANCTIS: Okay.

09:33:32 7 Q Now, when a user uploads a video in -- in
09:33:40 8 whatever format he or she may upload it in, does the
09:33:45 9 user -- does the uploader direct you to transcode the
09:33:50 10 video into flash format?

09:33:55 11 MR. WILLEN: Objection to the form.

09:33:57 12 THE WITNESS: What exactly do you mean by
09:34:04 13 direct us in this case?

09:34:05 14 MR. DESANCTIS: Q. Is there an opportunity
09:34:07 15 for the user to indicate, please recode this into
09:34:11 16 flash or please do not transcode this into flash?

09:34:16 17 A The system was not designed to provide that
09:34:20 18 option.

09:34:21 19 Q Okay. So it's a decision of YouTube to
09:34:28 20 transcode videos into flash, not the decision of the
09:34:31 21 user -- not the decision of the uploader?

09:34:35 22 MR. WILLEN: Objection; mischaracterizes the
09:34:36 23 testimony.

09:34:37 24 THE WITNESS: While it was not -- the system
09:34:41 25 did not provide the user the option, I believe it was

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1 DO

09:36:30 2 Is it your testimony that the -- that a copy
09:36:42 3 of both the original video and the transcoded video
09:36:49 4 was made and put on a second server?

09:36:55 5 MR. WILLEN: Objection.

09:36:55 6 MR. DESANCTIS: I -- I believe that's what
09:36:56 7 you had been testifying about, and I just want to go
09:36:59 8 back to something about that.

09:37:00 9 MR. WILLEN: Objection to the form.

09:37:01 10 THE WITNESS: Yes.

09:37:04 11 MR. DESANCTIS: Okay.

09:37:15 12 Q Was that copy made at the request or the
09:37:21 13 direction of the user -- of the uploader, I should
09:37:24 14 say?

09:37:25 15 MR. WILLEN: Objection to the form.

09:37:33 16 THE WITNESS: The system performed the -- the
09:37:43 17 replication as a course of its normal operation,
09:37:48 18 un- -- you know, uninstructed by the user.

09:37:56 19 MR. DESANCTIS: Okay.

09:38:00 20 Q So I think the answer to my question is -- is
09:38:02 21 no?

09:38:03 22 MR. WILLEN: Objection; mischaracterizes the
09:38:08 23 testimony.

09:38:09 24 He didn't say no.

09:38:10 25 MR. DESANCTIS: All right. I'll take his

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1 DO

2 09:52:44 MR. DESANCTIS: Okay.

3 09:52:45 THE WITNESS: That we have a larger
4 09:52:50 thumbnail, as I just mentioned, that was supposed to
5 09:52:53 be -- that -- that we were for, I think a brief
6 09:52:59 period, using for the embedded player, embedded
7 09:53:04 YouTube player to provide the users an idea what was
8 09:53:09 in the video before they started playing the video.

9 09:53:15 So that one was used because it was bigger
10 09:53:18 than the other one, and it would -- you know,
11 09:53:20 originally, but then we switched away from it because
12 09:53:23 of bandwidth considerations.

13 09:53:26 The other three thumbnails were implemen- --
14 09:53:29 implemented before I joined YouTube.

15 09:54:18 MR. DESANCTIS: Q. Do you know whether the
16 09:54:19 four thumbnails for a particular video are stored on
17 09:54:22 the same server?

18 09:54:37 A That is -- that can be answered differently
19 09:54:43 depending on what you mean exactly.

20 09:54:45 Q Okay. Do you know where -- I'm sorry. Let
21 09:54:49 me back up.

22 09:54:50 You testified a moment ago that in 2000 --
23 09:54:53 late 2005, early 2006 there were four thumbnail images
24 09:54:58 extracted for each video, barring a bug or a corrupted
25 09:55:03 file.

1 DO

2 09:56:45 any machine has other things, operating system, for
3 09:56:49 example.

4 09:56:49 Q Oh, sure.

5 09:56:51 Other than an operating system, was any other
6 09:56:53 data stored on it?

7 09:56:57 A No.

8 09:56:59 Q Okay. Was there -- did there come a time
9 09:57:16 when fewer than four thumbnails were extracted for
10 09:57:20 each video in the ordinary course of business?

11 09:57:27 A I do not know what happened prior to my
12 09:57:30 joining. After my joining, I -- I do not recall any
13 09:57:33 such times.

14 09:57:34 Q Okay. Then up to and including when you went
15 09:57:39 on leave, is it your understanding that still four
16 09:57:45 thumbnail images are extracted for every video?

17 09:57:53 MR. WILLEN: Objection; calls for
18 09:57:55 speculation.

19 09:57:55 THE WITNESS: The last I heard, which was
20 09:57:57 some number of months ago, it was still four.

21 09:58:00 MR. DESANCTIS: Okay.

22 09:58:08 MR. WILLEN: Do you want a break? Are you
23 09:58:10 okay? Are you okay?

24 09:58:12 MR. DESANCTIS: Did you --

25 09:58:14 MR. WILLEN: I was just seeing. Go ahead.

1 DO

2 09:58:16 MR. DESANCTIS: Okay.

3 09:58:21 Q Now, does the user who uploads a video

4 09:58:26 instruct YouTube whether or not to make the

5 09:58:29 thumbnail -- whether or not to extract the thumbnail

6 09:58:33 images?

7 09:58:34 MR. WILLEN: Objection; vague; calls for

8 09:58:36 speculation.

9 09:58:37 MR. DESANCTIS: Q. Do you understand the

10 09:58:38 question?

11 09:58:42 A What do you mean by "instruct"?

12 09:58:43 Q Okay. I'm wondering -- and -- and you tell

13 09:58:45 me if you want to put this in different terms. If

14 09:58:48 it's still not clear, you let me know.

15 09:58:50 I'm wondering whether the YouTube -- whether

16 09:58:55 YouTube automatically makes the thumbnail images of

17 09:59:02 videos that are uploaded or whether it does so only at

18 09:59:05 the specific structure -- instruction of the user who

19 09:59:09 uploads the video?

20 09:59:10 MR. WILLEN: Objection to the form.

21 09:59:14 THE WITNESS: The YouTube system

22 09:59:15 automatically creates the thumbnails.

23 09:59:25 It might be time for a little break.

24 09:59:28 MR. DESANCTIS: Yes. I should have said at

25 09:59:31 the outset, anytime you want a break, just speak up.

1 DO

2 11:50:31 employees then?

3 11:50:33 A Yes.

4 11:50:33 Q Okay. Do you know -- and -- and, again, I'm

5 11:50:44 not asking for names. I'm just trying to get a sense.

6 11:50:47 Do you know, let's say, at the time you left

7 11:50:50 for leave, what general departments or what types of

8 11:50:56 employees are given administrative -- access to the

9 11:51:00 admin?

10 11:51:03 MR. WILLEN: Objection to the form.

11 11:51:07 THE WITNESS: I don't -- I do not know what

12 11:51:09 the policies were.

13 11:51:10 MR. DESANCTIS: Okay.

14 11:51:23 Q If a -- or -- sorry. Strike that.

15 11:51:31 Through the admin website, can a YouTube

16 11:51:44 employee remove a video from being viewable to the

17 11:51:51 public on the YouTube site?

18 11:51:53 MR. WILLEN: Objection; vague as to time.

19 11:51:57 MR. DESANCTIS: Q. At -- at any time.

20 11:52:02 A It is -- it is possible.

21 11:52:06 Q Okay. Well, just to be clear, when you say,

22 11:52:13 "it is possible," do you mean, maybe, you don't know

23 11:52:18 or, yes, that is something that is possibly using the

24 11:52:23 admin tool?

25 11:52:25 A I am saying that it is possible using the

1 DO

2 11:52:28 admin tool, should the user have the privilege to do

3 11:52:32 so.

4 11:52:33 Q I see.

5 11:52:34 Do not all people with access to the admin

6 11:52:36 tool have the same bundle of rights, so to speak?

7 11:52:41 A It varies from person to person.

8 11:52:42 Q Okay. Do you know who decides what rights a

9 11:52:50 particular admin user will be given?

10 11:52:56 A No.

11 11:52:57 Q Okay. Prior to your going on leave, did you

12 11:53:05 have access to the admin tool?

13 11:53:09 A Yes.

14 11:53:09 Q Had you always had access to the admin tool

15 11:53:16 since you began work at YouTube?

16 11:53:19 A No.

17 11:53:20 Q Okay. When were you first granted access to

18 11:53:23 the admin tool?

19 11:53:27 A It was some time in the couple of months

20 11:53:31 after I joined.

21 11:53:32 Q Okay. I keep referring to the admin tool,

22 11:53:43 but, of course, you're more familiar with the

23 11:53:45 architecture than I am.

24 11:53:47 Is there one admin website or tools -- tool,

25 11:53:51 so to speak, or are there multiple admin websites and

1 DO

2 11:53:55 tools that various YouTube employees might access?

3 11:53:58 MR. WILLEN: Objection to the form.

4 11:54:03 THE WITNESS: There is one site called the

5 11:54:07 "admin tool."

6 11:54:08 MR. DESANCTIS: Okay.

7 11:54:09 Q And -- and -- and what is that exactly? Is

8 11:54:12 that a database? Is it a website? Something else?

9 11:54:15 A It is a system created by YouTube, and -- and

10 11:54:23 it provides a web-based interface for these

11 11:54:25 administrative tasks.

12 11:54:27 Q I see.

13 11:54:30 And is the system that you just described

14 11:54:55 distinct from logging into the YouTube site with an

15 11:54:58 admin account?

16 11:55:01 MR. WILLEN: Objection; vague.

17 11:55:04 THE WITNESS: Yes, there's a distinct admin

18 11:55:20 site that's separate from the website.

19 11:55:22 MR. DESANCTIS: Okay.

20 11:55:49 Q And for those who are authorized to remove

21 11:55:51 videos, for whatever reason, is that removal done

22 11:56:04 through the admin tool you just described?

23 11:56:10 A Yes.

24 11:56:10 Q Okay. Is there any other way that you know

25 11:56:13 of to -- to remove a video other than through the

1 DO

2 11:56:16 admin tool?

3 11:56:20 A One can remove a video if one has access to
4 11:56:26 the account that uploaded the video.

5 11:56:32 Q Oh, to the user account?

6 11:56:33 A Yes.

7 11:56:33 Q Okay. So a user can remove the -- the video
8 11:56:36 he or she posted, as could anyone else who has access
9 11:56:41 to that user's account?

10 11:56:42 A Yes.

11 11:56:42 Q Okay. Okay. Separate and apart from the --
12 11:56:52 the admin system you just described, I'm going to get
13 11:56:58 back to that, are there admin accounts with which
14 11:57:00 individuals can log on to the YouTube site?

15 11:57:04 MR. WILLEN: Objection as to the form; it's
16 11:57:09 ambiguous.

17 11:57:10 THE WITNESS: It -- can you define what you
18 11:57:11 mean by "admin account"?

19 11:57:14 MR. DESANCTIS: Actually, I -- I can't,
20 11:57:21 because it's something that I've just seen in the
21 11:57:24 documents, and I was hoping you could help me define
22 11:57:27 it.

23 11:57:30 Q Is that a term you've -- you're unfamiliar
24 11:57:32 with?

25 11:57:36 A It's a term that -- I mean, I guess there

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13:34:38 2 number of views per day at the time that you went on
13:34:42 3 leave from YouTube?

13:34:43 4 A It was -- I believe it was around
13:34:48 5 one-and-a-half billion.

13:34:50 6 Q One-and-a-half billion with a "B"?

13:34:53 7 A Yes.

13:34:53 8 Q Okay. And how from that one-and-a-half
13:34:56 9 billion are the particular videos chosen to be
13:35:04 10 displayed under the heading "Videos being watched
13:35:07 11 right now...?"

13:35:08 12 MR. WILLEN: Objection to the form.

13:35:10 13 THE WITNESS: The system employed an
13:35:16 14 algorithm to which I -- I do not know the details.

13:35:20 15 MR. DESANCTIS: Okay. All right.

13:35:38 16 Q Mr. Do, if you look above the videos being
13:35:41 17 watched row, there's a long white box and after it is
13:35:49 18 a blue box in which it's written the word "Search."

13:35:52 19 Is that where a user can input search terms
13:35:56 20 to search the YouTube website?

13:35:59 21 A Yes.

13:36:00 22 Q And if a user goes to www.youtube.com and is
13:36:08 23 presented with this Homepage, is -- is this what's
13:36:13 24 presented before any particular search is inputted by
13:36:18 25 the user?

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DO

13:36:18

2

MR. WILLEN: Objection to the form; calls for

13:36:19

3

speculation.

13:36:27

4

THE WITNESS: Could you perhaps rephrase your

13:36:29

5

question, because I don't -- I don't know if I

13:36:30

6

understand it?

13:36:31

7

MR. DESANCTIS: Oh, sure.

13:36:32

8

Q It's just that, you know, perhaps it's -- I'm

13:36:36

9

trying to make too basic of a point.

13:36:45

10

The Homepage that we've been discussing, is

13:36:55

11

that presented to a user before he or she inputs any

13:37:01

12

search terms?

13:37:03

13

MR. WILLEN: Objection to the form.

13:37:04

14

THE WITNESS: It depends.

13:37:08

15

MR. DESANCTIS: Q. What does it depend on?

13:37:12

16

A It depends on how the user entered the

13:37:15

17

YouTube site. We found that a lot of people don't

13:37:20

18

enter the site through the Homepage.

13:37:21

19

MR. DESANCTIS: Okay.

13:37:23

20

Q If a user does enter the site through the

13:37:25

21

Homepage, are they presented with a Homepage like we

13:37:29

22

see here before entering any search terms of their

13:37:31

23

own? That's -- that's all I'm asking.

13:37:33

24

A Yes.

13:37:34

25

Q Okay. Now, what would happen on the YouTube

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1

DO

13:37:42 2 Homepage if the user clicked with his or her mouse on
13:37:49 3 one of the videos in the row entitled "Videos being
13:37:53 4 watched right now...?"

13:37:54 5 MR. WILLEN: Objection to the form; calls for
13:37:56 6 speculation.

13:37:58 7 THE WITNESS: The last time I used the
13:38:02 8 feature -- because I can't speak for the present day,
13:38:06 9 the last time I used the feature, the -- the web --
13:38:09 10 the user's web browser would then request the -- the
13:38:14 11 page on the YouTube site on which the user can watch
13:38:17 12 that video.

13:38:18 13 MR. DESANCTIS: Okay.

13:38:18 14 Q So is this in the -- is -- are the
13:38:21 15 pictures -- one, two, three, four -- five in a row,
13:38:27 16 these pictures under "Videos being watched right
13:38:29 17 now...," are these examples of thumbnails that you and
13:38:34 18 I were discussing earlier today?

13:38:36 19 A Yes.

13:38:36 20 Q Okay. And ordinarily, barring some kind of
13:38:41 21 bug, by clicking on the thumbnail, the video itself is
13:38:46 22 then launched and the user can view it; correct?

13:38:51 23 MR. WILLEN: Objection to the form.

13:38:52 24 THE WITNESS: That is the general practice.

13:38:55 25 MR. DESANCTIS: Right.

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1 DO

13:39:00 2 Q I'd like you to look down, maybe a quarter of
13:39:02 3 the way down the page. On the left is in sort of bold
13:39:06 4 writing, "Featured Videos"; do you see that?

13:39:10 5 A Yes, I do.

13:39:11 6 Q Okay. What are "Featured Videos"?

13:39:21 7 A "Featured Videos" are those that have been
13:39:25 8 selected by YouTube editors, I think they're called,
13:39:35 9 or employees of YouTube and -- to show up on this
13:39:39 10 section.

13:39:47 11 Q Do you know the criteria that YouTube editors
13:39:52 12 use to select the featured videos that they select?

13:39:55 13 MR. WILLEN: Objection; vague as to time.

13:39:58 14 MR. DESANCTIS: At any time.

13:40:04 15 THE WITNESS: I don't know that.

13:40:04 16 MR. DESANCTIS: Okay.

13:40:16 17 Q Do you know who at YouTube, let's say early
13:40:21 18 days 2005 to 2006, was responsible for selecting
13:40:27 19 featured videos?

13:40:36 20 A It -- to the best of my recollection, it
13:40:49 21 was -- Maryrose was one such person.

13:40:52 22 Q Anyone else that you're aware of?

13:40:57 23 A I don't know who else.

13:40:59 24 Q Okay. What's Maryrose's last name?

13:41:22 25 A Dunton, spelled D-U-N-T-O-N.

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1

DO

13:41:34

2

Q Now, you said that these featured videos are

13:41:40

3

selected by YouTube employees called "editors."

13:41:45

4

Does the user who upload the video get to

13:41:54

5

dictate whether theirs -- their video will be featured

13:41:56

6

or not, or is it really at the discretion of the

13:41:59

7

YouTube editors?

13:42:01

8

MR. WILLEN: Objection as to form.

13:42:04

9

THE WITNESS: It is at the editors'

13:42:07

10

discretion.

13:42:08

11

MR. DESANCTIS: Okay.

13:42:14

12

Q And do you know how it is determined the

13:42:16

13

order in which the various featured videos appear at

13:42:21

14

any given time?

13:42:21

15

MR. WILLEN: Objection; vague and ambiguous.

13:42:28

16

THE WITNESS: I don't know the rules behind

13:42:30

17

that.

13:42:30

18

MR. DESANCTIS: Okay.

13:43:08

19

Q Do you know what happens, Mr. Do, if a user

13:43:10

20

were to click on the words "See More Featured Videos"?

13:43:18

21

A Yes.

13:43:18

22

Q What happens?

13:43:22

23

A The user is then taken to a separate web page

13:43:27

24

on the YouTube site which displays other videos that

13:43:33

25

have been featured.

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1

DO

13:43:37

2

Q And would those other videos have been

13:43:40

3

selected at the discretion of the YouTube employees,

13:43:43

4

just like the ones we were discussing a moment ago?

13:43:47

5

MR. WILLEN: Objection to the form.

13:43:49

6

THE WITNESS: I believe so.

13:43:49

7

MR. DESANCTIS: Okay. You know, can I just

13:44:11

8

see this for a minute?

13:44:36

9

Q Okay. And, again, by clicking on -- do you

13:44:43

10

know what happens if a user who's shown this Homepage

13:44:48

11

checks on either a featured video thumbnail or on the

13:44:52

12

title of the video?

13:44:57

13

A Yes.

13:44:57

14

Q What happens?

13:45:00

15

A The user is taken to the -- a page on the

13:45:04

16

YouTube site where they can watch the video.

13:45:06

17

Q Okay. So just to be extra clear, at a very

13:45:15

18

high level, when a user logs onto www.youtube.com, if

13:45:23

19

they're not logged on with their own individual user

13:45:27

20

account, they'll be shown a Homepage like this and can

13:45:32

21

click on any of these videos if they choose to watch

13:45:35

22

them; is any of that incorrect?

13:45:39

23

A That's a general summary.

13:45:43

24

Q Okay. Yeah, let me see that.

13:46:38

25

Mr. Do, along with the "See More Featured

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1

DO

13:46:47 2 Videos" text on this Homepage, there's a button that
13:46:54 3 says "Most Viewed." Do you know what "Most Viewed"
13:46:57 4 is?

13:46:59 5 A Yes.

13:46:59 6 Q What is it? Can you please explain.

13:47:01 7 A Videos that are -- a set of videos that have
13:47:14 8 been -- that have had playbacks initiated for them
13:47:18 9 within a certain period of time.

13:47:20 10 Q Okay. And what would happen if the user
13:47:26 11 clicked on the "Most Viewed" button from the
13:47:29 12 Homepage --

13:47:30 13 MR. WILLEN: Objection; calls for --

13:47:32 14 MR. DESANCTIS: Q. -- if you know?

13:47:34 15 MR. WILLEN: Calls for speculation.

13:47:35 16 THE WITNESS: It would -- the -- the user
13:47:38 17 would then be brought to another YouTube web page that
13:47:43 18 shows the videos that were most viewed within some
13:47:52 19 period of time, and I don't know what that period of
13:47:57 20 time was.

13:47:57 21 MR. DESANCTIS: Okay.

13:48:29 22 (Document marked Do Exhibit 8
13:48:31 23 for identification.)

13:48:31 24 MR. DESANCTIS: Let me show you a document
13:48:33 25 that's being marked as Do Exhibit 8.

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1 DO

13:50:54 2 question, Andrea.

13:51:05 3 (Whereupon, record read by the Reporter as
13:51:05 4 follows:

13:49:46 5 "Question: Do you know why YouTube has a
13:49:48 6 "Most Viewed" page like this?")

13:51:07 7 MR. WILLEN: Go ahead and answer.

13:51:09 8 THE WITNESS: I -- I believe this page
13:51:16 9 actually predated my employment at YouTube.

13:51:19 10 MR. DESANCTIS: Okay. That doesn't quite
13:51:24 11 answer the question.

13:51:26 12 Q Even if it predated your employment, do you
13:51:29 13 know why YouTube has this "Most Viewed Today" page
13:51:36 14 available to users on its Homepage?

13:51:38 15 A I did not institute it, and I wasn't involved
13:51:41 16 on the decision making, so I -- I don't know the
13:51:43 17 reason why it was put there.

13:51:44 18 Q Okay. Is "Most Viewed" seen within YouTube
13:52:00 19 as a measure of a video's popularity?

13:52:03 20 MR. WILLEN: Objection; calls for
13:52:04 21 speculation.

13:52:15 22 THE WITNESS: It has been used as such.

13:52:16 23 MR. DESANCTIS: Okay.

13:52:40 24 Q Okay. Going back to what has been marked as
13:52:45 25 Do Exhibit 7, this was the Homepage, in the middle

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1 DO

13:52:54 2 where we see the "Most Viewed" button, to the right of
13:52:56 3 that is "Most Discussed."

13:52:58 4 Do you know what "most discussed" means?

13:53:09 5 A I knew at one point, but I don't know if I
13:53:11 6 know the current definition.

13:53:12 7 Q Okay. At what point did you know?

13:53:14 8 A Roughly a year ago.

13:53:17 9 Q What did it mean then?

13:53:20 10 A What it meant then was that it was the videos
13:53:25 11 that had received the most comments by other users.

13:53:31 12 Q Okay. And what does it mean to receive
13:53:34 13 comments by other users? I just don't -- I just want
13:53:38 14 to be clear about what that term is.

13:53:40 15 A On the primary web page on the -- on the
13:53:44 16 YouTube site where one watches videos, there are -- a
13:53:48 17 user has an option of leaving a comment, a set of
13:53:54 18 words, letters, anything they want there, just
13:53:57 19 whatever you can type on your keyboard, and that will
13:54:02 20 be displayed somewhere below the video or maybe not if
13:54:05 21 the comment is too old and it doesn't fit in the
13:54:07 22 screen, you know, the --

13:54:10 23 Q Okay.

13:54:11 24 A -- news comment.

13:54:18 25 Q And next to that is a -- the -- the words

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1 DO

13:54:21 2 "Top Favorited."

13:54:24 3 Do you know what "Top Favorited" means?

13:54:28 4 A Yes.

13:54:28 5 Q What does it mean?

13:54:33 6 A My understanding that -- is that it is the
13:54:35 7 set of videos for which the greatest number of other
13:54:42 8 users have added it to their list of favorite videos.

13:54:47 9 Q And what is -- what is a list of favorite
13:54:50 10 videos?

13:54:51 11 A List of favorite videos is a -- it's -- it's
13:54:54 12 a piece of functionality provided by the YouTube site
13:54:57 13 that allows a user to -- to, you know, if when they
13:55:03 14 see a video that -- that they particularly like, to
13:55:08 15 add it to a list that is stored on the YouTube systems
13:55:11 16 and then it can be retrieved later on and referred to.

13:55:14 17 Q Okay. So is "Top Favorited" and "Most
13:55:20 18 Discussed" also ways that YouTube measures the
13:55:24 19 popularity of a video?

13:55:26 20 MR. WILLEN: Objection; calls for
13:55:27 21 speculation.

13:55:29 22 MR. DESANCTIS: Again, that does not call for
13:55:31 23 speculation. How does that call for speculation?

13:55:33 24 MR. WILLEN: How does -- there's no
13:55:34 25 foundation that he knows what YouTube thinks about the

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1 DO

2 14:28:23 But as you look at it, this is a document

3 14:28:27 numbered GOO001-242242 through 242244. The top

4 14:28:42 e-mail, it's a chain of e-mails, the top of which is

5 14:28:46 dated June 15th, 2007.

6 14:29:43 A Okay.

7 14:29:45 Q Mr. Do, were you aware of a cor- --

8 14:29:48 correlation in June of 2007 between those videos that

9 14:29:55 are most heavily favorited and whether a video is

10 14:30:00 copyrighted?

11 14:30:01 MR. WILLEN: Objection.

12 14:30:04 THE WITNESS: I was not aware.

13 14:30:05 MR. DESANCTIS: Okay.

14 14:30:09 Q Let me direct your attention to the second

15 14:30:13 paragraph of Exhibit 10 under which -- first of all,

16 14:30:23 let me just state for the record, you are CCed on this

17 14:30:25 e-mail chain, correct, up at the top?

18 14:30:31 A Yes.

19 14:30:31 Q Okay. Let me point you down to the second

20 14:30:34 paragraph under the heading Jack Mc- -- "Jake McGuire

21 14:30:38 wrote:"; and I'm going to ask you who is Jake McGuire?

22 14:30:41 A Jake McGuire is a co-worker who works at

23 14:30:45 YouTube as a software engineer.

24 14:30:50 Q Okay. Was he a software engineer in June

25 14:30:52 2007?

1

DO

2 14:31:06 A Yes.

3 14:31:06 Q I'll just read the whole thing so that a

4 14:31:10 complete version is in the record.

5 14:31:12 "We undeleted" -- this is from Jake

6 14:31:14 McGuire -- "We undeleted -- we undelete videos all the

7 14:31:18 time. Right now we queue up the favorite deletion

8 14:31:21 when we take videos down, but the queue is currently

9 14:31:24 about a week behind and getting worse. I think this

10 14:31:28 is partly due to generally increased site volume, but

11 14:31:31 also get the sense that the volume of copyrighted

12 14:31:33 takedowns has increased dramatically and copyrighted

13 14:31:36 videos tend to be more heavily favorited."

14 14:31:40 Do you know, Mr. Do, whether -- what he's

15 14:31:54 referring to when he says "We undelete videos all the

16 14:31:58 time"? Do you know what "undelete videos" means?

17 14:32:05 A That would be conjecture on my part. I don't

18 14:32:07 know what he's referring to specifically.

19 14:32:08 Q Okay. And obviously you can't get inside

20 14:32:11 Jake McGuire's head, let alone the text of an e-mail,

21 14:32:14 but is "undeleting videos" a term that you and others

22 14:32:17 use at YouTube?

23 14:32:19 A No.

24 14:32:20 Q Okay. The next sentence is "Right now we

25 14:32:25 queue up the favorite deletion when we take videos

1 DO

2 15:51:27 MR. WILLEN: Yeah, and I think the vagueness
3 15:51:28 is, at least in my own mind, is what the information
4 15:51:30 that we're talking about is, and maybe he understands,
5 15:51:37 but I'm not sure that I do.

6 15:51:38 MR. DESANCTIS: Okay. My -- the earlier
7 15:51:46 dialogue that I was having with the witness was about
8 15:51:51 how I could find out the types of actions that are
9 15:51:59 logged in the ut_user_action table, and I asked if one
10 15:52:08 could look to source code, and you said, yes, but you
11 15:52:14 could also ask a colleague.

12 15:52:17 Q And my question is, which colleague would you
13 15:52:19 ask?

14 15:52:23 A I wouldn't know exactly, so I would talk to
15 15:52:25 Mike as a first attempt, Mike Solomon.

16 15:53:13 Q Much earlier today, Mr. Do, you mentioned
17 15:53:23 private videos. What are private videos?

18 15:53:29 A What time frame are you referring to?

19 15:53:35 Q You can choose any time frame you like. I --
20 15:53:38 I'm just -- right now, I'm just talking -- I'm just
21 15:53:42 asking in a general sense how it -- how, in general,
22 15:53:45 is a private video different from a public video, and
23 15:53:48 then we can drill down on details?

24 15:53:51 A Okay. Generally, private videos are videos
25 15:53:56 that at the time of -- of upload, the user specified

1 DO

2 15:54:02 as, you know, wanting to be private.

3 15:54:04 What that means is that the -- not every

4 15:54:10 single user on the YouTube site, not -- an arbitrary

5 15:54:14 user on the YouTube site may not be able to see the

6 15:54:17 video. They can only see the video if they had a --

7 15:54:21 if the uploader of the video chose to allow it for

8 15:54:25 that user.

9 15:54:26 Q Okay. And how many -- I'm sorry. Let me --

10 15:54:45 let me go back for a second.

11 15:54:51 Did I -- what happened? Can you hear me now?

12 15:55:02 Do you want to go off the record for a minute?

13 15:55:04 THE VIDEOGRAPHER: It's on.

14 15:55:05 MR. DESANCTIS: You good now?

15 15:55:09 Q I just want to go back, you know, for a

16 15:55:12 minute to the -- what we were talking about in foreign

17 15:55:15 terms of could we look to the code or would you ask a

18 15:55:18 colleague for -- to determine what information or what

19 15:55:23 actions are logged in the fields we were discussing,

20 15:55:27 in the tables we were discussing within the logging

21 15:55:30 database.

22 15:55:30 My question is, you stated that not all

23 15:55:36 changes are reflected in the code, and that's why you

24 15:55:39 would -- could also go to a colleague --

25 15:55:42 A Yes.

1 DO

2 16:04:46 that a private video is different from a public video?

3 16:04:50 Let me start this way: Are they both on

4 16:04:53 YouTube?

5 16:04:54 MR. WILLEN: Objection to the form.

6 16:04:58 THE WITNESS: Yes.

7 16:05:00 MR. DESANCTIS: Okay.

8 16:05:00 Q And so how -- how is -- how is a private

9 16:05:03 video different from a public video?

10 16:05:07 A Private video can only be watched by the

11 16:05:11 YouTube users that the uploader of the video has

12 16:05:17 authorized to view it.

13 16:05:21 Q Okay. And is it true that a public video can

14 16:05:30 be viewed by anybody who visits the YouTube.com site?

15 16:05:45 A No.

16 16:05:45 Q Okay. Who can't see a video -- who cannot

17 16:05:49 see a public video on YouTube.com?

18 16:05:59 A If a video is indicated as being racy --

19 16:06:05 Q Okay.

20 16:06:06 A -- and the user does not affirm that they are

21 16:06:09 above the legal age, they cannot watch the video.

22 16:06:12 Q Okay. Any other scenarios?

23 16:06:26 A If the video has been -- if the playback --

24 16:06:34 if the uploader of the video has not -- has prevented

25 16:06:42 or has specified that they only want the video to be

DO

1
2 16:06:47 playable in certain countries, and you're not in --
3 16:06:51 and the viewer is not in one of those countries, that
4 16:06:55 they will not be able to view the video.

5 16:06:57 Q Okay. By contrast, you testified a mo- -- a
6 16:07:09 moment ago that a private video can only be watched by
7 16:07:12 the YouTube users that the uploader of the video has
8 16:07:15 authorized to view it.

9 16:07:17 Is there a limit on the number of users that
10 16:07:20 the upload of the -- uploader of a video can authorize
11 16:07:25 to view a private video?

12 16:07:30 A Yes.

13 16:07:30 Q What is -- what is that limit, and if dates
14 16:07:38 are relevant, why don't we say, you know, at the -- at
15 16:07:41 the time you went on leave from YouTube?

16 16:07:44 A The last time I saw, and I -- I did not check
17 16:07:46 it right before I --

18 16:07:48 Q Sure.

19 16:07:48 A -- went on leave, was 25.

20 16:07:50 Q 25.

21 16:07:55 Are you aware of any time in YouTube's
22 16:07:57 history whether that number was something different
23 16:07:59 than 25 or has it always been 25?

24 16:08:08 A It has not always been 25.

25 16:08:12 Q Okay. What else do you recall it being?

1 DO

2 16:08:17 A I recall that earlier on there -- I don't
3 16:08:23 believe that there was a limit to the number of users.

4 16:08:30 Q What time period was there no limit to the
5 16:08:33 number of users?

6 16:08:35 A I do not remember the exact timing.

7 16:08:37 Q If there was no limit to the number of users,
8 16:08:41 in what sense would it be private?

9 16:08:44 MR. WILLEN: Objection to the form; calls for
10 16:08:46 speculation. I'm not sure it's even a question.

11 16:08:55 THE WITNESS: The -- it was still the case
12 16:09:01 that for the private videos that the user had to
13 16:09:04 specify who had access to the video. So a user that
14 16:09:08 was not on that list of authorized users could not
15 16:09:12 watch the video.

16 16:09:13 MR. DESANCTIS: I see.

17 16:09:41 Q I asked you what time period was there no
18 16:09:48 limit to the number of users, and you said, "I do not
19 16:09:51 remember the exact timing."

20 16:09:53 Do you remember approximately what the timing
21 16:09:55 was?

22 16:10:11 A Maybe in -- some time in 2007.

23 16:10:15 Q So from the -- are you saying that from
24 16:10:18 the -- from the genesis of YouTube through some time
25 16:10:21 in 2007, there was no limit?

DO

- 1
- 2 16:10:24 A I'm not saying that.
- 3 16:10:25 Q Okay. What are you saying with respect to
- 4 16:10:29 your estimate of the time when there was no limit?
- 5 16:10:34 A I'm saying that between the time that I first
- 6 16:10:36 saw the -- the feature of private videos to some time,
- 7 16:10:42 I believe, in 2007, there was no limit --
- 8 16:10:46 Q Okay.
- 9 16:10:46 A -- to the users.
- 10 16:10:47 Q Do you recall when you first saw the feature
- 11 16:10:49 of private videos?
- 12 16:10:57 A It was -- I can't pinpoint it exactly.
- 13 16:10:58 Q Do you recall whether the feature of private
- 14 16:11:00 videos was added after you became a YouTube employee
- 15 16:11:03 or whether it was already there when you became a
- 16 16:11:05 YouTube employee?
- 17 16:11:14 A I believe it was there around the time I
- 18 16:11:16 started.
- 19 16:11:17 Q Okay. When a user uploads a video, can he or
- 20 16:11:30 she indicate at that time whether he wants the video
- 21 16:11:33 to be public or private?
- 22 16:11:36 A Yes.
- 23 16:11:37 Q Can he or she -- and -- and -- and is that
- 24 16:11:47 action logged anywhere?
- 25 16:11:51 MR. WILLEN: Objection to the form.

1 DO

2 16:46:24 point in time, or are you just saying not now,

3 16:46:26 obviously, because you're on leave?

4 16:46:28 A I'm saying prior to my becoming a manager.

5 16:46:31 Q Prior to you becoming a manager.

6 16:46:33 And when did you become a manager?

7 16:46:37 A It was around the time frame of -- it was

8 16:46:43 around the time frame of the acquisition, late 2006,

9 16:46:46 early 2007, I think.

10 16:46:47 Q Okay. And since -- since then, have you

11 16:46:52 written any code or have you just simply done it less

12 16:46:55 frequently?

13 16:46:59 A I've written some code.

14 16:47:00 Q Okay. Do I assume correctly that you read

15 16:47:09 Python -- you read and write Python?

16 16:47:11 A Yes.

17 16:47:11 Q Okay. And what -- can you just explain what

18 16:47:14 Python is.

19 16:47:14 A Python is a computer programming language.

20 16:47:20 Q Okay. And is that the language in which the

21 16:47:24 majority of the code that runs the YouTube site is

22 16:47:27 written in?

23 16:47:29 A Yes.

24 16:47:29 Q Okay.

25 16:47:40 ///

1 DO

2 16:50:44 plaintiffs in this lawsuit?

3 16:50:45 A I am not aware of what production has

4 16:50:46 occurred.

5 16:50:47 Q Okay. Are you aware of any -- are -- are you

6 16:50:50 aware of anyone else extracting source code for

7 16:50:56 production in this case?

8 16:50:59 A I have not heard of it.

9 16:51:00 Q Okay. Let me direct your attention to page

10 16:51:04 three of what's been marked Exhibit 13. Now, this is

11 16:51:19 in a file named at the top "search.py"; correct?

12 16:51:27 A Yes.

13 16:51:27 Q Okay. And what is the function of the --

14 16:51:30 what -- what, in a very general sense, is the function

15 16:51:36 of the file entitled "search.py," if you -- if you

16 16:51:39 know?

17 16:51:40 A The general function was, prior to YouTube

18 16:51:45 integrating with Google Search, to provide search

19 16:51:50 functionalities in response to user search queries.

20 16:51:54 Q Okay. Did you write any of the code in

21 16:51:57 search.py file?

22 16:52:02 A I may have written fragments of it.

23 16:52:04 Q Okay. Let me direct your attention to page

24 16:52:08 three. In the middle of the page, approximately the

25 16:52:12 middle, there's a number sign followed by the word

1 DO

2 16:52:17 [REDACTED] and it continues; do you -- do you see

3 16:52:20 that?

4 16:52:20 A Yes.

5 16:52:20 Q Does the number sign indicate that this is a

6 16:52:23 comment or does it indicate something different?

7 16:52:26 A It indicates the comment.

8 16:52:27 Q Okay. And the comment is [REDACTED]

9 16:52:32 [REDACTED]

10 16:52:37 [REDACTED]

11 16:52:40 [REDACTED]

12 16:52:43 [REDACTED]

13 16:52:45 Mr. Do, are you familiar with the concept of

14 16:52:48 a [REDACTED] in relation to the search function?

15 16:52:54 A I am generally familiar.

16 16:52:55 Q Okay. Can you describe, in general terms,

17 16:52:57 what it means -- what a -- what a [REDACTED] is.

18 16:53:00 A It is a -- it is a [REDACTED]

19 16:53:10 [REDACTED].

20 16:53:13 Q Okay. And the comment continue -- well,

21 16:53:31 the -- I -- I just read the comment that is there in

22 16:53:35 the middle of page three. Below that begins some --

23 16:53:38 some live code that is not a comment; correct?

24 16:53:41 A Yes.

25 16:53:41 Q Okay. And the first line, is it correct that

1 DO

2 16:53:56 what the first line is doing is indicating that [REDACTED]

3 16:54:01 [REDACTED]

4 16:54:04 [REDACTED]

5 16:54:07 [REDACTED]

6 16:54:14 A No.

7 16:54:14 Q Okay. What is it doing?

8 16:54:16 A It is taking -- [REDACTED]

9 16:54:22 [REDACTED]

10 16:54:27 [REDACTED]

11 16:54:30 Q Okay. And that's [REDACTED]

12 16:54:33 [REDACTED] ?

13 16:54:37 A Yes.

14 16:54:37 Q Okay. And what does [REDACTED] mean?

15 16:54:43 A I need to look back at the code to make sure

16 16:54:45 that I have what it actually means.

17 16:54:55 Q Okay.

18 16:55:28 A Okay. I -- I see the line of code that --

19 16:55:30 that calculates it.

20 16:55:31 Q Okay. So -- so what is an [REDACTED] --

21 16:55:34 what does a rating mean?

22 16:55:36 A A [REDACTED] is -- is a -- is something that's

23 16:55:42 [REDACTED]

24 16:55:47 [REDACTED]

25 16:55:49 Q Okay.

1 DO

2 16:55:51 A And it's a [REDACTED].

3 16:55:52 Q I see.

4 16:55:53 So a -- a -- a user who is other than the

5 16:55:55 uploader can watch a video, and when they watch a

6 16:55:58 video, they can [REDACTED]?

7 16:56:00 A Yes, they have the option.

8 16:56:01 Q Okay. And what this is referring to on page

9 16:56:04 three of Exhibit 13 is the [REDACTED] of a -- of a

10 16:56:07 particular video; correct?

11 16:56:09 A Yes.

12 16:56:09 Q Okay. We talked about what happens if the

13 16:56:15 [REDACTED]. Then, we're

14 16:56:19 told, are we not, that if the [REDACTED]

15 16:56:21 [REDACTED]

16 16:56:27 [REDACTED]

17 16:56:29 A Yes.

18 16:56:29 Q Okay. I just want to make sure I'm reading

19 16:56:34 this correctly.

20 16:56:35 Now, if you go down several lines, do you

21 16:56:39 see, [REDACTED]

22 16:56:44 [REDACTED]? Do you see that line?

23 16:56:51 A Yes.

24 16:56:51 Q Okay. Is -- is that indicating that if the

25 16:56:56 [REDACTED]

1 DO

2 16:57:04 [REDACTED]?

3 16:57:13 A Yes.

4 16:57:13 Q Okay. And if the video has been [REDACTED]

5 16:57:15 [REDACTED];

6 16:57:21 correct?

7 16:57:24 A Yes.

8 16:57:24 Q Is that an [REDACTED]? Do you know if

9 16:57:33 those are [REDACTED]?

10 16:57:34 A It is [REDACTED].

11 16:57:39 Q Okay. That's all I have on that; okay.

12 16:58:27 Can I take it?

13 16:58:28 MS. MAGUIRE: Yeah.

14 16:58:30 (Document marked Do Exhibit 14

15 16:58:30 for identification.)

16 16:58:30 MR. DESANCTIS: Let me show you, Mr. Do, what

17 16:58:33 has been marked as Do Exhibit 14. Copies of this are

18 16:58:42 being given to counsel.

19 16:59:17 Q This is a multi-page document numbered

20 16:59:19 G00001-2581772 through 2 -- 2581805.

21 16:59:39 And the first page is an e-mail from Mike

22 16:59:55 Solomon to Cuong Do, dated June 15th, 2007, and

23 16:59:59 attached to it is what appears to be a presentation of

24 17:00:04 slides.

25 17:00:04 Mr. Do, are -- are you familiar with this

1 DO

2 17:18:18 video servers, we, at some point later on, did not

3 17:18:25 copy the original file across both of the machines.

4 17:18:28 The -- the original file did not reside on both video

5 17:18:31 servers.

6 17:18:37 Q I see.

7 17:18:37 So if I understand correctly, and I'm just

8 17:18:39 trying to make sure I do, at this later point in time,

9 17:18:45 there would -- there would be the original, a

10 17:18:53 transcoded file, and a copy of the transcoded file,

11 17:18:57 for a total of three; is that correct?

12 17:19:00 A That was generally the case.

13 17:19:01 Q Okay. And what time period was that the

14 17:19:06 practice?

15 17:19:08 A I don't know when it started.

16 17:19:10 Q Okay. Is it still the practice -- was it

17 17:19:12 still the practice, as far as you know, at the time

18 17:19:14 you went on leave?

19 17:19:19 A I do not know what we did with the original

20 17:19:22 video files at that point.

21 17:19:23 Q Okay. Was there a -- did there ever come a

22 17:19:35 time when additional transcoded copies were made, for

23 17:19:40 example, to H.264 or -- or other formats other than

24 17:19:50 flash?

25 17:19:51 MR. WILLEN: Objection to the form.

1 DO

2 17:19:55 THE WITNESS: Later on, at some point, we

3 17:19:58 introduced, you know, H.264 video format.

4 17:20:04 MR. DESANCTIS: Okay.

5 17:20:04 Q Did you introduce any other formats? "You"

6 17:20:07 meaning YouTube, not you personally.

7 17:20:14 A Yes.

8 17:20:14 Q Which? Can you identify them, please.

9 17:20:15 A I believe that the system was modified to

10 17:20:18 support something called the "3GPP standard."

11 17:20:29 Q Okay.

12 17:20:41 A I think those were the three standards.

13 17:20:42 Q Okay. If initially you were -- YouTube was

14 17:20:45 transcoding all videos to a copy in flash format, why

15 17:20:54 did it -- why did YouTube begin making copies

16 17:20:58 transcoded in these other formats as well, if you

17 17:21:01 know?

18 17:21:02 MR. WILLEN: Objection; lacks foundation.

19 17:21:03 THE WITNESS: I was not part of those

20 17:21:06 decisions.

21 17:21:07 MR. DESANCTIS: Okay.

22 17:21:10 Q Do you know what the copies -- what

23 17:21:12 applications copies in -- in these other formats

24 17:21:16 serve?

25 17:21:17 MR. WILLEN: Objection to the form.

1 DO

2 17:21:19 THE WITNESS: As far as I know, the 3GPP

3 17:21:25 standard was for some set of mobile phones.

4 17:21:29 MR. DESANCTIS: Okay.

5 17:21:30 THE WITNESS: And the H.264 format was served

6 17:21:35 primarily to -- I believe, to the Apple TV.

7 17:21:35 MR. DESANCTIS: Okay.

8 17:21:47 Q So let's take a situation where a copy is

9 17:21:52 made from the original into H.264 format.

10 17:21:59 So, at that point, there's an original and

11 17:22:02 there's a copy in H.264 format. Would YouTube also

12 17:22:08 have made an -- an additional copy in flash format, or

13 17:22:14 were there instances where it only -- YouTube only

14 17:22:17 made a copy in H.264 format?

15 17:22:20 MR. WILLEN: Objection to form; vague as to

16 17:22:22 time.

17 17:22:23 THE WITNESS: I don't know the answer for

18 17:22:27 certain.

19 17:22:30 MR. DESANCTIS: Okay.

20 17:22:30 Q What I'm getting at is, were these new

21 17:22:33 formats additive or did they replace flash for certain

22 17:22:36 types of videos, if you know?

23 17:22:38 MR. WILLEN: Objection to the form.

24 17:22:39 THE WITNESS: Generally, the ones that I know

25 17:22:45 of were -- supplemented the flash video file.