

EXHIBIT O

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
No. 1:10-cv-00569-RJA

-----)
PAUL D. CEGLIA,)
))
Plaintiff,)
))
vs.)
))
MARK ELLIOT ZUCKERBERG,)
Individually, and)
FACEBOOK, INC. ,)
))
Defendants.)

Gibson, Dunn & Crutcher
200 Park Avenue
New York, New York 10166-0193
July 16, 2012
10:06 A.M.

VIDEOTAPED DEPOSITION OF
Walter John Rantanen, II

Reported by:
DEBRA SAPIO LYONS, RDR, CRR, CCR, CPE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

July 16, 2012

Videotaped deposition of Walter John Rantanen, II, held at the offices of Gibson, Dunn & Crutcher, 200 Park Avenue, New York, New York 10166-0193, before Debra Sapio Lyons, a Registered Diplomat Reporter, a Certified Realtime Reporter, a Certified LiveNote Reporter, an Approved Reporter of the United States District Court for the Eastern District of Pennsylvania, a Certified Court Reporter of the State of New Jersey, a Notary Public of the States of New Jersey, New York and the Commonwealth of Pennsylvania.

1 APPEARANCES:

2 BOLAND LEGAL

3 BY: DEAN BOLAND, ESQUIRE

4 1475 Warren Road #770724

5 Lakewood, Ohio 44107

6 216.236.8080

7 dean@bolandlegal.com

8 Counsel for Paul D. Ceglia

9 GIBSON, DUNN & CRUTCHER

10 BY: MATTHEW BENJAMIN, ESQUIRE

11 ALEXANDER H. SOUTHWELL, ESQUIRE

12 AMANDA AYCOCK, ESQUIRE

13 200 Park Avenue

14 New York, New York 10166-0193

15 212.351.4079

16 212.351.3981

17 212.351.2347

18 mbenjamin@gibsondunn.com

19 asouthwell@gibsondunn.com

20 aaycock@gibsondunn.com

21 Counsel for Mark Elliot

22 Zuckerberg, Individually, and

23 Facebook, Inc.

24 ALSO PRESENT:

25 JAMES THOMPSON

Gibson Dunn

DEVERELL WRITE, Videographer

Veritext New York

1 Walter J. Rantanen, II

2 A. I'm -- I'm sorry. Could you
3 say that again?

4 Q. The conclusion that the
5 samples are consistent with coming from
6 the same mill and production run means
7 that that possibility cannot be
8 rejected as factually impossible?

9 A. Right, correct.

10 Q. It's also not factually
11 impossible that they came from
12 different mills?

13 A. True.

14 Q. Or different production
15 runs?

16 A. True.

17 Q. You just couldn't
18 differentiate the samples at this level
19 of analysis?

20 A. Correct.

21 Q. And as you previously
22 testified, a single run can produce
23 millions of sheets of paper; right?

24 A. Well, you mentioned a
25 million and I said that seemed kind of

1 Walter J. Rantanen, II

2 A. There you go.

3 Q. Do you see that?

4 A. Yes, I do.

5 Q. And about halfway down
6 Paragraph 164 he writes, "What that
7 means," referring to your conclusion in
8 your report, "What that means is that
9 the actual sheets of paper that were
10 used for Page 1 and Page 2 of the
11 Facebook contract pages were created on
12 the same day."

13 Did I read that correctly?

14 A. That's what I -- I read.

15 Q. And as you previously
16 testified, you did not conclude that
17 the paper samples you examined came, in
18 fact, from the same production run;
19 right?

20 A. I said it was consistent
21 with. I did not say it definitely came
22 from that production run.

23 Q. Right. And as you
24 previously testified, a production run
25 can last more than one day; right?

1 Walter J. Rantanen, II

2 A. Yes.

3 Q. So this statement in
4 Paragraph 164 of Mr. Blanco's sworn
5 report is untrue?

6 MR. BOLAND: Objection.

7 THE WITNESS: It -- I -- I
8 think it's missing the word
9 possibly.

10 BY MR. BENJAMIN:

11 Q. In other words, if you were
12 to rewrite this sentence so that it was
13 accurate, you would include the
14 words -- the word "possibly" before
15 "created on the same day"?

16 A. Yes.

17 Q. But this sentence does not
18 include the word possible -- possibly?

19 A. No, it does not.

20 Q. And to be clear, you are not
21 offering the opinion that the paper
22 samples you examined were created on
23 the same day; right?

24 A. Yes, I'm not offering that
25 opinion.

1 Walter J. Rantanen, II

2 Q. So as written, this
3 statement isn't accurate; right?

4 A. Yes.

5 Q. Now, Mr. Blanco had an
6 opportunity to examine each full page
7 of the purported contract at issue in
8 this case, but as you testified
9 earlier, you didn't have that
10 opportunity; right?

11 A. No, I did not see the full
12 document.

13 Q. Right. So you didn't
14 examine the opacity of each page of --

15 A. Right.

16 Q. -- the document; right?

17 A. That's correct.

18 Q. You didn't examine the
19 texture of each page of the document;
20 right?

21 A. That's correct.

22 Q. And you didn't conduct any
23 physical measurements on each full page
24 of the document; right?

25 A. That's correct.

1 Walter J. Rantanen, II

2 Q. Needless to say, your
3 analysis did not confirm that the
4 opacity of Page 1 and Page 2 of the
5 document is the same; right?

6 A. That's correct.

7 Q. Nor did your analysis
8 confirm that the coddling of Page 1 and
9 Page 2 of the document is the same;
10 right?

11 A. What -- what is the meaning
12 of coddling?

13 Q. Have you ever heard that
14 word coddling used in reference to the
15 analysis of paper?

16 A. I've heard cockling.

17 Q. What is cockling?

18 A. Cockling is where the -- you
19 get a roughness in the sheet.

20 Q. Like a wrinkling?

21 A. Yes.

22 What -- what is coddling?

23 Q. You know, honestly I'm not
24 sure, so let's go with cockling.

25 Your analysis did not

1 Walter J. Rantanen, II
2 confirm that the cockling of Page 1 and
3 Page 2 of the document is the same;
4 right?

5 A. I -- there was no way I
6 could tell that.

7 Q. Of course. So at Paragraph
8 165 on the same page, Mr. Blanco
9 writes, "This chemical testing report
10 by Walter J. Rantanen confirms my
11 measurements and visual examinations.
12 That is, I previously reported that the
13 results of my inspection was that
14 'these features were the same between
15 both pages' (Document 194, Paragraph
16 21.e) and now we have the chemical
17 analysis by IPS Testing Experts that
18 supports my initial measurements and
19 visual observations that the paper of
20 Page 1 and Page 2 of the Faceback (sic)
21 contract are the same."

22 Did I read that correctly?

23 A. I believe so.

24 MR. BENJAMIN: I would ask
25 the Court Reporter to mark as

1 Walter J. Rantanen, II
2 Defendant's Exhibit 36 the November
3 8th, 2011 Declaration cited in
4 Paragraph 165 of Mr. Blanco's
5 report.

6 (Exhibit Defendant's Exhibit
7 36, November 1st, 2011 Declaration
8 Of James A. Blanco In Support Of
9 Motion For Sanctions Against
10 Defendants For Spoliation Of
11 Evidence, is marked for
12 identification.)

13 MR. BENJAMIN: Mr. Boland.

14 MR. BOLAND: Thanks.

15 BY MR. BENJAMIN:

16 Q. I'm now handing you
17 Defendant's Exhibit 36, Mr. Rantanen.

18 I'm sorry. I described that
19 incorrectly on the record. I described
20 it as a November 8th declaration. It's
21 actually was filed November 1st, 2011.

22 Do you see that date at the
23 top?

24 A. Oh, up here, yes.

25 Q. Yes.

1 Walter J. Rantanen, II

2 A. Okay. Yes.

3 Q. And that in Paragraph 165
4 Mr. Blanco refers to Document 194, is
5 that right, of -- of the report that I
6 just read?

7 A. Yes.

8 Q. And the words Document 194
9 are at the top of this document,
10 Defendant's Exhibit 36?

11 A. Yes.

12 Q. Okay. And at Paragraph 21.e
13 on Page 7, Mr. Blanco wrote, "I
14 examined the opacity and the coddling
15 features, parentheses, texture of Pages
16 1 and 2 of the Facebook contract and
17 these features were the same between
18 both pages."

19 A. I'm -- I'm sorry. I guess
20 I -- I got lost there. Where --

21 Q. Oh, that -- that's okay.

22 A. -- where are you?

23 Q. I'm on -- in the Declaration
24 that I just handed you, Defendant's
25 Exhibit 36 --

1 Walter J. Rantanen, II

2 A. On Page 7.

3 Q. -- Page 7 and then do you
4 see there's a Paragraph 21?

5 A. Oh.

6 Q. And then there's a little a,
7 b, c, d, e --

8 A. Yes.

9 Q. -- is that right?
10 And do you see e?

11 A. Yes.

12 Q. And does that read, "I
13 examined the opacity and the coddling
14 features, texture, of Pages 1 and 2 of
15 the Facebook contract and these
16 features were the same between both
17 pages."

18 A. Yes, I see that.

19 Q. I read that correctly?

20 A. Yes, I -- I see that, yes.

21 Q. And I read that correctly?

22 A. Yes.

23 Q. Okay. As you previously
24 testified, your analysis did not
25 confirm any measurements of the opacity

1 Walter J. Rantanen, II
2 of the work-for-hire document; right?

3 A. No, I did not confirm any.

4 Q. You didn't measure the
5 opacity of --

6 A. No.

7 Q. -- any document?

8 A. No.

9 Q. And your report did not
10 confirm Mr. Blanco's measurements of
11 the texture of the document; right?

12 A. That's correct 'cause I --
13 you pretty much need a bigger area in
14 order to see that.

15 Q. Right. What Mr. Blanco
16 refers to as the coddling of the
17 document?

18 A. Yes.

19 Q. You testified that's -- the
20 proper term is cockling?

21 A. No, that -- I think that's
22 something else. I think what he means
23 is the finish, the surface finish.

24 From what he's written here, that's
25 what it appears. I've -- I've never

1 Walter J. Rantanen, II

2 heard coddling before, but...

3 Q. Okay. So just to summarize,
4 Mr. Blanco asserted that your analysis
5 confirmed that Page 1 and Page 2 of the
6 document are actually from the same
7 production run. Mr. Blanco's statement
8 is incorrect; right?

9 MR. BOLAND: Objection.

10 THE WITNESS: As stating
11 absolutely that it would be from the
12 same run, yes, that is incorrect.

13 BY MR. BENJAMIN:

14 Q. Mr. Blanco asserted that
15 your analysis confirmed that Page 1 and
16 Page 2 of the document, quote, "Were
17 created on the same day," end quote.
18 That statement is incorrect; right?

19 A. Yes, I could not definitely
20 say that.

21 Q. Mr. Blanco asserted that
22 your analysis confirmed that Page 1 and
23 Page 2 of the document have the same
24 opacity. That statement is incorrect;
25 right?

1 Walter J. Rantanen, II

2 A. Yes, I could not measure the
3 opacity.

4 Q. Mr. Blanco asserted that
5 your analysis confirmed that Page 1 and
6 Page 2 of the document have the same
7 texture.

8 A. That --

9 Q. That statement is incorrect.

10 A. Yes, 'cause I could not tell
11 that with the small amount of sample.

12 Q. And, in fact, you didn't
13 examine the full Page 1 or 2 of the
14 document; right?

15 A. Yes, that is correct.

16 Q. Thank you.

17 Mr. Rantanen, in your report
18 you refer to punch outs. Is that your
19 term for the .75 -- approximately .75
20 millimeter samples that you were
21 provided?

22 A. Yes. They are -- I suspect
23 they were -- it's a micro punch I
24 suspect. I didn't -- ink chemists tend
25 to use those to punch out areas to test