

Exhibit 15

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

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Highly Confidential

FUNCTION MEDIA, LLC,

)

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Plaintiff,

)

)

vs.

)

No. 2007-CV-279 (CE)

)

)

GOOGLE, INC. and YAHOO!, INC.,

)

)

Defendants.

)

)

ATTORNEYS EYES ONLY

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

30 (b)(6) Deposition of

MATTHEW PLUMMER

VOLUME I, Pages 1 - 227

Thursday, March 19, 2009

Reported by:

GEORGE SCHUMER, CSR 3326

1 at Yahoo, sir?

10:18:36

2 A. Director of product management.

10:18:38

3 Q. What do you do as director of product
4 management?

10:18:40

10:18:42

5 A. I oversee the conceptual design of the
6 products that we should be building; enhancements to
7 those products; release cadence for those products.

10:18:42

10:18:44

10:18:47

8 Q. When you say "products," are you referring
9 both to Yahoo Search Marketing and Yahoo Publisher
10 Network?

10:18:54

10:18:56

10:19:00

11 A. No.

10:19:00

12 Q. To what are you referring?

10:19:01

13 A. We have -- personally I'm involved in a
14 separate set of on-line advertising products.

10:19:03

10:19:08

15 Q. What is that separate set called?

10:19:11

16 A. "APT from Yahoo."

10:19:13

17 Q. Are you involved in anything other than APT
18 for Yahoo?

10:19:17

10:19:24

19 A. At the moment, no.

10:19:25

20 Q. What is "APT for Yahoo"?

10:19:28

21 MR. LUMISH: You can answer in general terms.

10:19:34

22 Object as beyond the scope of the notice.

10:19:36

23 MR. BRANDON: I would say that an objection
24 for beyond the scope is not proper in the Eastern

10:19:39

10:19:43

25 District. And moreover, Mr. Plummer is here in his

10:19:47

1 personal capacity.

10:19:49

2 MR. LUMISH: I'm not saying you can't ask him.

10:19:50

3 I just want it to be clear he's not a 30(b)(6) witness

10:19:52

4 on this topic.

10:19:56

5 THE WITNESS: APT for Yahoo is an out-serving

10:19:57

6 platform.

10:20:01

7 MR. BRANDON: Q. What does that mean?

10:20:02

8 A. It is a platform that enables Yahoo to serve

10:20:03

9 advertisements to users, and for Yahoo to manage how

10:20:07

10 those -- how the inventory is priced and classified.

10:20:12

11 Q. When you say "a platform that enables Yahoo to

10:20:23

12 serve advertisements to users," what sort of users are

10:20:31

13 you referring to?

10:20:35

14 A. Regular users surfing the Internet.

10:20:36

15 Q. Where are the advertisements provided?

10:20:39

16 MR. LUMISH: Same objection.

10:20:49

17 THE WITNESS: Can you clarify your question,

10:20:50

18 please?

10:20:53

19 MR. BRANDON: Q. To whom does Yahoo serve the

10:20:53

20 advertisements?

10:21:01

21 A. On the APT platform?

10:21:01

22 Q. Yes.

10:21:07

23 A. To end users surfing web sites that belong to

10:21:08

24 publishers that are working with Yahoo, using APT.

10:21:12

25 Q. When was APT released?

10:21:21

1 A. APT was first released in -- I believe the
2 second quarter of 2008.

3 Q. So these are advertisements that appear on a
4 web site's web page, to end users?

5 MR. LUMISH: Object to the form, and same
6 scope objection.

7 THE WITNESS: These are advertisements that
8 are delivered to the end user, who is viewing a web
9 page.

10 MR. BRANDON: Q. And the advertisements are
11 displayed on the web page?

12 A. They are displayed in a web browser that a
13 user is using to look at a web page.

14 Q. So if I were to go to, say, CNN.com, and I see
15 ads on that web page, is that what you are referring
16 to?

17 A. CNN.com is not a customer of APT.

18 Q. Give me an example of a customer of APT,
19 please.

20 MR. LUMISH: Same objections.

21 THE WITNESS: San Francisco Gate. SFgate.com.

22 MR. BRANDON: Q. If I was to go to SFgate.com
23 and type that in my browser, a web page would appear on
24 the screen; is that correct?

25 A. Through your browser; correct.

10:21:24

10:21:29

10:21:35

10:21:39

10:21:44

10:21:46

10:21:48

10:21:51

10:21:54

10:21:54

10:21:56

10:21:57

10:22:01

10:22:06

10:22:09

10:22:13

10:22:13

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10:22:30

10:22:33

10:22:34

1 Q. And there would be content on that web page;

10:22:36

2 correct?

10:22:39

3 A. That is correct.

10:22:40

4 Q. And one of the things I would see would be an
5 advertisement that Yahoo has made available; correct?

10:22:40

10:22:44

6 A. An advertisement that Yahoo has delivered to
7 you; correct.

10:22:46

10:22:50

8 Q. How is APT for Yahoo different than, say,
9 Yahoo Publisher Network on line?

10:22:51

10:23:19

10 MR. LUMISH: Let me just interrupt you here.

10:23:22

11 The witness isn't here to talk about APT; it
12 is not an accused product. Our objections were pretty
13 clear on that. I've let you get some basic information
14 about it, but if you want to delve into the technical
15 details; the confidential material of it, I'm not going
16 to permit that.

10:23:23

10:23:27

10:23:30

10:23:33

10:23:35

10:23:39

17 You'll have to bring a motion for protective
18 order, if that's required. He's here, designated,
19 prepared, ready to go on YSM; YPN -- everything you put
20 in your infringement allegations. And that's it.

10:23:40

10:23:42

10:23:45

10:23:49

21 MR. BRANDON: He just testified, Mr. Lumish,
22 that APT for Yahoo was not issued until the second
23 quarter of 2008, which is after our infringement
24 contentions were served, as you know. He's here in his
25 personal capacity, as well as his corporate capacity,

10:23:53

10:23:56

10:24:00

10:24:03

10:24:06

1 for Yahoo. I believe I'm entitled to explore this
2 product with him.

3 I'm asking: Are you instructing him not to
4 answer?

5 MR. LUMISH: I will, sufficiently to give you
6 time to suspend the deposition. We can even suspend
7 the deposition and bring a motion, or you can ask about
8 other things, and we'll understand that I have
9 instructed him; he can't answer questions about
10 technical details of that product, because we'll bring
11 a protective order, because we think it is out of
12 bounds.

13 MR. BRANDON: What is your basis for believing
14 that APT for Yahoo is out of bounds, given that this is
15 what the witness does at the present time?

16 MR. LUMISH: It doesn't matter what he does.
17 He's also extremely knowledgeable about what you have
18 accused of infringement, and that's not APT. So he's
19 here to talk about this case; materials relevant to
20 this case. APT is not one of those. So that's my
21 basis.

22 MR. BRANDON: Are you instructing him not to
23 answer any further questions on APT for Yahoo?

24 MR. LUMISH: I'll have to hear what the
25 questions are; he's answered a number already. If it

10:24:08

10:24:11

10:24:12

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10:24:18

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10:24:26

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10:24:39

10:24:41

10:24:44

10:24:46

10:24:49

10:24:52

10:24:52

10:24:54

10:24:57

10:24:59

1 is basic and foundational: what does he do; what is
2 his position with the company -- I don't have a problem
3 with that.

4 If you want to get into technical details of
5 APT -- which are extremely confidential to the company,
6 and not at issue in this lawsuit -- then yes, I will
7 block it, subject to a motion for protective order,
8 sufficient for a motion to permit me time to bring that
9 motion.

10 MR. BRANDON: I do want to get into the
11 technical details of APT for Yahoo, but obviously we'll
12 respect your instruction.

13 MR. LUMISH: So we can meet and confer; we can
14 just bring a motion. We can take that up off line.

15 MR. BRANDON: And I would just say for the
16 record, again, as I'm sure you know, that these sorts
17 of objections I don't believe are proper in the Eastern
18 District, and there's opinions out there where
19 witnesses are not supposed to be instructed not to
20 answer, except on privilege grounds.

21 MR. LUMISH: That's true, that I can't
22 instruct him not to answer except on privilege grounds.
23 Except I can suspend the deposition to bring a motion
24 for protective order. There is a ton of law on that.

25 If you prefer to go that route, we can do it.

10:25:02
10:25:03
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10:25:06
10:25:08
10:25:10
10:25:12
10:25:15
10:25:18
10:25:18
10:25:21
10:25:25
10:25:27
10:25:29
10:25:32
10:25:45
10:25:48
10:25:51
10:25:52
10:25:56
10:25:58
10:26:00
10:26:03
10:26:06
10:26:09

1 I think that's not the way to proceed." You've got the
2 witness here; you might as well take his deposition on
3 the matters that are clearly in play.

4 If you want me to suspend the deposition to
5 bring a protective order, that is what I'm entitled to
6 do. I would rather not, but if you force me into that
7 boat, I'll do it.

8 MR. BRANDON: I do not want you to suspend the
9 deposition on the topics that I noticed for today.

10 MR. LUMISH: So the instructions are on that
11 ground. Maybe I misunderstand the Eastern District of
12 Texas rule, but what I understand the rule to be on
13 scope is that I can't instruct him not to answer
14 because it is beyond the scope. I can bring the motion
15 for a protective order. We have already talked about
16 that.

17 I'm just trying to note for the record when I
18 think it is beyond the scope, so it is clear when he is
19 or is not our corporate representative on any specific
20 question on that. Other than APT, I don't think
21 there's anything privileged on that; there is anything
22 you can explore. On the finances he won't know; he
23 won't be our corporate rep on that.

24 MR. BRANDON: I don't understand why you won't
25 let me explore APT. He's here; he knows all about it;

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10:26:13
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10:26:16
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10:26:40
10:26:42
10:26:44
10:26:47
10:26:47
10:26:49
10:26:53
10:26:56
10:26:59
10:27:02
10:27:05
10:27:08
10:27:09

1 time is 11:20.

11:20:43

2 [Phone call placed]

11:20:43

3 UNIDENTIFIED VOICE: I'm sorry that you have
4 reached Judge Guthrie's answering service. We're not
5 in right now. Please leave a message and we will call
6 you --

11:21:17

11:21:23

11:21:26

11:21:30

7 MR. LUMISH: That doesn't sound like the right
8 number.

11:21:32

11:21:36

9 MR. BRANDON: We can go off the record until
10 we get the Court on the phone.

11:22:02

11:22:04

11 (Discussion off the record)

11:22:07

12 THE VIDEOGRAPHER: Back on the record, the
13 time is 11:25.

11:24:50

11:24:58

14 MR. BRANDON: Q. Yahoo Publisher Network On
15 Line also has an on-line user interface; correct?

11:24:59

11:25:08

16 A. Yahoo Publisher Network On Line is sort of
17 what we refer to as that community of publishers, and
18 the software portion of the interface for those
19 publishers to use.

11:25:11

11:25:16

11:25:19

11:25:22

20 Q. And that community of publishers uses an
21 interface as accessible by the Internet; correct?

11:25:23

11:25:29

22 A. They use a software interface that uses a web
23 browser, that they can get to over the Internet.

11:25:33

11:25:38

24 Q. In the same way that we discussed the Yahoo
25 Search Marketing interface earlier, there is code that

11:25:41

11:25:49

1 contact their account management representative through 11:58:52
2 whatever various means. That account management 11:58:54
3 representative will do the required work internal to 11:58:57
4 Yahoo on behalf of the publisher, based on the request. 11:59:00

5 MR. BRANDON: I guess let's go off the record 11:59:05
6 and get Mr. Homrig in the room, and we can try to get 11:59:11
7 the Court in. 11:59:21

8 THE VIDEOGRAPHER: This concludes Videotape 1 11:59:23
9 in the deposition of Matthew Plummer. Going off the 11:59:28
10 record, the time is 11:59. 11:59:31

11 (Discussion off the record) 11:59:35

12 [Phone call made] 12:05:32

13 UNIDENTIFIED VOICE: Judge Guthrie's chambers. 12:05:35

14 MR. LUMISH: Good afternoon, my name is Doug 12:05:37
15 Lumish, an attorney in a case styled Function Media vs. 12:05:40
16 Yahoo. We're in the middle of a deposition, and we 12:05:44
17 have opposing counsel on the line, and we have a 12:05:48
18 dispute that we're hoping Judge Guthrie might resolve 12:05:48
19 for us. 12:05:52

20 UNIDENTIFIED VOICE: Are you calling the hot 12:05:53
21 line? 12:05:54

22 MR. LUMISH: Yes, ma'am. 12:05:54

23 UNIDENTIFIED VOICE: Hold on just a moment. 12:05:56

24 MS. TERRY GOODE: This is Terry Goode. 12:06:15

25 MR. LUMISH: My name is Doug Lumish, an 12:06:17

1 attorney for Yahoo. I've got opposing counsel, an 12:06:19
2 attorney for Function Media, on the line. We're having 12:06:22
3 a dispute in the midst of a deposition, and we're 12:06:24
4 hoping to get that resolved today. 12:06:29

5 MS. TERRY GOODE: The hot line judge is not 12:06:32
6 available. Who is your presiding judge? 12:06:36

7 MR. LUMISH: Judge Everingham. 12:06:36

8 MS. GOODE: Let him know the hot line judge is 12:06:36
9 not available today. That's really all I can do for 12:06:42
10 you. 12:06:45

11 MR. LUMISH: Thank you very much. 12:06:45

12 You want to do that, I assume? 12:06:52

13 MR. BRANDON: Sure. 12:06:54

14 [New phone call made] 12:07:26

15 CLERK'S OFFICE: This is Clerk's office -- 12:07:26
16 Charlene. 12:07:33

17 MR. LUMISH: I'm trying to reach Judge 12:07:33
18 Everingham. 12:07:40

19 CLERK'S OFFICE: I'll patch you through. 12:08:16

20 UNIDENTIFIED VOICE: Debbie Latham -- is not 12:08:23
21 Available at the moment. 12:08:26

22 MR. LUMISH: What do you want to do? 12:08:30

23 MR. BRANDON: Let's break for lunch, and then 12:08:32
24 we'll try the judge when we get back. 12:08:33

25 MR. LUMISH: I don't think we want to waste 12:08:36

1 for the night. Or I'll continue until you folks have
2 had it. I know you've got a car to pick up.

17:52:49

17:52:52

3 MR. LUMISH: Yes, why don't we close it out?

17:52:57

4 THE VIDEOGRAPHER: This concludes the
5 videotape deposition of Matthew Plummer. All
6 videotapes will be retained by Merrill Legal Solutions,
7 located at 315 Capitol, Suite 100, in Houston, Texas
8 77002.

17:53:00

17:53:01

17:53:04

17:53:08

17:53:17

9 The time is 5:53.

17:53:17

10 (Deposition continued, 5:53 p.m.)

11
12 DECLARATION OF WITNESS

13 I declare under penalty of perjury that
14 the foregoing is true and correct. Subscribed at
15 _____, California, this _____ day
16 of _____, 2009.

17
18 _____
19 Signature of witness
20
21
22
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24
25

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CERTIFICATE OF REPORTER

I, GEORGE SCHUMER, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript [] was ☒ was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: March 31, 2009


GEORGE SCHUMER, CSR No. 3326

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

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Highly Confidential

FUNCTION MEDIA, LLC,

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Plaintiff,

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vs.

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No. 2007-CV-279 (CE)

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GOOGLE, INC. and YAHOO!, INC.,

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ATTORNEYS EYES ONLY

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VOLUME II, Pages 228 - 450

30 (b)(6) Deposition of
MATTHEW PLUMMER

Friday, March 20, 2009

Reported by:

GEORGE SCHUMER, CSR 3326

1 I think it is perfect for you to understand 12:34:39
2 there were other interfaces and usage, for example, and 12:34:44
3 if you want to ask that, I don't have a problem with 12:34:48
4 it. As we talked about yesterday, given the state of 12:34:49
5 your infringement contentions and the discussions the 12:34:52
6 parties have had, we don't think it is appropriate to 12:34:55
7 delve into the number of other interfaces that Yahoo 12:34:57
8 has. I don't want to reveal the highly technical, 12:35:00
9 highly confidential details of those, given that they 12:35:03
10 are not accused products in the case. 12:35:06

11 I don't know if your question is calling for 12:35:07
12 that. It sounds to me like it is sort of edging up to 12:35:09
13 it. As we talked about before, we are going to have 12:35:14
14 some form of motion practice before the Court on this 12:35:16
15 issue, so we should shelve these questions until the 12:35:20
16 Court has decided this issue for us. 12:35:23

17 MR. BRANDON: Are you going to direct him not 12:35:26
18 to answer my previous question? 12:35:29

19 MR. LUMISH: Can I hear the question itself 12:35:30
20 back, please? 12:35:32

21 (Record read: "Q. How would ads for these publishers 12:35:33
22 get served?") 12:34:31

23 MR. LUMISH: And the question before that? 12:34:31

24 (Record read: "Q. Are these the folks we talked about 12:33:55
yesterday, where they might call up a representative at 12:33:57

1 Yahoo, who would then input the publisher's information

12:34:01

2 in a Yahoo-facing interface?")

12:34:05

3 MR. LUMISH: It is sort of hard for me to

12:36:01

4 gauge, from your question, how the witness is going to

12:36:04

5 answer. What I don't want the witness to do is to get

12:36:06

6 into the confidential details of these other approaches

12:36:08

7 that we have.

12:36:12

8 So I'm not instructing him on that question,

12:36:15

9 as it stands, but I am asking the witness not to get

12:36:18

10 into that level of technical detail.

12:36:24

11 MR. BRANDON: So if I told you, Doug, that I

12:36:25

12 do want to know the confidential details -- as you call

12:36:28

13 them -- of this process, you would instruct the witness

12:36:31

14 not to answer?

12:36:34

15 MR. LUMISH: Only to the extent that I need to

12:36:34

16 do that to bring a motion for protective order. But

12:36:37

17 yes.

12:36:41

18 MR. BRANDON: The last statement I didn't

12:36:41

19 quite understand. I'm just telling you that I want to

12:36:43

20 ask the question: Are you going to prevent the witness

12:36:46

21 from answering, as he sits here today?

12:36:49

22 MR. LUMISH: Sufficiently to give me an

12:36:51

23 opportunity to bring a motion for protective order.

12:36:53

24 The reason I say that is -- and it is

12:36:55

25 important, and you raised it yesterday -- that the

12:36:58

1 proper grounds for instructing not to answer are
2 privileged, and my option as an attorney defending
3 here, when you ask questions that I think are
4 inappropriate -- beyond just objecting -- would be to
5 seek a protective order. If I have to suspend the
6 deposition, or stop the questioning for that purpose, I
7 think I'm entitled to do that.

8 So that's my position. So yes, I would be
9 instructing to give me the opportunity to bring a
10 motion for protective order before the answer was
11 given.

12 And as I said off the record, I don't think it
13 makes sense to have you ask a hundred questions along
14 these lines. I think you and I can understand from
15 each other that my position would be the same on all
16 such questions, as it relates to interfaces other than
17 YSM or YPN -- interfaces, as you put it.

18 MR. BRANDON: So it is your position that --
19 assuming the Court disagrees with you, you would rather
20 bring Mr. Plummer back, than go through it today?

21 MR. LUMISH: Yes. If the Court tells me I
22 have to put a witness up, then we'll provide you
23 Mr. Plummer or somebody else. And you want his
24 personal deposition on these matters, and the Court
25 tells me it is something I shouldn't have moved for

12:37:00
12:37:03
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12:37:15
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12:37:29
12:37:32
12:37:34
12:37:36
12:37:39
12:37:49
12:37:54
12:37:56
12:38:00
12:38:03
12:38:07
12:38:10
12:38:12

1 Q. Same response for limits? 16:17:37

2 A. That is the example of limits. 16:17:40

3 Q. Same response for bulk management 16:17:45
4 capabilities? 16:17:47

5 A. Correct. 16:17:47

6 Q. Same response for extra behavior of reporting? 16:17:48

7 A. Yes. 16:17:52

8 Q. Did you say number of campaigns and limits are 16:17:53
9 the same, or different? 16:17:57

10 A. The number of campaigns an advertiser might 16:17:58
11 have in their account is an example of how we would 16:18:01
12 enforce limits. 16:18:03

13 MR. BRANDON: With respect to advertisers who 16:18:07
14 don't use this on-line interface, Doug, are you going 16:18:12
15 to instruct the witness not to answer questions with 16:18:17
16 respect to these advertisers? 16:18:19

17 MR. LUMISH: I told you before what my 16:18:23
18 position was. I think re-stating it is just going to 16:18:25
19 add confusion. But to the extent you are going to try 16:18:28
20 to get into proprietary technical details about 16:18:32
21 interfaces, or about technologies not included in your 16:18:36
22 infringement contentions, then yes. 16:18:38

23 MR. BRANDON: I would like to know how the 16:18:42
24 interfaces are different; how the ad service is 16:18:43
25 different; how any delivery is different; how any 16:18:48

1 processing is different.

16:18:51

2 Are those the type of areas you are going to
3 prevent me from getting into?

16:18:52

4 MR. LUMISH: Yes, sufficiently to give me time
5 to bring a protective order motion.

16:18:53

16:18:53

16:18:55

6 MR. BRANDON: Q. What percentage of total
7 advertisers, Mr. Plummer, use the YSM on-line
8 interface?

16:18:59

16:19:02

16:19:04

9 MR. LUMISH: Object as beyond the scope of his
10 designation.

16:19:04

16:19:06

11 THE WITNESS: That information is not
12 something we would necessarily consider in engineering.

16:19:07

16:19:08

13 MR. BRANDON: Q. Do you know what percentage
14 of revenue comes about as a result of the YSM on-line
15 interface?

16:19:11

16:19:12

16:19:17

16 MR. LUMISH: Same objection.

16:19:17

17 THE WITNESS: I do not.

16:19:18

18 MR. BRANDON: Q. Do you know what percentage
19 of advertisers do not use the YSM interface?

16:19:19

16:19:27

20 MR. LUMISH: Same objection.

16:19:30

21 THE WITNESS: No, sir.

16:19:31

22 MR. BRANDON: Q. You have also mentioned that
23 there are a couple of tiers of publishers; correct?

16:19:34

16:19:35

24 A. I don't believe we discussed direct tiering of
5 publishers.

16:19:38

16:19:43

1 direct publishers, whoever they are, do not use the
2 on-line publisher interface.

3 A. That is correct.

4 Q. How many direct publishers are there?

5 A. I'm not aware.

6 Q. Either in terms of sheer number, or
7 percentage.

8 A. Correct.

9 MR. BRANDON: And again, just to make the
10 record clear, with respect to these direct publishers
11 who don't use the YPN on-line interface, Doug, I would
12 like to get into some issues or questions concerning
13 what, if any, interface is used; how delivery is
14 different; how any coding is different; how any
15 processing is different; how any targeting is
16 different.

17 Are you going to instruct the witness not to
18 answer these questions with respect to these
19 publishers?

20 MR. LUMISH: Yes, I am, in order to give me
21 time to bring a protective order that we have
22 discussed.

23 MR. BRANDON: Q. Mr. Plummer, what percentage
24 of total publishers use the YPN on-line interface?

25 A. I'm not aware of that number.

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1 MR. BRANDON: I would like to explore this 16:33:38
2 further, and I take it you are going to instruct the 16:33:39
3 witness not to answer here as well? 16:33:42

4 MR. LUMISH: You are welcome to ask him 16:33:43
5 questions about any technologies that fall within your 16:33:44
6 infringement contentions. To the extent you are asking 16:33:48
7 about technology separate from that, then yes, I think 16:33:51
8 it falls within our dispute. 16:33:55

9 MR. BRANDON: Notwithstanding the fact that it 16:33:57
10 was acquired after our infringement contentions were 16:33:59
11 served? 16:34:01

12 MR. LUMISH: Yes. 16:34:02

13 MR. BRANDON: Q. What is Blue Lithium? 16:34:05

14 A. Blue Lithium is a technology provider in the 16:34:10
15 on-line ad space. 16:34:16

16 Q. A competitor of Yahoo? 16:34:17

17 A. A Yahoo acquisition. 16:34:24

18 Q. So Yahoo has acquired Blue Lithium? 16:34:26

19 A. Correct. 16:34:29

20 Q. With the acquisition of Blue Lithium, what did 16:34:30
21 Yahoo acquire? 16:34:35

22 A. I don't know. 16:34:36

23 Q. When did Yahoo acquire Blue Lithium? 16:34:38

24 MR. LUMISH: Same objection. Beyond the 16:34:41
25 scope. 16:34:42

1 assembled by CM2 processes, and can be served as an ad
2 on a partner page."

17:10:42

17:10:46

3 Do you see that?

17:10:47

4 A. I do.

17:10:50

5 Q. It doesn't say "on a direct partner page,"
6 does it?

17:10:50

17:10:53

7 A. The word "direct" is not in that sentence.

17:10:54

8 Q. And it doesn't say "served as an ad on a
9 partner page other than a YPN On-Line partner," does
10 it?

17:10:57

17:11:00

17:11:05

11 A. There is no reference to "YPN On-Line."

17:11:05

12 MR. BRANDON: I have nothing further.

17:11:20

13 MR. LUMISH: Nothing further.

17:11:22

14 THE VIDEOGRAPHER: This marks the end of Tape
15 4, Volume 2, in the deposition of Matthew Plummer.
16 Going off the record, the time is 5:11.

17:11:25

17:11:26

17:11:30

17 (Deposition conditionally concluded, 5:11 p.m.)

18
19 DECLARATION OF WITNESS

20 I declare under penalty of perjury that
21 the foregoing is true and correct. Subscribed at
22 _____, California, this _____ day
23 of _____, 2009.

24
25 _____
Signature of witness

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CERTIFICATE OF REPORTER

I, GEORGE SCHUMER, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript [] was ☒ was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: March 31, 2009

George A. C.

GEORGE SCHUMER, CSR No. 3326