

CONFIDENTIAL

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 MARSHALL DIVISION
4

5 -----
6 FUNCTION MEDIA LLC,)
7 Plaintiff,)
8 vs.) No. 2007-CV-279
9 GOOGLE INC. AND YAHOO!, INC.)
10 Defendants.)
11 -----

12
13 CONFIDENTIAL
14

15 Videotaped Deposition of LUCINDA STONE,
16 taken at 901 Main Street, Suite 5100,
17 Dallas, Texas, commencing at 8:40 a.m.,
18 Friday, April 17, 2009, before Karen
19 L. D. Schoeve, RDR, CRR.
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21
22
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24

25 PAGES 1 - 340

1 * * * C O N F I D E N T I A L * * *

2 the viewer? 09:11:22AM

3 A. Well, does it have a link in it? Can 09:11:22AM

4 the viewer make it play? Is it video? Does it 09:11:26AM

5 have sound? It's sort of the feel of it. 09:11:30AM

6 Q. And what is the feel of a presentation? 09:11:37AM

7 A. Exactly what I just said. 09:11:39AM

8 MR. BRANDON: Object to form. 09:11:41AM

9 Q. (BY MR. WOLFF) How do I define what the 09:11:43AM

10 scope is of the feel of an advertisement? 09:11:45AM

11 MR. BRANDON: Objection; form. 09:11:48AM

12 A. I'm not sure what you mean by that. I 09:11:50AM

13 mean . . . 09:11:54AM

14 Q. (BY MR. WOLFF) Is an ad or a 09:11:57AM

15 presentation that is nice, would that be the feel 09:11:58AM

16 of an advertisement? 09:12:03AM

17 MR. BRANDON: Objection; form. 09:12:05AM

18 A. For some viewers it might be. 09:12:06AM

19 Q. (BY MR. WOLFF) How about a presentation 09:12:08AM

20 that's emotionally appealing? 09:12:12AM

21 MR. BRANDON: Objection; form. 09:12:17AM

22 Q. (BY MR. WOLFF) Would that be the feel 09:12:18AM

23 of an advertisement? 09:12:20AM

24 MR. BRANDON: Object to form. 09:12:22AM

25 A. I think in some advertising realms, that 09:12:23AM

1 * * * C O N F I D E N T I A L * * *
2 may apply. I think in some ad agencies, they may 09:12:25AM
3 talk about that as a feel part. 09:12:30AM
4 Q. (BY MR. WOLFF) And how was it in your 09:12:32AM
5 patent that you described how you would change 09:12:34AM
6 these aspects of the presentation? 09:12:36AM
7 MR. BRANDON: Object to the form. 09:12:42AM
8 A. What do you mean? 09:12:43AM
9 Q. (BY MR. WOLFF) How would you change 09:12:44AM
10 the -- how would you change the feel of the 09:12:46AM
11 information input by a seller in your patent? 09:12:48AM
12 MR. BRANDON: Objection; form. 09:12:52AM
13 A. The look and feel applies to the 09:12:54AM
14 requirements of the media venue. 09:12:57AM
15 Q. (BY MR. WOLFF) Right. Okay. And so 09:13:01AM
16 how does the media venue input the look and feel 09:13:03AM
17 requirements? 09:13:06AM
18 A. They could choose color. They could 09:13:08AM
19 choose size. They could choose placement and that 09:13:10AM
20 would be part of the feel of it, probably. I'm 09:13:15AM
21 not sure. 09:13:22AM
22 Q. Well, how would they choose placement? 09:13:22AM
23 Where does it describe choosing the placement in 09:13:25AM
24 your patent? 09:13:28AM
25 A. I don't know if we do. 09:13:29AM

1 * * * C O N F I D E N T I A L * * *

2 Q. Do you want to look and see in your 09:13:30AM
3 patent if it describes that? 09:13:33AM

4 A. No. 09:13:34AM

5 MR. BRANDON: Objection; form. 09:13:35AM

6 Q. Is there a reason you don't want to 09:13:36AM
7 look? 09:13:40AM

8 A. Because I think I threw that out, trying 09:13:40AM
9 to explain what a feel is. 09:13:42AM

10 Q. (BY MR. WOLFF) How would -- so you've 09:13:48AM
11 given me a couple of examples of the feel, you 09:13:49AM
12 say, which is like the color, and what the size 09:13:52AM
13 and placement. Are there any other feel 09:13:54AM
14 requirements that you can think of? 09:13:58AM

15 MR. BRANDON: Object to form. 09:13:59AM

16 A. It may be how the viewer would interact 09:14:00AM
17 would it. Could they click on it, could they hear 09:14:03AM
18 it, would it move. 09:14:06AM

19 Q. (BY MR. WOLFF) Are those aspects 09:14:08AM
20 described in your patent? 09:14:11AM

21 A. Yes. 09:14:12AM

22 Q. Where are they described in your patent? 09:14:12AM

23 A. I'll have to look. I think if you go to 09:14:21AM
24 our definitions where we talk about presentations, 09:14:24AM
25 that might be it. I could be wrong, but . . . 09:14:28AM

1 * * * C O N F I D E N T I A L * * *

2 "Any content intended to inform or 09:14:41AM
3 influence the viewers or readers of a given media 09:14:43AM
4 venue. It may be in a advertisement, public 09:14:46AM
5 service, editorial format or any other format. It 09:14:49AM
6 may be text, graphics, audio, multimedia or a 09:14:52AM
7 combination of any communication methods." 09:14:55AM

8 Q. (BY MR. WOLFF) Right. And what my 09:15:01AM
9 question -- what I meant to ask in my question was 09:15:03AM
10 how your central controller changed the 09:15:08AM
11 information input by the seller to make it one of 09:15:13AM
12 these other formats? 09:15:19AM

13 A. Well, it would be something that a 09:15:20AM
14 programmer would be able to do and I'm not a 09:15:22AM
15 programmer. 09:15:26AM

16 Q. So how do you know a programmer would be 09:15:28AM
17 able to do it? 09:15:30AM

18 A. Because this is a teaching format, and 09:15:30AM
19 when you put parameters of what you want a 09:15:36AM
20 programmer to do, you ask them to do it and most 09:15:39AM
21 proficient programmers would be able to do that 09:15:42AM
22 part of it. 09:15:44AM

23 Q. All right. And how would I take -- 09:15:46AM
24 let's say that I was a seller and I input text 09:15:48AM
25 information for a presentation. 09:15:52AM

1 * * * C O N F I D E N T I A L * * *

2 A. Okay. 09:15:54AM

3 Q. How, according to your patent, would I 09:15:54AM

4 convert that into a -- an audio presentation? 09:15:56AM

5 MR. BRANDON: Objection to form. 09:16:02AM

6 A. You don't convert text into an audio 09:16:06AM

7 unless you have a program in there that allows for 09:16:10AM

8 that. I think when we were doing this in 1997, 09:16:13AM

9 there wasn't anything like that. 09:16:18AM

10 Q. (BY MR. WOLFF) All right. And how 09:16:20AM

11 about if I wanted to convert it into an image? 09:16:21AM

12 How would I do that? 09:16:25AM

13 MR. BRANDON: Objection to form. 09:16:26AM

14 A. You would add an image to it. 09:16:27AM

15 Q. (BY MR. WOLFF) What do you mean? You 09:16:30AM

16 add an image to the text? 09:16:32AM

17 A. You would add image along with the text. 09:16:34AM

18 Q. And who would "you" -- would "you" be 09:16:38AM

19 the seller or "you" would be the -- 09:16:38AM

20 A. The seller would do that. 09:16:38AM

21 Q. Okay. But the central controller 09:16:39AM

22 wouldn't be the thing that was inputting that 09:16:41AM

23 information? 09:16:43AM

24 A. No, the seller would input it. 09:16:44AM

25 Q. How would you control the look and feel 09:16:50AM

1 * * * C O N F I D E N T I A L * * *

2 your patent and see? 09:18:08AM

3 A. Okay. 09:18:10AM

4 Q. Did you review your patent before you 09:18:14AM

5 came here today? 09:18:16AM

6 A. Yeah, I did. 09:18:16AM

7 Q. How many times have you reviewed your 09:18:17AM

8 patent? 09:18:20AM

9 A. I don't know. 09:18:21AM

10 Q. More than ten? 09:18:22AM

11 A. No. No. 09:18:23AM

12 Q. More than five? 09:18:25AM

13 A. Probably. 09:18:27AM

14 Q. All right. And when was the last time 09:18:29AM

15 you read your patent? 09:18:30AM

16 A. Several days ago. 09:18:33AM

17 Q. All right. 09:18:34AM

18 A. (Witness examined exhibit.) What was 09:18:36AM

19 the question you asked me? 09:18:39AM

20 Q. (Examined realtime screen.) Let me 09:19:09AM

21 start over with the question. According to 09:19:17AM

22 your -- what's described in your patent, how would 09:19:20AM

23 the central controller customize the presentation 09:19:23AM

24 to conform it with the look and feel requirements 09:19:32AM

25 of the media venues. 09:19:37AM

1 * * * C O N F I D E N T I A L * * *

2 A. Well, I think it's communicating with 09:19:39AM
3 information it gets from the media configuration 09:19:41AM
4 program. 09:19:45AM

5 Q. Right. I understand it's communicating 09:19:47AM
6 that information, but how is it actually doing it? 09:19:49AM

7 A. I don't know. I'm not a programmer. 09:19:51AM

8 MR. BRANDON: Objection to form. 09:19:53AM

9 Q. (BY MR. WOLFF) But this is your patent, 09:19:56AM
10 this is your invention. 09:19:57AM

11 A. This is my patent, yes. 09:19:58AM

12 Q. Could you have implemented the central 09:20:00AM
13 controller that would do this? 09:20:02AM

14 A. Not me, no. 09:20:04AM

15 Q. All right. Okay. Can you think of 09:20:05AM
16 any -- could Mr. Dean have implemented something 09:20:16AM
17 like this? 09:20:17AM

18 MR. BRANDON: Objection; form. 09:20:18AM

19 A. He probably could. 09:20:19AM

20 Q. (BY MR. WOLFF) He could do this? 09:20:19AM

21 A. I mean he knows programming. Some. 09:20:20AM

22 Q. Could he have done this at the time the 09:20:21AM
23 patent was filed? 09:20:23AM

24 A. Probably. 09:20:24AM

25 Q. And what are "design and style 09:20:34AM

1 * * * C O N F I D E N T I A L * * *

2 THE VIDEOGRAPHER: This is the 10:49:51AM

3 beginning of Tape 3. The time is 10:49 a.m. We're 10:50:04AM

4 back on record. 10:50:08AM

5 Q. (BY MR. WOLFF) Before we went off the 10:50:10AM

6 record, we were looking for an example -- specific 10:50:15AM

7 example in your patent of automatically applying 10:50:20AM

8 or comparing size requirements, I believe; is that 10:50:22AM

9 correct? 10:50:22AM

10 A. Correct. 10:50:28AM

11 Q. And you were looking through your patent 10:50:29AM

12 to see if you could find an example of -- 10:50:30AM

13 A. Correct. 10:50:34AM

14 Q. -- this process of applying the size 10:50:34AM

15 requirement. 10:50:36AM

16 A. Well, and I already found where we 10:50:37AM

17 mention size of images and like that. And those 10:50:40AM

18 are represented in the databases, so any 10:50:46AM

19 programmer would know how to apply those. 10:50:51AM

20 Q. And how was it that you envisioned the 10:50:54AM

21 size of the advertisements would be changed? 10:50:57AM

22 A. Well, there's a couple of ways for it to 10:51:04AM

23 be changed. It could be changed dynamically or it 10:51:07AM

24 could be changed by prompting the seller to put in 10:51:10AM

25 a different image or a different size of an image. 10:51:13AM

1 * * * C O N F I D E N T I A L * * *

2 Q. Is there a process described -- an 10:51:16AM
3 algorithm described in the patent that explains 10:51:20AM
4 how you would dynamically change the size of an 10:51:24AM
5 image? 10:51:27AM

6 MR. BRANDON: Object to the form. 10:51:28AM

7 A. I'm not sure this is. 10:51:29AM

8 Q. (BY MR. WOLFF) You're the not sure 10:51:30AM
9 there is or -- 10:51:33AM

10 A. Well, I mean, a programmer if he is 10:51:33AM
11 looking at databases that contained this 10:51:35AM
12 information and database that contained that 10:51:38AM
13 information, he would know how to do the applying. 10:51:40AM
14 Now, I didn't write the specifications. I didn't 10:51:43AM
15 write the claims. I was involved in the concept, 10:51:46AM
16 the overall concept of what this invention does. 10:51:53AM

17 Q. So you wouldn't be able to give me any 10:52:02AM
18 technical details of how this was implemented? 10:52:05AM

19 A. Correct. 10:52:08AM

20 Q. Or how you envisioned this being 10:52:11AM
21 implemented. 10:52:15AM

22 MR. BRANDON: Objection; form. 10:52:16AM

23 A. I can tell you what we envisioned as a 10:52:18AM
24 patent. I'm not a programmer. I can't tell you 10:52:21AM
25 how each thing was implemented. 10:52:23AM

1 * * * C O N F I D E N T I A L * * *

2 Q. (BY MR. WOLFF) So other than what's 10:52:26AM
3 said in the patent, you can't tell me how you 10:52:27AM
4 would have implemented it or how a computer 10:52:31AM
5 programmer would have implemented it. 10:52:34AM

6 A. It's up to a computer programmer to 10:52:36AM
7 implement it. 10:52:38AM

8 Q. And you came up with all these ideas in 10:52:39AM
9 1997/1998 time frame? 10:52:43AM

10 A. Yes. 10:52:47AM

11 MR. BRANDON: Objection; form. 10:52:48AM

12 Q. (BY MR. WOLFF) Was it within a 10:52:49AM
13 programmer's skill at that time to have been 10:52:53AM
14 implemented your ideas? 10:52:56AM

15 MR. BRANDON: Objection; form. 10:52:58AM

16 A. I believe so. 10:52:59AM

17 Q. (BY MR. WOLFF) All right. Can you tell 10:53:00AM
18 me what an advertisement generation program is? 10:53:02AM

19 A. I believe that that is a software 10:53:07AM
20 program that displays an ad. 10:53:10AM

21 Q. All right. And can you give me an 10:53:13AM
22 example of an advertisement generation program? 10:53:15AM

23 A. It could be an applet that's on an html 10:53:18AM
24 page. It could be a browser. It could be any 10:53:23AM
25 type of software that would display an ad. 10:53:27AM