

1 criteria, do you own a bicycle, so only people  
2 who owned a bicycle.

3                   Secondly, how often do you ride  
4 your bicycle, excluding people who said never.  
5 The third one, do you use search engines, which  
6 of the following search engines do you use.

7           Q.     So on and so forth?

8           A.     The screening criteria, have you  
9 ever used Internet searching to find information  
10 about a bicycle -- about bicycles you might  
11 consider buying, which is question five. So I  
12 didn't make any assumptions about what they do.  
13 I really went the other way, tried to screen  
14 people who would, in fact, use search engines  
15 and would use search engines to find information  
16 about bicycles.

17           Q.     You mentioned the first question  
18 on Trek, do you own a bicycle. On page 79 we  
19 had yeses for 200 people; right?

20           A.     Yes.

21           Q.     So everyone who answered the  
22 survey for Trek was a current owner of a  
23 bicycle; right?

24           A.     That's correct.

25           Q.     Why did you specify that?

1 seemed to me it makes more sense people who  
2 already own a bicycle would be interested in  
3 something like a Trek bicycle. Clearly if the  
4 people don't have a bicycle I would not expect  
5 their opinions or approaches to be different  
6 than the person who does have a bicycle. It  
7 just made more sense to focus on that subgroup.

8 Q. Would you agree that perspective  
9 buyers may well likely include folks who don't  
10 own a bicycle?

11 A. Clearly the people who don't own a  
12 bicycle are -- could be in the market, as well.

13 Q. And as to which group of persons  
14 are more likely to be in the market for a bike,  
15 do you have any information as to whether or not  
16 it turns on ownership of the bike, one way or  
17 another?

18 A. No, I do not.

19 Q. We'll talk about those in greater  
20 detail later.

21 Let me ask you some additional  
22 questions, Professor, about surveys in general.

23 Do you believe it's important in  
24 surveys for them to replicate as clearly as  
25 possible actual market conditions?

1 a Google search for Southwest Airlines, what  
2 they saw is exactly what they would have seen if  
3 they had done tonight their own home.

4 Q. So you're referring to the  
5 stimuli, that is the search results page is what  
6 you believe to replicate the market conditions;  
7 right?

8 A. Yes.

9 Q. Same thing with respect to Trek,  
10 the stimuli was the search results page that was  
11 shown to each respondent in the questionnaire;  
12 correct?

13 A. Yes.

14 Q. Now, those were static views of  
15 each respective website; true?

16 A. Yes.

17 Q. So in that sense -- of course, if  
18 I was on-line looking at Southwest Airlines it  
19 would not be static. Of course, I could scroll  
20 up and down and I could click through or not  
21 click through; true?

22 A. That's correct. It would only  
23 show the first page of what it may have been  
24 multiple pages, but those were the pages where  
25 the sponsored links were.

1                   And, secondly, it was high across  
2 the three hypothetical sponsored links for an  
3 iPad.

4                   And then it was consistently high  
5 across the two actual links.

6                   Q. Do your results suggest that all  
7 sponsored links, regardless of the search name  
8 or the sponsored links, cause initial interest  
9 confusion?

10                   MR. FENSTER: Object to form.

11                   THE WITNESS: No.

12 BY MR. MORAN:

13                   Q. How do we determine which  
14 sponsored links cause initial interest confusion  
15 and those that don't?

16                   A. Well, the -- those sponsored links  
17 where the consumer can't buy the product or  
18 service of the searched for -- the searched for  
19 product or service would be the ones where there  
20 would be initial interest confusion.

21                   Q. All right, sir.

22                   A. And also where they see that there  
23 is an association, affiliation, relationship  
24 between the sponsored link and the searched for  
25 link, when it isn't there.

1 Q. Okay. And how can we go about  
2 identifying all of those sponsored links that in  
3 your view are initially interest confusing and  
4 those for which no consumer would be confused?

5 MR. FENSTER: Object to form.

6 THE WITNESS: I really haven't  
7 thought about how to go about it. That seems to  
8 me that's Google's task, I mean, to identify  
9 that or figure out how to do that. I really  
10 didn't look at that, wasn't asked to consider  
11 that.

12 BY MR. MORAN:

13 Q. Okay. So you haven't been asked  
14 to undertake how to answer that question of  
15 identifying those sponsored links that may cause  
16 initial interest confusion from those that cause  
17 no confusion; true?

18 A. That's correct, I have not.

19 Q. And so your report says nothing  
20 about the answer to that question; true?

21 A. About how to go about identifying  
22 them?

23 Q. Right.

24 A. No, it does not.

25 Q. And, in fact, you have not gone