

1 A. Yes, I do know that.

2 Q. Okay. Have you ever clicked on a
3 sponsored link before?

4 A. Yes, I have.

5 Q. Okay. Say in a given week of
6 searching how frequently would you on average
7 click on a sponsored link?

8 A. Probably not once a week. Less
9 than that. I'm usually focusing on a
10 particular -- I'm focusing on a particular
11 company or trademark. I'm simply looking for
12 that one and go to that. I wouldn't go to the
13 sponsored links.

14 Q. The sponsored links are usually
15 typically either at the top of the search
16 results or on the right side of the search
17 results; correct?

18 A. Yes.

19 Q. So when you're talking about going
20 directly to what you're searching for, are you
21 referring to the so-called natural or organic
22 results?

23 A. That's correct, yes.

24 Q. All right, sir.

25 But you have from time to time

1 Complaint did you read the Complaint?

2 A. Yes, I did.

3 Q. It makes reference in Exhibit 9 to
4 the Plaintiffs' screen shot. Do you know who
5 that is?

6 A. I don't recall.

7 Q. Do you know how many Plaintiffs
8 there are in these cases?

9 A. I don't recall.

10 Q. Sure. But regardless of how many
11 Plaintiffs there are in these cases, it is true
12 that you did not survey with respect to any
13 trademarks of the named Plaintiffs in the case;
14 true?

15 A. That's correct.

16 Q. Why was that?

17 A. I just wasn't asked to do that.

18 (Maronick Exhibit Number 10 was
19 marked for identification.)

20 BY MR. MORAN:

21 Q. Professor, I'm handing you
22 Maronick Exhibit 10, which I will represent to
23 you is a document produced by counsel for the
24 Plaintiffs to us yesterday. Does that appear to
25 be the Class Action Complaint you were forwarded

1 time I was designing the survey and looking for
2 search results pages to put into the survey.

3 Q. Back to Exhibit 14, which is the
4 search results page for Southwest that Mr. Meyer
5 sent to you, you see the top sponsored link we
6 established it says Southwest official site;
7 right?

8 A. Yes.

9 Q. And if we were dealing with an
10 actual website a user could click on the
11 Southwest official site; could they not?

12 A. Yes.

13 Q. And if you click through that link
14 it would take you to, in fact, the official
15 Southwest site; true?

16 A. I don't know. I don't know that
17 it would. I presume that it would, but I don't
18 know that.

19 Q. All right. Well, if it did click
20 through and take you to or user to the official
21 Southwest site, a person can, in fact, buy a
22 ticket on Southwest Airlines at that official
23 site; true?

24 A. That's my understanding. If it's
25 a Southwest official site, yes, you could.

1 Q. Because, in fact, you've done
2 that; right?

3 A. Not through the sponsored link,
4 but through the Southwest site.

5 Q. That's a good point you make. You
6 say you've gone through the official site. That
7 would be on Exhibit 14, the second entry; right,
8 that says Southwest Airlines, book flights
9 airline tickets, air fair; correct?

10 A. Yes.

11 Q. That entry that I just mentioned,
12 Southwest Airlines, book flights, airline
13 tickets, air fare is part of the natural organic
14 results; is that true?

15 A. Yes.

16 Q. So when you made your reservations
17 on Southwest you went to that website and
18 clicked there?

19 A. That's what I would do, yes.

20 Q. And when you've gone there you've
21 been able to purchase a Southwest Airlines
22 ticket; is that true?

23 A. That's true.

24 Q. Wouldn't others be able to do
25 that?

1 A. Yes.

2 Q. In this case you did not test the
3 Southwest official site as one of the sponsored
4 links in this case; true?

5 A. No, I did not.

6 Q. Now, if, in fact, you had tested
7 the Southwest official site in this case, would
8 you have expected survey respondents to believe
9 that that sponsored link was sponsored by
10 Southwest Airlines?

11 MR. FENSTER: Object to form.

12 THE WITNESS: Can you repeat the
13 question?

14 BY MR. MORAN:

15 Q. Sure. If, in fact, you had tested
16 the Southwest official site in this case as a
17 sponsored link, would you have expected the
18 survey respondents to believe that that
19 particular sponsored link was sponsored by
20 Southwest Airlines?

21 A. Yes, I would expect it to be.

22 Q. Why?

23 A. Because it says it's Southwest's
24 official site.

25 Q. Same question with respect to

1 whether or not you would have expected the
2 survey respondents to believe that that
3 Southwest official site was related to Southwest
4 Airlines?

5 MR. FENSTER: Object to form.

6 THE WITNESS: Yes.

7 BY MR. MORAN:

8 Q. Would you have expected the survey
9 respondents to say that that sponsored link was
10 affiliated with Southwest Airlines?

11 A. As I think about it, yes, I would
12 expect that they would have.

13 Q. And would you also have expected
14 survey respondents to say that that sponsored
15 link, Southwest official site, would also be
16 associated with Southwest Airlines?

17 A. Yes.

18 MR. FENSTER: Same objections.

19 BY MR. MORAN:

20 Q. And would you also expect the
21 survey respondents to have said that they
22 believe you could purchase goods or services
23 from Southwest Airlines from that Southwest
24 official site sponsored link?

25 A. I would expect that they would