

EXHIBIT H

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

5 EOLAS TECHNOLOGIES
6 INCORPORATED,

Plaintiff,

7 vs.

Civil Action No.

8 ADOBE SYSTEMS INC., et al.,

6:09-CV-00446-LED

9 Defendants.
10 _____/

11
12
13 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
14 VIDEOTAPED DEPOSITION OF DAVID FILO
15 REDWOOD SHORES, CALIFORNIA
16 TUESDAY, NOVEMBER 29, 2011
17
18
19
20
21

22 BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR
23 CSR LICENSE NO. 9830
24 JOB NO. 44280
25

Page 2

NOVEMBER 29, 2011
9:02 a.m.

VIDEOTAPED DEPOSITION OF DAVID FILOK, taken at
WEIL, GOTSHAL & MANGES, LLP 201 Redwood
Shores Parkway, Redwood Shores, California,
pursuant to Notice, before me, ANDREA M. IGNACIO
HOWARD, CLR, CCRR, RPR, CSR License No. 9830.

Page 3

A P P E A R A N C E S:

FOR THE PLAINTIFF:

MCKOOL SMITH, Esq.
By: JOSH BUDWIN, Esq.
300 West 6th Street
Austin, Texas 78701

FOR THE DEFENDANT YAHOO!:

HALTOM DOAN, Esq.
By: JENNIFER HALTOM DOAN, Esq.
6500 Summerhill Road
Texarkana, Texas 75503

ALSO PRESENT: Aric Kerhoulas, Videographer.

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Page 4

REDWOOD SHORES, CALIFORNIA 09:00
TUESDAY, NOVEMBER 29, 2011 09:00
9:02 a.m. 09:01

09:01

09:01

09:01

THE VIDEOGRAPHER: Good morning. 09:01

This marks the beginning of Disc 1 of the 09:01

videotaped deposition of David Filo. In the matter 09:01

Eolas Technologies, Incorporated, versus Adobe 09:01

Systems, Incorporated, et al. 09:01

In the United States District Court, for the 09:02

Eastern District of Texas, Tyler Division. Case 09:02

No. 6:09-CV-446. 09:02

This deposition is being held at the office 09:02

of Weil Gotshal & Manges, at 201 Redwood Shores 09:02

Parkway, in Redwood Shores, California. 09:02

The date today is November 29th, 2011, and 09:02

the time is 9:02. 09:02

My name is Aric Kerhoulas, from TSG 09:02

Reporting, Incorporated. Our court reporter is Andrea 09:02

Ignacio, in association with TSG. 09:02

Will counsel please introduce yourself for 09:02

the record. 09:02

MR. BUDWIN: Josh Budwin of McKool Smith on 09:02

Page 5

behalf of Eolas and UC, and with me on the phone is 09:02

Lindsay Martin and Kevin Burgess. 09:02

MS. DOAN: Jennifer Doan, Haltom & Doan, for 09:03

Yahoo. 09:03

MR. KRAMER: Kevin Kramer from Yahoo. 09:03

THE VIDEOGRAPHER: The court reporter will 09:03

please swear in the witness, and we can proceed. 09:03

DAVID FILO,

having been sworn as a witness,

by the Certified Shorthand Reporter,

testified as follows:

EXAMINATION BY MR. BUDWIN 09:03

MR. BUDWIN: Q. Good morning, Mr. Filo. 09:03

A Good morning. 09:03

Q Can you state your full name, please. 09:03

A David Filo. 09:03

Q Middle name, middle initial? 09:03

A Robert. 09:03

Q And where are you currently employed, 09:03

Mr. Filo? 09:03

A Yahoo. 09:03

Q And what's your current address? 09:03

Page 6			Page 7		
1	A	1008 Bryant Street, Palo Alto, California. 09:03	1	A	I think twice. 09:04
2	Q	Mr. Filo, you understand that you've been 09:03	2	Q	And was one of those depositions in the 09:04
3		placed under oath here today? 09:03	3		Bedrock case? 09:04
4	A	Yes. 09:03	4	A	Yes. 09:04
5	Q	And that the testimony you're about to give 09:03	5	Q	What was the other one? 09:04
6		has the same legal effect as if you were appearing 09:03	6	A	It was a number of years ago. It was in a 09:04
7		live in a court of law? 09:04	7		case involving, I think, Yahoo Cake Company or 09:04
8	A	Yes. 09:04	8		something like that. 09:04
9	Q	And that the penalties of perjury apply 09:04	9	Q	Was that a patent case? 09:04
10		equally to the deposition today as they would if you 09:04	10	A	No, it wasn't. 09:04
11		were appearing live? 09:04	11	Q	How many years ago? 09:04
12	A	Yes. 09:04	12	A	More than ten years ago. 09:04
13	Q	Are you under the influence of any drugs or 09:04	13	Q	Okay. Have you ever testified live in a 09:04
14		alcohol today? 09:04	14		court of law? 09:04
15	A	No. 09:04	15	A	Yes. 09:04
16	Q	Is there any reason that you can't answer my 09:04	16	Q	How many times? 09:04
17		questions truthfully and accurately? 09:04	17	A	Once. 09:05
18	A	No. 09:04	18	Q	Was that the Bedrock case? 09:05
19	Q	And do you have any medical conditions that 09:04	19	A	Yes. 09:05
20		would impact your ability to recall past events? 09:04	20	Q	Now, you understand that your testimony is 09:05
21	A	No. 09:04	21		being transcribed by the court reporter? 09:05
22	Q	Mr. Filo, have you had your deposition taken 09:04	22	A	Yes. 09:05
23		before? 09:04	23	Q	And because of that, we need to have verbal 09:05
24	A	Yes. 09:04	24		answers to all the questions. No head nods, or 09:05
25	Q	Okay. How many times? 09:04	25		shakes, or "uh-huhs," or things of that nature. 09:05
Page 8			Page 9		
1	A	Yes. 09:05	1		that you worked on or had seen in the past? 09:06
2	Q	Now, even though all of my questions will be 09:05	2	A	I think at that time I probably recalled what 09:06
3		perfectly formed, there may be times when your counsel 09:05	3		was the Eolas-Microsoft issue from early 2000s. 09:06
4		will still object to my questions, and she'll say 09:05	4	Q	Were you surprised that Eolas had filed suit 09:06
5		things like "Objection; form." 09:05	5		against Yahoo? 09:06
6		Unless you're instructed not to answer my 09:05	6	A	Yes. 09:06
7		question, you understand you're required to answer; 09:05	7	Q	Why? 09:06
8		right? 09:05	8	A	Well, just what I knew about small -- you 09:06
9	A	Yes. 09:05	9		telling me about the Microsoft-Eolas issue had a 09:07
10	Q	Now, do you have an understanding that you're 09:05	10		little -- you know, I was under the impression that it 09:07
11		here today because my client, Eolas and the University 09:05	11		was a browser technology issue and that it was more of 09:07
12		of California, filed a patent infringement case 09:05	12		a Microsoft-type thing and didn't -- was surprised 09:07
13		against Yahoo and several other companies? 09:05	13		that web publishers would be -- would be -- they'd be 09:07
14	A	Yes. 09:05	14		going after web publishers. 09:07
15	Q	And when did you first become aware of this 09:05	15	Q	Now, I don't want to get into the substance 09:07
16		litigation? 09:06	16		of any communications you've had with counsel, whether 09:07
17	A	Some time earlier this year. 09:06	17		that's Ms. Doan or inside counsel at Yahoo, but did 09:07
18	Q	Earlier in 2011? 09:06	18		you meet with counsel to prepare for the deposition 09:07
19	A	2011, yes. 09:06	19		today? 09:07
20	Q	And how did you become aware of it? 09:06	20	A	Yes. 09:07
21	A	I believe talking to Yahoo lawyers. 09:06	21	Q	And when did you meet with them? 09:07
22	Q	What was your reaction upon hearing about 09:06	22	A	Multiple times. I met with them yesterday. 09:07
23		this litigation? 09:06	23	Q	What about before yesterday? 09:07
24	A	Nothing in particular. 09:06	24	A	I have met before yesterday. 09:07
25	Q	Did you recall the name Eolas from things 09:06	25	Q	All right. 09:07

Page 10	Page 11
<p>1 Can you tell me how many meetings you've had 09:07 2 and the approximate dates of those meetings? 09:07 3 A You know, I can't. I don't remember all the 09:08 4 dates. I know we've had a number of -- my deposition 09:08 5 was scheduled a number of times, maybe twice already. 09:08 6 So I know prior to both of those meetings, we had met, 09:08 7 so I think -- I don't know those dates, but... 09:08 8 Q Okay. So you met with counsel yesterday, and 09:08 9 you met with counsel prior to both of your previously 09:08 10 scheduled depositions? 09:08 11 A Yes. 09:08 12 Q Did you have any other meetings with counsel 09:08 13 besides those three meetings? 09:08 14 A Yes. 09:08 15 Q Okay. When? 09:08 16 A I don't know the dates. 09:08 17 Q At any of the meetings, were people other 09:08 18 than Yahoo counsel or your outside counsel present? 09:08 19 A Yes. 09:08 20 Q Okay. Who? 09:08 21 A Generally with other -- I'm trying to think 09:08 22 if they all -- other witnesses. 09:08 23 Q Okay. 09:08 24 A So some Yahoo employees that were being 09:08 25 deposed. 09:08</p>	<p>1 Q Have any of your meetings been with people 09:08 2 other than counsel, inside or outside counsel for 09:08 3 Yahoo and Yahoo employees? Any non-Yahoo employees or 09:09 4 non-Yahoo lawyers? 09:09 5 A Yes. 09:09 6 Q Who? 09:09 7 A So I met with Pei Wei. 09:09 8 Q Okay. Other -- 09:09 9 A And -- 09:09 10 Q Anybody else? 09:09 11 A Yeah. Well, on the phone, I've talked to 09:09 12 some of our expert witnesses. 09:09 13 Q Okay. So on the phone you talked with some 09:09 14 experts; which experts? 09:09 15 A I talked to Dick Philips, Bruce Maddox. I 09:09 16 talked to our -- I don't know his first name, but 09:09 17 Bakewell. 09:09 18 Q Bakewell? 09:09 19 A Bakewell. I'm sorry. 09:09 20 Q All right. 09:09 21 Anybody else? 09:09 22 A I might not be remembering everyone, but yes, 09:09 23 that's it. 09:09 24 Q Other than Mr. Wei, Mr. Philips, Mr. Maddox, 09:09 25 Mr. Bakewell, have you had any meetings where people 09:09</p>
Page 12	Page 13
<p>1 outside of Yahoo have been present? 09:10 2 MS. DOAN: Objection; form. 09:10 3 THE WITNESS: Lawyers included or lawyers 09:10 4 not? 09:10 5 MR. BUDWIN: Yeah. 09:10 6 Q So, other than your meeting with Mr. Wei, 09:10 7 Mr. Philips, Mr. Maggs, Mr. Bakewell, have you had any 09:10 8 other meetings with people outside of Yahoo that 09:10 9 includes your inside and outside counsel? 09:10 10 MS. DOAN: Objection; form. 09:10 11 THE WITNESS: Any meetings related to? 09:10 12 MR. BUDWIN: Q. Eolas. 09:10 13 A Eolas. 09:10 14 There's -- other than my -- and there's other 09:10 15 counsel in some of those meetings -- 09:10 16 MR. BUDWIN: Okay. 09:10 17 THE WITNESS: -- for other -- 09:10 18 MR. BUDWIN: Q. For other defendants? 09:10 19 A -- departments, yeah. 09:10 20 Q How many times did you meet with Mr. Wei? 09:10 21 A Once. 09:10 22 Q And that was in person? 09:10 23 A Yes. 09:10 24 Q And was that at Yahoo's campus? 09:10 25 A Yes. 09:10</p>	<p>1 Q How long was that meeting? 09:10 2 A I don't -- I would say between an hour and 09:10 3 two hours. 09:10 4 Q And what did you discuss with Mr. Wei? 09:10 5 A I didn't discuss a lot personally. It was 09:11 6 mostly -- there were a lot of lawyers in the room. It 09:11 7 was more kind of going over legal issues. 09:11 8 Q Okay. What legal issues do you remember 09:11 9 being discussed at that meeting? 09:11 10 A I think document collection came up. Just 09:11 11 some background. His background came up. 09:11 12 Q Do you have a specific recollection of the 09:11 13 substance of any of the discussions at the meeting 09:11 14 with Mr. Wei? 09:11 15 A Not -- not in real detail. 09:11 16 Q Do you recall any of the questions that were 09:11 17 being asked of Mr. Wei at the meeting? 09:11 18 A Again, not specifically, but general things 09:11 19 like, again, around document collection. I think 09:11 20 there was some questions around just making sure that 09:11 21 all the documents had been -- were -- you know, 09:11 22 wherever he had access to documents, that those had 09:12 23 been collected and looked at -- 09:12 24 Q Okay. 09:12 25 A -- like that. 09:12</p>

Page 14	Page 15
<p>1 Q So you remember there was discussion with 09:12 2 Mr. Wei about his document collection? 09:12 3 A Yes. 09:12 4 Q And there were questions of Mr. Wei about 09:12 5 whether he had been able to collect all of the 09:12 6 documents that he had that potentially related to this 09:12 7 case? 09:12 8 A Yeah. Generally speaking, that and just 09:12 9 probably going over what he had collected and those 09:12 10 kinds of things. 09:12 11 Q Okay. So other than discussions with Mr. Wei 09:12 12 about document collection, were there any substantive 09:12 13 discussions with Mr. Wei about anything that he had 09:12 14 worked on in the past? 09:12 15 A Yeah. Again, just more kind of background 09:12 16 information about what he had done years ago, and 09:12 17 probably something we talked a little bit about. 09:12 18 Maybe some previous litigation. 09:12 19 Q Okay. What do you recall Mr. -- the 09:12 20 discussion with Mr. Wei related to the background of 09:12 21 the previous litigation being? 09:12 22 A I don't remember the details. Again, you 09:12 23 know, around the Microsoft litigation; but exactly 09:12 24 what was talked about, I don't remember. 09:13 25 Q How long ago was this meeting? 09:13</p>	<p>1 A I want to say July time frame. Maybe August. 09:13 2 Q So your recollection was your meeting with 09:13 3 Mr. Wei was in July or August of 2011? 09:13 4 A Yes. 09:13 5 Q And sitting here today, you don't recall many 09:13 6 of the details of any substantive discussion related 09:13 7 to Mr. Wei or his work? 09:13 8 A Well, I don't -- again, I'm not sure what you 09:13 9 mean by "detail," but a lot of it was lawyers talking 09:13 10 about, again, legal-type issues that wasn't of real 09:13 11 interest to me, but -- 09:13 12 Q Was -- 09:13 13 A -- again we talked about some of his 09:13 14 background and things he had done, so... 09:13 15 Q Was there anything at that meeting with 09:13 16 Mr. Wei that was of interest to you? 09:13 17 A Yeah; I think his background was interesting 09:13 18 and -- 09:13 19 Q So tell me what you remember about the 09:13 20 discussion with Mr. Wei about his background. 09:13 21 A I think he talked about when -- you know, 09:13 22 that he was -- his time at Berkeley, a student at the 09:14 23 University of California there, and his work at XEF, 09:14 24 and probably -- he may have talked about the -- his 09:14 25 work at O'Riley as well. 09:14</p>
Page 16	Page 17
<p>1 Q Do you recall any documents or demonstrations 09:14 2 or anything being done with Mr. Wei at this meeting? 09:14 3 A I don't think so. 09:14 4 Q Okay. 09:14 5 A I didn't -- I don't think I signed any 09:14 6 documents. 09:14 7 Q Did you ask Mr. Wei any questions? 09:14 8 A I probably did. 09:14 9 Q Okay. What did you ask Mr. Wei about? 09:14 10 A Again, just about his background and -- 09:14 11 Q What -- what specifically? 09:14 12 A Specific questions, like, I remember talking 09:14 13 to him about his time. I think he -- he had been at 09:14 14 Stanford, and so we talked about that, because I was 09:14 15 at Stanford at the time; and so I might have asked him 09:14 16 some questions about who he saw there and things like 09:15 17 that. 09:15 18 Q Did you ask Mr. Wei any questions about any 09:15 19 of the work that he had done on his Viola system? 09:15 20 A Yeah; I don't -- we talked about the Viola 09:15 21 system, and he gave some background about Viola prior 09:15 22 to the web browser that he built. So the Viola stuff 09:15 23 going back to kind of, I think, 1990 or maybe even 09:15 24 further back. 09:15 25 Q So you and Mr. Wei were at Stanford at the 09:15</p>	<p>1 same time? 09:15 2 A No; he -- 09:15 3 Q At Berkeley at the time -- 09:15 4 A -- visited Stanford while I was there. 09:15 5 Q When Mr. Wei -- had you ever seen or 09:15 6 interacted with Mr. Wei during your time at Stanford? 09:15 7 A I don't remember. That's what -- one of 09:15 8 things I was trying to remember back is if I had 09:15 9 interacted with him when I was there. 09:15 10 Q Okay. And prior to your involvement in this 09:15 11 case, had you ever heard of Mr. Wei or Viola? 09:15 12 A Yes. 09:15 13 Q Okay. How? 09:15 14 A Well, I heard of Viola back when we first 09:15 15 started Yahoo. 09:16 16 Q When was that? 09:16 17 A 1994. 09:16 18 Q Okay. So you first heard about Viola when 09:16 19 you started Yahoo in 1994? 09:16 20 A Yes. 09:16 21 Q Had you ever used Viola? 09:16 22 A Have I -- yes, I've used it. 09:16 23 Q When was the first time you used it? 09:16 24 A You know, I can't remember. Back many years 09:16 25 ago. I don't remember the first time when that would 09:16</p>

Page 18		Page 19	
1	have been. 09:16	1	used Viola was? 09:17
2	Q Would it have been some time after the 09:16	2	A Well, given that I -- again, I think it's 09:17
3	founding of Yahoo? 09:16	3	possible that I used it then, but I just can't 09:17
4	A Well, the founding of Yahoo is -- is a bit 09:16	4	remember, so it's hard to say when the first time 09:17
5	ambiguous. 09:16	5	would have been. 09:17
6	Q Okay. 09:16	6	Q Do you have any documents or information in 09:17
7	A In terms of the company was founded in 1995. 09:16	7	your possession that shows when you first used Viola 09:18
8	Q All right. 09:16	8	or became aware of it? 09:18
9	What do you recall as to the dates when you 09:16	9	A No. Again, back to that time frame, I don't 09:18
10	first used Viola? 09:16	10	have any documents that definitively say I've used it 09:18
11	A Oh, I don't remember. I don't remember 09:16	11	or didn't, but... 09:18
12	specific instances of me using it back in the '94/'95 09:17	12	Q All right. 09:18
13	time frame. I think it's possible that I did. We 09:17	13	So it's your understanding that you first 09:18
14	were experimenting with lots of browsers at that time, 09:17	14	became aware of Viola some time in 1994; is that 09:18
15	and it was one of several that were out there. 09:17	15	right? 09:18
16	And given that it worked on the system that I 09:17	16	A Yes. 09:18
17	would be using, I just -- I think it's possible that I 09:17	17	Q And you don't have any specific recollection, 09:18
18	did use it and experimented with it. 09:17	18	sitting here today, of using Viola in the 1993, 1994, 09:18
19	Q Okay. 09:17	19	or 1995 time frame? 09:18
20	A But I can't remember specific cases of that. 09:17	20	A Yeah. Of using the programming, no. 09:18
21	Q So you don't have any specific recollection 09:17	21	Q And you don't have any documents or other 09:18
22	of using Viola in the 1994 or 1995 time frame; is that 09:17	22	information in your possession of which you're aware 09:18
23	right? 09:17	23	that would relate to any use of Viola by you in the 09:18
24	A That's correct. 09:17	24	1993 to 1995 time frame? 09:18
25	Q And you don't recall when the first time you 09:17	25	MS. DOAN: Objection; form. 09:18
Page 20		Page 21	
1	THE WITNESS: Again, 1993, '94 time frame I 09:18	1	meaning, you know, more than -- more than half the 09:19
2	don't have any documents that definitively say that I 09:18	2	time, yes, I probably would have. 09:20
3	used it or not. 09:18	3	In my use of browsers, again, I'd say in 09:20
4	MR. BUDWIN: Okay. 09:18	4	the '90 -- so kind of mid '94, that's a time when I 09:20
5	Q What about '95? 09:18	5	know Mosaic -- I was using Mosaic more often than 09:20
6	A Same thing. 09:18	6	not in 1994. And then when Netscape came out, which 09:20
7	Q What was the primary web browser you were 09:18	7	I'm not sure exactly when it did, but it was, you 09:20
8	using in 1993, or 1994, or 1995? 09:19	8	know, late '94 or '95-something. I think when that 09:20
9	A It would change over time, but Mosaic was one 09:19	9	came out then, it was either late '94 or '95 or 09:20
10	that had got used in that time frame that you 09:19	10	something. 09:20
11	mentioned. Netscape was also used as a primary. 09:19	11	MR. BUDWIN: Okay. 09:20
12	Again, I experimented with other browsers as well. 09:19	12	THE WITNESS: I think when that came out, 09:20
13	Q Okay. 09:19	13	then it was probably either Mosaic or Netscape that 09:20
14	A Before that, before Mosaic, there were 09:19	14	was again more often than not used as a browser. 09:20
15	other -- that's where my -- my recollection is a 09:19	15	I think before kind of mid '94, I can't 09:20
16	little fuzzy there. There are other types of 09:19	16	remember exactly what -- what my usage -- browser 09:20
17	browsers. Things like Gopher, Wei's browsers and 09:19	17	usage habits were. 09:20
18	stuff in terms of early web browsers. I just don't 09:19	18	MR. BUDWIN: Okay. 09:20
19	remember exactly what and when I used. 09:19	19	Q Just so that I can understand, in this 1993 09:20
20	Q All right. 09:19	20	to 1995 time frame, the primary browsers that you 09:20
21	So in this 1993 to 1995 time frame, the 09:19	21	recall using were Mosaic and Netscape? 09:20
22	primary browsers that you recall using were Mosaic and 09:19	22	MS. DOAN: Objection; form. 09:21
23	Netscape? 09:19	23	You can answer. 09:21
24	MS. DOAN: Objection; form. 09:19	24	THE WITNESS: Well, again, back to '93, I -- 09:21
25	THE WITNESS: Well, in terms of "primary," 09:19	25	I can't say. I wouldn't say that. 09:21

Page 22	Page 23
<p>1 MR. BUDWIN: Okay. 09:21</p> <p>2 Q In the 1994 to 1995 time frame, the primary 09:21</p> <p>3 browsers you recall using were Mosaic and Netscape? 09:21</p> <p>4 MS. DOAN: Objection; form. 09:21</p> <p>5 THE WITNESS: So, again, that's in mid '94 09:21</p> <p>6 was when I kind of recall that at that time I'm pretty 09:21</p> <p>7 sure that, again, more often than not, I would be 09:21</p> <p>8 using the Mosaic browser. 09:21</p> <p>9 MR. BUDWIN: Okay. 09:21</p> <p>10 THE WITNESS: And then later either Mosaic 09:21</p> <p>11 and Netscape, and eventually it became more Netscape, 09:21</p> <p>12 but probably later in '95 or some time in '95. 09:21</p> <p>13 MR. BUDWIN: So I want to go back to the 09:21</p> <p>14 meeting that you had with Mr. Wei in July or August of 09:21</p> <p>15 2011. 09:21</p> <p>16 Q What sticks out in your mind about that 09:21</p> <p>17 meeting? Do you have any specific recollection about 09:21</p> <p>18 the meeting? 09:21</p> <p>19 A Other than what I've said? 09:21</p> <p>20 Q Yeah. 09:22</p> <p>21 What -- what -- what's the one thing that's 09:22</p> <p>22 in the forefront of your mind about that meeting? 09:22</p> <p>23 MS. DOAN: Objection; form. 09:22</p> <p>24 You can answer it. 09:22</p> <p>25 THE WITNESS: I would say that the one thing 09:22</p>	<p>1 was -- I think I -- I was -- I had known about -- I 09:22</p> <p>2 knew about Pei Wei, and I don't recall if I had met 09:22</p> <p>3 him before, but it's possible I had. 09:22</p> <p>4 But I'd say the one thing that I was just 09:22</p> <p>5 being pretty impressed with what he had done back in 09:22</p> <p>6 -- at both Berkeley and XEF and at O'Riley & 09:22</p> <p>7 Associates. 09:22</p> <p>8 MR. BUDWIN: Q. Was there a discussion at 09:22</p> <p>9 the meeting with Mr. Wei about any shortcomings or 09:22</p> <p>10 problems with Viola or the Viola system? 09:22</p> <p>11 A I think there was a brief discussion about 09:22</p> <p>12 one of the bugs in some version of the source code 09:22</p> <p>13 that is in the various exhibits -- 09:22</p> <p>14 Q What's -- 09:23</p> <p>15 A -- around the version of the http protocol. 09:23</p> <p>16 Q So you recall, in this meeting in July or 09:23</p> <p>17 August, that there was a discussion about a bug in one 09:23</p> <p>18 of the versions of Viola that related to HTTP? 09:23</p> <p>19 A I believe we talked about that briefly. 09:23</p> <p>20 Q Okay. What do you recall about that 09:23</p> <p>21 discussion? 09:23</p> <p>22 A Not much other than, you know, I think it was 09:23</p> <p>23 brought up, and it was, I think, both in Pei's mind 09:23</p> <p>24 and my mind. It was very minor, a minor issue that 09:23</p> <p>25 was very easily addressed. 09:23</p>
Page 24	Page 25
<p>1 Q Can you describe what you understood the bug 09:23</p> <p>2 to be? 09:23</p> <p>3 A My understanding is that the bug -- so it was 09:23</p> <p>4 a version of HTTP before -- well, there was 0.9, which 09:23</p> <p>5 was an older version of the protocol. And I think 09:23</p> <p>6 around the time frame that we're looking at these 09:23</p> <p>7 snapshots of source code from Viola, the version was 09:23</p> <p>8 changing from 0.9 to 1.0. And as part of the Viola 09:24</p> <p>9 system and the Viola WWW browser in particular, it 09:24</p> <p>10 used libraries from Cern, and the HTTP protocol was 09:24</p> <p>11 implemented by uses libraries from Cern. 09:24</p> <p>12 He was using -- he had updated his libraries 09:24</p> <p>13 from Cern to update to 1.0 where his -- he had code in 09:24</p> <p>14 his system that was interfacing with the Cern 09:24</p> <p>15 libraries where he was -- his code was -- was still 09:24</p> <p>16 programmed to the older interface, the 0.9; and so 09:24</p> <p>17 there was just an incompatibility there between the 09:24</p> <p>18 code that he had developed and the code that he 09:24</p> <p>19 integrated from Cern. 09:24</p> <p>20 And so, I mean, that's my understanding of 09:24</p> <p>21 the source of that bug, and again a relatively trivial 09:24</p> <p>22 issue to address that and fix that. 09:25</p> <p>23 Q Who -- who explained that incompatibility or 09:25</p> <p>24 that, the bug in Viola, to you? 09:25</p> <p>25 A Well, some of it -- yeah, I'd say my first -- 09:25</p>	<p>1 the first way I learned about it and understood it was 09:25</p> <p>2 when I looked at the source code. 09:25</p> <p>3 Q Did anybody explain it to you? 09:25</p> <p>4 A Well, I had my -- I had my own understanding 09:25</p> <p>5 of it. 09:25</p> <p>6 Q Okay. And you came up with your -- your own 09:25</p> <p>7 understanding on your own with no help from anybody 09:25</p> <p>8 else? 09:25</p> <p>9 A That's correct, and we did talk. As I said, 09:25</p> <p>10 it was brought -- it was -- I can't remember how it 09:25</p> <p>11 came up, but it did come up in the meeting that 09:25</p> <p>12 I -- that we had with him. 09:25</p> <p>13 Q Did you ask Mr. Wei any questions about the 09:25</p> <p>14 bug? 09:26</p> <p>15 A I can't remember if I asked him. I mean, 09:26</p> <p>16 it's possible. I just -- I wouldn't remember the 09:26</p> <p>17 specific. I can't remember a specific question, if 09:26</p> <p>18 there was one. 09:26</p> <p>19 I had -- at that time, when I had -- I think 09:26</p> <p>20 when we had that meeting, I had a pretty good 09:26</p> <p>21 understanding of what the issue was already. So I 09:26</p> <p>22 think, if anything, I might have asked him things just 09:26</p> <p>23 to confirm that what I was seeing was the same as what 09:26</p> <p>24 he recalled. 09:26</p> <p>25 Q Okay. So it's your understanding that in 09:26</p>

Page 26	Page 27
<p>1 Viola there was a bug related to its support for HTTP? 09:26</p> <p>2 MS. DOAN: Objection; form. 09:26</p> <p>3 You can answer. 09:26</p> <p>4 THE WITNESS: Yeah, can you -- 09:26</p> <p>5 MR. BUDWIN: Sure. 09:26</p> <p>6 Q It's your understanding that in one of the 09:26</p> <p>7 versions of Viola there was a bug that related to its 09:26</p> <p>8 support of the HT -- HTTP? 09:26</p> <p>9 A No; it was -- I mean, it's support for -- 09:26</p> <p>10 there was a bug that was related to an incompatibility 09:27</p> <p>11 between versions of HTTP protocol. 09:27</p> <p>12 Q So there's -- 09:27</p> <p>13 A And -- I'm sorry. 09:27</p> <p>14 Q Well, I didn't mean to interrupt you. 09:27</p> <p>15 A That's it. 09:27</p> <p>16 Q So it's your understanding that in one of the 09:27</p> <p>17 versions of Viola there was a bug that related to an 09:27</p> <p>18 incomparability between different versions of HTTP? 09:27</p> <p>19 A Yeah. Again, in one -- so in one version of 09:27</p> <p>20 Viola, and this is a snapshot taken on one particular 09:27</p> <p>21 day, I think, back in May of '93, so on that snapshot 09:27</p> <p>22 that I looked at, I believe there's a bug that, again, 09:27</p> <p>23 is related to the upgrade of one of the components to 09:27</p> <p>24 a newer version of HTTP, and there's a slight 09:27</p> <p>25 incompatibility between the code that's in the Viola 09:27</p>	<p>1 WWW system and how that interfaces with this certain 09:28</p> <p>2 library. 09:28</p> <p>3 Q Okay. So at this meeting in July or August 09:28</p> <p>4 2001 with Mr. Wei, one of the shortcomings related to 09:28</p> <p>5 Viola that was discussed was this bug in the HTTP; 09:28</p> <p>6 right? 09:28</p> <p>7 MS. DOAN: Objection; form. 09:28</p> <p>8 THE WITNESS: Yeah, I wouldn't say. You 09:28</p> <p>9 say -- I wouldn't use those words. I wouldn't use 09:28</p> <p>10 "shortcoming." 09:28</p> <p>11 MR. BUDWIN: Okay. 09:28</p> <p>12 Q How would you -- how would you describe it? 09:28</p> <p>13 A I would say a very minor issue with 09:28</p> <p>14 incompatibilities between a new library that was 09:28</p> <p>15 integrated from Cern. Again, very minor issue that 09:28</p> <p>16 could be fixed within a couple of minutes and was 09:28</p> <p>17 fixed later, is my understanding, as you would expect. 09:28</p> <p>18 Because again, it was a simple thing, and the 09:28</p> <p>19 Viola WWW browser was mostly code that was written by 09:28</p> <p>20 Pei, but it also incorporated code from other parties 09:29</p> <p>21 like Cern. And so any time you integrate code from 09:29</p> <p>22 third parties, incompatibilities like that will creep 09:29</p> <p>23 in. Once you see them, you address them and fix them, 09:29</p> <p>24 and it's not a big issue at all. 09:29</p> <p>25 Q So at this meeting with Mr. Wei in July or 09:29</p>
Page 28	Page 29
<p>1 August of 2011, there was a discussion with a bug in 09:29</p> <p>2 the Viola code related to -- which you characterized 09:29</p> <p>3 as a slight incompatibility with HTTP? 09:29</p> <p>4 MS. DOAN: Objection; form. 09:29</p> <p>5 You can answer. 09:29</p> <p>6 THE WITNESS: I've answered the question. 09:29</p> <p>7 I'm not -- I'm not sure the point of rewording it. 09:29</p> <p>8 MR. BUDWIN: Q. Are you refusing to answer 09:29</p> <p>9 my question? 09:29</p> <p>10 A Well, I wouldn't say what you said. 09:29</p> <p>11 Q How about let me ask my question again. 09:29</p> <p>12 A Sure. 09:29</p> <p>13 Q So you had a meeting at which Mr. Wei was 09:29</p> <p>14 present in July or August 2011; is that right? 09:29</p> <p>15 A That's correct. 09:29</p> <p>16 Q And you spent an hour or two with Mr. Wei and 09:29</p> <p>17 with counsel talking about things related to the Viola 09:29</p> <p>18 background, document collection, things of that 09:30</p> <p>19 nature; right? 09:30</p> <p>20 A That's correct. 09:30</p> <p>21 Q Okay. And as part of that discussion, one 09:30</p> <p>22 thing that came up was related to Viola's support for 09:30</p> <p>23 HTTP; right? 09:30</p> <p>24 A I'm not sure -- 09:30</p> <p>25 MS. DOAN: Objection; form. 09:30</p>	<p>1 THE WITNESS: -- it's support for HTTP. I 09:30</p> <p>2 wouldn't word it that way. 09:30</p> <p>3 MR. BUDWIN: Okay. 09:30</p> <p>4 Q Word it how you would word it. 09:30</p> <p>5 A We talked about, again, an incompatibility 09:30</p> <p>6 that existed in one version of the source code on a 09:30</p> <p>7 particular day at a time when the HTTP protocol was 09:30</p> <p>8 transitioning from 0.9 to 1.1. 09:30</p> <p>9 He had integrated the newest version of the 09:30</p> <p>10 library from Cern. And by doing that, his system 09:30</p> <p>11 wasn't completely prepared to work with that new 09:30</p> <p>12 version of the library from Cern, and simple 09:30</p> <p>13 modifications needed to be made to his system for that 09:30</p> <p>14 to be -- for that to work correctly. 09:30</p> <p>15 Q So at the time meeting in July or August of 09:31</p> <p>16 2011, you talked about an incompatibility that existed 09:31</p> <p>17 in one version of the Viola source code related to 09:31</p> <p>18 transitioning the HTTP protocol from 0.9 to 1.0? 09:31</p> <p>19 A I think that sounds right. 09:31</p> <p>20 Q Other than that issue, were any other issues 09:31</p> <p>21 or problems or shortcomings with Viola discussed? 09:31</p> <p>22 A I don't remember. I mean, I think that was 09:31</p> <p>23 problems and shortcomings. I mean, I think that was 09:31</p> <p>24 the one that I can recall. 09:31</p> <p>25 Q Were any other bugs or similar changes to the 09:31</p>

Page 30	Page 31
<p>1 code that would need to be made for Viola discussed at 09:31 2 the meeting in July or August of 2011? 09:31 3 A In that meeting, I don't remember what else. 09:31 4 Q Did you have any other meetings with Mr. Wei 09:31 5 or Mr. Philips where you talked about any other bugs 09:31 6 or shortcomings or issues with Viola? 09:31 7 A That was my only meeting with Mr. Wei, and I 09:31 8 had one conversation with Mr. Philips, and I don't 09:32 9 believe we talked about any issues with Viola at that 09:32 10 meeting. 09:32 11 Although now that -- I think maybe -- I can't 09:32 12 remember. I mean, if it did come up, it was very 09:32 13 brief with Mr. Philips. 09:32 14 Q So you may have talked about the same HTTP 09:32 15 bug with Mr. Philips, but you can't recall? 09:32 16 A That's correct. I mean, by that time, the 09:32 17 issue, if I had -- if we had talked about it was 09:32 18 I had understood it very well. So it didn't -- it 09:32 19 wouldn't have really registered too much, because it 09:32 20 was nothing new to learn there. 09:32 21 Q Are you aware of any other bugs or issues or 09:32 22 shortcomings with Viola other than the HTTP bug that 09:32 23 we talked about? 09:32 24 A Issues or shortcomings. In terms of getting 09:32 25 it, again, I wouldn't call it "shortcomings," I mean, 09:33</p>	<p>1 in terms of issues. I mean, I know from looking at -- 09:33 2 there's this issue with -- of when files are -- 09:33 3 temporary files are stored in a certain location and 09:33 4 there's a part of the system that expects them in a 09:33 5 different location, and so again, a very minor issue, 09:33 6 very trivial to fix. 09:33 7 Q All right. 09:33 8 So you've described two bugs or issues with 09:33 9 Viola of which you're aware. The HTTP bug and this 09:33 10 temporary files issue; is that right? 09:33 11 A Yeah. I guess stepping back a little bit, it 09:33 12 depends on what you mean by "issues"; relative to 09:33 13 what? 09:34 14 Q Okay. Well, let's use -- 09:34 15 A The -- 09:34 16 Q You -- 09:34 17 A Go ahead. 09:34 18 Q Sure. 09:34 19 You described HTTP -- an HTTP bug, and you 09:34 20 described a potential problem related to potential 09:34 21 files, both with respect to Viola. 09:34 22 Other than those two issues, are you aware of 09:34 23 any -- anything else? 09:34 24 MS. DOAN: Objection; form. 09:34 25 THE WITNESS: Again, it really depends on -- 09:34</p>
Page 32	Page 33
<p>1 it depends on the context of -- how to say this -- but 09:34 2 if you're trying to -- it depends on how you're trying 09:34 3 to get or what you're trying to get with Viola where 09:34 4 you're trying to make it -- you know, what kind of 09:34 5 system you're trying to make it work in. 09:34 6 So, I mean, I think that more specifics 09:34 7 really need to be -- need to be stated before I can 09:34 8 really -- 09:34 9 MR. BUDWIN: Sure. 09:35 10 THE WITNESS: -- answer that. 09:35 11 MR. BUDWIN: Q. What more specifics do you 09:35 12 need? 09:35 13 A Well, I'll give you an example. I mean, if 09:35 14 you were to get Viola running today on a modern 09:35 15 system, compilers change all the time, and so minor 09:35 16 modifications may need to be made to the source code 09:35 17 to get it to compile correctly. 09:35 18 So that's just one example of -- without 09:35 19 knowing the context of what you're asking, it's hard 09:35 20 to say or what you're trying to do with the system. 09:35 21 Viola has -- it's very powerful, and you can 09:35 22 do many things with it. And so depending on what 09:35 23 you're trying to do, things may work. You may have to 09:35 24 do something to get things to work as you expect them 09:35 25 to work. 09:35</p>	<p>1 Q All right. 09:36 2 Mr. Filo, when did you start working on what 09:36 3 ultimately became Yahoo? 09:36 4 A I believe in March of 1994. 09:36 5 Q And is that while you were a student at 09:36 6 Stanford? 09:36 7 A Yes. I was at Stanford at the time. 09:36 8 Q Who, other than yourself, was working on what 09:36 9 ultimately became Yahoo as of March of 1994? 09:36 10 A Jerry Yang. 09:36 11 Q Anybody else? 09:36 12 A No. 09:36 13 Q And was Mr. Yang also a student at Stanford 09:36 14 at that time? 09:36 15 A Yes. 09:36 16 Q How did the idea for what became Yahoo get 09:36 17 started in March of 1994? 09:36 18 A The original idea was really just a directory 09:37 19 listing of more kind of a set of bookmarks that we 09:37 20 were collecting for our own use at the time. 09:37 21 Q When you say "a directory listing" or 09:37 22 "bookmarks," you mean of other sites that were 09:37 23 available on the web at the time? 09:37 24 A Yes. As we were -- as we were using the web 09:37 25 and exploring what was being created out there, just 09:37</p>

Page 34	Page 35
<p>1 to kind of keep track of what was happening in the 09:37 2 different sites that were being created, we were 09:37 3 keeping track of some of those sites for our own use. 09:37 4 Q And so you just made a directory listing or 09:37 5 bookmark, a blue underline hyperlink sites or category 09:37 6 of sites that were made available? 09:37 7 MS. DOAN: Objection; form. 09:37 8 You may answer. 09:37 9 THE WITNESS: Yeah. And so we -- as we were 09:37 10 finding sites out there, and at first we kind of 09:37 11 started with sites that we were interested in or 09:38 12 interested in potentially going back to at some point 09:38 13 in the future, because there was really no good search 09:38 14 engine or good kind of directory out there, when you 09:38 15 found something, it wasn't necessarily an easy way to 09:38 16 get back to. 09:38 17 If you had remembered something about it -- 09:38 18 so anyway, I just -- we were trying to keep track of 09:38 19 that stuff. So creating these set of bookmarks in a 09:38 20 categorized fashion was kind of really the first 09:38 21 motivation to -- for what became Yahoo. 09:38 22 MR. BUDWIN: All right. 09:38 23 Q So March of 1994, you and Jerry Yang are at 09:38 24 Stanford; is that right? 09:38 25 A That's right. 09:38</p>	<p>1 Q And you're both -- you're both students at 09:38 2 the time? 09:38 3 A Yes. 09:38 4 Q And you're starting to explore the web which 09:38 5 is emerging around that time frame; is that right? 09:38 6 MS. DOAN: Objection; form. 09:38 7 THE WITNESS: We -- you know, we were using 09:38 8 the web from -- you know, well before that. 09:38 9 Started using the Internet for many years 09:39 10 before that, and as the web and the predecessors to 09:39 11 the web started to unfold back in, you know, whatever, 09:39 12 '90, '91, '92, '93, as go for an FTP and ways for 09:39 13 other things, and other web browsers had started 09:39 14 coming out, we were -- we had been using all that 09:39 15 stuff prior to that. 09:39 16 So it was just in the March of '94 -- 09:39 17 March/April '94 was the time when we first started to 09:39 18 develop some tools that would help us kind of keep 09:39 19 track and categorize websites. 09:39 20 MR. BUDWIN: All right. 09:39 21 Q So in March or April of 1994, you and 09:39 22 Mr. Yang start developing tools that will help you 09:39 23 categorize websites that existed at the time? 09:39 24 A That's correct. 09:39 25 Q And ultimately you decided to keep a list of 09:39</p>
Page 36	Page 37
<p>1 the -- the websites that had interested you by 09:39 2 category; is that right? 09:40 3 MS. DOAN: Objection; form. 09:40 4 THE WITNESS: It first started out as 09:40 5 categorizing sites that we were interested in. Very 09:40 6 quickly it became categorizing any and all sites, 09:40 7 thinking that even if we weren't interested in it, 09:40 8 someone else might be interested in it. 09:40 9 MR. BUDWIN: Okay. 09:40 10 Q And did you make this list or categorization 09:40 11 of sites available to others in this March or April of 09:40 12 '94 time frame? 09:40 13 A Yes. 09:40 14 Q And how did you do that? 09:40 15 A By just publishing our own page that had the 09:40 16 categories and list of sites. 09:40 17 Q When did you and Mr. Yang first publish your 09:40 18 own page? 09:40 19 A Would have been in the March -- 09:40 20 March. 09:40 21 A -- April time frame. 09:40 22 Q Now, you and Mr. Yang were students at 09:40 23 Stanford in this March or April '94 time frame; is 09:40 24 that right? 09:41 25 MS. DOAN: Objection form. 09:41</p>	<p>1 THE WITNESS: That's correct. 09:41 2 MR. BUDWIN: Q. How were you connecting to 09:41 3 the Internet or the web? 09:41 4 A The -- well, Stanford University had been 09:41 5 connected to the Internet for decades before that, 09:41 6 probably many years, and so our use of the web was, 09:41 7 I'd say, primarily through our kind of personal 09:41 8 workstations that we had at the university, and 09:41 9 they're connected to the Stanford network which is 09:41 10 connected to the Internet. 09:41 11 Q Now, at the time that you started Yahoo, were 09:42 12 you the first person, which you're aware, who put 09:42 13 together this index or category -- categorization of 09:42 14 sites that were available on the web? 09:42 15 A No. I mean, in terms of a list of websites, 09:42 16 there were definitely other lists of websites on the 09:42 17 web. 09:42 18 Q What made your list of websites different 09:42 19 than other lists that existed at this time frame, 09:42 20 March or April of '94? 09:42 21 A Well, what made it different was that it was 09:42 22 the one we created, so kind of by definition it was 09:42 23 different. 09:42 24 Q Were there any features or benefits to your 09:42 25 listing as opposed to the other listings that existed 09:42</p>

Page 38	Page 39
<p>1 in March or April of '94? 09:42</p> <p>2 A Well, when I say "list," "other listings," I 09:42</p> <p>3 mean, every -- not every -- but many websites at the 09:42</p> <p>4 time had listings of other websites. 09:42</p> <p>5 Just as today, you'll find if you go to any 09:42</p> <p>6 web page, you're going to typically find links to 09:43</p> <p>7 other pages or other websites on a page. 09:43</p> <p>8 So there certainly was no shortage of lists 09:43</p> <p>9 of other websites. Again, that is kind of the nature 09:43</p> <p>10 of the web to kind of link to other things. 09:43</p> <p>11 Q Do you have in your possession today access 09:43</p> <p>12 to what Yahoo's website looked like in March or April 09:43</p> <p>13 of 1994? 09:43</p> <p>14 A My position -- what do you mean today? 09:43</p> <p>15 Q Do you have access to something that would 09:43</p> <p>16 show us the way Yahoo's website looked like in this 09:43</p> <p>17 March or April 1994 time frame? 09:43</p> <p>18 A I mean, there is -- when you say do I have 09:43</p> <p>19 access to it, you mean in general, not could I show it 09:43</p> <p>20 to you right now? 09:43</p> <p>21 Q Right. In general. 09:43</p> <p>22 A Yeah. 09:43</p> <p>23 Q If you went back to your office, on your 09:43</p> <p>24 computer; you do? 09:43</p> <p>25 A We have -- there are a couple of snapshots of 09:43</p>	<p>1 what they looked like. 09:44</p> <p>2 Q And had you gathered those and provided them 09:44</p> <p>3 to counsel in this case? 09:44</p> <p>4 A Yes. 09:44</p> <p>5 Q Okay. And do you know if those were ever 09:44</p> <p>6 produced to us? 09:44</p> <p>7 A I don't know. 09:44</p> <p>8 MR. BUDWIN: Okay. I'm just going to make a 09:44</p> <p>9 request that we get copies of those, because I don't 09:44</p> <p>10 believe they've been produced. 09:44</p> <p>11 MS. DOAN: I believe they have been produced, 09:44</p> <p>12 but why don't you send me a letter. 09:44</p> <p>13 MR. BUDWIN: Okay. I'd like to mark a 09:44</p> <p>14 document as Exhibit 1. 09:44</p> <p>15 (Document marked Exhibit 1 09:44</p> <p>16 for identification.) 09:44</p> <p>17 MR. BUDWIN: Q. Mr. Filo, I've just handed 09:44</p> <p>18 you a document which has been marked as Exhibit 1. 09:44</p> <p>19 It's a printout from CNET, and do you see there's a 09:44</p> <p>20 part of the document that I drew a highlighted box 09:44</p> <p>21 around? 09:44</p> <p>22 A Of -- yes. 09:44</p> <p>23 Q Okay. Is what's within the highlighted box 09:44</p> <p>24 an accurate representation of your understanding of 09:44</p> <p>25 the way Yahoo's website looked like in 1994? 09:44</p>
Page 40	Page 41
<p>1 A Yeah, it looks reasonable. 09:45</p> <p>2 Q Okay. All right. You can set that aside. 09:45</p> <p>3 All right. So you and Mr. Yang, you're 09:45</p> <p>4 students at Stanford University. You founded Yahoo in 09:45</p> <p>5 March or April of 1994? 09:45</p> <p>6 A We founded what became Yahoo in March/April 09:45</p> <p>7 1994. 09:45</p> <p>8 Q And at that time, March or April of 1994, 09:45</p> <p>9 Yahoo's website was a listing or a categorization of 09:45</p> <p>10 websites, other websites that were available on the 09:45</p> <p>11 web? 09:45</p> <p>12 A Again, what became Yahoo. It wasn't called 09:45</p> <p>13 Yahoo then. It was a list of categorized websites, 09:45</p> <p>14 and eventually that became Yahoo. 09:45</p> <p>15 Q And what we see in Exhibit 1 is a 09:45</p> <p>16 representation of the way -- what ultimately became 09:45</p> <p>17 Yahoo looked like in this 1994 time frame? 09:45</p> <p>18 MS. DOAN: Objection; form. 09:45</p> <p>19 THE WITNESS: I don't know what this -- I 09:45</p> <p>20 mean, I couldn't say. It looks like it's probably 09:46</p> <p>21 from the '94 time frame, but I have no idea what point 09:46</p> <p>22 in '94 this was, but clearly at this point we had 09:46</p> <p>23 called it Yahoo. 09:46</p> <p>24 MR. BUDWIN: Q. Now, when -- when did the 09:46</p> <p>25 company officially become -- called Yahoo? 09:46</p>	<p>1 A Well, the company was called Yahoo from the 09:46</p> <p>2 first day of incorporation. 09:46</p> <p>3 Q Okay. And when was that? 09:46</p> <p>4 A I think that was in March of 1995. 09:46</p> <p>5 Q And did you end up graduating from Stanford 09:46</p> <p>6 University? 09:46</p> <p>7 A I have a master's degree from Stanford. 09:46</p> <p>8 Q Okay. When did you get your bachelor's from 09:46</p> <p>9 Stanford? 09:46</p> <p>10 A I didn't. 09:46</p> <p>11 Q Okay. Where is your bachelor's degree from? 09:46</p> <p>12 A Tulane. 09:46</p> <p>13 Q When did you get that degree? 09:46</p> <p>14 A 1988. 09:46</p> <p>15 Q And what's that in? 09:46</p> <p>16 A Computer engineering -- 09:46</p> <p>17 Q Okay. 09:47</p> <p>18 A -- I believe. 09:47</p> <p>19 Q And then you went to Stanford to get a 09:47</p> <p>20 master's? 09:47</p> <p>21 A Correct. 09:47</p> <p>22 Q When did you arrive at Stanford? 09:47</p> <p>23 A In 19 -- I guess the fall of 1988. 09:47</p> <p>24 Q 1988? 09:47</p> <p>25 A Yes. 09:47</p>

Page 42			Page 43		
1	Q How long were you at Stanford?	09:47	1	A Yes.	09:48
2	A Left in early 1995.	09:47	2	Q And then after you got your master's degree,	09:48
3	Q All right.	09:47	3	you continued on at Stanford pursuing coursework to	09:48
4	So you were at Stanford from 1988 to 1995?	09:47	4	get a doctorate?	09:48
5	A Yes.	09:47	5	A Yes.	09:48
6	Q Okay. And during -- during that time, you	09:47	6	Q In March or April of 1994, you and Mr. Yang	09:48
7	got a master's degree?	09:47	7	began working on what would ultimately become Yahoo?	09:48
8	A Yes.	09:47	8	A Yes.	09:48
9	Q In what?	09:47	9	Q Okay. And Yahoo was incorporated some time	09:48
10	A Electrical engineering.	09:47	10	in around March of 1995?	09:48
11	Q And were you doing other coursework toward a	09:47	11	A Yes.	09:48
12	doctorate or anything like that?	09:47	12	Q And after the incorporation of Yahoo, you	09:48
13	A Yes.	09:47	13	decided to leave Stanford, not finish your doctorate,	09:48
14	Q Okay. And you ultimately decided to leave	09:47	14	and transition to Yahoo; is that right?	09:48
15	Stanford before you completed your doctorate?	09:47	15	MS. DOAN: Objection; form.	09:48
16	A Correct.	09:47	16	THE WITNESS: Yeah, after -- I think	09:48
17	Q Okay. All right. So let me make sure I	09:47	17	everything you said was accurate.	09:48
18	understand the chronology here.	09:47	18	MR. BUDWIN: Okay.	09:48
19	You got a bachelor of science degree from	09:47	19	Q So you began working at Yahoo as a full-time	09:48
20	Tulane in 1988; is that right?	09:47	20	employee around March of 1995?	09:48
21	A A bachelor from computer engineering, I think	09:48	21	A Well, no. I mean, the company was	09:49
22	I said.	09:48	22	incorporated then. I think that everything was	09:49
23	Q Okay. And then in 1988, you first arrived at	09:48	23	roughly that time. I think maybe April '95 was when	09:49
24	Stanford's campus -- Stanford to pursue a master's	09:48	24	we finally left and became kind of full-time	09:49
25	degree?	09:48	25	employees.	09:49
Page 44			Page 45		
1	Q All right.	09:49	1	A Correct.	09:50
2	And so you've been working for Yahoo from	09:49	2	Q Have you had any other titles other than	09:50
3	1995 through the present day?	09:49	3	Chief Yahoo?	09:50
4	A That's correct.	09:49	4	A I mean, that's always been kind of my	09:50
5	Q Full time during that time period?	09:49	5	official title.	09:50
6	A Yes.	09:49	6	Q What are the job responsibilities of a Chief	09:50
7	Q And you haven't left or come -- left and come	09:49	7	Yahoo?	09:50
8	back or had any other employment?	09:49	8	A I guess whatever -- I know Chief Yahoo, the	09:50
9	A No.	09:49	9	answer is, you know, there's nothing in particular.	09:50
10	Q Okay. Can you -- can you run me through the	09:49	10	The other cofounder, Jerry, also had a title of Chief	09:50
11	different titles and responsibilities you've had	09:49	11	Yahoo. So there's nothing particularly inherent with	09:51
12	during the course of your career at Yahoo?	09:49	12	the title that has a certain set of responsibilities	09:51
13	A Well, you asked for titles. I think I've had	09:49	13	with it.	09:51
14	a consistent title pretty much from the beginning,	09:49	14	Q Okay. Can you tell me what different areas	09:51
15	which was -- which is Chief Yahoo.	09:49	15	you focused on during the course of your career at	09:51
16	I think at the incorporation of Yahoo I was	09:49	16	Yahoo?	09:51
17	either CEO or president. I don't remember which, but	09:50	17	A Sure.	09:51
18	that was for a relatively short period of time.	09:50	18	Generally speaking, I focussed on the	09:51
19	Q Okay. So for a short period of time around	09:50	19	technology that's behind all the Yahoo infrastructure	09:51
20	the incorporation of Yahoo March of 1995, you may have	09:50	20	and services. It's not everything that I've done, but	09:51
21	held the title of CEO or president, but that was for a	09:50	21	I'd say most of my -- most of my time has been spent	09:51
22	short time frame?	09:50	22	on those technological issues.	09:51
23	A That's correct.	09:50	23	Q And do you work in different areas of	09:51
24	Q And since that time, you've had the	09:50	24	technologies: Servers? Website? Optimization?	09:51
25	consistent title of Chief Yahoo?	09:50	25	Things of that nature?	09:51

Page 46	Page 47
<p>1 A Well, over time, I've -- you know, I've spent 09:51 2 more time focused on certain areas than others, so 09:51 3 that focus has certainly changed over the years. 09:51 4 Q So can you tell me what areas you've focused 09:51 5 on over the years while you've been at Yahoo? 09:51 6 A Sure. 09:51 7 So I'd say that at the beginning of Yahoo, 09:51 8 the focus would have been on pretty much anything and 09:52 9 everything that had anything to do with 09:52 10 technology/product, so it would have been -- I don't 09:52 11 know if you want me to list the things, but it would 09:52 12 have been everything from, you know, building a 09:52 13 server, hardware wise, and putting it together; to 09:52 14 wiring it up and connecting it to a network; to 09:52 15 running the network; to programming the various 09:52 16 software components that go in to the Yahoo services. 09:52 17 I mean, if you go back even further, it would 09:52 18 have been, again, not just even technology, but 09:52 19 answering e-mails, customer service. Those kinds of 09:52 20 things. Basically, in the very early days, it was 09:52 21 everything to run the company. 09:52 22 Q So let's focus a little bit. 09:52 23 Well, can you tell me what you primarily 09:52 24 focused on at Yahoo in the last five years? 09:52 25 A Last five years, I'd say it would include 09:53</p>	<p>1 focus on -- I would say early in those five years, it 09:53 2 would have been focus on a lot of the operations of 09:53 3 Yahoo. So whether it's servers, network, data 09:53 4 centers, operating systems, et cetera, some low-level 09:53 5 technology that runs the company as being probably the 09:53 6 primary focus, and then spending time as well up the 09:53 7 rest of the Yahoo stack of software. 09:53 8 So looking at overall architecture. Again, 09:53 9 overall strategic vision and direction for the 09:53 10 technology for the company, and over time kind of 09:53 11 migrating more towards that latter of just more in 09:53 12 terms of looking at, again, the strategic and the 09:53 13 vision behind the Yahoo technology and whether that's 09:53 14 not just on the operations side but on all the various 09:53 15 operations stacks and the various products and stuff 09:54 16 that we produce. 09:54 17 Q Any other areas of focus over the last five 09:54 18 years? 09:54 19 A I wouldn't consider every -- I would say in 09:54 20 terms of what I spend most of my time doing, it's -- 09:54 21 again, it's a very broad statement I just made in 09:54 22 terms of it covers kind of all of the technology 09:54 23 behind Yahoo, which is a lot of different things. 09:54 24 And again, at a given -- given time, I would 09:54 25 be focusing on one piece versus another. But, yeah, 09:54</p>
Page 48	Page 49
<p>1 I'd say that summarizes it. 09:54 2 Q And over the last two years, your employment 09:54 3 at Yahoo has included testifying on behalf of Yahoo in 09:54 4 court cases? 09:54 5 MS. DOAN: Objection; form. 09:54 6 THE WITNESS: My employment has included... 09:54 7 Can you repeat the question? 09:54 8 MR. BUDWIN: Sure. 09:54 9 Q Over the last year or 18 months, your 09:54 10 employment at Yahoo has included testifying on behalf 09:54 11 of Yahoo in court cases? 09:55 12 MS. DOAN: Objection; form. 09:55 13 You can answer. 09:55 14 THE WITNESS: I have testified in court cases 09:55 15 in the last two years. 09:55 16 MR. BUDWIN: Q. And you testified in that 09:55 17 case as part of your employment at Yahoo? 09:55 18 A I guess I've testified on behalf of the 09:55 19 company, so... 09:55 20 Q And you were being paid your salary by Yahoo 09:55 21 during that time? 09:55 22 A Yes. 09:55 23 Q Okay. That was the case -- the court case 09:55 24 you're referring to was the Bedrock case? 09:55 25 A Correct. 09:55</p>	<p>1 Q When did you first learn of the Bedrock case? 09:55 2 MS. DOAN: Objection; form. 09:55 3 THE WITNESS: I first learned of the Bedrock 09:55 4 case, I believe, in 19 -- or December of 2010. 09:55 5 MR. BUDWIN: Okay. 09:55 6 Q And when did you testify at trial in that 09:55 7 case? 09:55 8 A I believe in April of 2011. 09:56 9 Q So in between the time that you first learned 09:56 10 about the Bedrock case in December of 2010 and the 09:56 11 time when you testified at trial in April of 2011, 09:56 12 approximately how much time did you spend working on 09:56 13 the Bedrock case? 09:56 14 A I don't remember. 09:56 15 Q Can you give me an estimate in terms of 09:56 16 hours? 09:56 17 A No. 09:56 18 Q What about in terms of the percentage of time 09:56 19 that you were spending on Yahoo-related matters? 09:56 20 A No, I can't. There's no way to estimate 09:56 21 that. 09:56 22 Q Did you spend more than 100 hours working on 09:56 23 the Bedrock case between December 2010 and April 2011? 09:56 24 A I'd say given the time I spent in -- at 09:56 25 trial, 100 hours, probably, yeah. 09:56</p>

Page 50	Page 51
<p>1 Q Okay. And the time that you spent working on 09:57 2 the Bedrock case and testifying in deposition and at 09:57 3 trial, that was something that you did within the 09:57 4 scope of your employment at Yahoo? 09:57 5 A Within the scope. I did it while I was 09:57 6 working at Yahoo. 09:57 7 Q And you did it in exchange for whatever your 09:57 8 standard Yahoo salary or compensation is? 09:57 9 MS. DOAN: Objection; form. 09:57 10 THE WITNESS: I'm not sure I'd say I did it 09:57 11 in exchange for that. I did it because I felt it 09:57 12 important to do. 09:57 13 MR. BUDWIN: Q. And during the time that you 09:57 14 were working on the Bedrock case between December of 09:57 15 2010 and April 2011, you were, in fact, employed by 09:57 16 Yahoo? 09:57 17 A Yes, I was. 09:57 18 Q You didn't take a leave of absence or 09:57 19 anything of that nature? 09:58 20 A No. 09:58 21 Q Now, in that Bedrock case, you testified at 09:58 22 trial and offered opinions related to noninfringement 09:58 23 and invalidity; did you not? 09:58 24 A Actually, I'll just read -- you asked me -- 09:58 25 what was the previous question you asked me, if I had 09:58</p>	<p>1 taken a leave of absence from -- 09:58 2 Q You didn't take a leave of absence or 09:58 3 anything of that nature? 09:58 4 A Well, the only thing I was -- I did have a -- 09:58 5 I believe my daughter was born during that time, so I 09:58 6 was away for a little bit. 09:58 7 Q All right. 09:58 8 But you didn't take a leave of absence or 09:58 9 anything of that nature in order to allow you to 09:58 10 testify -- 09:58 11 A No. 09:58 12 Q -- in the Bedrock case? 09:58 13 A No. 09:58 14 Q Okay. Now, in the Bedrock case you, in fact, 09:58 15 offered opinions related to noninfringement and 09:58 16 validity; did you not? 09:59 17 A Yes, I did. 09:59 18 Q And you offered those opinions within the 09:59 19 scope of your work at Yahoo? 09:59 20 MS. DOAN: Objection; form. 09:59 21 You can answer it. 09:59 22 THE WITNESS: I'm not sure I understand. I 09:59 23 offered -- I offered my opinions. I was employed at 09:59 24 Yahoo at the time. 09:59 25 MR. BUDWIN: Q. So at the time that you 09:59</p>
Page 52	Page 53
<p>1 testified in the Bedrock case, at the time when you 09:59 2 offered your opinions on validity and noninfringement, 09:59 3 you were employed by Yahoo? 09:59 4 A Yes. 09:59 5 Q Okay. Now, other than the Bedrock case, have 09:59 6 you been involved in any way in any other litigation 09:59 7 as part of your employment at Yahoo? 09:59 8 A Yes. 09:59 9 Q Okay. What litigation? 09:59 10 A Well, the one that I can remember is the one 09:59 11 I mentioned earlier where I was deposed. 09:59 12 Q Well, and as part of your employment at 09:59 13 Yahoo, you had become involved in this case, the Eolas 09:59 14 case; have you not? 09:59 15 A Yes. 09:59 16 Q I'm sorry if I asked you this already, but 09:59 17 when did you first learn about this case, this Eolas 10:00 18 case? 10:00 19 MS. DOAN: Objection; form. 10:00 20 THE WITNESS: I learned about this Eolas 10:00 21 case, I believe it was in April of 2011. 10:00 22 MR. BUDWIN: Okay. 10:00 23 Q And between April of 2011 and today, how much 10:00 24 time have you spent working on matters related to 10:00 25 Eolas as part of your employment at Yahoo? 10:00</p>	<p>1 A I don't -- 10:00 2 MS. DOAN: Objection; form. 10:00 3 THE WITNESS: -- know. 10:00 4 MR. BUDWIN: Q. More than 100 hours? 10:00 5 A I don't know. 10:00 6 Q But you said you've attended some meetings; 10:00 7 is that right? 10:00 8 A Correct. 10:00 9 Q At least three meetings to prepare for the 10:00 10 deposition today? 10:00 11 A Yes. 10:00 12 Q At least one meeting with Mr. Wei? 10:00 13 A Yes. 10:00 14 Q Several phone calls with the experts in this 10:00 15 case: Mr. Bakewell, Mr. Philips, Mr. Maggs? 10:00 16 MS. DOAN: Objection; form. 10:00 17 THE WITNESS: Some of the meetings, you had 10:01 18 mentioned meetings with counsel, and some of those 10:01 19 meetings included those phone calls that you 10:01 20 mentioned, so some of those were the same. 10:01 21 MR. BUDWIN: Right. 10:01 22 Q And you also spent some time studying the 10:01 23 Viola source code and the Viola system; is that right? 10:01 24 A I have looked at the Viola source code, yes. 10:01 25 Q And so the meetings that we've talked about 10:01</p>

Page 54	Page 55
<p>1 you having with Mr. Wei, and counsel, and the experts, 10:01 2 and your study of the Viola code, all that's happened 10:01 3 since April of 2011; is that right? 10:01 4 A Yes. 10:01 5 Q Okay. And how many hours would you estimate 10:01 6 that you spent between April of 2011 and today on 10:01 7 issues and matters related to the Eolas case? 10:01 8 A I -- as I sit here, I can't -- I can't offer 10:01 9 a guess. 10:01 10 Q More -- more than 100 hours? 10:01 11 A Like I said, I don't -- I don't know. I 10:01 12 would have to spend some time thinking about it, 10:01 13 looking at calendars and stuff. I don't know. 10:01 14 Q More than 50 hours? 10:01 15 MS. DOAN: Objection; form. 10:02 16 THE WITNESS: I don't know. 10:02 17 MR. BUDWIN: Q. How many days did you spend 10:02 18 studying the code? 10:02 19 A The code was relatively a short amount of 10:02 20 time. 10:02 21 Q How much time? 10:02 22 A Well, what was your -- your question was 10:02 23 studying the code? 10:02 24 Q Yeah. 10:02 25 A Very little. I would say I didn't -- and I 10:02</p>	<p>1 didn't -- I wouldn't say necessarily study the code. 10:02 2 Q Did -- 10:02 3 A I looked at it. 10:02 4 Q Okay. Did you look at any of the accused 10:02 5 Yahoo products and the way they operate? 10:02 6 A I have looked at some of the Accused 10:02 7 Products, yes. 10:02 8 Q So just so I can understand, so you first 10:02 9 learned about this case, the Eolas case, in 10:02 10 April 2011; is that right? 10:02 11 MS. DOAN: Objection; form. 10:02 12 THE WITNESS: I learned about the -- this 10:02 13 case, yes, in 2011. 10:02 14 MR. BUDWIN: All right. 10:02 15 Q And since that -- since that time, you've had 10:02 16 at least three meetings with counsel to prepare for 10:02 17 depositions; is that -- is that fair? 10:02 18 MS. DOAN: Objection; form. 10:02 19 THE WITNESS: Yeah. 10:02 20 MS. DOAN: You can answer. 10:03 21 THE WITNESS: Yes. 10:03 22 MR. BUDWIN: Q. And you've had at least one 10:03 23 meeting with Mr. Wei, who is one of the alleged prior 10:03 24 art people, to talk about issues related to Viola; is 10:03 25 that right? 10:03</p>
Page 56	Page 57
<p>1 A I've had one meeting with Mr. Wei. 10:03 2 Q Okay. To talk about issues related to Viola? 10:03 3 MS. DOAN: Objection; form. 10:03 4 THE WITNESS: To talk about various issues. 10:03 5 MR. BUDWIN: Q. Including Viola? 10:03 6 A Yes. 10:03 7 Q And you've also had telephone discussions 10:03 8 with experts in this case: Mr. Philips, Mr. Maggs, 10:03 9 and Mr. Bakewell? 10:03 10 A I have had conversations with those three 10:03 11 folks, yes. 10:03 12 Q And you've looked at the Viola code? 10:03 13 A I have looked at some of the Viola code. 10:03 14 Q And you've looked at some of the accused 10:03 15 Yahoo products? 10:03 16 A Yes, I have. 10:03 17 Q And have you looked at something called Media 10:03 18 View as well? 10:03 19 A What do you mean "looked at"? 10:03 20 Q Have you heard anything about it? Read any 10:03 21 papers? Seen any code? 10:03 22 A Yes. 10:03 23 Q Okay. And all of those things that we just 10:03 24 talked about -- the meetings, looking at the code for 10:03 25 Viola, looking at materials related to Media View, and 10:04</p>	<p>1 reviewing the accused Yahoo products -- were all 10:04 2 things that you had done within your employment at 10:04 3 Yahoo? 10:04 4 MS. DOAN: Objection; form. 10:04 5 You can answer. 10:04 6 THE WITNESS: Within my employment. Again, 10:04 7 I've done those things. I agree to that, and I've 10:04 8 been employed at Yahoo. 10:04 9 MR. BUDWIN: Q. During the time that -- 10:04 10 A From -- 10:04 11 Q -- you did those things? 10:04 12 A Yes. 10:04 13 Q Okay. Now, have you been asked to set aside 10:04 14 time for trial in this matter? 10:04 15 MS. DOAN: Objection; form. 10:04 16 The way you've got that phrased, Josh. 10:04 17 MR. BUDWIN: Sure. I got -- I got you. 10:04 18 MS. DOAN: All right. 10:04 19 MR. BUDWIN: Let me ask my question. 10:04 20 Q Do you have an understanding this case is set 10:04 21 to go to trial in February of 2012? 10:04 22 A Yes. 10:05 23 Q And do you plan to attend trial in February 10:05 24 of 2012? 10:05 25 A Yes. 10:05</p>

Page 58		Page 59	
1	Q And do you plan to testify at trial in this 10:05	1	your employment at Yahoo? 10:06
2	case in February of 2012? 10:05	2	MS. DOAN: Objection; form. 10:06
3	A Yes. 10:05	3	THE WITNESS: Assuming I'm still employed. 10:06
4	Q And between today and trial in February of 10:05	4	MR. BUDWIN: Q. Now, have you prepared any 10:06
5	2012, do you spend -- plan to spend additional time 10:05	5	written reports related to any opinions that you may 10:06
6	preparing for your testimony? 10:05	6	have related to this case? 10:06
7	A Yes, yes. 10:05	7	A I haven't. 10:07
8	Q And do you plan to spend additional time 10:05	8	Q Okay. Do you have any plans to prepare any 10:07
9	reviewing materials related to the accused Yahoo 10:05	9	written reports? 10:07
10	products, Viola, Media View, things of that nature? 10:05	10	A I don't have current plans to. 10:07
11	A When you say "things of that nature," sure, 10:05	11	Q Now, prior to your testimony in the Bedrock 10:07
12	it would be related to those topics. 10:05	12	case on issues related to validity and 10:07
13	Q How much additional time do you plan to spend 10:05	13	noninfringement, have you prepared any written 10:07
14	between today and the time of trial in February of 10:05	14	reports? 10:07
15	2012? 10:05	15	A No. 10:07
16	A I don't know. I think right now I have maybe 10:05	16	Q Okay. At Yahoo today, do you report to 10:07
17	one meeting planned, but that's it. 10:05	17	anyone? 10:07
18	Q So you plan to spend more time between today 10:06	18	A Yes. 10:07
19	and trial in February of 2012 working on matters 10:06	19	Q Who do you report to? 10:07
20	related to Eolas and your expected testimony? 10:06	20	A Blake Irving. 10:07
21	A Yes. 10:06	21	Q Okay. Who is that? 10:07
22	Q You're just not sure how much time? 10:06	22	A He's the chief product officer. 10:07
23	A Correct. 10:06	23	Q And does Mr. Irving know that you're spending 10:07
24	Q And the time that you spend between today and 10:06	24	time working on these litigations, the Bedrock case 10:07
25	trial in February of 2012 will be within the scope of 10:06	25	and the Eolas case? 10:07
Page 60		Page 61	
1	MS. DOAN: Objection; form. 10:07	1	Q And has he expressed any objection? 10:08
2	You can answer. 10:07	2	A No. 10:09
3	THE WITNESS: Yes, he's -- yes. 10:07	3	Q Do you have any employees that report to you? 10:09
4	MR. BUDWIN: Q. And he has no objection to 10:07	4	A Yes. 10:09
5	you spending time working on these cases, the Bedrock 10:08	5	Q How many? 10:09
6	and the Eolas case? 10:08	6	A I think four. 10:09
7	A He hasn't ever -- he's never voiced an 10:08	7	Q Have any of those employees been involved in 10:09
8	objection to me. 10:08	8	assisting you in any way with the Bedrock or the Eolas 10:09
9	Q Okay. And Mr. Irving, he's the chief product 10:08	9	case? 10:09
10	officer at Yahoo; is that right? 10:08	10	A Well, you include Bedrock. I'd say in the 10:09
11	A That's right. 10:08	11	Bedrock case, there might have been a conversation or 10:09
12	Q And who is Mr. Irving reporting to? 10:08	12	two, but nothing significant. Nothing of 10:09
13	A To the CEO. 10:08	13	significance. 10:09
14	Q And who is that? 10:08	14	Q All right. 10:09
15	A Tim Morris. 10:08	15	So why don't we just summarize this real 10:09
16	Q Tim Morris? 10:08	16	quick, and then maybe we can take -- take a break. 10:09
17	A (Witness nods head.) 10:08	17	So you first became involved in the Bedrock 10:09
18	Q Have you discussed your involvement in any of 10:08	18	case in December of 2010; is that right? 10:10
19	the Bedrock or the Eolas case with Mr. Morris, the 10:08	19	A Bedrock case, 2010, yes. 10:10
20	current CEO of Yahoo? 10:08	20	Q And you testified at trial in the Bedrock 10:10
21	A Not to any -- not in any detail. 10:08	21	case in April of 2011? 10:10
22	Q Does Mr. Morris know that you're spending 10:08	22	A I believe that's correct. 10:10
23	time working on these cases, the Bedrock and the Eolas 10:08	23	Q And in the Bedrock case, you came to trial, 10:10
24	case? 10:08	24	and you offered opinions related to validity and 10:10
25	A I think he's vaguely aware. 10:08	25	noninfringement; is that right? 10:10

Page 62		Page 63	
1	A Yes. 10:10	1	A Yes, I was. 10:11
2	Q And in order to offer those opinions in the 10:10	2	Q And your -- the person that you report to, 10:11
3	Bedrock case, you studied the Accused Products, the 10:10	3	Blake Irving, who is the chief product officer, he was 10:11
4	Patents-in-Suit, and the prior art? 10:10	4	aware of your involvement in the Bedrock case; is that 10:11
5	MS. DOAN: Objection; form. 10:10	5	right? 10:11
6	You can answer. 10:10	6	A I believe. I don't remember exactly, but I 10:11
7	THE WITNESS: Sorry. Can you repeat? You 10:10	7	believe he was. 10:11
8	said the -- 10:10	8	Q And he never expressed any objection to you 10:11
9	MR. BUDWIN: Sure. 10:10	9	about being involved in that case? 10:11
10	Q And in order to offer those opinions in the 10:10	10	A No. 10:11
11	Bedrock case about validity and noninfringement, you 10:10	11	Q Okay. And then you testified at trial in the 10:11
12	studied the Accused Products, the Patents-In-Suit, and 10:10	12	Bedrock case in April of 2011; is that -- is that 10:11
13	the prior art? 10:10	13	right? 10:11
14	A Yes. 10:10	14	MS. DOAN: Objection; form. 10:11
15	Q And you estimated that you spent 10:10	15	THE WITNESS: I testified in the Bedrock case 10:12
16	approximately 100 hours or more in preparing to 10:10	16	in 2011. 10:12
17	testify in the Bedrock case; is that true? 10:11	17	MR. BUDWIN: Q. April 2011? 10:12
18	MS. DOAN: Objection; form. 10:11	18	A April, yes. 10:12
19	THE WITNESS: Yes. I didn't know the number, 10:11	19	Q Okay. And also in April 2011, that's when 10:12
20	but it certainly wouldn't surprise me if it was -- I 10:11	20	you first became aware of the Eolas case, the case 10:12
21	think you said would it be -- would it be over 10:11	21	that you're here for today? 10:12
22	100 hours, and I said possibly, yeah. 10:11	22	A I became aware. I mean, I only heard about 10:12
23	MR. BUDWIN: Okay. 10:11	23	it in passing, so I didn't really know much of 10:12
24	Q And at the time that you were doing that work 10:11	24	anything about it. 10:12
25	on the Bedrock case, you were employed by Yahoo? 10:11	25	Q But you became aware of the Eolas case 10:12
Page 64		Page 65	
1	against Yahoo in April of 2011? 10:12	1	Q And you've also been provided with a copy of 10:13
2	A Again, depending on how you define "aware." 10:12	2	Judge Davis's claim construction order in this case, 10:13
3	In passing, I heard about it. Didn't know any details 10:12	3	and you've looked at that? 10:13
4	about it. But when I then learned more about it 10:12	4	A Yes. 10:13
5	later, I recall I first heard about this back in 10:12	5	Q And all of the things that you've done with 10:13
6	April. 10:12	6	respect to the Eolas case, attending the meetings with 10:14
7	Q Then in July or August of 2011, you attended 10:12	7	Mr. Wei and with counsel, looking at the Viola code, 10:14
8	a meeting with your counsel, counsel for the other 10:12	8	looking at the materials related to Media View, 10:14
9	defendants, and Mr. Wei, one of the creators of Viola? 10:12	9	studying the Court's claim construction, and looking 10:14
10	A Yes. 10:12	10	at some of the accused Yahoo products you did while 10:14
11	Q And since you learned about the Eolas case in 10:12	11	you were employed at Yahoo? 10:14
12	April of 2011, you've had several meetings with 10:13	12	A Yes, I've been employed at Yahoo during that 10:14
13	counsel, your counsel, to prepare for depositions or 10:13	13	time. 10:14
14	things of that nature in this case; is that fair? 10:13	14	Q And your supervisor, Mr. Irving, the chief 10:14
15	A Yes. 10:13	15	product officer at Yahoo, was aware you were spending 10:14
16	Q You've also spent time reviewing the code for 10:13	16	time doing those things -- 10:14
17	Viola which is asserted as a prior art system? 10:13	17	MS. DOAN: Objection. 10:14
18	A Yes. 10:13	18	MR. BUDWIN: Q. -- related to the Eolas 10:14
19	Q And you've also looked at documentation 10:13	19	case? 10:14
20	related to something called Media View, which you 10:13	20	MS. DOAN: Objection; form. 10:14
21	understand is another prior art system? 10:13	21	THE WITNESS: He's aware that I'm -- I'm not 10:14
22	A Yes. 10:13	22	sure exactly what he's aware of in terms of the 10:14
23	Q And you've also spent time looking at or 10:13	23	detail, but I know he's got a general awareness of my 10:14
24	studying the accused Yahoo products? 10:13	24	involvement in -- in the case. 10:14
25	A Some of the Accused Products, yes. 10:13	25	MR. BUDWIN: Q. And he's never expressed any 10:14

Page 66	Page 67
<p>1 objection? 10:14</p> <p>2 A No. 10:14</p> <p>3 Q And you understand that trial in this case is 10:14</p> <p>4 set for February 2012? 10:14</p> <p>5 A Yes. 10:15</p> <p>6 Q And in between today's date and February 10:15</p> <p>7 2012, you spend -- you plan to spend additional time 10:15</p> <p>8 preparing to testify? 10:15</p> <p>9 A Yes. 10:15</p> <p>10 Q And that additional time would include 10:15</p> <p>11 meetings with counsel, additional study of the Accused 10:15</p> <p>12 Products, additional study of Media View or Viola, 10:15</p> <p>13 things like that? 10:15</p> <p>14 MS. DOAN: Objection; form. 10:15</p> <p>15 THE WITNESS: I don't know what -- what it 10:15</p> <p>16 will include. 10:15</p> <p>17 MR. BUDWIN: Q. But could it include those 10:15</p> <p>18 things that I just listed? 10:15</p> <p>19 A Could it -- 10:15</p> <p>20 MS. DOAN: Objection; form. 10:15</p> <p>21 THE WITNESS: -- sure. 10:15</p> <p>22 MR. BUDWIN: Q. And you plan to testify at 10:15</p> <p>23 trial in February 2012? 10:15</p> <p>24 A Yes. 10:15</p> <p>25 Q Okay. And it's also true that you haven't 10:15</p>	<p>1 prepared any written reports that express any opinions 10:15</p> <p>2 that you may have related to the Eolas case? 10:15</p> <p>3 A Correct. 10:15</p> <p>4 Q It's also true that in the Bedrock case you 10:15</p> <p>5 didn't prepare any written reports to express any 10:15</p> <p>6 opinions that you may have? 10:15</p> <p>7 A Correct. 10:15</p> <p>8 MR. BUDWIN: Okay. All right. 10:15</p> <p>9 Why don't we take a break. 10:15</p> <p>10 MS. DOAN: Okay. 10:15</p> <p>11 THE VIDEOGRAPHER: This marks the end of 10:15</p> <p>12 Disc 1. 10:15</p> <p>13 We'll go off the record. The time is 10:15</p> <p>14 10:16 a.m. 10:16</p> <p>15 (Recess taken.) 10:16</p> <p>16 THE VIDEOGRAPHER: This marks the beginning 10:32</p> <p>17 of Disc 2, Volume I, in the deposition of David Filo. 10:32</p> <p>18 We're on the record. The time is 10:32 a.m. 10:32</p> <p>19 MR. BUDWIN: Q. Mr. Filo, I understand you 10:32</p> <p>20 wanted to correct a question or something. 10:32</p> <p>21 A Yeah. You asked a question about when I 10:33</p> <p>22 first heard of Viola, and I think my answer is 10:33</p> <p>23 something having to do with the beginning of Yahoo, or 10:33</p> <p>24 I'm not sure what the answer was. 10:33</p> <p>25 But anyway, I think the more correct answer 10:33</p>
Page 68	Page 69
<p>1 would be that I likely -- I don't remember exactly 10:33</p> <p>2 when I first heard of it, but it was likely in '93, 10:33</p> <p>3 maybe even late '92 time frame. 10:33</p> <p>4 Q Okay. So let me make sure I understand. 10:33</p> <p>5 You don't remember when you first heard of 10:33</p> <p>6 Viola or Pei Wei? 10:33</p> <p>7 A I don't. Yeah, I don't have a specific date 10:33</p> <p>8 that I remember. 10:33</p> <p>9 Q And you don't any documents or anything that 10:33</p> <p>10 you could look at that could refresh your recollection 10:33</p> <p>11 as to when you first became aware of Viola or Pei Wei? 10:33</p> <p>12 A Well, that's what my answer earlier was. I 10:33</p> <p>13 have the document -- the document of the earlier 10:33</p> <p>14 version of Yahoo. It shows Viola there, and so I know 10:33</p> <p>15 at that point I certainly knew about it, but I also 10:33</p> <p>16 believe that I had heard of it and potentially used it 10:33</p> <p>17 much earlier than that. 10:33</p> <p>18 Q What document are you referring to? 10:33</p> <p>19 A A version of the early Yahoo website. 10:33</p> <p>20 Q Okay. So there's a version of the early 10:34</p> <p>21 Yahoo website from some time in March or April of 1994 10:34</p> <p>22 that has a mention of Viola? 10:34</p> <p>23 A That's correct. I think it might be dated in 10:34</p> <p>24 May of '94. 10:34</p> <p>25 Q Okay. 10:34</p>	<p>1 A Which would not have been called Yahoo at 10:34</p> <p>2 that point, no. 10:34</p> <p>3 Q Okay. So there's a document of an earlier 10:34</p> <p>4 version of what was to become Yahoo from May of 1994 10:34</p> <p>5 that contains a reference to Viola? 10:34</p> <p>6 A I believe that's correct. 10:34</p> <p>7 Q And that's the earliest written record or 10:34</p> <p>8 anything that you have related to Viola? 10:34</p> <p>9 A So far that I've seen -- 10:34</p> <p>10 Q Okay. 10:34</p> <p>11 A -- that's correct. 10:34</p> <p>12 Q Mr. Filo, do you have any ownership interest 10:34</p> <p>13 in Yahoo? 10:34</p> <p>14 A Yes. 10:34</p> <p>15 Q What's -- what's your ownership interest? 10:34</p> <p>16 A I don't know exactly. I think it's kind of 10:35</p> <p>17 roughly the 5 percent range. 10:35</p> <p>18 Q Okay. As of today? 10:35</p> <p>19 A Yes. 10:35</p> <p>20 Q So as of today, you own roughly 5 percent of 10:35</p> <p>21 Yahoo? 10:35</p> <p>22 A I believe that's correct. 10:35</p> <p>23 Q Have you -- have you, at any point in time, 10:35</p> <p>24 had a greater ownership percentage in Yahoo? 10:35</p> <p>25 a Yes. 10:35</p>

Page 70			Page 71		
1	Q Okay. What's the largest percentage of Yahoo	10:35	1	A I -- I don't know.	10:36
2	that you've owned?	10:35	2	Q Is it more than \$100 million?	10:36
3	A Largest percent would have been 50 percent.	10:35	3	A Yes.	10:36
4	Q Shortly after it was founded?	10:35	4	Q Is it worth more than \$500 million?	10:36
5	A Yes.	10:35	5	A I believe it's -- I believe it's worth more	10:36
6	Q What percentage of Yahoo did you own at the	10:35	6	than a billion.	10:36
7	time of its IPO?	10:35	7	Q Okay. Have you been selling some of your	10:36
8	A I don't remember.	10:35	8	ownership or some of your shares in Yahoo?	10:36
9	Q Was it more than 5 percent?	10:35	9	A Yes, I have sold shares.	10:36
10	A Yes.	10:35	10	Q Do you have a plan for selling or disposing	10:36
11	Q More than 10 percent?	10:35	11	your shares in Yahoo?	10:36
12	A Yes.	10:35	12	A Yes.	10:36
13	Q Okay. More than --	10:35	13	Q Okay. What's the plan?	10:36
14	A Well --	10:35	14	A What's -- what's your specific question?	10:36
15	Q -- 20 percent?	10:35	15	Q So are you selling a certain predetermined	10:36
16	A -- I -- no, I don't think it was more than	10:35	16	number of shares in a given time interval?	10:36
17	20 percent.	10:35	17	A Yes.	10:36
18	Q Okay. So between 10 and 20 percent of Yahoo	10:35	18	Q Okay. What is -- can you tell me about that?	10:36
19	at the time of its IPO?	10:35	19	A I don't know the details. I think it's a	10:36
20	A That would be my best guess. Might have	10:35	20	public filing. I can tell you that the days are	10:37
21	been -- I would guess closer to 20 percent.	10:35	21	picked randomly ahead of time. In terms of the	10:37
22	Q Okay. What's your current 5 percent	10:35	22	numbers, I'm not sure about it.	10:37
23	ownership stake in Yahoo worth today?	10:36	23	Q Do you plan to divest all of your ownership	10:37
24	A I don't know.	10:36	24	in Yahoo, all of your shares?	10:37
25	Q Give me -- give me your best estimate.	10:36	25	A I guess over the course of time, I guess	10:37
Page 72			Page 73		
1	that's kind of inevitable.	10:37	1	MR. BUDWIN: Q. Can you give me -- give me	10:38
2	Q Do you -- do you not manage your own money?	10:37	2	your best estimate?	10:38
3	A I don't.	10:37	3	MS. DOAN: Objection; form.	10:38
4	Q Okay. Do you have people that manage your	10:37	4	THE WITNESS: I would say net worth would be	10:38
5	money for you?	10:37	5	between 1- and \$2 billion.	10:38
6	A Yes.	10:37	6	MR. BUDWIN: Okay.	10:38
7	Q Okay. How many people?	10:37	7	Q Other than your ownership stake in Yahoo --	10:38
8	A I don't know.	10:37	8	or strike that.	10:38
9	Q Is it more than one person?	10:37	9	Do you -- do you have any investments or	10:38
10	MS. DOAN: Objection; form.	10:37	10	ownership in any other companies outside of Yahoo?	10:38
11	THE WITNESS: I interact with one person for	10:37	11	Let me -- let me ask you a better question.	10:38
12	most issues, but in terms of people that actually	10:37	12	Is Yahoo your singus -- single largest source	10:38
13	manage and make decisions, it would certainly be more	10:37	13	of your net worth today, Yahoo stock?	10:38
14	than one.	10:37	14	A Yes.	10:38
15	MR. BUDWIN: Okay.	10:37	15	Q Okay. After your Yahoo stock, what's next?	10:38
16	Q And is your money managed in some form of a	10:37	16	A I don't know.	10:38
17	blind trust? Or do you have visibility to it?	10:37	17	Q So you don't know what your second largest	10:38
18	A It's not a blind trust.	10:37	18	stockholding is?	10:39
19	Q Okay. Are you involved in making decisions	10:37	19	A I don't know.	10:39
20	with respect to the management of your money?	10:38	20	Q You don't know what your second largest	10:39
21	A At the highest level, yes.	10:38	21	investment of any source is?	10:39
22	Q What's your current estimated net worth	10:38	22	A No.	10:39
23	today?	10:38	23	Q Do you own any cars?	10:39
24	MS. DOAN: Objection; form.	10:38	24	A Yes.	10:39
25	THE WITNESS: I don't know.	10:38	25	Q How many cars?	10:39

Page 74			Page 75		
1	A Two.	10:39	1	use, like, prepay for airplanes?	10:40
2	Q What kind of cars?	10:39	2	A No.	10:40
3	A A Prius, and an Audi A4.	10:39	3	Q Okay. Do you have a boat?	10:40
4	Q Do you own any houses?	10:39	4	A No.	10:40
5	A Yes.	10:39	5	Q Is it fair to say that your involvement with	10:40
6	Q How many houses?	10:39	6	Yahoo is responsible for the vast majority of your net	10:40
7	A I have one primary residence.	10:39	7	worth?	10:41
8	Q Okay. No houses beyond that primary	10:39	8	A Yes.	10:41
9	residence?	10:39	9	Q Why did and you Mr. Yang decide to found	10:41
10	A Not that I personally use or own, but I do	10:39	10	Yahoo in March or April, or start what would become	10:41
11	have part ownership in some other houses.	10:39	11	Yahoo in March or April of 1994?	10:41
12	Q Is it like a vacation club or something that	10:39	12	A Why did -- we started what became Yahoo,	10:41
13	you -- no?	10:39	13	again, as a tool for our own use.	10:41
14	A No, just...	10:39	14	Q When did you realize that -- that you could	10:41
15	Q How many houses do you have part ownership	10:39	15	make money from it?	10:41
16	of?	10:39	16	A Well, we didn't make -- I don't think we	10:41
17	A I think maybe four.	10:40	17	really had our -- our first source of revenue, I don't	10:41
18	Q And where are those houses located?	10:40	18	think, was until probably the fall of 1995.	10:41
19	A Let's see. California and Louisiana.	10:40	19	Q Okay. When you started Yahoo or what would	10:41
20	Q Any others?	10:40	20	become Yahoo, did you do it with an eye toward a	10:41
21	A No.	10:40	21	business, something that you could go on to as a	10:41
22	Q Okay. Do you have an airplane or share of	10:40	22	career, or was it more just a student project?	10:42
23	ownership in any airplanes?	10:40	23	A At the very beginning, it was just a	10:42
24	A No.	10:40	24	part-time hobby/project.	10:42
25	Q Do you have one of those cards that you can	10:40	25	Q Did you and Mr. Yang put together a business	10:42
Page 76			Page 77		
1	plan, go get venture capital funding, anything of that	10:42	1	Yahoo's early business plan from March or April 1995,	10:43
2	nature?	10:42	2	and I'll be happy to send you a letter about it.	10:43
3	A We didn't get venture capital funding.	10:42	3	MS. DOAN: Thank you.	10:43
4	Q Did you put together a business plan?	10:42	4	MR. BUDWIN: Q. Do you recall if there were	10:43
5	A We did not.	10:42	5	any other versions of the business plan as you got	10:43
6	Q So you got VC, venture capital funding, with	10:42	6	additional venture capital funding for Yahoo?	10:43
7	no business plan or prospective or any written	10:42	7	A I don't know. We didn't really get much more	10:43
8	documentation?	10:42	8	funding but...	10:43
9	A Well, you said that we create.	10:42	9	Q How much was the initial venture capital	10:43
10	I -- the -- I don't know if we had any	10:42	10	investment in Yahoo?	10:44
11	written documentation. We might have had something.	10:42	11	A A million dollars.	10:44
12	There was a business plan created not by either one of	10:42	12	Q And who was it from?	10:44
13	us, and I'm not sure if that was -- it might have	10:42	13	A Sequoia Capital.	10:44
14	been -- it probably actually was after the VC funding.	10:42	14	Q And there was no other venture capital	10:44
15	Q Okay. So there was a version of a Yahoo	10:42	15	funding besides the 1 million from Sequoia?	10:44
16	business plan that was created approximately when?	10:42	16	A There was another -- there was another round	10:44
17	A Approximately April/May of '95.	10:42	17	of funding, and I can't not -- I can't remember if	10:44
18	Q And do you still have that?	10:42	18	Sequoia put more money in or not.	10:44
19	A I don't know.	10:43	19	Q Okay. Who was involved in the second round	10:44
20	Q Could you get it if you wanted to?	10:43	20	of funding?	10:44
21	A I don't -- I don't know where it would be, so	10:43	21	A I know Reuters was.	10:44
22	it might exist somewhere, but I'm not sure if I could	10:43	22	Q Do you know how much they invested?	10:44
23	find it.	10:43	23	A I don't know.	10:44
24	MR. BUDWIN: To the extent that document	10:43	24	Q Would there be documents related to the	10:44
25	hasn't been produced, Counsel, we request a copy of	10:43	25	amount and timing of Sequoia and letters of	10:44

Page 78	Page 79
<p>1 investments in Yahoo? 10:44</p> <p>2 A There certainly were documents. I have no 10:44</p> <p>3 idea if they still exist today. 10:44</p> <p>4 Q Do you know what ownership interest Sequoia 10:44</p> <p>5 received in exchange for its million dollar 10:45</p> <p>6 investment? 10:45</p> <p>7 A 25 percent. 10:45</p> <p>8 Q And you may have already told me this, but do 10:45</p> <p>9 you recall when Sequoia made their million dollar 10:45</p> <p>10 investment? 10:45</p> <p>11 A April of '95. 10:45</p> <p>12 Q Okay. Do you know what percentage ownership 10:45</p> <p>13 Reuters received? 10:45</p> <p>14 A I don't know. 10:45</p> <p>15 Q So it's your understanding that in April of 10:45</p> <p>16 1995, Sequoia invested a million dollars in Yahoo; is 10:45</p> <p>17 that right? 10:45</p> <p>18 MS. DOAN: Objection; form. 10:45</p> <p>19 THE WITNESS: April of '95, Sequoia invested 10:45</p> <p>20 a million dollars, yes. 10:45</p> <p>21 MR. BUDWIN: Q. And in exchange for the 10:45</p> <p>22 million dollars that Sequoia invested in Yahoo in 10:45</p> <p>23 April of 1995, they received a 25 percent ownership 10:45</p> <p>24 interest? 10:45</p> <p>25 A That's correct. 10:45</p>	<p>1 Q Is it fair to say that that 25 percent 10:45</p> <p>2 ownership interest would be worth a lot more than a 10:45</p> <p>3 million dollars today? 10:45</p> <p>4 A Yes. 10:45</p> <p>5 Q It would be worth more than a billion dollars 10:45</p> <p>6 today; wouldn't it? 10:45</p> <p>7 A Yes. 10:45</p> <p>8 MR. BUDWIN: All right. 10:46</p> <p>9 We'd request copies of documents showing 10:46</p> <p>10 Sequoia and Reuters investments in Yahoo and the 10:46</p> <p>11 percent ownership that they received in exchange for 10:46</p> <p>12 those investments, and I'll be happy to send it to you 10:46</p> <p>13 in a letter. 10:46</p> <p>14 MS. DOAN: Okay. 10:46</p> <p>15 MR. BUDWIN: Q. Mr. -- Mr. Filo, do you 10:46</p> <p>16 believe in entrepreneurship? 10:46</p> <p>17 A Yes. 10:46</p> <p>18 Q Why? 10:46</p> <p>19 A I'm not sure what you mean by "believe in"; I 10:46</p> <p>20 mean, it certainly exists, and more specifically, if 10:46</p> <p>21 you could ask the question. 10:46</p> <p>22 Q Do you -- do you like entrepreneurial people, 10:46</p> <p>23 people who take risks to start new companies or found 10:46</p> <p>24 new ideas? 10:47</p> <p>25 A Do I like -- you're asking me if I like the 10:47</p>
Page 80	Page 81
<p>1 people? 10:47</p> <p>2 Q Let me ask -- let me ask you a better 10:47</p> <p>3 question. 10:47</p> <p>4 Have you heard the term "entrepreneur"? 10:47</p> <p>5 A Yes. 10:47</p> <p>6 Q Okay. What does it mean to you? 10:47</p> <p>7 A I think it's the idea of starting the 10:47</p> <p>8 company. 10:47</p> <p>9 Q Okay. Do you -- do you believe in 10:47</p> <p>10 entrepreneurs and entrepreneurship? 10:47</p> <p>11 A I'm not sure what you mean by believe. They 10:47</p> <p>12 exist. 10:47</p> <p>13 Q I'm not asking if you believe in the sense 10:47</p> <p>14 does Santa Clause exist. 10:47</p> <p>15 I'm asking you, do you think it's a good 10:47</p> <p>16 thing to encourage entrepreneurs and entrepreneurship? 10:47</p> <p>17 MS. DOAN: Objection; form. 10:47</p> <p>18 THE WITNESS: Yes, I mean, I think -- I think 10:47</p> <p>19 it's good for people to start companies, so yes. 10:47</p> <p>20 MR. BUDWIN: Q. How do you feel about 10:47</p> <p>21 patents? 10:48</p> <p>22 A I think patents are -- I think, in general, 10:48</p> <p>23 IP is an important issue in -- I think certainly at 10:48</p> <p>24 Yahoo we've -- we take IP very seriously and have 10:48</p> <p>25 invested a lot of money in IP over the years. So we 10:48</p>	<p>1 certainly value it and think it's important. 10:48</p> <p>2 Q You don't have any of your own patents; do 10:48</p> <p>3 you? 10:48</p> <p>4 A I don't. 10:48</p> <p>5 Q Do you have any negative beliefs or thoughts 10:48</p> <p>6 related to the U.S. patent system? 10:48</p> <p>7 MS. DOAN: Objection; form. 10:48</p> <p>8 THE WITNESS: Negative thoughts or beliefs in 10:48</p> <p>9 the U.S. patent system. 10:48</p> <p>10 No, I'd say with -- with pretty much 10:48</p> <p>11 anything, there's always ways to improve the system. 10:49</p> <p>12 I'm sure there are ways to improve it, but I guess if 10:49</p> <p>13 you have more specific questions. 10:49</p> <p>14 MR. BUDWIN: Q. Do you think that patents 10:49</p> <p>15 are bad for the United States? 10:49</p> <p>16 A In general, no. 10:49</p> <p>17 Q Do you think that there are bad patents? 10:49</p> <p>18 MS. DOAN: Objection; form. 10:49</p> <p>19 THE WITNESS: I'm not sure what you mean by 10:49</p> <p>20 that. 10:49</p> <p>21 MR. BUDWIN: Q. Do you think that the patent 10:49</p> <p>22 office does a good job or a bad job? 10:49</p> <p>23 A Again, that's a very general statement, so... 10:49</p> <p>24 Q What's your opinion, if you have one? 10:49</p> <p>25 MS. DOAN: Objection; form. 10:49</p>

Page 82	Page 83
<p>1 THE WITNESS: I don't know. I mean, it's -- 10:49 2 if you want to ask me about a specific question, I'm 10:49 3 happy to answer that, but to make such 10:49 4 generalizations -- 10:49 5 MR. BUDWIN: Q. You don't have -- you don't 10:49 6 have a general opinion on the United States Patent 10:49 7 Office one way or the other? 10:50 8 MS. DOAN: Objection; form. 10:50 9 THE WITNESS: No. I think that, again, with 10:50 10 any organization, you can always look at some 10:50 11 organization and think of -- look at ways that it can 10:50 12 be improved, but I'm not really prepared to make a 10:50 13 general statement about it. 10:50 14 MR. BUDWIN: Q. Now, Yahoo just formed 10:50 15 something called an interim counsel; is that right? 10:50 16 A Interim counsel. I'm not -- 10:50 17 Q Okay. Yahoo just had its CEO leave; right? 10:50 18 A Correct. 10:50 19 Q What was -- what was her name? 10:50 20 A Carol Bartz. 10:50 21 Q Okay. And after Ms. Bartz left, did you form 10:50 22 any type of leadership committee to run the company in 10:50 23 her absence? 10:50 24 A Yes; the board -- well, the board. I mean, 10:50 25 there's -- there's a new CEO in place today. 10:50</p>	<p>1 Q In the interim between when Ms. Bartz left 10:50 2 and the new CEO came in, was there any interim group 10:50 3 that was running the company? 10:50 4 A Well, the new CEO was named immediately. 10:51 5 Q So you never heard the term "interim counsel" 10:51 6 or "governing counsel" used with respect to Yahoo? 10:51 7 A I'm not sure. There was some term. There is 10:51 8 a -- there is/was, actually, mostly was, a group of 10:51 9 the CEO staff essentially that was named by the board 10:51 10 to come and be the interface between the company and 10:51 11 the board, along -- but really being led by the CEO. 10:51 12 Q I'm going to hand you some documents which 10:51 13 I'm sure you've seen before and -- recently, and we 10:51 14 can just go ahead and mark them. 10:51 15 (Document marked Exhibit 2 10:51 16 for identification.) 10:51 17 MR. BUDWIN: So I've just handed you a 10:51 18 document which has been marked Exhibit No. 2 10:52 19 production No. Yahoo-E02290323. It's an e-mail dated 10:52 20 August 21st, 1995. 10:52 21 Q Mr. Filo, have you seen the document in 10:52 22 Exhibit 2 before today? 10:52 23 A I believe so. 10:52 24 Q Okay. And did you see it preparing for your 10:52 25 deposition? 10:52</p>
Page 84	Page 85
<p>1 A Yes. 10:52 2 Q Now, you, in fact, subscribed to the e-mail 10:52 3 address listed here grand-unification-theory in 10:52 4 August of 1995; did you not? 10:52 5 A I believe I was, yes. 10:52 6 Q And you don't dispute that you, in fact, 10:52 7 received the document in Exhibit 2 on August 21st, 10:52 8 1995; do you? 10:52 9 A I believe it was in my in box in terms of you 10:52 10 said did I receive it. I mean, it was in my in box. 10:52 11 Q Okay. So you don't dispute that the document 10:52 12 in Exhibit 2, the e-mail from Wendell Craig Baker, was 10:53 13 in your e-mail in box on August 21st of 1995? 10:53 14 MS. DOAN: Objection; form. 10:53 15 THE WITNESS: I -- I don't dispute that it 10:53 16 was in my in box. 10:53 17 MR. BUDWIN: Okay. You can set that aside. 10:53 18 I'm handing you a document which will be 10:53 19 marked as Exhibit 3. 10:53 20 (Document marked Exhibit 3 10:53 21 for identification.) 10:53 22 MR. BUDWIN: All right. 10:53 23 Exhibit 3 is a copy of a document 10:53 24 YAHOO-E02290336, and it's an e-mail dated Monday, 10:53 25 August 21, 1995. 10:53</p>	<p>1 Q Mr. Filo, have you seen the document 10:53 2 Exhibit 3 before? 10:53 3 A I believe so. 10:53 4 Q Did you see it preparing for the deposition 10:53 5 today? 10:54 6 A Yes. 10:54 7 Q Okay. And as was true with Exhibit 2, you 10:54 8 don't dispute that you were, in fact, subscribed to 10:54 9 the grand-unification-theory e-mail list in August 10:54 10 1995? 10:54 11 A No. 10:54 12 Q And you don't dispute the document in 10:54 13 Exhibit 3 was, in fact, received by you on August 21st 10:54 14 of 1995? 10:54 15 A I don't dispute that it was in my in box. 10:54 16 Q All right. 10:54 17 So you don't dispute that the document in 10:54 18 Exhibit 3 was in your e-mail in box on August 21st of 10:54 19 1995? 10:54 20 A No. 10:54 21 Q You can set that aside. 10:54 22 I'm going to hand you a document which will 10:54 23 be marked as Exhibit 4. 10:54 24 (Document marked Exhibit 4 10:54 25 for identification.) 10:54</p>

Page 86		
1	MR. BUDWIN: Okay. Exhibit 4 is a copy of a	10:54
2	document YAHOO-E02290338. It's an e-mail dated	10:55
3	September 18, 1995.	10:55
4	Q Mr. Filo, have you seen Exhibit 4 before	10:55
5	today?	10:55
6	A I believe I have.	10:55
7	Q And you saw it in preparing for your	10:55
8	deposition?	10:55
9	A Yes. I've seen it, yes.	10:55
10	Q Okay. And you were, in fact, subscribed to	10:55
11	the grand-unification-theory e-mail address list in	10:55
12	September 1995; were you not?	10:55
13	A I believe so.	10:55
14	Q And you don't dispute that the document in	10:55
15	Exhibit 4 was in your e-mail in box on September 18th,	10:55
16	1995; do you?	10:55
17	A I do not.	10:55
18	Q Okay. You can set that aside.	10:55
19	Now, Yahoo has several internal distribution	10:56
20	lists or e-mail address groups; are you aware of that?	10:56
21	A Yes.	10:56
22	Q Do you subscribe to any of those internal	10:56
23	e-mail distribution lists?	10:56
24	A Yes.	10:56
25	Q Okay. Which ones?	10:56

Page 87		
1	A I couldn't list them all.	10:56
2	Q Okay. Which ones are you aware of?	10:56
3	A There's certainly some ones that all	10:56
4	employees are -- start with one that every employee in	10:56
5	Yahoo is on. Then there are ones for more specific	10:56
6	locations. So there's probably one for everyone that	10:56
7	works in Sunnyvale.	10:56
8	Q Okay.	10:56
9	A There's probably one that works -- anyone	10:56
10	that works in the building that I work in.	10:56
11	Q Let me ask you some specific questions.	10:56
12	Do you -- do you subscribe to an e-mail	10:56
13	address list called devel-dhtml@yahoo-inc.com?	10:56
14	A I don't believe I do.	10:56
15	Q Okay. And have you ever subscribed to that	10:57
16	list?	10:57
17	A I don't believe I have.	10:57
18	Q When did you first become aware of Eolas's	10:57
19	litigation with Microsoft?	10:57
20	A It would have been in, I think, the 2003 time	10:57
21	frame.	10:57
22	Q And do you recall receiving some e-mails	10:57
23	related to Eolas and its litigation with Microsoft in	10:57
24	the 2003 time frame?	10:57
25	A Yeah. It's a little hard for me to remember	10:57

Page 88		
1	exactly what I remember prior to looking at all of the	10:57
2	stuff, but I -- I think I do remember knowing some	10:57
3	issues surrounding the Eolas Microsoft case back in	10:58
4	that time frame.	10:58
5	Q And do you recall internal discussions at	10:58
6	Yahoo related to Eolas and the Microsoft case in the	10:58
7	2003 time frame?	10:58
8	A Yeah, vaguely speaking.	10:58
9	Q What do you recall about those discussions?	10:58
10	A I'd say the -- the most -- the most prominent	10:58
11	thing would be that we had become aware that Microsoft	10:58
12	was making changes to their browser, and that was	10:58
13	going to affect the way we publish our pages to our	10:58
14	users. And so based on changes Microsoft was	10:58
15	proposing making, we would have to make changes to our	10:58
16	web pages.	10:58
17	Q Okay. So you understood that as a result of	10:58
18	its litigation with Eolas, Microsoft was make -- going	10:58
19	to make some changes to its Internet Explorer browser?	10:58
20	MS. DOAN: Objection; form.	10:58
21	THE WITNESS: I'd say we didn't necessarily	10:58
22	know exactly why they were doing it. I think there	10:58
23	was some understanding that it was tied to some legal	10:58
24	issue. But again, the most important thing for us, I	10:59
25	think, was knowing that Microsoft was announcing or	10:59

Page 89		
1	proposing changes that would be coming out in their	10:59
2	new version of the browser.	10:59
3	MR. BUDWIN: Okay.	10:59
4	Q So you knew that in the 2003 time frame,	10:59
5	Microsoft was proposing to make some changes to its	10:59
6	Internet Explorer browser?	10:59
7	A I don't remember if it was 2003 or later. I	10:59
8	don't remember exactly when they first announced their	10:59
9	changes.	10:59
10	Q Okay. All right.	10:59
11	So you -- you know at some point in the early	10:59
12	to mid 2000s Microsoft proposed to make some changes	10:59
13	to its Internet Explorer browser?	10:59
14	MS. DOAN: Objection; form.	10:59
15	THE WITNESS: I do. Yes, in their -- between	10:59
16	2000, 2005, I do understand or I was aware that	10:59
17	Microsoft was proposing changes to the way IE would	10:59
18	work.	10:59
19	MR. BUDWIN: Q. And you were also aware that	10:59
20	the changes that Microsoft was proposing would impact	10:59
21	the way that Yahoo's pages -- certain Yahoo pages were	10:59
22	displayed in Internet Explorer?	11:00
23	A Potentially. I mean, some pages -- many --	11:00
24	we have many Yahoo pages, so I think it -- I think I	11:00
25	was aware of it, that some pages would be impacted.	11:00

Page 90	Page 91
<p>1 MR. BUDWIN: Okay. 11:00</p> <p>2 Q And you're aware, aren't you, that Yahoo was 11:00</p> <p>3 trying to figure out a way to make it so that none of 11:00</p> <p>4 its pages would be impacted adversely by the changes 11:00</p> <p>5 Microsoft was proposing? 11:00</p> <p>6 MS. DOAN: Objection; form. 11:00</p> <p>7 THE WITNESS: I think we were concerned with 11:00</p> <p>8 Microsoft was proposing changes and they were -- they 11:00</p> <p>9 were recommending to web publishers how they should 11:00</p> <p>10 implement certain things, and we were -- like with all 11:00</p> <p>11 guidelines for Microsoft, we tend to look at them and 11:00</p> <p>12 take their advice, given that they're the ones 11:00</p> <p>13 creating the browser. 11:00</p> <p>14 MR. BUDWIN: Okay. 11:00</p> <p>15 Q So it was your understanding that Microsoft 11:00</p> <p>16 was proposing some changes to its Internet explorer 11:00</p> <p>17 browser; right? 11:00</p> <p>18 A Yes. 11:01</p> <p>19 Q And that the changes that Microsoft was 11:01</p> <p>20 proposing to its Internet Explorer browser could 11:01</p> <p>21 impact the way some Yahoo pages were displayed or used 11:01</p> <p>22 by users? 11:01</p> <p>23 A Again, it's -- it's more that Microsoft was 11:01</p> <p>24 telling web publishers this is what you should do 11:01</p> <p>25 going forward, and we were looking at that advice 11:01</p>	<p>1 saying we need to follow with -- we needed to follow 11:01</p> <p>2 Microsoft's recommendations. 11:01</p> <p>3 Q Did you have an understanding one way or the 11:01</p> <p>4 other as to whether the changes that Microsoft was 11:01</p> <p>5 proposing making to its browser would impact any Yahoo 11:01</p> <p>6 pages in any way? 11:01</p> <p>7 MS. DOAN: Objection; form. 11:01</p> <p>8 THE WITNESS: Can you ask the question again? 11:01</p> <p>9 MR. BUDWIN: Okay. 11:01</p> <p>10 Q You understood, did you not, that Microsoft 11:01</p> <p>11 was proposing to make some changes to its Internet 11:01</p> <p>12 Explorer browser; right? 11:01</p> <p>13 A Yes. 11:01</p> <p>14 Q Okay. And then you also understood, did you 11:01</p> <p>15 not, that as a result of the changes that Microsoft 11:01</p> <p>16 was proposing making, it was also recommending some 11:01</p> <p>17 coding changes that website publishers or authors like 11:02</p> <p>18 Yahoo could make to its site; right? 11:02</p> <p>19 A Yes. 11:02</p> <p>20 Q And it was Yahoo's intent to follow those 11:02</p> <p>21 recommendations from Microsoft? 11:02</p> <p>22 A Generally speaking, we follow the 11:02</p> <p>23 recommendations. I wouldn't suggest that we follow it 11:02</p> <p>24 100 percent, but I think in general we -- whether it's 11:02</p> <p>25 Microsoft or some other browser manufacturer, we tend 11:02</p>
Page 92	Page 93
<p>1 to look at their recommendations and follow the 11:02</p> <p>2 guidelines. 11:02</p> <p>3 Q And in this specific case, with respect to 11:02</p> <p>4 the changes that Microsoft was making to Internet 11:02</p> <p>5 Explorer, Yahoo was following the recommendations that 11:02</p> <p>6 Microsoft was making? 11:02</p> <p>7 A I believe we were. 11:02</p> <p>8 Q Okay. Now, to your knowledge, has Yahoo ever 11:02</p> <p>9 engaged legal counsel to study and provide any 11:02</p> <p>10 opinions on noninfringement or validity of Eolas's 11:02</p> <p>11 patents, apart from litigation counsel? 11:02</p> <p>12 MS. DOAN: Objection; form. 11:03</p> <p>13 THE WITNESS: What do you mean "apart from 11:03</p> <p>14 litigation counsel"? 11:03</p> <p>15 MR. BUDWIN: Q. Has Yahoo hired attorneys to 11:03</p> <p>16 form any opinions related to the validity or 11:03</p> <p>17 noninfringement of Eolas's patents on or before the 11:03</p> <p>18 date that Eolas filed suit against Yahoo in October of 11:03</p> <p>19 2009? 11:03</p> <p>20 A On or before; so you're asking before? 11:03</p> <p>21 Q Yeah. 11:03</p> <p>22 So before October of 2009, did Yahoo hire any 11:03</p> <p>23 attorneys to study Eolas's patents to determine 11:03</p> <p>24 whether those patents were either invalid or not 11:03</p> <p>25 infringed by Yahoo? 11:03</p>	<p>1 A I don't believe we did. 11:03</p> <p>2 Q Okay. On or before October of 2009 -- 11:03</p> <p>3 A I guess -- you keep saying "on." 11:03</p> <p>4 Q Sorry. 11:03</p> <p>5 Before October of 2009, did Yahoo hire 11:03</p> <p>6 attorneys to dis -- to review the changes that 11:03</p> <p>7 Microsoft was proposing, the recommendations that 11:03</p> <p>8 Microsoft was proposing, and to determine whether or 11:04</p> <p>9 not those changes or recommendations would or would 11:04</p> <p>10 not infringe Eolas's patents? 11:04</p> <p>11 A I don't believe so. 11:04</p> <p>12 Q Okay. Do you subscribe to a -- a Yahoo 11:04</p> <p>13 e-mail address devel-frontend@yahooinc.com? 11:04</p> <p>14 A I don't know. I don't think -- I mean, 11:04</p> <p>15 currently I'm pretty sure that I don't, and I don't 11:04</p> <p>16 know that I ever have. 11:04</p> <p>17 Q Have you ever subscribed to any Flash related 11:04</p> <p>18 e-mail address at Yahoo? 11:04</p> <p>19 A I don't believe so. 11:05</p> <p>20 Q You're aware, aren't you, that Yahoo has 11:05</p> <p>21 filed its own patent infringement lawsuits? 11:05</p> <p>22 A Could you be more specific? 11:05</p> <p>23 Q Are you aware of any patent infringement 11:05</p> <p>24 suits filed by Yahoo? 11:05</p> <p>25 A Patent infringement lawsuits filed by Yahoo. 11:05</p>

Page 94	Page 95
<p>1 I don't know of any cases where we've gone 11:05 2 out and initiated litigation over a patent. 11:05 3 Q You can't think of any sitting here today? 11:05 4 A No. 11:05 5 Q Can you think of any situations where Yahoo 11:05 6 has enforced any of its intellectual property, 11:05 7 copyrights, patents, trademarks, things of that 11:05 8 nature? 11:05 9 MS. DOAN: Objection; form. 11:05 10 THE WITNESS: What do you mean "enforced"? 11:05 11 MR. BUDWIN: Q. Filed lawsuits, sent notice 11:05 12 letters to potential infringers or violators, things 11:06 13 of that nature. 11:06 14 A I'm sure we've sent letters of notice. 11:06 15 Q Can you think of any -- any lawsuits that 11:06 16 Yahoo has filed to enforce its intellectual property? 11:06 17 A Again, not -- where we initiated it, I can't 11:06 18 think of any cases where we initiated litigation based 11:06 19 on patents. 11:06 20 Q What about other types of intellectual 11:06 21 property? Trademarks? Copyrights? Things of that 11:06 22 nature? 11:06 23 A I don't know. 11:06 24 Q Yahoo has an intellectual property group 11:06 25 within its legal department; does it not? 11:06</p>	<p>1 A Yes, it does. 11:06 2 Q And you understand that one of the things 11:06 3 that the intellectual property group within Yahoo's 11:06 4 legal department handles are things related to the 11:06 5 enforcement of Yahoo's intellectual property? 11:06 6 A Yes. 11:06 7 Q Now, are you involved with any of Yahoo's 11:06 8 lobbying efforts at all? 11:07 9 A No. 11:07 10 Q Are you aware of them? 11:07 11 A Vaguely. 11:07 12 Q Do you know that Yahoo spends money on 11:07 13 lobbying Congress? 11:07 14 A Yahoo spends -- I don't -- I -- I suppose. I 11:07 15 mean, we -- I know there's a pack associated with 11:07 16 Yahoo. I'm not sure what it means. Yahoo has some 11:07 17 employees that, I guess, work on potentially lobbying 11:07 18 type issues, but I don't know any details. 11:07 19 Q Do you know if Yahoo has ever lobbied 11:07 20 Congress with respect to patent rights or intellectual 11:07 21 property? 11:07 22 A I don't know. I mean, I would guess that 11:07 23 we -- I'm pretty sure that we've had some 11:07 24 conversations about IP issues with Congress, but I 11:07 25 don't know any of the details. 11:08</p>
Page 96	Page 97
<p>1 Q How would you describe Yahoo's corporate 11:08 2 values? 11:08 3 A How would I describe them? 11:08 4 I know over time we've had various value 11:08 5 statements. I don't know what our current statement 11:08 6 is, if we have it. At one point we had something that 11:08 7 was -- I'm trying to remember exactly what it was, but 11:08 8 it was -- you know, it was a statement with -- maybe 11:08 9 it was ten words or so, that kind of described what 11:08 10 our values were. 11:08 11 Q So other than the Yahoo value statements, is 11:08 12 there any other way that you would describe Yahoo's 11:08 13 corporate values? 11:08 14 A I mean, I can just generally -- I don't know 11:08 15 what the actual statement was word for word. 11:08 16 Q Okay. 11:08 17 A But, you know, we certainly -- I know there's 11:08 18 things like respect, integrity, and we try to create a 11:08 19 workplace that's fun and enjoyable by the employees. 11:09 20 We certainly respect intellectual property, 11:09 21 amongst -- amongst other things, but we work with a 11:09 22 lot of partners. So I think we value partnerships, 11:09 23 and we want to treat our partners with respect, 11:09 24 honesty, integrity, I think. 11:09 25 So a lot of these things that, I think, a lot 11:09</p>	<p>1 of companies would have in their value statements. 11:09 2 Q To your knowledge, has Yahoo always met those 11:09 3 values? 11:09 4 A Yeah, as far as I know. I mean, I think to 11:09 5 say all our values have always been met over the last 11:09 6 15 years, I'm sure there are some instances where 11:09 7 employees have done things that wouldn't -- well, in 11:09 8 fact, I know things have happened where employees 11:09 9 haven't lived up to those values, but it's certainly 11:09 10 not the company's intent. And when we find those 11:09 11 things, we like to correct them. 11:09 12 Q With respect to the -- the value related 11:09 13 to -- with respect to intellectual property, can you 11:09 14 think of any instances where a Yahoo employee hasn't 11:10 15 respected that value? 11:10 16 A I mean, I can't think of any instances here. 11:10 17 But again, I can't make a blanket statement for all 11:10 18 employees over the last 15 years. 11:10 19 Q Okay. Now, Yahoo is a publicly traded 11:10 20 company today? 11:10 21 A Yes, it is. 11:10 22 Q And it's in the business of making money? 11:10 23 A Yes. 11:10 24 Q How does Yahoo make money today? 11:10 25 A Yahoo makes money multiple ways. Advertising 11:10</p>

Page 98		Page 99	
1	is our primary source of revenue. 11:10	1	Q Does Yahoo charge for any of its services, 11:12
2	Q So the primary source of Yahoo's revenue 11:10	2	charge users for any of its services? 11:12
3	today is advertising? 11:10	3	A Yes. 11:12
4	A Yes. 11:10	4	Q Okay. What services are users charged for? 11:12
5	Q And so that would be showing advertisements 11:10	5	A I probably won't list them all, but we have 11:12
6	on various Yahoo web pages? 11:10	6	premium versions of things like Flickr, a photo 11:12
7	A Correct. 11:10	7	sharing site. A premium version of e-mail that you 11:12
8	Q And in order to show ads on web pages and 11:10	8	sign up for. I think there might be a premium version 11:12
9	earn revenue, Yahoo wants to attract people to its 11:11	9	of games. I think there's -- Fantasy Sports might 11:12
10	website? 11:11	10	have a premium version. 11:12
11	A Yes. 11:11	11	Q Okay. 11:12
12	Q How does Yahoo attract people to its website? 11:11	12	A I think a lot of our properties, there's -- 11:12
13	A We -- by creating products that have value to 11:11	13	mostly it's used -- most of the usage comes from 11:12
14	users. 11:11	14	people that are using kind of the basic service or 11:12
15	Q Can you give me some examples? 11:11	15	whatever it is that are free. But many of the 11:12
16	A Sure. 11:11	16	properties then have a premium component where users 11:13
17	So whether it's -- if you look at the Yahoo 11:11	17	can pay money for additional services. 11:13
18	properties, Yahoo Search, helping people find 11:11	18	Q So most Yahoo properties have free or basic 11:13
19	websites, find what they're looking for, e-mail 11:11	19	versions, and some of them have a premium version as 11:13
20	services, keeping people's e-mails, having them 11:11	20	well? 11:13
21	send/compose/receive e-mails. 11:11	21	A I think that's fair. 11:13
22	Q Maps? 11:11	22	Q Okay. For the free versions of the Yahoo 11:13
23	A Yeah. Media properties like sports, finance, 11:11	23	properties, that includes things like Yahoo Media, 11:13
24	getting people their information about the sports 11:11	24	Sports, Maps, Mail, Search, things like that? 11:13
25	scores or stock quotes. Those types of things. 11:11	25	A Yes. 11:13
Page 100		Page 101	
1	Q And the way that Yahoo earns revenue from 11:13	1	A Yes, it does. 11:14
2	those free or basic services or properties is through 11:13	2	Q And there's a free version of Yahoo e-mail? 11:14
3	advertising? 11:13	3	A Yes. 11:14
4	A Primarily. 11:13	4	Q And that's advertising supported? 11:14
5	Q And then Yahoo also has premium versions of 11:13	5	A Yes. 11:14
6	some of its sites. You mentioned Flickr, e-mail, 11:13	6	Q Okay. There's Yahoo Search; is that right? 11:14
7	games, Fantasy Sports, things like that. 11:13	7	A Yes. 11:14
8	A Yes. 11:13	8	Q And that's free to users? 11:14
9	Q Do those premium sites also include some form 11:13	9	A Yes. 11:14
10	of advertising? 11:13	10	Q But that's also advertising supported? 11:14
11	A Sometimes. 11:13	11	A Yes. 11:14
12	Q Okay. And in addition to advertising on the 11:13	12	Q And there's what you referred to as Yahoo 11:14
13	premium sites, there's also revenue generated from 11:13	13	Media? 11:14
14	user fees? 11:14	14	A Yes. 11:14
15	A In some cases, yes. 11:14	15	Q And that includes things like the Yahoo 11:14
16	Q Does Yahoo give its products and services 11:14	16	sports, or movies, or things of that nature? 11:15
17	away for free? 11:14	17	A Yes. 11:15
18	A Many of them, yes. 11:14	18	Q And there's free versions of Yahoo sports in 11:15
19	Q Okay. When you say that they're for free, 11:14	19	movies? 11:15
20	you mean advertising supported? 11:14	20	A Yes. 11:15
21	A Well, yeah. Most -- most of them are 11:14	21	Q And those are advertising supported also? 11:15
22	advertising supported. There are some things that 11:14	22	A Those two are, yes. 11:15
23	don't have ads probably, so there's -- 11:14	23	Q So -- so those products and services are free 11:15
24	Q Let's take some examples. 11:14	24	to users, but they earn revenue for Yahoo in the form 11:15
25	So Yahoo has e-mail; right? 11:14	25	of advertisements? 11:15

Page 102	Page 103
<p>1 A In those examples, yes. 11:15</p> <p>2 Q Okay. Can you think of any products or 11:15</p> <p>3 services Yahoo has that it doesn't try to earn revenue 11:15</p> <p>4 from? 11:15</p> <p>5 A There are probably a few. I think in terms 11:15</p> <p>6 of direct revenue, there's something called Yahoo 11:15</p> <p>7 Pipes, something called YQL that I don't think it has 11:16</p> <p>8 any revenue associated with it. 11:16</p> <p>9 Q Y -- 11:16</p> <p>10 A YQL. 11:16</p> <p>11 Q -- QL? 11:16</p> <p>12 A There are certain mobile apps, for instance. 11:16</p> <p>13 I think our messenger app on mobile doesn't have any. 11:16</p> <p>14 I know at times it hasn't had any advertising, so I'm 11:16</p> <p>15 not sure if it does today or not. 11:16</p> <p>16 Q Anything else? 11:16</p> <p>17 A It might be some more mobile apps that we 11:16</p> <p>18 have. Actually, I know there's SMS mobile apps for 11:16</p> <p>19 instance that don't really have any advertising 11:16</p> <p>20 associated with them. 11:16</p> <p>21 Q Those things that you mentioned, YQL, Pipes, 11:16</p> <p>22 the mobile apps, those are responsible for a very 11:16</p> <p>23 small number of users on Yahoo's various properties? 11:16</p> <p>24 A Not necessarily. I mean Messenger, for 11:16</p> <p>25 instance, even on the PC Messenger, today probably has 11:16</p>	<p>1 advertising on it, but there have been times -- and I 11:17</p> <p>2 can't state definitively today whether it does or it 11:17</p> <p>3 does not -- but there have been some times when some 11:17</p> <p>4 properties like that have not had advertising, and 11:17</p> <p>5 some of those are very large properties. 11:17</p> <p>6 Q What's the number one Yahoo property today? 11:17</p> <p>7 A In terms of? 11:17</p> <p>8 Q Number of users. 11:17</p> <p>9 A Number of users. Depends on how you define 11:17</p> <p>10 "Yahoo property." 11:17</p> <p>11 Q Okay. How do you define a Yahoo property? 11:17</p> <p>12 A I mean, internally we might call the front 11:17</p> <p>13 page a property, and that probably has the most number 11:17</p> <p>14 of users on it. 11:17</p> <p>15 Q Does the front page have advertisements on 11:17</p> <p>16 it? 11:17</p> <p>17 A Yes, it does. 11:17</p> <p>18 Q Okay. What's the -- the number two Yahoo 11:17</p> <p>19 property today? 11:17</p> <p>20 MS. DOAN: Objection; form. 11:17</p> <p>21 THE WITNESS: Again, based on number of 11:17</p> <p>22 users, I'm assuming that's what you mean -- 11:17</p> <p>23 MR. BUDWIN: Yes. 11:17</p> <p>24 THE WITNESS: -- the second most 11:17</p> <p>25 frequented -- frequented property would probably be 11:17</p>
Page 104	Page 105
<p>1 mail. 11:18</p> <p>2 MR. BUDWIN: Okay. 11:18</p> <p>3 Q Is mail advertising supported? 11:18</p> <p>4 A It is. 11:18</p> <p>5 Q Okay. What's the number three Yahoo property 11:18</p> <p>6 today in terms of number of users? 11:18</p> <p>7 A Might be Search. I'm not sure. 11:18</p> <p>8 Q Okay. Yahoo Search is also advertising 11:18</p> <p>9 supported? 11:18</p> <p>10 A Search is, yes. 11:18</p> <p>11 Q Can you think of any Yahoo properties in the 11:18</p> <p>12 top ten of Yahoo properties in terms of number of 11:18</p> <p>13 users that aren't advertising supported? 11:18</p> <p>14 A Again, today, Messenger is probably the one 11:18</p> <p>15 that, at times, has not been -- has not had 11:18</p> <p>16 advertising -- advertisements, and that is probably a 11:18</p> <p>17 top ten or at least was a top ten property at some 11:18</p> <p>18 point. 11:18</p> <p>19 Q But Messenger has advertisements on it today? 11:18</p> <p>20 A I don't know if it does. I think it does, 11:18</p> <p>21 but I'm not -- I can't say that definitively. 11:18</p> <p>22 Q All right. 11:18</p> <p>23 A And there's some versions that I know of that 11:18</p> <p>24 Messenger does not. 11:18</p> <p>25 Q So you'll agree with me that at least nine 11:18</p>	<p>1 out of the top ten Yahoo properties, setting aside 11:18</p> <p>2 Manager, are advertising supported? 11:19</p> <p>3 MS. DOAN: Objection; form. 11:19</p> <p>4 THE WITNESS: Nine out of the top ten 11:19</p> <p>5 properties based on number of users are in some way 11:19</p> <p>6 advertising supported. I think that's probably 11:19</p> <p>7 accurate, but without looking at the list, I can't say 11:19</p> <p>8 for sure. 11:19</p> <p>9 MR. BUDWIN: Q. Now, does Yahoo develop any 11:19</p> <p>10 software that it would call "open source" software? 11:19</p> <p>11 A Yes. 11:19</p> <p>12 Q Okay. What software does Yahoo develop that 11:19</p> <p>13 it would call "open source" software? 11:19</p> <p>14 A Well, it's -- I mean, it's -- you -- are you 11:19</p> <p>15 asking which open source? Because, by definition, 11:19</p> <p>16 open source tends to involve other parties outside of 11:19</p> <p>17 Yahoo. So I'm not sure. Are you asking -- 11:19</p> <p>18 Q Let me ask a different question. 11:20</p> <p>19 A -- what open source projects Yahoo 11:20</p> <p>20 contributes to? 11:20</p> <p>21 Q What open source projects does Yahoo 11:20</p> <p>22 contribute to? 11:20</p> <p>23 A So I can't name them all, but -- 11:20</p> <p>24 Q Okay. Just the ones you're aware of. 11:20</p> <p>25 A Well, I can't even name the ones that I'm 11:20</p>

Page 106	Page 107
<p>1 aware of, but some that I can think of right here 11:20</p> <p>2 would be AdUp, YUI, FreeBSD. 11:20</p> <p>3 Q Apache? 11:20</p> <p>4 A Apache. Yahoo or Apache Traffic Server or 11:20</p> <p>5 whatever it's called now. I think it's called Apache 11:20</p> <p>6 Server. 11:20</p> <p>7 Q What about My SQL or SQL? Anything like 11:20</p> <p>8 that? 11:20</p> <p>9 A I don't know that we've ever contributed 11:20</p> <p>10 anything to my SQL. PHP, I think, we contributed to. 11:20</p> <p>11 I think, probably Perl we contributed to. Linux we 11:20</p> <p>12 contributed to. 11:21</p> <p>13 Q Okay. So let's just -- some examples of open 11:21</p> <p>14 source software projects that Yahoo is involved in are 11:21</p> <p>15 Linux, Perl, PHP Apache and FreeBSD? 11:21</p> <p>16 A Sure. 11:21</p> <p>17 I mean, I do -- I mean, those are some of 11:21</p> <p>18 them, and again, there're probably many more. 11:21</p> <p>19 Q Okay. Now, Yahoo uses Apache to serve its 11:21</p> <p>20 web pages; does it not? 11:21</p> <p>21 A Yahoo uses Apache to serve some web pages. 11:21</p> <p>22 Q And Yahoo uses its Apache web servers to 11:21</p> <p>23 serve web pages with advertisements on them; does it 11:21</p> <p>24 not? 11:21</p> <p>25 A Yahoo uses Apache to serve some web pages and 11:21</p>	<p>1 some of which have advertisements. 11:21</p> <p>2 Q Okay. And you also mentioned PHP and Perl as 11:21</p> <p>3 open source projects that Yahoo has contributed to? 11:21</p> <p>4 A Yes. 11:21</p> <p>5 Q Okay. And those are programming languages? 11:21</p> <p>6 A Yes. 11:21</p> <p>7 Q And does Yahoo code some of its pages or web 11:22</p> <p>8 applications using PHP and Perl? 11:22</p> <p>9 A Some of our pages and web applications. 11:22</p> <p>10 I mean, it's a very vague question again, but 11:22</p> <p>11 we do use Perl in various ways, and we use PHP. 11:22</p> <p>12 Q What -- what Yahoo properties use PHP? 11:22</p> <p>13 MS. DOAN: Objection; form. 11:22</p> <p>14 THE WITNESS: Which properties? I can't -- I 11:22</p> <p>15 wouldn't be able to list all the properties. 11:22</p> <p>16 MR. BUDWIN: Q. So let me ask -- let me -- 11:22</p> <p>17 does Yahoo Search use PHP? 11:22</p> <p>18 A I believe the current version of Yahoo uses 11:22</p> <p>19 PHP. 11:22</p> <p>20 Q Does Yahoo Search use Perl? 11:22</p> <p>21 A Does Yahoo Search use Perl -- again, a very 11:22</p> <p>22 vague -- Yahoo Search is a very large and 11:22</p> <p>23 encompassing, complex system. 11:22</p> <p>24 Are you asking is -- 11:22</p> <p>25 Q Are you aware -- 11:22</p>
Page 108	Page 109
<p>1 A -- anywhere within Yahoo Search is there any 11:22</p> <p>2 Perl code? 11:22</p> <p>3 Q Are aware of any Perl code within Yahoo 11:22</p> <p>4 Search? 11:23</p> <p>5 MS. DOAN: Objection; form. 11:23</p> <p>6 Today? 11:23</p> <p>7 MR. BUDWIN: Today. 11:23</p> <p>8 THE WITNESS: Yeah, I mean, today, I 11:23</p> <p>9 don't -- Search has gone through a lot of changes 11:23</p> <p>10 recently. I would be un -- so I don't have specific 11:23</p> <p>11 knowledge of -- I couldn't point to a particular piece 11:23</p> <p>12 of code today. But at the same time, I'd be surprised 11:23</p> <p>13 if in all of Search, which is a very complex, large 11:23</p> <p>14 system, that there's not some Perl somewhere. 11:23</p> <p>15 MR. BUDWIN: Q. Does Yahoo Mail use PHP? 11:23</p> <p>16 A Yahoo Mail, in some cases, does use PHP. 11:23</p> <p>17 Q Does Yahoo Mail use Perl? 11:23</p> <p>18 A I believe there is Perl in parts of Yahoo 11:23</p> <p>19 Mail. 11:23</p> <p>20 Q Does Yahoo use PHP to serve any 11:23</p> <p>21 advertisements? 11:23</p> <p>22 A I'm not sure what you mean by serve 11:23</p> <p>23 advertisements. 11:23</p> <p>24 Q Well, there's code that runs on a web page 11:23</p> <p>25 and says, Okay. Go fetch this ad from the server and 11:23</p>	<p>1 then show it on this page; right? 11:23</p> <p>2 A That wouldn't be in PHP. 11:24</p> <p>3 Q Okay. So -- so we talked about open source 11:24</p> <p>4 projects that Yahoo is involved with include Apache 11:24</p> <p>5 and Linux. Those are two; right? 11:24</p> <p>6 A Yes. 11:24</p> <p>7 Q And FreeBSD is the third? 11:24</p> <p>8 MS. DOAN: Objection; form. 11:24</p> <p>9 THE WITNESS: The third? What do you mean? 11:24</p> <p>10 MR. BUDWIN: Q. Is a third open source 11:24</p> <p>11 project that Yahoo is involved with? 11:24</p> <p>12 A We have -- we are involved in FreeBSD, that's 11:24</p> <p>13 correct. 11:24</p> <p>14 Q And Apache is a type of web server? 11:24</p> <p>15 A Apache is a type of web server, yes. 11:24</p> <p>16 Q Okay. And FreeBSD also runs on at least some 11:24</p> <p>17 Yahoo servers? 11:24</p> <p>18 A FreeBSD does, yes. 11:24</p> <p>19 Q And Yahoo's web servers use Linux as the 11:24</p> <p>20 operating system? 11:24</p> <p>21 MS. DOAN: Objection; form. 11:24</p> <p>22 THE WITNESS: Say that again. 11:24</p> <p>23 MR. BUDWIN: Q. Yahoo's web servers use 11:24</p> <p>24 Linux as the operating system? 11:24</p> <p>25 A Some Yahoo web servers -- 11:24</p>

Page 110	Page 111
<p>1 Q Okay. 11:24</p> <p>2 A -- use Linux. 11:24</p> <p>3 Q So some Yahoo web servers use Linux, some 11:24</p> <p>4 Yahoo web servers use Apache, and some Yahoo web 11:25</p> <p>5 servers use FreeBSD -- FreeBSD; fair? 11:25</p> <p>6 A Fair. 11:25</p> <p>7 Q And Yahoo uses its web servers to serve pages 11:25</p> <p>8 to users? 11:25</p> <p>9 A And Yahoo uses its web servers. 11:25</p> <p>10 In some cases, yes. 11:25</p> <p>11 Q Okay. And Yahoo has properties and web pages 11:25</p> <p>12 that are supported using advertisements that are also 11:25</p> <p>13 served from Yahoo web servers? 11:25</p> <p>14 A Yahoo has properties -- sorry. What was the 11:25</p> <p>15 question? 11:25</p> <p>16 Q Okay. And Yahoo has properties and web 11:25</p> <p>17 servers that are supported using advertisements, and 11:25</p> <p>18 those are served from Yahoo's web servers? 11:25</p> <p>19 MS. DOAN: Objection; form. 11:25</p> <p>20 THE WITNESS: I mean, I'm not -- it's a 11:26</p> <p>21 little unclear what the question is, but we do have 11:26</p> <p>22 Yahoo properties that are served from our web servers. 11:26</p> <p>23 MR. BUDWIN: Okay. Let me -- let me ask you 11:26</p> <p>24 a question. 11:26</p> <p>25 Q Yahoo is not involved in open source projects 11:26</p>	<p>1 like Apache, FreeBSD, and Linux out of some, you know, 11:26</p> <p>2 sense of fairness or just wanting to give things away 11:26</p> <p>3 for free; is it? 11:26</p> <p>4 MS. DOAN: Objection; form. 11:26</p> <p>5 THE WITNESS: Yeah, what's -- I'm not -- 11:26</p> <p>6 MR. BUDWIN: Okay. 11:26</p> <p>7 THE WITNESS: What's the question? 11:26</p> <p>8 MR. BUDWIN: Q. Yahoo contributes time and 11:26</p> <p>9 manpower to open source projects like Apache, FreeBSD 11:26</p> <p>10 and Linux; right? 11:26</p> <p>11 A We have contributed to those projects -- 11:26</p> <p>12 Q Okay. 11:26</p> <p>13 A -- correct. 11:26</p> <p>14 Q And then Yahoo takes those technologies, 11:26</p> <p>15 Apache, FreeBSD, and Linux, and uses those to help it 11:26</p> <p>16 serve its web pages and help Yahoo generate revenue; 11:26</p> <p>17 right? 11:26</p> <p>18 MS. DOAN: Objection; form. 11:26</p> <p>19 You can answer. 11:26</p> <p>20 THE WITNESS: I mean, we use -- depending on 11:26</p> <p>21 what technology you're talking about, it's used for 11:26</p> <p>22 different purposes within Yahoo. 11:26</p> <p>23 MR. BUDWIN: Q. Do all of Yahoo's web 11:26</p> <p>24 servers run FreeBSD? 11:26</p> <p>25 A No. 11:27</p>
Page 112	Page 113
<p>1 Q Okay. How many? 11:27</p> <p>2 A How many what? 11:27</p> <p>3 Q How many Yahoo web servers run FreeBSD? 11:27</p> <p>4 A How many Yahoo web servers? 11:27</p> <p>5 Well, I guess I should back up. 11:27</p> <p>6 What's your definition of a "web server"? 11:27</p> <p>7 Q Are you serious? You don't -- you don't know 11:27</p> <p>8 what a web server is? 11:27</p> <p>9 A Well, it's -- we have many servers. 11:27</p> <p>10 Q Okay. 11:27</p> <p>11 A And we have many different tiers in our -- 11:27</p> <p>12 Q Let's just -- let's just drop this line of 11:27</p> <p>13 questioning. Let me come back to it. 11:27</p> <p>14 Okay. Yahoo contributes to open source 11:27</p> <p>15 projects; does it not? 11:27</p> <p>16 A Yes, we do. 11:27</p> <p>17 Q Okay. And examples of open source projects 11:27</p> <p>18 that Yahoo contributes people and time and effort to 11:27</p> <p>19 are Apache, FreeBSD, and Linux; right? 11:27</p> <p>20 MS. DOAN: Objection; form. 11:27</p> <p>21 You can answer. 11:27</p> <p>22 THE WITNESS: We contribute to -- we've 11:27</p> <p>23 contributed to FreeBSD, Apache, and Linux to some 11:27</p> <p>24 degree over the years, yes. 11:27</p> <p>25 MR. BUDWIN: Q. And FreeBSD, Apache, and 11:27</p>	<p>1 Linux are all things that are used on at least some of 11:27</p> <p>2 Yahoo's web servers? 11:27</p> <p>3 MS. DOAN: Objection; form. 11:27</p> <p>4 You can answer. 11:27</p> <p>5 THE WITNESS: We use Apache on some of our 11:27</p> <p>6 web servers. We use Linux on some of our web servers. 11:27</p> <p>7 MR. BUDWIN: Q. And you use those 11:28</p> <p>8 technologies -- Apache, FreeBSD, and Linux -- to serve 11:28</p> <p>9 some Yahoo properties that are involved in generating 11:28</p> <p>10 revenue for Yahoo? 11:28</p> <p>11 A So we use -- 11:28</p> <p>12 MS. DOAN: Objection; form, but you can 11:28</p> <p>13 answer. 11:28</p> <p>14 THE WITNESS: Again, more specifically, we 11:28</p> <p>15 use Linux on some of our web servers, and some of 11:28</p> <p>16 those web servers are used to serve properties like 11:28</p> <p>17 Yahoo Mail, and some of those properties have 11:28</p> <p>18 advertisements on them. 11:28</p> <p>19 MR. BUDWIN: Okay. Let's talk about specific 11:28</p> <p>20 properties. 11:28</p> <p>21 Q Do you know the technologies that underlie 11:28</p> <p>22 the Yahoo Mail servers? 11:28</p> <p>23 A The technologies? 11:28</p> <p>24 Q Yeah. 11:28</p> <p>25 Do you know -- just don't tell me what -- do 11:28</p>

Page 114			Page 115		
1	you know generally what they are?	11:28	1	Search system that use Linux.	11:29
2	A Yes.	11:28	2	Q Okay. And within Yahoo Search, are there	11:29
3	Q Okay. Does Yahoo Mail use FreeBSD?	11:28	3	servers that run Apache?	11:29
4	A Yahoo Mail, yes, it does.	11:28	4	A Within Yahoo Search, yes, there are.	11:29
5	Q Okay. Does Yahoo Mail use Linux?	11:28	5	Q Okay. And Yahoo makes revenue from search by	11:29
6	A Yes, it does.	11:28	6	showing advertisements?	11:29
7	Q Does Yahoo Mail use Apache?	11:28	7	MS. DOAN: Objection; form.	11:29
8	A Yes.	11:29	8	You may answer.	11:29
9	Q Okay. And Yahoo makes revenue from Yahoo	11:29	9	THE WITNESS: I think prime -- in part,	11:29
10	Mail by showing advertisements?	11:29	10	our -- we make -- I'm going to have to think for	11:30
11	MS. DOAN: Objection; form.	11:29	11	Search.	11:30
12	You can answer.	11:29	12	For Search, it's primarily -- the primary	11:30
13	THE WITNESS: We make money by, yeah,	11:29	13	source of revenue on Search is from advertisements.	11:30
14	roughly, I mean --	11:29	14	MR. BUDWIN: Okay.	11:30
15	MR. BUDWIN: Okay.	11:29	15	Q So you would agree with me that Yahoo	11:30
16	THE WITNESS: -- not quite precisely, yeah.	11:29	16	contributes people to open source projects like	11:30
17	MR. BUDWIN: Q. Do the servers that run	11:29	17	Apache, FreeBSD, and Linux, and then Yahoo itself	11:30
18	Yahoo Search use FreeBSD?	11:29	18	makes use of those -- those technologies in its	11:30
19	A Search.	11:29	19	business?	11:30
20	Again, within Yahoo Search, which is a very	11:29	20	A I don't know. When you say "contribute	11:30
21	complex system, there are probably some FreeBSD	11:29	21	people," we have contributed code --	11:30
22	servers within that mix.	11:29	22	Q Okay.	11:30
23	Q All right.	11:29	23	A -- to those projects, and we do use those	11:30
24	Do Yahoo's servers that run Search use Linux?	11:29	24	technologies within Yahoo.	11:30
25	A There are some servers within the Yahoo	11:29	25	Q Okay. Yahoo has employees who are involved	11:30
Page 116			Page 117		
1	with open source projects like Apache, FreeBSD, and	11:30	1	business; right?	11:31
2	Linux?	11:30	2	A Yes, we do use those technologies.	11:31
3	A Yes.	11:30	3	Q And as we've talked about earlier, Yahoo is	11:31
4	Q Okay. And Yahoo has contributed code to open	11:30	4	in the business of making money and generating	11:31
5	source projects like Apache, FreeBSD, and Linux;	11:30	5	revenue?	11:31
6	right?	11:30	6	MS. DOAN: Objection; form.	11:31
7	A Yes.	11:30	7	THE WITNESS: Well, we're in the business of	11:31
8	Q And then Yahoo makes use of those open source	11:30	8	providing web services to our consumers.	11:31
9	technologies like Apache, FreeBSD, and Linux in its	11:31	9	MR. BUDWIN: Q. And making revenue and money	11:32
10	normal business operations; does it not?	11:31	10	as a result of that?	11:32
11	A We do. I mean, I would just say that you've	11:31	11	MS. DOAN: Objection; form.	11:32
12	been using Apache, Linux, and FreeBSD, and of those	11:31	12	THE WITNESS: And we make money to operate	11:32
13	we've contributed a lot more to FreeBSD than Linux or	11:31	13	the business, and as we've talked about, there's	11:32
14	Apache where again, over 15 years, we've contributed	11:31	14	different ways we generate revenue.	11:32
15	some. But I wouldn't necessarily use those three as	11:31	15	MR. BUDWIN: Q. One of the ways that Yahoo	11:32
16	the kind of primary examples --	11:31	16	generates money -- the primary way that Yahoo	11:32
17	Q Okay.	11:31	17	generates money is by showing advertisements on its	11:32
18	A -- versus something like AdUp, FreeBSD, which	11:31	18	properties?	11:32
19	we're much more involved with.	11:31	19	A That's correct.	11:32
20	Q Let me ask you a more general question.	11:31	20	Q Okay. And the various open source	11:32
21	Yahoo is involved in various open source	11:31	21	technologies that we've talked about help Yahoo	11:32
22	projects that we've talked about today; right?	11:31	22	accomplish its normal day-to-day business of serving	11:32
23	A Yes.	11:31	23	web pages, and advertisements, and all of those types	11:32
24	Q And Yahoo makes use of those various open	11:31	24	of things?	11:32
25	source technologies in the normal course of its	11:31	25	A It's a very general -- again, you're making	11:32

Page 118	Page 119
<p>1 very general statements, but we do use open source 11:32</p> <p>2 technologies within Yahoo for many of our properties 11:32</p> <p>3 and services. 11:32</p> <p>4 Q And Yahoo makes money in revenue from those 11:32</p> <p>5 properties and services by showing advertisements to 11:32</p> <p>6 users? 11:33</p> <p>7 MS. DOAN: Objection; form. 11:33</p> <p>8 THE WITNESS: Our primary source of revenue 11:33</p> <p>9 on many of those properties is advertisements. 11:33</p> <p>10 MR. BUDWIN: Okay. 11:33</p> <p>11 Q Are you familiar with something called Yahoo 11:33</p> <p>12 Spirit? 11:33</p> <p>13 A Yes. 11:33</p> <p>14 Q What's Spirit? 11:33</p> <p>15 A Spirit was a name of a project that was -- 11:33</p> <p>16 had to do with redesigning the front page. 11:33</p> <p>17 Q Were you involved in that project? 11:33</p> <p>18 A To some degree, yes, yes. 11:33</p> <p>19 Q What was -- what was your involvement in the 11:33</p> <p>20 Spirit redesign of Yahoo's front page? 11:33</p> <p>21 A Well, that was -- I did most of the 11:33</p> <p>22 engineering for the front page kind of up until the 11:33</p> <p>23 Spirit project, and so I was still involved with the 11:34</p> <p>24 engineering of the front page while that was 11:34</p> <p>25 transitioned or while that project was underway. 11:34</p>	<p>1 Q Why -- when was the Spirit project 11:34</p> <p>2 undertaken? 11:34</p> <p>3 A I don't have the exact date. I'm guessing -- 11:34</p> <p>4 I would imagine it's kind of in the 2007-ish time 11:34</p> <p>5 frame, but I don't know the exact date. 11:34</p> <p>6 Q Why did Yahoo feel the need to undertake the 11:34</p> <p>7 redesign of its front page in 2007? 11:34</p> <p>8 A I don't know that it was in 2007, but I think 11:34</p> <p>9 with any redesign, we've done many redesigns over the 11:34</p> <p>10 years that you showed me a page earlier of what Yahoo 11:34</p> <p>11 looked like in 1994. 11:34</p> <p>12 So you can see that things have evolved quite 11:34</p> <p>13 a bit since then, and I'd say every couple of years or 11:34</p> <p>14 so we -- we're constantly making changes to the page, 11:34</p> <p>15 but every couple of years I'd say we take a more -- we 11:34</p> <p>16 take a deeper look at things and make more substantial 11:35</p> <p>17 changes to not just front page but to many of our 11:35</p> <p>18 properties. 11:35</p> <p>19 Q What was the primary driver behind the Spirit 11:35</p> <p>20 redesign of Yahoo's front page? 11:35</p> <p>21 A I mean, I think the primary driver behind any 11:35</p> <p>22 redesign that we do on any property of Yahoo is to try 11:35</p> <p>23 to improve it. 11:35</p> <p>24 Q What specific improvement was Yahoo trying to 11:35</p> <p>25 make behind its Spirit redesign? 11:35</p>
Page 120	Page 121
<p>1 A Again, this is just generic for any property, 11:35</p> <p>2 but when we do redesigns, we try to make things, you 11:35</p> <p>3 know, more attractive, to attract more users to come 11:35</p> <p>4 to the site, and we also try to make it more engaging 11:35</p> <p>5 for existing users to engage with the particular 11:35</p> <p>6 property more. 11:35</p> <p>7 So we try to make it more relevant, more 11:35</p> <p>8 personal to the individual. We try to add features 11:36</p> <p>9 that we think users would like, et cetera. 11:36</p> <p>10 Q So there are various reasons why Yahoo 11:36</p> <p>11 undertakes to redesign its pages, including its 11:36</p> <p>12 homepage, front page? 11:36</p> <p>13 A Yes. 11:36</p> <p>14 Q And I believe you mentioned a couple of those 11:36</p> <p>15 reasons. One is to make the page or the website more 11:36</p> <p>16 engaging to users? 11:36</p> <p>17 A Yes. 11:36</p> <p>18 Q Another one is to make the -- the web page or 11:36</p> <p>19 the front page more attractive to users? 11:36</p> <p>20 A Sure. 11:36</p> <p>21 Q And a third one is to make the information 11:36</p> <p>22 shown on the web page or the Yahoo page more relevant 11:36</p> <p>23 to users? 11:36</p> <p>24 A Yeah, that's three of many factors, but... 11:36</p> <p>25 Q Were those three factors -- trying to make 11:36</p>	<p>1 the page more engaging, attractive, and relevant -- 11:36</p> <p>2 factors that underlined the -- the need for the Spirit 11:36</p> <p>3 redesign of Yahoo's page? 11:36</p> <p>4 MS. DOAN: Objection; form. 11:36</p> <p>5 THE WITNESS: I'd say there are a lot of 11:36</p> <p>6 reasons that went into that redesign or a lot of goals 11:37</p> <p>7 that it had, but I would say I think it's fair to say 11:37</p> <p>8 that those three that you just mentioned were probably 11:37</p> <p>9 part of the overall Spirit goals to some degree. 11:37</p> <p>10 MR. BUDWIN: Okay. 11:37</p> <p>11 Q And how did Yahoo hope to accomplish the 11:37</p> <p>12 goals of making the page more engaging, attractive, 11:37</p> <p>13 and relevant as part of its Spirit redesign? 11:37</p> <p>14 What specific things were going to be 11:37</p> <p>15 changed? 11:37</p> <p>16 A You know, I don't -- we've done a lot of 11:37</p> <p>17 redesigns over a lot of properties, and so that was a 11:37</p> <p>18 number of years ago, and so I'm not going to be able 11:37</p> <p>19 to recite all of the specific goals and -- 11:37</p> <p>20 Q What do you remember? 11:37</p> <p>21 A I think there were things like making news 11:37</p> <p>22 content more -- kind of more front and center to kind 11:37</p> <p>23 of elevate the exposure of the news to get people to 11:37</p> <p>24 engage with news content more. 11:37</p> <p>25 Q Do you recall one of the goals of Spirit was 11:37</p>

Page 122	Page 123
<p>1 to introduce AJAX technologies to the Yahoo front 11:38</p> <p>2 page? 11:38</p> <p>3 A I don't -- I mean, I don't know if that's 11:38</p> <p>4 said somewhere, but I don't think introducing AJAX was 11:38</p> <p>5 necessarily a goal. I think the goals would have 11:38</p> <p>6 been, again, more around trying to increase 11:38</p> <p>7 engagement, trying to increase the number of users, 11:38</p> <p>8 trying to increase things like the use of Search, or 11:38</p> <p>9 the use of our media properties. 11:38</p> <p>10 The actual underlying technologies, generally 11:38</p> <p>11 we don't have goals about using one technology versus 11:38</p> <p>12 the other. We have goals of, again, trying to satisfy 11:38</p> <p>13 the user's needs. 11:38</p> <p>14 Q And by employing or using AJAX technologies, 11:38</p> <p>15 was Yahoo able to make those goals of its Spirit 11:38</p> <p>16 redesign? 11:38</p> <p>17 A I'd have to -- you'd have to look -- give me 11:38</p> <p>18 a specific example of a particular feature and whether 11:38</p> <p>19 that met one of those goals or not. 11:38</p> <p>20 Q Do you recall attending any launch parties 11:38</p> <p>21 for the Spirit redesign? 11:39</p> <p>22 A No, not as I sit here. I don't remember. 11:39</p> <p>23 Q Do you remember something called a Yahoo 11:39</p> <p>24 innovation dinner related to the Spirit redesign? 11:39</p> <p>25 A Innovation dinner; no. 11:39</p>	<p>1 Q Do you remember appearing or writing any 11:39</p> <p>2 guest posts or blog posts related to the Spirit 11:39</p> <p>3 redesign of the Yahoo site? 11:39</p> <p>4 A I don't remember. 11:39</p> <p>5 Q Do you know if Yahoo is able to use AJAX 11:39</p> <p>6 technologies to make its web page more engaging, 11:39</p> <p>7 attractive, and relevant to users? 11:39</p> <p>8 MS. DOAN: Objection; form. 11:39</p> <p>9 THE WITNESS: Again, that's -- if you want to 11:39</p> <p>10 ask more specifics, I think you said more relevant, 11:39</p> <p>11 for instance, and I certainly wouldn't say yes to that 11:39</p> <p>12 general question. 11:39</p> <p>13 MR. BUDWIN: Okay. 11:39</p> <p>14 Q You're aware that Yahoo Mail uses AJAX 11:39</p> <p>15 technologies; right? 11:40</p> <p>16 A I would say current -- some versions of Yahoo 11:40</p> <p>17 Mail use AJAX-type technologies today. 11:40</p> <p>18 Q Does the use of AJAX technologies on Yahoo 11:40</p> <p>19 Mail help make Yahoo Mail more engaging to its users? 11:40</p> <p>20 MS. DOAN: Objection; form. 11:40</p> <p>21 THE WITNESS: I don't know if you'd word -- 11:40</p> <p>22 I'm not sure if the word "engaging" is the right word. 11:40</p> <p>23 MR. BUDWIN: Q. Well -- 11:40</p> <p>24 A But again, some versions of Yahoo Mail does 11:40</p> <p>25 and do use the AJAX, certain type of AJAX 11:40</p>
Page 124	Page 125
<p>1 technologies. 11:40</p> <p>2 Q Why do some versions of Yahoo Mail use AJAX? 11:40</p> <p>3 A I think there -- I think the use of AJAX in 11:40</p> <p>4 mail goes back a number of years, and I think that 11:40</p> <p>5 some of it was based on an acquisition that we made, 11:41</p> <p>6 and so whether -- I mean, for example, the reason I'm 11:41</p> <p>7 kind of hesitating here a little bit is that some 11:41</p> <p>8 people might say AJAX can be used to make something 11:41</p> <p>9 faster. But, in reality, the AJAX version of Mail, 11:41</p> <p>10 for instance, that we launched a number of years ago 11:41</p> <p>11 turned out to be slower than the non-AJAX version. 11:41</p> <p>12 Q Well, let me -- 11:41</p> <p>13 A There might have been some intention and some 11:41</p> <p>14 goals around speed or other things that weren't 11:41</p> <p>15 necessarily realized. 11:41</p> <p>16 So when you say -- 11:41</p> <p>17 Q Let's talk in terms of -- 11:41</p> <p>18 MS. DOAN: Mr. Budwin, do you think you can 11:41</p> <p>19 let him finish his answer, before you cut him off. 11:41</p> <p>20 MR. BUDWIN: Okay. Let's -- let's talk about 11:41</p> <p>21 in terms of specifics. 11:41</p> <p>22 Q You mentioned an acquisition. What 11:41</p> <p>23 acquisition are you referring to? 11:41</p> <p>24 A A company called Odd Post. 11:42</p> <p>25 Q Okay. Now, do you think Yahoo derives any 11:42</p>	<p>1 benefit at all from its use of AJAX technologies on 11:42</p> <p>2 any of its properties? 11:42</p> <p>3 A Any benefit, sure. Yes, I think we have some 11:42</p> <p>4 benefit. 11:42</p> <p>5 Q Now, Yahoo also makes use of Flash; does it 11:42</p> <p>6 not? 11:42</p> <p>7 A We do use Flash. 11:42</p> <p>8 Q Does Yahoo derive any benefit from its use of 11:42</p> <p>9 Flash on its properties? 11:42</p> <p>10 A I would say yes, we have some benefit. 11:42</p> <p>11 Q If Yahoo had to remove Flash from all of its 11:42</p> <p>12 properties, would that have a beneficial or 11:42</p> <p>13 detrimental effect on Yahoo's business? 11:42</p> <p>14 MS. DOAN: Objection; vague. 11:42</p> <p>15 THE WITNESS: It would have both. 11:42</p> <p>16 MR. BUDWIN: Okay. 11:42</p> <p>17 Q How would it have both? 11:42</p> <p>18 A Flash can be positive, and Flash can also be 11:42</p> <p>19 a negative. 11:42</p> <p>20 Q What are the positives of Flash in Yahoo's 11:42</p> <p>21 use of Flash? 11:42</p> <p>22 A The positives are -- I'd say the positives 11:42</p> <p>23 are some advertisers that we do business with like to 11:43</p> <p>24 use it. 11:43</p> <p>25 Q Okay. So Yahoo serves Flash-based ads; does 11:43</p>

Page 126	Page 127
<p>1 it not? 11:43</p> <p>2 A We have some Flash-based ads. 11:43</p> <p>3 Q And if Yahoo weren't able to use Flash, it 11:43</p> <p>4 would have to stop serving its Flash-based ads. 11:43</p> <p>5 MS. DOAN: Objection; form. 11:43</p> <p>6 THE WITNESS: Well, there's certainly 11:43</p> <p>7 alternatives we could -- could go to. 11:43</p> <p>8 MR. BUDWIN: Okay. I didn't ask about 11:43</p> <p>9 alternatives. 11:43</p> <p>10 Q If an ad is encoded in Flash and you have to 11:43</p> <p>11 stop using Flash, you can't serve ads in Flash; can 11:43</p> <p>12 you? 11:43</p> <p>13 MS. DOAN: Objection; form. 11:43</p> <p>14 THE WITNESS: We can't serve -- if there's -- 11:43</p> <p>15 if there's a Flash ad and we're not going to use Flash 11:43</p> <p>16 anymore, then that particular ad won't be served, but 11:43</p> <p>17 alternatives will certainly be served. 11:43</p> <p>18 MR. BUDWIN: Okay. 11:43</p> <p>19 Q What alternatives are you talking about? 11:43</p> <p>20 A Static images, animated images, HTML5-based 11:43</p> <p>21 ads. 11:43</p> <p>22 Q Now -- 11:43</p> <p>23 A Lots of -- there's quite a number of 11:43</p> <p>24 alternatives. 11:43</p> <p>25 Q But Yahoo has various properties that make 11:43</p>	<p>1 use of Flash technologies; right? 11:43</p> <p>2 A That make use of. 11:44</p> <p>3 That have Flash within the properties on 11:44</p> <p>4 them? 11:44</p> <p>5 Q Yes. 11:44</p> <p>6 A Yes. 11:44</p> <p>7 Q Okay. Have you ever gone to Yahoo Movies? 11:44</p> <p>8 A Yes. 11:44</p> <p>9 Q And there's Flash-based movies on Yahoo 11:44</p> <p>10 Movies? 11:44</p> <p>11 A Sometimes there are, yes. 11:44</p> <p>12 Q Why hasn't Yahoo taken all of Flash off of 11:44</p> <p>13 all of its properties today? 11:44</p> <p>14 A Why haven't we taken it off? 11:44</p> <p>15 We haven't taken -- because maybe there's no 11:44</p> <p>16 reason to take it off, I guess, but -- 11:44</p> <p>17 Q Well, Yahoo obviously gets some benefit from 11:44</p> <p>18 its use of Flash; agree? 11:44</p> <p>19 MS. DOAN: Objection; form. 11:44</p> <p>20 THE WITNESS: Again, earlier I think I said 11:44</p> <p>21 there's some benefit from using Flash. I think 11:44</p> <p>22 there's also some -- I think there's some downside to 11:44</p> <p>23 it too, but... 11:44</p> <p>24 MR. BUDWIN: Q. Well, Yahoo obviously feels 11:44</p> <p>25 that the benefits of using Flash outweigh the 11:44</p>
Page 128	Page 129
<p>1 detriments; does it not? 11:45</p> <p>2 MS. DOAN: Objection; form. 11:45</p> <p>3 THE WITNESS: I think in some cases we've 11:45</p> <p>4 decided that using Flash overall is more positive than 11:45</p> <p>5 negative -- than negative. 11:45</p> <p>6 MR. BUDWIN: Q. Now, with respect to Yahoo's 11:45</p> <p>7 use of AJAX technologies, if Yahoo were to have to 11:45</p> <p>8 remove all uses of AJAX from its websites, its 11:45</p> <p>9 properties, would that have a positive or a negative 11:45</p> <p>10 effect? 11:45</p> <p>11 A Well, the problem with all these questions 11:45</p> <p>12 about AJAX is that AJAX is a very loosely defined 11:45</p> <p>13 term, and -- 11:45</p> <p>14 Q Okay. Let's talk about some specific 11:45</p> <p>15 examples. 11:45</p> <p>16 So if Yahoo were to have to remove Yahoo 11:45</p> <p>17 Maps, would that have a positive or negative effect on 11:45</p> <p>18 Yahoo's business? 11:45</p> <p>19 MS. DOAN: Objection; form. 11:45</p> <p>20 THE WITNESS: If we had to remove Yahoo Maps? 11:45</p> <p>21 MR. BUDWIN: Yes. 11:45</p> <p>22 Q Couldn't use Yahoo Maps anymore. Positive or 11:45</p> <p>23 negative effect in your business? 11:45</p> <p>24 MS. DOAN: Same objection. 11:45</p> <p>25 THE WITNESS: If we couldn't use Yahoo Maps. 11:45</p>	<p>1 I'm not sure what that means. There's a -- 11:46</p> <p>2 there's a property called maps@yahoo.com are you 11:46</p> <p>3 saying we couldn't insert that URL anymore? 11:46</p> <p>4 MR. BUDWIN: No. 11:46</p> <p>5 THE WITNESS: Because if you look, maps are 11:46</p> <p>6 also embedded in other properties, so I'm not sure 11:46</p> <p>7 what you're -- 11:46</p> <p>8 MR. BUDWIN: Q. So if Yahoo was not allowed 11:46</p> <p>9 to use AJAX technologies for its Map property, would 11:46</p> <p>10 that have a positive or negative impact on Yahoo's 11:46</p> <p>11 business? 11:46</p> <p>12 MS. DOAN: Objection; form. 11:46</p> <p>13 You can answer. 11:46</p> <p>14 THE WITNESS: So again, AJAX is a very 11:46</p> <p>15 loosely defined term that, I think, is -- there's not 11:46</p> <p>16 a precise definition for it, so people mean very 11:46</p> <p>17 different things by it, so -- 11:46</p> <p>18 MR. BUDWIN: Okay. 11:46</p> <p>19 THE WITNESS: -- there are certainly 11:46</p> <p>20 alternatives to -- if you say our current version of 11:46</p> <p>21 Maps can no longer exist, there's certainly 11:46</p> <p>22 alternatives to code it in other technologies that we 11:47</p> <p>23 could continue to have the Maps property with. 11:47</p> <p>24 MR. BUDWIN: Q. So for Yahoo Maps, there's a 11:47</p> <p>25 database of maps data; is there not? 11:47</p>

Page 130			Page 131		
1	A	For Maps there's a database; yes. 11:47	1	MR. BUDWIN: Q.	Do you know -- 11:48
2	Q	Okay. And so when I, as a user, connect to 11:47	2	MS. DOAN:	Can you let him finish, please. 11:48
3		Yahoo Maps, I don't download the entire contents of 11:47	3	THE WITNESS:	Given the size of people's hard 11:48
4		the database to my computer; do I? 11:47	4		drives and network speeds and stuff, it actually is 11:48
5	A	You do not. 11:47	5		becoming much more feasible to have the entire 11:48
6	Q	I only see and interact with a small part of 11:47	6		databases on devices. 11:48
7		it typically? 11:47	7	MR. BUDWIN: Q.	Do you know how large the 11:48
8	A	Yes. 11:47	8		Yahoo Maps database is for the United States in terms 11:48
9	Q	Okay. Do you think it would be an acceptable 11:47	9		of size: Megabytes? Gigabytes? Terabytes? 11:48
10		alternative to have to download the entire contents of 11:47	10	A	I don't know. 11:48
11		that maps database to my computer in order to be able 11:47	11	Q	Why don't we take a break, and it's getting 11:48
12		to use the Maps property? 11:47	12		close to lunchtime, but I might only have 45 more 11:48
13	A	For which map? Well, I guess it depends on 11:47	13		minutes, so if we can -- 11:48
14		what maps you're talking about. 11:47	14	MS. DOAN:	Okay. 11:48
15	Q	Maps.yahoo.com. 11:47	15	MR. BUDWIN:	-- if you want to power through, 11:48
16	A	For the U.S. or -- 11:47	16		we can just try to power through. 11:48
17	Q	For the U.S. 11:47	17	THE VIDEOGRAPHER:	This marks the end of 11:48
18	A	Would it be acceptable? 11:48	18		Disc 2. 11:48
19	MS. DOAN:	Objection; form. 11:48	19		We'll go off the record at 11:48 a.m. 11:48
20		You can answer. 11:48	20		(Recess taken.) 11:48
21	THE WITNESS:	Yeah, it's a -- it's a vague 11:48	21	THE VIDEOGRAPHER:	This marks the beginning 12:06
22		question. I think that there's certain map products 11:48	22		of Disc 3, Volume I, in the deposition of David Filo. 12:06
23		that people download to their mobile phones that have 11:48	23		We're on the record. The time is 12:06 p.m. 12:06
24		a complete map database, and it works just fine for 11:48	24	MR. BUDWIN: Q.	Mr. Filo, to your knowledge, 12:06
25		people. Given -- 11:48	25		has Yahoo ever contacted Eolas for a license to any of 12:06
Page 132			Page 133		
1		its patents? 12:06	1		take license to Intellectual Ventures's patents? 12:07
2	A	I don't believe so. 12:06	2	A	Yes, in some -- well, I believe my 12:08
3	Q	In the past, has Yahoo contacted any other 12:06	3		understanding is very vague, but I think there are 12:08
4		patent holders to inquire about licenses to patents? 12:06	4		companies they invest in, and they've used monies to 12:08
5	A	I believe so, yes. 12:07	5		go and buy patents. 12:08
6	Q	Okay. What specific instances can you think 12:07	6	Q	Do you know how much money Yahoo has invested 12:08
7		of? 12:07	7		in Intellectual Ventures? 12:08
8	A	I can't think of any right now. 12:07	8	A	I don't know. 12:08
9	Q	Now, it's true, isn't it, that Yahoo is an 12:07	9	Q	Mr. Filo, did you have any personal role in 12:08
10		investor in a company called Intellectual Ventures? 12:07	10		developing Yahoo Mail? 12:08
11	A	I believe so. 12:07	11	A	I'd say if there was a role, it would be 12:08
12	Q	Do you have any involvement in -- with 12:07	12		fairly minor. 12:08
13		respect to Yahoo's investment in Intellectual 12:07	13	Q	Did you have any personal role in developing 12:08
14		Ventures? 12:07	14		Yahoo's Search Assist? 12:08
15	A	No. 12:07	15	A	No. 12:08
16	Q	Are you aware of any of the details in 12:07	16	Q	Did you have any role in developing Yahoo 12:08
17		Yahoo's investment in Intellectual Ventures? 12:07	17		Maps? 12:09
18	A	No. 12:07	18	A	Well, Yahoo Maps goes back many, many years, 12:09
19	Q	Do you know what Intellectual Ventures is? 12:07	19		so I probably was involved to some degree early on. 12:09
20	A	I've got a vague understanding. 12:07	20		But the current version of Maps, I'm not sure if 12:09
21	Q	Okay. What is your understanding of what 12:07	21		you're asking maps in general or a particular version. 12:09
22		Intellectual Ventures is? 12:07	22	Q	When was the last time you had any 12:09
23	A	My understanding is that they have 12:07	23		involvement with Yahoo Maps? 12:09
24		accumulated patents. 12:07	24	A	Any involvement. 12:09
25	Q	And is it your understanding that companies 12:07	25		I mean, I've certainly had conversations with 12:09

Page 134	Page 135
<p>1 them recently. 12:09</p> <p>2 Q When was the last time you had any 12:09</p> <p>3 involvement with respect to developing the technology 12:09</p> <p>4 that underlies Yahoo Maps? 12:09</p> <p>5 MS. DOAN: Objection; form. 12:09</p> <p>6 You can answer. 12:09</p> <p>7 THE WITNESS: Technology. When you say it 12:09</p> <p>8 depends on what degree of involvement you're talking 12:09</p> <p>9 about, I've certainly worked with -- with the maps 12:09</p> <p>10 team, along with others in, for example, the -- more 12:10</p> <p>11 on the operations side of the -- the technology -- 12:10</p> <p>12 MR. BUDWIN: Q. When was the -- 12:10</p> <p>13 A -- and deployment of it. 12:10</p> <p>14 Q -- when was the last time that you wrote any 12:10</p> <p>15 code that was used by Yahoo Maps? 12:10</p> <p>16 A Actually, I probably have -- I probably do 12:10</p> <p>17 have code that I've -- there's probably code that I've 12:10</p> <p>18 written as recently as, you know, this year some time 12:10</p> <p>19 that is being used by the Maps property [sic]. 12:10</p> <p>20 Q You say probably? 12:10</p> <p>21 A I'm not sure exactly what they're using on 12:10</p> <p>22 which servers, but I think it's a pretty good 12:10</p> <p>23 likelihood they have code that I've written. 12:10</p> <p>24 Q Okay. What code are you referring to? 12:10</p> <p>25 A In this particular case, it's a Perl script 12:10</p>	<p>1 that is probably located on their computers. 12:11</p> <p>2 Q Okay. And what's the function of the Perl 12:11</p> <p>3 script? 12:11</p> <p>4 A It's an operations system information 12:11</p> <p>5 gathering utility. 12:11</p> <p>6 Q Okay. So is that something that would run 12:11</p> <p>7 on -- on the server? 12:11</p> <p>8 A Yes. 12:11</p> <p>9 Q Do you have any involvement with any of the 12:11</p> <p>10 user-facing coding for Yahoo Maps? 12:11</p> <p>11 A For Yahoo Maps, not currently. 12:11</p> <p>12 Q And when was the last time you were involved 12:11</p> <p>13 in any of the user-facing coding -- user-facing coding 12:11</p> <p>14 for Yahoo Maps? 12:11</p> <p>15 A It would have been probably more than 12:11</p> <p>16 ten years ago. 12:11</p> <p>17 Q Okay. When was the last time you were 12:11</p> <p>18 involved in any of the user-facing coding for Yahoo 12:11</p> <p>19 Mail? 12:11</p> <p>20 A Certainly not in -- it has been some time 12:11</p> <p>21 ago, so certainly not in the past five years. 12:12</p> <p>22 Q When was the last time you were involved with 12:12</p> <p>23 any of the user-facing coding for Yahoo Sports? 12:12</p> <p>24 MS. DOAN: Objection; form. 12:12</p> <p>25 THE WITNESS: Again, when you say "involved 12:12</p>
Page 136	Page 137
<p>1 with," in fact, going back to your previous questions, 12:12</p> <p>2 involved with, I would say, I probably have been 12:12</p> <p>3 involved with some of these things, but -- 12:12</p> <p>4 MR. BUDWIN: Q. When -- 12:12</p> <p>5 THE WITNESS: -- you should probably define 12:12</p> <p>6 what the word "involved" means. 12:12</p> <p>7 MR. BUDWIN: Q. When was the last time you 12:12</p> <p>8 wrote any code that was used by Yahoo Sports in a 12:12</p> <p>9 user-facing capacity? 12:12</p> <p>10 A What do you mean by "user-facing"? 12:12</p> <p>11 Q Something that a user could actually see and 12:12</p> <p>12 interact with as opposed to things that run on the 12:12</p> <p>13 server. 12:12</p> <p>14 A Well, they don't -- they don't see code, so 12:13</p> <p>15 anything -- any code that's written isn't actually 12:13</p> <p>16 seen by the user or shouldn't be seen by the user, 12:13</p> <p>17 so -- but it sounds like you're asking for HTML that 12:13</p> <p>18 gets shipped to the browser -- 12:13</p> <p>19 Q No, let me -- 12:13</p> <p>20 A -- and -- 12:13</p> <p>21 Q Sorry. Were you done? 12:13</p> <p>22 A Yeah. 12:13</p> <p>23 Q Let me give you an example. 12:13</p> <p>24 So if I'm a user of a computer, okay, one of 12:13</p> <p>25 the things I can do with my browser is I can go view 12:13</p>	<p>1 source. I can see the source that underlies the page 12:13</p> <p>2 that I see; right? 12:13</p> <p>3 A Yes. 12:13</p> <p>4 Q Are you familiar with that? 12:13</p> <p>5 A Yes. 12:13</p> <p>6 Q And that includes things beyond HTML; does it 12:13</p> <p>7 not? 12:13</p> <p>8 A Yes. 12:13</p> <p>9 Q So I can see JavaScript and things of that 12:13</p> <p>10 nature; right? 12:13</p> <p>11 A Yes. 12:13</p> <p>12 Q Have you -- have you written any code that a 12:13</p> <p>13 user can see on a view source function on their 12:13</p> <p>14 browser for Yahoo Sports? 12:13</p> <p>15 MS. DOAN: Objection. 12:13</p> <p>16 THE WITNESS: I'm trying to remember back. 12:13</p> <p>17 It's certainly possible. I don't -- until -- 12:14</p> <p>18 I couldn't tell you for certain without looking at the 12:14</p> <p>19 source code today, but my best guess would be that in 12:14</p> <p>20 the current version of Sports, there probably is not. 12:14</p> <p>21 MR. BUDWIN: Q. Now, did you lead any of the 12:14</p> <p>22 teams that were tasked with developing Yahoo Mail, 12:14</p> <p>23 Yahoo Search Assist, or Yahoo Maps? 12:14</p> <p>24 A No. 12:14</p> <p>25 Q Do you know who led the team that developed 12:14</p>

Page 138	Page 139
<p>1 Yahoo Mail? 12:14</p> <p>2 A It's been -- it's changed over the years. 12:14</p> <p>3 Q Okay. Has that person ever reported to you? 12:14</p> <p>4 MS. DOAN: Objection; form. 12:15</p> <p>5 THE WITNESS: Has a leader of Yahoo Mail ever 12:15</p> <p>6 reported to me? 12:15</p> <p>7 MR. BUDWIN: Yes. 12:15</p> <p>8 THE WITNESS: Is that the question? 12:15</p> <p>9 No. 12:15</p> <p>10 MR. BUDWIN: Q. Do you know who developed 12:15</p> <p>11 Yahoo Search Assist? 12:15</p> <p>12 A Again, it's not one person. It's a big 12:15</p> <p>13 group -- 12:15</p> <p>14 Q Okay. 12:15</p> <p>15 A -- and the group would change over time. 12:15</p> <p>16 Q Have any of the persons who led the 12:15</p> <p>17 development of Yahoo Search Assist ever reported to 12:15</p> <p>18 you? 12:15</p> <p>19 A No. 12:15</p> <p>20 Q Have any of the persons that led the 12:15</p> <p>21 development of Yahoo Maps ever reported to you? 12:15</p> <p>22 A That, I believe, any version of Maps, yeah. 12:15</p> <p>23 I mean, the general answer is yes. 12:15</p> <p>24 Q Okay. What time frame are you talking about? 12:15</p> <p>25 A Well, what's -- so the answer -- or ask the 12:16</p>	<p>1 question again more specifically. 12:16</p> <p>2 Q Okay. In what time frame did people or 12:16</p> <p>3 persons who were involved in developing Yahoo Maps 12:16</p> <p>4 report to you? 12:16</p> <p>5 A Well, so more specifically, while they were 12:16</p> <p>6 reporting to me, did they develop Yahoo Maps? 12:16</p> <p>7 Q However you want to interpret the question is 12:16</p> <p>8 fine. 12:16</p> <p>9 A The answer to that is -- I believe it's no to 12:16</p> <p>10 that, but... 12:16</p> <p>11 Q Oh, okay. I see what you mean. 12:16</p> <p>12 So there was somebody at one point in time 12:16</p> <p>13 that was involved in leading the development of Yahoo 12:16</p> <p>14 Maps who had transitioned off that project -- 12:16</p> <p>15 A Or vice versa, yeah. 12:16</p> <p>16 Q Okay. All right. 12:16</p> <p>17 So did the people or people in charge -- 12:16</p> <p>18 charged with developing Yahoo Maps ever report to you 12:16</p> <p>19 during the time frame while they were working on Yahoo 12:16</p> <p>20 Maps? 12:16</p> <p>21 A I don't believe so. 12:16</p> <p>22 Q Now, we talked a little bit about the Spirit 12:16</p> <p>23 redesign of Yahoo's front page earlier; do you recall 12:17</p> <p>24 that discussion? 12:17</p> <p>25 A Yes. 12:17</p>
Page 140	Page 141
<p>1 Q You were not personally in charge of the 12:17</p> <p>2 Spirit redesign of Yahoo's front page; were you? 12:17</p> <p>3 A In charge of the Spirit redesign. 12:17</p> <p>4 I wasn't the product manager for Spirit 12:17</p> <p>5 redesign, no. 12:17</p> <p>6 Q Who was the product manager of the Spirit 12:17</p> <p>7 redesign? 12:17</p> <p>8 A I don't recall. 12:17</p> <p>9 Q Okay. Did the product manager for the Spirit 12:17</p> <p>10 redesign of Yahoo's front page report to you? 12:17</p> <p>11 A No. 12:17</p> <p>12 Q Now, you're aware that Yahoo did some tests 12:17</p> <p>13 on -- on the Spirit redesign before it launched that 12:17</p> <p>14 redesign to the -- the public at large; right? 12:17</p> <p>15 A Yes. 12:17</p> <p>16 Q Now, did you run those tests yourself? 12:17</p> <p>17 A Those -- I'm not sure what you mean by run -- 12:17</p> <p>18 ran them myself. Those tests were -- weren't on 12:18</p> <p>19 computers that users interacted with and -- 12:18</p> <p>20 Q All right. 12:18</p> <p>21 So you're aware, are you not, that before the 12:18</p> <p>22 Spirit redesign was launched to the public, Yahoo ran 12:18</p> <p>23 some tests on the redesign page? 12:18</p> <p>24 A Yes. 12:18</p> <p>25 Q Okay. What tests are you aware of? 12:18</p>	<p>1 A Well, we were -- we ran many tests that 12:18</p> <p>2 tested slight variations in the page to determine 12:18</p> <p>3 whether a particular change was deemed to be helpful 12:18</p> <p>4 or not helpful. 12:18</p> <p>5 Q Is there a -- 12:18</p> <p>6 A Go ahead. 12:18</p> <p>7 Q I'm sorry. 12:18</p> <p>8 A That's fine. 12:18</p> <p>9 Q Was there a name for those tests? 12:18</p> <p>10 A A name for the tests. A name for the -- I'm 12:18</p> <p>11 not sure what you mean by that. 12:18</p> <p>12 Q Well, you referred to there was a test that 12:18</p> <p>13 was done for slight variations in the page. 12:18</p> <p>14 Was there names called the Spirit redesign 12:18</p> <p>15 test, the AB test, the -- did it have a name inside 12:18</p> <p>16 Yahoo? 12:19</p> <p>17 A Well, each test would have -- each test would 12:19</p> <p>18 have probably had a number associated with it, and 12:19</p> <p>19 we'd compare, you know, whatever, test 56 versus 57 -- 12:19</p> <p>20 Q Okay. 12:19</p> <p>21 A -- and -- 12:19</p> <p>22 Q Was there an overarching name that 12:19</p> <p>23 encompassed all of those tests, the Spirit redesign 12:19</p> <p>24 test, the AB test, something that we can refer to all 12:19</p> <p>25 the tests collectively? 12:19</p>

Page 142	Page 143
<p>1 A I don't recall. We have many test systems 12:19</p> <p>2 throughout the various properties and what we used at 12:19</p> <p>3 that point. I think we use -- for that, I think we 12:19</p> <p>4 used a system that was developed in Search, and I 12:19</p> <p>5 forget what they called their test system. 12:19</p> <p>6 We do refer to it as AB testing, bucket 12:19</p> <p>7 testing. Some people might have referred to it as the 12:19</p> <p>8 Spirit redesign test, but -- and they might have 12:19</p> <p>9 referred to the name of the actual testing system 12:19</p> <p>10 framework that we used. 12:19</p> <p>11 Q Okay. So you're familiar with the redesign 12:19</p> <p>12 for Yahoo's front page that was called Spirit; right? 12:19</p> <p>13 A Yes. 12:20</p> <p>14 Q Okay. And you didn't lead that redesign 12:20</p> <p>15 effort yourself; did you? 12:20</p> <p>16 A From a product perspective, I did not. 12:20</p> <p>17 Q Okay. And you're aware that as part of that 12:20</p> <p>18 design, Yahoo ran tests on the redesign page, redesign 12:20</p> <p>19 front page? 12:20</p> <p>20 A Yes, as part of that redesign, we ran many 12:20</p> <p>21 tests. 12:20</p> <p>22 Q Did you design the tests that were used on 12:20</p> <p>23 the redesign Spirit page? 12:20</p> <p>24 A Did I design the tests? What do you mean by 12:20</p> <p>25 design the test? 12:20</p>	<p>1 Q Did you figure out what would be tested? 12:20</p> <p>2 What the parameters were? Whether a test was 12:20</p> <p>3 successful or unsuccessful? 12:20</p> <p>4 A Let's -- you asked me different questions 12:20</p> <p>5 there. In terms of what went into the test generally, 12:20</p> <p>6 no. We had people from the product side or the UD 12:20</p> <p>7 side making graphic design choices, or font choices, 12:20</p> <p>8 or font colors, et cetera. 12:20</p> <p>9 So other people were coming up with those 12:21</p> <p>10 variations to try to test it out. 12:21</p> <p>11 Q Did you oversee the tests that were done on 12:21</p> <p>12 the redesign Spirit page? 12:21</p> <p>13 A I'm not sure you'd say I oversaw. I think 12:21</p> <p>14 you'd say there was probably someone in the product 12:21</p> <p>15 organization that was responsible for making sure -- 12:21</p> <p>16 scheduling the tests and making sure that the proper 12:21</p> <p>17 analysis was done and trying to make decisions based 12:21</p> <p>18 on that. 12:21</p> <p>19 Q Okay. So it's your understanding that as 12:21</p> <p>20 part of the redesign of Yahoo's front page, Yahoo ran 12:21</p> <p>21 tests on the redesign page? 12:21</p> <p>22 A We ran tests on -- yes, on the various 12:21</p> <p>23 options we were looking at for the new redesign, we 12:21</p> <p>24 tested many options. 12:21</p> <p>25 Q And you yourself didn't come up with the 12:21</p>
Page 144	Page 145
<p>1 parameters that were used in those tests? 12:21</p> <p>2 A I might have for some of them, but yeah, I 12:21</p> <p>3 wasn't in charge of kind of overseeing all of the 12:21</p> <p>4 various testing and all the various options. 12:21</p> <p>5 Q So someone other than yourself was involved 12:22</p> <p>6 in overseeing the testing on the Spirit page? 12:22</p> <p>7 A Yes. 12:22</p> <p>8 Q And who was that? 12:22</p> <p>9 A I don't know. 12:22</p> <p>10 Q Did that person ever -- did that person 12:22</p> <p>11 report to you? 12:22</p> <p>12 A No. 12:22</p> <p>13 Q Are you familiar with something on Yahoo 12:22</p> <p>14 Autos called the Insurance Calculator? 12:22</p> <p>15 A Yes. 12:22</p> <p>16 Q Did the number of page views on Yahoo Autos 12:22</p> <p>17 increase after implementing the Insurance Calculator? 12:22</p> <p>18 A I don't know. 12:22</p> <p>19 Q Why did Yahoo implement the Insurance 12:22</p> <p>20 Calculator? 12:22</p> <p>21 A I don't know why. I wasn't involved in that 12:22</p> <p>22 decision, but I could only speculate. 12:22</p> <p>23 Q Are you familiar with embedded or inline 12:22</p> <p>24 video that appears in the Yahoo's Auto page? 12:22</p> <p>25 A I've seen examples. 12:23</p>	<p>1 Q Okay. Did the number of page views from 12:23</p> <p>2 Yahoo Autos increase after implementing embedded 12:23</p> <p>3 interactive video in Yahoo Autos? 12:23</p> <p>4 A I don't know. 12:23</p> <p>5 Q Why did Yahoo implement embedded inline video 12:23</p> <p>6 in Yahoo Autos? 12:23</p> <p>7 A Again, I wasn't involved in that decision, so 12:23</p> <p>8 I can only speculate. 12:23</p> <p>9 Q Are advertisers' willingness to pay 12:23</p> <p>10 advertising on Yahoo Autos related in any way to the 12:23</p> <p>11 number of page views? 12:23</p> <p>12 A So what's the question again? Are they? 12:23</p> <p>13 Q Sure. 12:23</p> <p>14 Is an advertiser's willingness to pay for 12:23</p> <p>15 advertising on Yahoo Autos related in any way to the 12:23</p> <p>16 number of page views? 12:23</p> <p>17 A Their willingness to pay anything or to -- I 12:23</p> <p>18 mean, I think that -- 12:23</p> <p>19 Q In general. 12:23</p> <p>20 A -- the advertiser -- we have a property 12:23</p> <p>21 called Yahoo Autos, and I think advertisers are either 12:23</p> <p>22 interested in that audience or they're not interested. 12:23</p> <p>23 And so, generally speaking, it's not strictly related 12:24</p> <p>24 to page views. They're interested in, again, getting 12:24</p> <p>25 in front of our audience. 12:24</p>

Page 146	Page 147
<p>1 Q When Yahoo is trying to sign up advertisers 12:24 2 for its various properties, does it communicate to 12:24 3 them the number of page views that the property has 12:24 4 received over some historical point in time? 12:24 5 A I'm sure in some cases we do, some cases we 12:24 6 probably don't. Probably a mix. 12:24 7 Q Who are Yahoo Auto's competitors? 12:24 8 A Yahoo Auto's competitors? 12:24 9 So it's like Edmunds. I'm not sure of the 12:24 10 current state of other companies like -- or other 12:24 11 portal type companies like Microsoft, if there's an 12:24 12 auto site within the MSN network. But traditionally 12:24 13 MSN, AOL have auto sites that have competed. There's 12:24 14 probably like Auto Trader, something out there today, 12:25 15 so a number of different sites. 12:25 16 Q At the time Yahoo Auto implemented the 12:25 17 Insurance Calculator, did Yahoo's competitors also 12:25 18 offer an Insurance Calculator? 12:25 19 A I don't know. 12:25 20 Q At the time Yahoo Auto implemented the 12:25 21 embedded inline video, did Yahoo Auto's competitors 12:25 22 also offer embedded inline videos? 12:25 23 A I don't know. 12:25 24 Q Does Yahoo Autos collect revenue from 12:25 25 insurance companies whose advertisements are tied to 12:25</p>	<p>1 the use of the Insurance Calculator on Yahoo Autos? 12:25 2 A I don't know. 12:25 3 Q Now, with respect to the tests that were 12:25 4 performed on the 2000 -- strike that. 12:25 5 With respect to the tests that were performed 12:25 6 as part of this Spirit redesign of Yahoo's front page, 12:25 7 did you review each of the individual tests that were 12:25 8 done? 12:25 9 A I'm not sure if I reviewed every single test, 12:25 10 but I certainly reviewed some of them. 12:26 11 Q Okay. Did you review the results from each 12:26 12 of the individual tests that were done as part of the 12:26 13 Spirit redesign? 12:26 14 A Again, I don't know that I inter -- or 12:26 15 reviewed all of them, but I certainly reviewed some of 12:26 16 them. 12:26 17 Q What percentage of the tests from the Spirit 12:26 18 redesign of Yahoo's front page did you review? 12:26 19 A I don't remember. 12:26 20 Q More than half? 12:26 21 A I'd say to some degree, I probably looked at 12:26 22 more than half, but in how much detail I looked at 12:26 23 those results, I can't say today. 12:26 24 Q Okay. Now, as part of the Spirit redesign of 12:26 25 Yahoo's front page, did Yahoo test the impact of 12:26</p>
Page 148	Page 149
<p>1 implementing AJAX elements on the Yahoo front page? 12:26 2 A Did we test impact? 12:26 3 MS. DOAN: Objection; form. 12:26 4 THE WITNESS: So I think, number one, you 12:26 5 need to define AJAX, what that means. Because again, 12:26 6 it's kind of a loose term. So if you want to ask 12:27 7 about a particular feature, whether we tested that 12:27 8 feature or not -- 12:27 9 MR. BUDWIN: Sure. 12:27 10 THE WITNESS: -- I can answer that. 12:27 11 MR. BUDWIN: Q. Are you familiar with the in 12:27 12 box feature on Yahoo's front page? 12:27 13 A Yes. 12:27 14 Q Okay. As part of the Spirit redesign of 12:27 15 Yahoo's front page, did you test the in box preview? 12:27 16 A I believe we did. 12:27 17 Q Okay. And do you have copies of those 12:27 18 results? 12:27 19 A Not with me, but I think they -- I think -- 12:27 20 well, I'm not sure that they exist today, but if they 12:27 21 do, I can get them for you. 12:27 22 Q Okay. I'll request those and put that in a 12:27 23 letter for sure. 12:27 24 Now, have you ever heard of Yahoo refer to 12:27 25 its AB test as a bucket test? 12:27</p>	<p>1 A Uh-huh, yes. 12:27 2 Q Okay. Now, what specifically are the factors 12:27 3 that Yahoo uses to determine the interaction of 12:27 4 visitors to Yahoo's website? 12:28 5 A Sorry. Could you ask that again? 12:28 6 Q Sure. 12:28 7 So one thing that -- that happens is a user 12:28 8 comes to a site and it can click, a user can click on 12:28 9 various things across the Yahoo page, say the front 12:28 10 page; is that true? 12:28 11 A A user can click on various links, yes. 12:28 12 Q Okay. Does Yahoo track -- you know, I've 12:28 13 sometimes heard it called click stream, or things like 12:28 14 that, the interaction of a user on a given Yahoo page. 12:28 15 A Again, what's the question? 12:28 16 Q Does Yahoo track the interaction of a given 12:28 17 user with a given Yahoo page where the user clicks, 12:28 18 what links the user follows, what things that the user 12:28 19 looks at? 12:28 20 A In some cases, we -- 12:28 21 MS. DOAN: Objection; form. 12:28 22 THE WITNESS: -- in some cases we track which 12:28 23 links are clicked on a page. 12:28 24 MR. BUDWIN: Q. If a page has, for example, 12:28 25 a Flash video on it, is that something that Yahoo 12:28</p>

Page 150	Page 151
<p>1 tracks, whether a user plays or interacts with that 12:28 2 video? 12:29 3 A For some -- for some Flash objects, we track 12:29 4 some of the interactions. 12:29 5 Q Can you give me an example? 12:29 6 A Sure. I mean, I know on the front page at 12:29 7 times for certain Flash objects, we have tracked 12:29 8 whether the user -- how and when the user has 12:29 9 interacted with it. 12:29 10 Q And do those tests have a particular name? 12:29 11 A Well, those aren't tests. Those are -- 12:29 12 Q Okay. Does that tracking have a particular 12:29 13 name? 12:29 14 A No, not any particular name. It gets called 12:29 15 probably a lot of different things. 12:29 16 Q Can you give me an example of some of the 12:29 17 things that tracking could be called? 12:29 18 A It might be called link tracking -- 12:29 19 Q Okay. 12:29 20 A -- for instance. 12:29 21 Q Again, this is something we're interested in, 12:29 22 so I'd be happy to put it into a letter for you. 12:30 23 How does -- have you ever heard of a term 12:30 24 called "click-through rate"? 12:30 25 A Yes. 12:30</p>	<p>1 Q What's your understanding of the term 12:30 2 "click-through rate"? 12:30 3 A Click-through rate generally -- generally 12:30 4 refers to a user visited -- visits a web page, and the 12:30 5 number of visits to a web page is the denominator, and 12:30 6 for a particular link you look at how many clicks were 12:30 7 made to that particular link. That's the numerator, 12:30 8 and that's the click-through -- 12:30 9 Q Okay. 12:30 10 A -- rate. 12:30 11 Q So your understanding of the click-through 12:30 12 rate is just a function of the number of clicks over 12:30 13 the number of visitors? 12:30 14 A Not over the number of visitors. Well, it 12:31 15 depends on how you define "visitors," but over the 12:31 16 number of page views. 12:31 17 Q Okay. So your understanding of click-through 12:31 18 rate is the number of clicks over the number of page 12:31 19 views? 12:31 20 A That's the general use of it. People, I'm 12:31 21 sure, mean different things by it, but I think, 12:31 22 generally speaking, that's what people mean. 12:31 23 Q How does the click-through rate influence an 12:31 24 advertiser's willingness to pay for an ad on Yahoo? 12:31 25 A Depends on the advertiser and the 12:31</p>
Page 152	Page 153
<p>1 advertisement. 12:31 2 Q Okay. 12:31 3 A And where it's placed and many factors. 12:31 4 Q Explain to me how the click-through rate 12:31 5 relates to an advertiser's willingness to pay for an 12:31 6 advertisement on Yahoo. 12:31 7 A Well, in some cases -- again, it's all over 12:31 8 the map. In some cases, for example, within Search 12:31 9 advertising, the advertiser doesn't pay unless the 12:31 10 user clicks; I.e., they pay if the user clicks. 12:32 11 In other places, they're not paying based on 12:32 12 the clicks but based -- they're paying based on how 12:32 13 many people have seen the advertisements. So there's 12:32 14 very different ways to measure and very different ways 12:32 15 that advertisers want and -- 12:32 16 Q So -- so Yahoo has some different advertising 12:32 17 models. I mean, one, for example, in Yahoo Search, 12:32 18 Yahoo is only getting paid if there are actual 12:32 19 click-throughs on the advertisement? 12:32 20 A Generally speaking, that's true. 12:32 21 Q Okay. 12:32 22 A I mean, there's -- that's not -- can't speak 12:32 23 for all of -- everything that happens on Search. But 12:32 24 because there are different forms of advertising on 12:32 25 Search, but for the primary way Search advertisement 12:32</p>	<p>1 works is advertisers pay when they receive a click 12:32 2 from a user. 12:33 3 Q So the primary way that Yahoo earns revenue 12:33 4 from Yahoo Search is when a user clicks through on a 12:33 5 given link to an advertisement? 12:33 6 A I think that's fair to say, yes. 12:33 7 Q Okay. Now, with respect to other types of 12:33 8 Yahoo advertisements outside of Search, for example, 12:33 9 an ad I might see on a given property page, does the 12:33 10 click-through rate impact the willingness on an 12:33 11 advertiser to pay for a given ad? 12:33 12 MS. DOAN: Objection; form. 12:33 13 THE WITNESS: It depends on what advertiser 12:33 14 you're talking about, what advertisement, what 12:33 15 property. Again, a lot of factors that go into that 12:33 16 so -- 12:33 17 MR. BUDWIN: All right. 12:33 18 A -- give me a specific example. 12:33 19 Q Sure. 12:33 20 Are Yahoo's display advertisements all paid 12:33 21 on just a per-view basis, a per-page-view basis? 12:33 22 A Not all, no. 12:33 23 Q But there are some advertisements on Yahoo 12:33 24 pages that are paid on a page-view basis? 12:34 25 A Yes. 12:34</p>

Page 154	Page 155
<p>1 Q And there's some advertisements on Yahoo 12:34</p> <p>2 properties, Yahoo pages that are also paid on a 12:34</p> <p>3 click-through basis? 12:34</p> <p>4 A Some advertisements are paid on click 12:34</p> <p>5 through, yes. 12:34</p> <p>6 Q What percentage of the advertisements on the 12:34</p> <p>7 Yahoo property pages, excluding Yahoo Search, are paid 12:34</p> <p>8 on a click-through basis? 12:34</p> <p>9 A I don't have the number. 12:34</p> <p>10 Q Is it half? More than half? 12:34</p> <p>11 A I don't know. 12:34</p> <p>12 Q You don't know one way or the other? 12:34</p> <p>13 A I don't. I think it changes all the time, 12:34</p> <p>14 and it's certainly changed over the years; and what it 12:34</p> <p>15 is today, I don't know that number. I could probably 12:34</p> <p>16 find out. 12:34</p> <p>17 Q At any time, has the number of advertisements 12:34</p> <p>18 that are paid on a click-through rate for the Yahoo 12:34</p> <p>19 property pages been more than 50 percent? 12:34</p> <p>20 A I don't know. Again, that's a general 12:34</p> <p>21 question across everything. I think more specifically 12:35</p> <p>22 if you want to talk about front page or something, I 12:35</p> <p>23 could maybe answer some of those questions, but on an 12:35</p> <p>24 aggregate, I don't know the answer to that. 12:35</p> <p>25 Q Okay. Well, what about with respect to a 12:35</p>	<p>1 display advertisement on Yahoo front page? Are those 12:35</p> <p>2 typically paid on a click-through rate? 12:35</p> <p>3 A Typically, no. 12:35</p> <p>4 Q Okay. The -- the advertisements on the Yahoo 12:35</p> <p>5 front page, are those typically paid on a page-view 12:35</p> <p>6 rate? 12:35</p> <p>7 A Typically, no. 12:35</p> <p>8 Q How are those paid for? 12:35</p> <p>9 A Typically, those are paid on -- well, I 12:35</p> <p>10 shouldn't say. 12:35</p> <p>11 The majority are paid on basically just 12:35</p> <p>12 paying for the day that the advertisement shows up. 12:35</p> <p>13 So it's more based on a day basis versus page through 12:35</p> <p>14 or click-through. 12:35</p> <p>15 MR. BUDWIN: Q. Like a flat fee? 12:35</p> <p>16 A Yeah, based on -- based on the whole day. 12:36</p> <p>17 Q Okay. 12:36</p> <p>18 A But again that's for the -- I would say 12:36</p> <p>19 that's true for the majority. I think even the front 12:36</p> <p>20 page will have a mix of some ads that are paid on page 12:36</p> <p>21 view, some ads that would potentially even be based on 12:36</p> <p>22 click-through. 12:36</p> <p>23 Q Okay. Why don't we take a quick break, and 12:36</p> <p>24 let me check my notes, and we'll see if there's 12:36</p> <p>25 anything else. 12:36</p>
Page 156	Page 157
<p>1 MS. DOAN: Okay. 12:36</p> <p>2 THE VIDEOGRAPHER: We'll go off the record. 12:36</p> <p>3 The time is 12:36 p m. 12:36</p> <p>4 (Recess taken.) 12:36</p> <p>5 THE VIDEOGRAPHER: We're on the record. 12:52</p> <p>6 The time is 12:52 p m. 12:52</p> <p>7 MR. BUDWIN: Q. Mr. Filo, you agree that 12:52</p> <p>8 there's different factors to determine the value of an 12:52</p> <p>9 advertisement shown on a given page on any of the 12:52</p> <p>10 Yahoo properties; right? 12:52</p> <p>11 A There's -- sorry. Say that again. 12:52</p> <p>12 Q Sure. 12:52</p> <p>13 There are various factors that determine the 12:52</p> <p>14 value of an advertisement shown on a given page of a 12:52</p> <p>15 Yahoo property? 12:52</p> <p>16 A The value to who? 12:52</p> <p>17 Q The value to Yahoo in terms of advertisement 12:52</p> <p>18 revenue. 12:52</p> <p>19 A Sure. 12:53</p> <p>20 Q What factors are there? 12:53</p> <p>21 A Sorry. In terms of the value to Yahoo? 12:53</p> <p>22 Q Sure. 12:53</p> <p>23 A Well, there's clearly -- I guess I'm still 12:53</p> <p>24 unclear what the question is. There's -- in terms of 12:53</p> <p>25 how much we can charge for it, or how much a user 12:53</p>	<p>1 benefits from it? Are those the kind of factors 12:53</p> <p>2 you're looking for or something else? 12:53</p> <p>3 Q Let's -- let's talk about it in terms of, 12:53</p> <p>4 first, that Yahoo can charge for it. So let me ask my 12:53</p> <p>5 question. 12:53</p> <p>6 So there's factors that can determine how 12:53</p> <p>7 much Yahoo can charge for a given advertisement on a 12:53</p> <p>8 given page on a Yahoo property; right? 12:53</p> <p>9 A Yes. 12:53</p> <p>10 Q Okay. What are those factors? 12:53</p> <p>11 A So for a given page, I'd say it's -- I'm 12:53</p> <p>12 still a little bit -- it depends. If it's an ad 12:53</p> <p>13 that's based on click-through, then, you know, the 12:54</p> <p>14 factors of the more relevant that ad is or the more 12:54</p> <p>15 prominent that ad is, the more likely the user might 12:54</p> <p>16 click on it. Therefore, if the user clicks on it, 12:54</p> <p>17 that's when we get paid. So there are factors like 12:54</p> <p>18 that that would lead to -- 12:54</p> <p>19 Q What other than click-through? 12:54</p> <p>20 A Well, like I said, placement or just the -- 12:54</p> <p>21 the look and feel of the ad, or the relevance of the 12:54</p> <p>22 ad to the user, the message of the user, et cetera. 12:54</p> <p>23 Those are all factors that would go into how 12:54</p> <p>24 well it would perform, how we load ads, how quickly 12:54</p> <p>25 the load -- the ad loads. 12:54</p>

Page 158	Page 159
<p>1 Q Does the content on a page that shows an 12:54 2 advertisement have any influence with respect to the 12:54 3 value of an ad to Yahoo? 12:54 4 A I don't know. These questions are a little 12:55 5 bit weird because you're saying the value to Yahoo. 12:55 6 Typically advertisements, you think about the value to 12:55 7 either the advertiser -- 12:55 8 Q Okay. 12:55 9 A -- or the consumer. 12:55 10 Q All right. 12:55 11 A If it's relevant to them. 12:55 12 Q So then let's talk about it in terms of value 12:55 13 to an advertiser. 12:55 14 Does the content of a page on a given Yahoo 12:55 15 property influence the value of an advertisement to an 12:55 16 advertiser on a given Yahoo property? 12:55 17 A I'm sure in some cases it does. I mean, it's 12:55 18 not the most relevant thing, I think, for an 12:55 19 advertiser. They're mostly interested in how many 12:55 20 people see their message, or if it's an action-oriented 12:55 21 message, how many people actually click and get more 12:55 22 information about it. 12:55 23 Q So advertisers are most typically interested 12:55 24 in how many people see an advertisement; is that -- is 12:55 25 that true? 12:56</p>	<p>1 A I think a general statement to say, yes, 12:56 2 advertisers want to get their message out to 12:56 3 consumers, and so the more people that see it, and 12:56 4 ultimately depending on the type of message, if they 12:56 5 engage in it and click through, go to their site, 12:56 6 et cetera, those are all things that would create more 12:56 7 value for the advertiser. 12:56 8 Q And the more people that Yahoo is able to 12:56 9 bring to its properties, the more advertisements it 12:56 10 can show? 12:56 11 A Generally speaking, if we have more 12:56 12 properties, more engagement, there's certainly the 12:56 13 opportunity to sell more advertising. It doesn't mean 12:56 14 we can or will, but there's certainly an opportunity 12:56 15 there. 12:56 16 Q Okay. You refer to something that you just 12:56 17 called "engagement"; do you mean user engagement on a 12:56 18 given Yahoo property? 12:56 19 A Yeah, I mean, yes. 12:56 20 Q Okay. What impact does user engagement on a 12:56 21 given Yahoo property have on the value of an 12:56 22 advertisement shown on a given page? 12:57 23 A Well, again, for that particular 12:57 24 advertisement, it doesn't really make a difference. 12:57 25 Q Does -- 12:57</p>
Page 160	Page 161
<p>1 A Engagement is more about does the user come 12:57 2 back and how engaged are they with the page. But for 12:57 3 a particular advertisement that user saw on that page, 12:57 4 that doesn't have really anything to do with kind of 12:57 5 future or past engagement. 12:57 6 Q So user engagement has no influence one way 12:57 7 or the other on Yahoo's ability to sell 12:57 8 advertisements? 12:57 9 A I didn't say that. 12:57 10 Q Okay. What impact does user engagement have 12:57 11 on Yahoo's ability to sell advertisements? 12:57 12 A So again, more engagement means -- to me 12:57 13 means more visits by that user. More engagement also 12:57 14 might mean more likely to engage with the ads which 12:57 15 might mean more click-throughs. 12:57 16 If we're selling based on click-throughs, 12:58 17 that would mean more value to the advertiser and 12:58 18 therefore us, given that's click-through based. 12:58 19 But in the case of more engagement, meaning, 12:58 20 a user might come back and come back more often or 12:58 21 come back and engage with the property, you know, 12:58 22 creating -- looking at more articles or more scores or 12:58 23 whatever, those are all opportunities for us to 12:58 24 potentially put more advertisement out there. 12:58 25 Doesn't mean we will or whatever, but it's 12:58</p>	<p>1 certainly -- again it's an opportunity for us to 12:58 2 potentially get more advertisements out there. 12:58 3 Q Does user engagement also include the amount 12:58 4 of time that a user spends on a given Yahoo page or 12:58 5 Yahoo property? 12:58 6 A Yeah. 12:58 7 Q Okay. 12:58 8 A I mean, engagement is a very loose term, but 12:58 9 certainly what I mean by engagement, it would include 12:59 10 that as well. 12:59 11 Q Okay. So we've talked about user engagement 12:59 12 in terms of Yahoo and -- and I believe you testified 12:59 13 that user engagement includes the number of visits of 12:59 14 the user, the likelihood of the user to come back, and 12:59 15 the amount of time that a user spends on a given Yahoo 12:59 16 page? 12:59 17 A Yes. Engagement, I would say, includes those 12:59 18 factors. 12:59 19 Q And I think you also agree with me that the 12:59 20 more engaged a user is, it creates the greater 12:59 21 potential for Yahoo to sell advertisements? 12:59 22 MS. DOAN: Objection; form. 12:59 23 THE WITNESS: The more engaged the user -- 12:59 24 well, again, depending on if the engagement has to do 12:59 25 with -- I had mentioned earlier that some of the 12:59</p>

Page 162	Page 163
<p>1 engagement was about how engaged they were with the 12:59 2 page itself, and are they more likely to click on 12:59 3 something or engage with an advertisement, that by 12:59 4 itself doesn't offer us the ability to sell more 12:59 5 advertisements but has a benefit to us that if the 12:59 6 user clicks more often, then -- and we're getting paid 13:00 7 for that particular advertisement on a click-through, 13:00 8 then that's beneficial to us, so... 13:00 9 MR. BUDWIN: Q. So, in general, the more 13:00 10 engaged a user is with a given Yahoo page or a given 13:00 11 Yahoo property, there's a greater potential for Yahoo 13:00 12 to sell ads for those pages or properties? 13:00 13 A So you -- again, depending on what you mean 13:00 14 by "engagement," and there's some definite -- you 13:00 15 know, some quality of engagement, I would say no to 13:00 16 that question, but certainly some qualities of 13:00 17 engagement, the answer could be yes, you might have 13:00 18 a -- more of a chance, more opportunities -- 13:00 19 Q Okay. 13:00 20 A -- to sell advertisements. 13:00 21 Q All right. 13:00 22 We talked about user engagement with respect 13:00 23 to Yahoo includes the potential for more visits from a 13:00 24 user; right? 13:00 25 A Yes. 13:00</p>	<p>1 Q Okay. Does the potential to have more visits 13:00 2 from a user lead to a greater potential for Yahoo to 13:00 3 sell ads or paid ads on pages or properties? 13:01 4 MS. DOAN: Objection; form. 13:01 5 You can answer. 13:01 6 THE WITNESS: So the more a user visits 13:01 7 Yahoo, the more opportunities we have to sell 13:01 8 advertisements, if we can find the advertisers that 13:01 9 are interested in getting in front of that particular 13:01 10 user -- 13:01 11 MR. BUDWIN: Okay. 13:01 12 THE WITNESS: -- so. 13:01 13 MR. BUDWIN: Q. Now another thing we talked 13:01 14 about for user engagement was the number of times a 13:01 15 user comes back to a given Yahoo page or Yahoo 13:01 16 property; right? 13:01 17 A Yes. 13:01 18 Q Okay. Does an increase in the number of 13:01 19 times a given user comes back to a given Yahoo page or 13:01 20 a Yahoo property increase the number of ads that Yahoo 13:01 21 is able to potentially sell? 13:01 22 A For some types of advertisement, we have the 13:01 23 potential to sell more of that. Many of our 13:01 24 advertisements are based more on audience size, and 13:01 25 when you have the repeat customer coming back and back 13:01</p>
Page 164	Page 165
<p>1 again, that doesn't increase our audience side, so 13:02 2 that's got less of an impact. 13:02 3 But again, general statement, that the more 13:02 4 page views or the more visits a particular user 13:02 5 generates, there's certainly a possibility that we 13:02 6 might be able to find some advertiser out there that 13:02 7 is interested in getting their message to that 13:02 8 additional page view. 13:02 9 But, again, there are many other factors that 13:02 10 go into why advertisers buy advertising or don't buy 13:02 11 advertising, and that's just one of the factors. 13:02 12 Q Right. 13:02 13 Another factor that we talked about with 13:02 14 respect to user engagement is the time a user spends 13:02 15 on a given page on a Yahoo property? 13:02 16 A Yes. 13:02 17 Q Does the amount of time that a user spends on 13:02 18 a given Yahoo page potentially increase Yahoo's 13:02 19 ability to sell ads or to make revenue from 13:02 20 advertisement? 13:02 21 MS. DOAN: Objection; form. 13:02 22 THE WITNESS: I don't -- it depends on -- I 13:02 23 mean, again these are very general terms. 13:03 24 If you talk about the more time you spend on 13:03 25 a page, so if you give me an instance like, say, a 13:03</p>	<p>1 news page, if a user reads the entire article versus 13:03 2 just skims it and leaves, again, if that advertisement 13:03 3 is click-through based and they spend, you know, 10x 13:03 4 the time on that page that some other user did because 13:03 5 they read the whole article and they were engaged in 13:03 6 that article, then in that case, yes, for a particular 13:03 7 type advertiser, a click-through advertiser, maybe 13:03 8 it's elevated the likelihood that they'll click 13:03 9 through to the ads. 13:03 10 So in that case, because you're getting 13:03 11 better click-through, we might get more revenue from 13:03 12 that. But again, that's a very specific example, and 13:03 13 your question was much more general than that. 13:03 14 MR. BUDWIN: Q. Would you agree with the 13:03 15 general statement that the -- the greater the user 13:03 16 engagement on a Yahoo property, the greater the 13:03 17 potential for Yahoo to sell advertisements or earn 13:04 18 revenue from that property? 13:04 19 MS. DOAN: Objection; form. 13:04 20 You can answer. 13:04 21 THE WITNESS: I would say the more engaged a 13:04 22 user is, the more potential -- the more potential 13:04 23 there is for some forms of advertising to generate 13:04 24 more revenue. 13:04 25 MR. BUDWIN: Q. Now, does Yahoo use advances 13:04</p>

<p style="text-align: right;">Page 166</p> <p>1 or increases in its technology to help assist with 13:04</p> <p>2 user engagement on Yahoo pages? 13:04</p> <p>3 MS. DOAN: Objection; form. 13:04</p> <p>4 THE WITNESS: Do we use Yahoo -- 13:04</p> <p>5 MR. BUDWIN: Let me ask you a better 13:04</p> <p>6 question. 13:04</p> <p>7 Q Is one of the reasons that Yahoo undertakes 13:04</p> <p>8 to redesign its web page on periodic intervals to help 13:04</p> <p>9 increase user engagement on the Yahoo properties? 13:04</p> <p>10 A Again, there are many factors that go into 13:04</p> <p>11 redesigns. One of them, I think, is to increase 13:04</p> <p>12 engagement with our users. 13:04</p> <p>13 MR. BUDWIN: All right. 13:05</p> <p>14 I'll pass the witness. 13:05</p> <p>15 MS. DOAN: We definitely want to designate 13:05</p> <p>16 the confident -- the deposition "Confidential - 13:05</p> <p>17 Attorney's Eyes Only," and we want to read and sign 13:05</p> <p>18 and reserve our questions until the time of trial. 13:05</p> <p>19 MR. BUDWIN: Thank you. 13:05</p> <p>20 THE VIDEOGRAPHER: This marks the end of 13:05</p> <p>21 Disc 3 and will conclude the deposition for today. 13:05</p> <p>22 All discs will be held by TSG.</p> <p>23 We're off the record. The time is 1:05 p m.</p> <p>24 (WHEREUPON, the deposition ended at</p> <p>25 1:05 p m.)</p>	<p style="text-align: right;">Page 167</p> <p style="text-align: center;">J U R A T</p> <p>I, DAVID FILO, do hereby certify under Penalty of perjury that I have read the foregoing transcript of my deposition taken on November 29, 2011; that I have made such corrections as appear noted herein in ink, initialed by me; that my testimony as contained herein, as corrected, is true and correct.</p> <p>DATED this ____ day of _____, 2011, at _____, California.</p> <p style="text-align: center;">_____ DAVID FILO</p>										
<p style="text-align: right;">Page 168</p> <p style="text-align: center;">CERTIFICATE OF REPORTER</p> <p>I, ANDREA M. IGNACIO HOWARD, 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;</p> <p>That said deposition was taken in shorthand by me, a Certified Shorthand Reporter of the State of California, and was thereafter transcribed into typewriting, and that the foregoing transcript constitutes a full, true and correct report of said deposition and of the proceedings which took place;</p> <p>That I am a disinterested person to the said action.</p> <p>IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of December, 2011.</p> <p>_____ ANDREA M. IGNACIO HOWARD, RPR, CCRR, CLR, CSR No. 9830</p>	<p style="text-align: right;">Page 169</p> <p style="text-align: center;">I N D E X</p> <p style="text-align: center;">DEPOSITION OF DAVID FILO</p> <p style="text-align: center;">EXAMINATION PAGE BY MR. BUDWIN 5</p> <p style="text-align: center;">E X H I B I T S</p> <table border="0"> <thead> <tr> <th style="text-align: left;">EXHIBIT</th> <th style="text-align: right;">PAGE</th> </tr> </thead> <tbody> <tr> <td>Exhibit 1 CNET Snapshot; 1 pg.</td> <td style="text-align: right;">39</td> </tr> <tr> <td>Exhibit 2 8/21/95 E-mail String, Subject: Eolas Polymap: A Versatile Client Side Image Map for the Web, Bates Nos. YAHOO-E02290323 - '27; 5 pgs.</td> <td style="text-align: right;">83</td> </tr> <tr> <td>Exhibit 3 8/21/95 E-mail String, Subject: Eolas acquires commercial rights to the applet patent, Bates Nos. YAHOO-E02290336 - '37; 2 pgs.</td> <td style="text-align: right;">84</td> </tr> <tr> <td>Exhibit 4 9/18/95 E-mail String, Subject: Eolas releases Webbrowser via the Internet, Bates Nos. YAHOO-E02290338 - '39; 2 pgs.</td> <td style="text-align: right;">85</td> </tr> </tbody> </table> <p style="text-align: center;">---oOo---</p>	EXHIBIT	PAGE	Exhibit 1 CNET Snapshot; 1 pg.	39	Exhibit 2 8/21/95 E-mail String, Subject: Eolas Polymap: A Versatile Client Side Image Map for the Web, Bates Nos. YAHOO-E02290323 - '27; 5 pgs.	83	Exhibit 3 8/21/95 E-mail String, Subject: Eolas acquires commercial rights to the applet patent, Bates Nos. YAHOO-E02290336 - '37; 2 pgs.	84	Exhibit 4 9/18/95 E-mail String, Subject: Eolas releases Webbrowser via the Internet, Bates Nos. YAHOO-E02290338 - '39; 2 pgs.	85
EXHIBIT	PAGE										
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Page 170

ERRATA SHEET

I, DAVID FILO, make the following changes to my deposition taken in the matter of Eolas et al., vs. Adobe, et al., taken on November 29, 2011:

DATE: _____

DAVID FILO

Page	Line	Change
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[illegible]

A				
AB (4)	address (9)	advertiser's (3)	129:20,22	114:7 115:3,17
141:15,24 142:6	5:25 24:22 27:23 84:3	145:14 151:24 152:5	Alto (1)	116:1,5,9,12,14
148:25	86:11,20 87:13	advertising (29)	6:1	apart (2)
ability (5)	93:13,18	97:25 98:3 100:3,10	ambiguous (1)	92:11,13
6:20 160:7,11 162:4	addressed (1)	100:12,20,22 101:4	18:5	app (1)
164:19	23:25	101:10,21 102:14	amount (5)	102:13
able (10)	Adobe (3)	102:19 103:1,4	54:19 77:25 161:3,15	appear (1)
14:5 107:15 121:18	1:8 4:10 170:5	104:3,8,13,16 105:2	164:17	167:8
122:15 123:5 126:3	ads (17)	105:6 145:10,15	analysis (1)	appearing (3)
130:11 159:8	98:8 100:23 125:25	152:9,16,24 159:13	143:17	6:6,11 123:1
163:21 164:6	126:2,4,11,21	164:10,11 165:23	Andrea (5)	appears (1)
absence (5)	155:20,21 157:24	advice (2)	1:22 2:9 4:21 168:4	144:24
50:18 51:1,2,8 82:23	160:14 162:12	90:12,25	168:23	applet (1)
acceptable (2)	163:3,3,20 164:19	affect (1)	animated (1)	169:18
130:9,18	165:9	88:13	126:20	applications (2)
access (4)	AdUp (2)	aggregate (1)	announced (1)	107:8,9
13:22 38:11,15,19	106:2 116:18	154:24	89:8	apply (1)
accomplish (2)	advances (1)	ago (10)	announcing (1)	6:9
117:22 121:11	165:25	7:6,11,12 14:16,25	88:25	approximate (1)
accumulated (1)	adversely (1)	17:25 121:18	answer (41)	10:2
132:24	90:4	124:10 135:16,21	6:16 8:6,7 21:23	approximately (4)
accurate (3)	advertisement (24)	agree (7)	22:24 26:3 28:5,8	49:12 62:16 76:16,17
39:24 43:17 105:7	152:1,6,19,25 153:5	57:7 104:25 115:15	32:10 34:8 45:9	apps (4)
accurately (1)	153:14 155:1,12	127:18 156:7	48:13 51:21 55:20	102:12,17,18,22
6:17	156:9,14,17 157:7	161:19 165:14	57:5 60:2 62:6	April (37)
accused (11)	158:2,15,24 159:22	ahead (4)	67:22,24,25 68:12	35:21 36:11,21,23
55:4,6 56:14 57:1	159:24 160:3,24	31:17 71:21 83:14	82:3 111:19 112:21	37:20 38:1,12,17
58:9 62:3,12 64:24	162:3,7 163:22	141:6	113:4,13 114:12	40:5,8 43:6,23 49:8
64:25 65:10 66:11	164:20 165:2	airplane (1)	115:8 124:19	49:11,23 50:15
acquires (1)	advertisements (40)	74:22	129:13 130:20	52:21,23 54:3,6
169:17	98:5 101:25 103:15	airplanes (2)	134:6 138:23,25	55:10 61:21 63:12
acquisition (3)	104:16,19 106:23	74:23 75:1	139:9 148:10	63:17,18,19 64:1,6
124:5,22,23	107:1 108:21,23	AJAX (21)	154:23,24 162:17	64:12 68:21 75:10
action (2)	110:12,17 113:18	122:1,4,14 123:5,14	163:5 165:20	75:11 77:1 78:11,15
1:7 168:17	114:10 115:6,13	123:18,25,25 124:2	answered (1)	78:19,23
action-oriented (1)	117:17,23 118:5,9	124:3,8,9 125:1	28:6	April/May (1)
158:20	146:25 152:13	128:7,8,12,12 129:9	answering (1)	76:17
actual (4)	153:8,20,23 154:1,4	129:14 148:1,5	46:19	architecture (1)
96:15 122:10 142:9	154:6,17 155:4	AJAX-type (1)	answers (1)	47:8
152:18	158:6 159:9 160:8	123:17	7:24	areas (5)
ad (14)	160:11 161:2,21	al (4)	anybody (5)	45:14,23 46:2,4 47:17
108:25 126:10,15,16	162:5,20 163:8,24	1:8 4:11 170:4,5	11:10,21 25:3,7 33:11	Aric (2)
151:24 153:9,11	165:17	alcohol (1)	anymore (3)	3:18 4:20
157:12,14,15,21,22	advertiser (14)	6:14	126:16 128:22 129:3	arrive (1)
157:25 158:3	145:20 151:25 152:9	alleged (1)	anyway (2)	41:22
add (1)	153:11,13 158:7,13	55:23	34:18 67:25	arrived (1)
120:8	158:16,19 159:7	allow (1)	AOL (1)	42:23
addition (1)	160:17 164:6 165:7	51:9	146:13	art (5)
100:12	165:7	allowed (1)	Apache (29)	55:24 62:4,13 64:17
additional (10)	advertisers (10)	129:8	106:3,4,4,5,15,19,21	64:21
58:5,8,13 66:7,10,11	125:23 145:9,21	alternative (1)	106:22,25 109:4,14	article (3)
66:12 77:6 99:17	146:1 152:15 153:1	130:10	109:15 110:4 111:1	165:1,5,6
164:8	158:23 159:2 163:8	alternatives (7)	111:9,15 112:19,23	articles (1)
	164:10	126:7,9,17,19,24	112:25 113:5,8	160:22

aside (6) 40:2 57:13 84:17 85:21 86:18 105:1 asked (11) 13:17 16:15 25:15,22 44:13 50:24,25 52:16 57:13 67:21 143:4 asking (10) 32:19 79:25 80:13,15 92:20 105:15,17 107:24 133:21 136:17 asserted (1) 64:17 assist (5) 133:14 137:23 138:11 138:17 166:1 assisting (1) 61:8 associated (4) 95:15 102:8,20 141:18 Associates (1) 23:7 association (1) 4:22 assuming (2) 59:3 103:22 attend (1) 57:23 attended (2) 53:6 64:7 attending (2) 65:6 122:20 attorneys (4) 1:13 92:15,23 93:6 Attorney's (1) 166:17 attract (3) 98:9,12 120:3 attractive (5) 120:3,19 121:1,12 123:7 Audi (1) 74:3 audience (4) 145:22,25 163:24 164:1 August (18) 15:1,3 22:14 23:17 27:3 28:1,14 29:15 30:2 64:7 83:20 84:4,7,13,25 85:9	85:13,18 Austin (1) 3:7 authors (1) 91:17 auto (6) 144:24 146:12,13,14 146:16,20 Autos (10) 144:14,16 145:2,3,6 145:10,15,21 146:24 147:1 Auto's (3) 146:7,8,21 available (5) 33:23 34:6 36:11 37:14 40:10 aware (40) 8:15,20 19:8,14,22 30:21 31:9,22 37:12 60:25 63:4,20,22,25 64:2 65:15,21,22 68:11 86:20 87:2,18 88:11 89:16,19,25 90:2 93:20,23 95:10 105:24 106:1 107:25 108:3 123:14 132:16 140:12,21,25 142:17 awareness (1) 65:23 a.m (5) 2:2 4:3 67:14,18 131:19 A4 (1) 74:3 <hr/> B <hr/> B (1) 169:9 bachelor (2) 42:19,21 bachelor's (2) 41:8,11 back (34) 16:23,24 17:8,14,24 18:12 19:9 21:24 22:13 23:5 26:21 31:11 34:12,16 35:11 38:23 44:8 64:5 88:3 112:5,13 124:4 133:18 136:1 137:16 160:2,20,20	160:21 161:14 163:15,19,25,25 background (10) 13:11,11 14:15,20 15:14,17,20 16:10 16:21 28:18 bad (3) 81:15,17,22 Baker (1) 84:12 Bakewell (6) 11:18,19,25 12:7 53:15 56:9 Bartz (3) 82:20,21 83:1 based (18) 88:14 94:18 103:21 105:5 124:5 143:17 152:11,12,12 155:13,16,16,21 157:13 160:16,18 163:24 165:3 basic (3) 99:14,18 100:2 basically (2) 46:20 155:11 basis (6) 153:21,21,24 154:3,8 155:13 Bates (3) 169:14,18,22 becoming (1) 131:5 Bedrock (35) 7:3,18 48:24 49:1,3 49:10,13,23 50:2,14 50:21 51:12,14 52:1 52:5 59:11,24 60:5 60:19,23 61:8,10,11 61:17,19,20,23 62:3 62:11,17,25 63:4,12 63:15 67:4 began (2) 43:7,19 beginning (7) 4:8 44:14 46:7 67:16 67:23 75:23 131:21 behalf (4) 5:1 48:3,10,18 beliefs (2) 81:5,8 believe (49) 8:21 23:19 26:22 30:9 33:4 39:10,11 41:18	49:4,8 51:5 52:21 61:22 63:6,7 68:16 69:6,22 71:5,5 79:16,19 80:9,11,13 83:23 84:5,9 85:3 86:6,13 87:14,17 92:7 93:1,11,19 107:18 108:18 120:14 132:2,5,11 133:2 138:22 139:9 139:21 148:16 161:12 beneficial (2) 125:12 162:8 benefit (8) 125:1,3,4,8,10 127:17 127:21 162:5 benefits (3) 37:24 127:25 157:1 Berkeley (3) 15:22 17:3 23:6 best (4) 70:20,25 73:2 137:19 better (4) 73:11 80:2 165:11 166:5 beyond (2) 74:8 137:6 big (2) 27:24 138:12 billion (3) 71:6 73:5 79:5 bit (10) 14:17 18:4 31:11 46:22 51:6 119:13 124:7 139:22 157:12 158:5 Blake (2) 59:20 63:3 Blakewell (1) 11:17 blanket (1) 97:17 blind (2) 72:17,18 blog (1) 123:2 blue (1) 34:5 board (4) 82:24,24 83:9,11 boat (1) 75:3 book (1)	46:17 bookmark (1) 34:5 bookmarks (3) 33:19,22 34:19 born (1) 51:5 box (11) 39:20,23 84:9,10,13 84:16 85:15,18 86:15 148:12,15 break (4) 61:16 67:9 131:11 155:23 brief (2) 23:11 30:13 briefly (1) 23:19 bring (1) 159:9 broad (1) 47:21 brought (2) 23:23 25:10 browser (22) 9:11 16:22 20:7 21:14 21:16 22:8 24:9 27:19 88:12,19 89:2 89:6,13 90:13,17,20 91:5,12,25 136:18 136:25 137:14 browsers (10) 18:14 20:12,17,17,18 20:22 21:3,20 22:3 35:13 Bruce (1) 11:15 Bryant (1) 6:1 bucket (2) 142:6 148:25 Budwin (142) 3:5 4:25,25 5:15,16 12:5,12,16,18 20:4 21:11,18 22:1,9,13 23:8 26:5 27:11 28:8 29:3 32:9,11 34:22 35:20 36:9 37:2 39:8,13,17 40:24 43:18 48:8,16 49:5 50:13 51:25 52:22 53:4,21 54:17 55:14,22 56:5 57:9 57:17,19 59:4 60:4
--	--	---	--	---

62:9,23 63:17 65:18 65:25 66:17,22 67:8 67:19 72:15 73:1,6 76:24 77:4 78:21 79:8,15 80:20 81:14 81:21 82:5,14 83:17 84:17,22 86:1 89:3 89:19 90:1,14 91:9 92:15 94:11 103:23 104:2 105:9 107:16 108:7,15 109:10,23 110:23 111:6,8,23 112:25 113:7,19 114:15,17 115:14 117:9,15 118:10 121:10 123:13,23 124:18,20 125:16 126:8,18 127:24 128:6,21 129:4,8,18 129:24 131:1,7,15 131:24 134:12 136:4,7 137:21 138:7,10 148:9,11 149:24 153:17 155:15 156:7 162:9 163:11,13 165:14 165:25 166:5,13,19 169:7 bug (17) 23:17 24:1,3,21,24 25:14 26:1,7,10,17 26:22 27:5 28:1 30:15,22 31:9,19 bugs (5) 23:12 29:25 30:5,21 31:8 building (2) 46:12 87:10 built (1) 16:22 Burgess (1) 5:2 business (21) 75:21,25 76:4,7,12,16 77:1,5 97:22 115:19 116:10 117:1,4,7,13 117:22 125:13,23 128:18,23 129:11 buy (3) 133:5 164:10,10 <hr/> C <hr/> C (1) 3:1	Cake (1) 7:7 Calculator (6) 144:14,17,20 146:17 146:18 147:1 calendars (1) 54:13 California (10) 1:15 2:8 4:1,17 6:1 8:12 15:23 74:19 167:15 168:11 call (4) 30:25 103:12 105:10 105:13 called (29) 40:12,23,25 41:1 56:17 64:20 69:1 82:15 87:13 102:6,7 106:5,5 118:11 122:23 124:24 129:2 132:10 141:14 142:5,12 144:14 145:21 149:13 150:14,17 150:18,24 159:17 calls (2) 53:14,19 campus (2) 12:24 42:24 capacity (1) 136:9 capital (7) 76:1,3,6 77:6,9,13,14 cards (1) 74:25 career (3) 44:12 45:15 75:22 Carol (1) 82:20 cars (3) 73:23,25 74:2 case (79) 4:13 7:3,7,9,18 8:12 14:7 17:11 39:3 48:17,23,23,24 49:1 49:4,7,10,13,23 50:2,14,21 51:12,14 52:1,5,13,14,17,18 52:21 53:15 54:7 55:9,9,13 56:8 57:20 58:2 59:6,12 59:24,25 60:6,19,24 61:9,11,18,19,21,23 62:3,11,17,25 63:4	63:9,12,15,20,20,25 64:11,14 65:2,6,19 65:24 66:3 67:2,4 88:3,6 92:3 134:25 160:19 165:6,10 cases (19) 18:20 48:4,11,14 60:5 60:23 94:1,18 100:15 108:16 110:10 128:3 146:5 146:5 149:20,22 152:7,8 158:17 categories (1) 36:16 categorization (3) 36:10 37:13 40:9 categorize (2) 35:19,23 categorized (2) 34:20 40:13 categorizing (2) 36:5,6 category (3) 34:5 36:2 37:13 cause (1) 168:7 CCRR (3) 1:22 2:10 168:23 center (1) 121:22 centers (1) 47:4 CEO (10) 44:17,21 60:13,20 82:17,25 83:2,4,9 83:11 Cern (9) 24:10,11,13,14,19 27:15,21 29:10,12 certain (12) 27:1 31:3 45:12 46:2 71:15 89:21 90:10 102:12 123:25 130:22 137:18 150:7 certainly (32) 38:8 46:3 62:20 68:15 72:13 78:2 79:20 80:23 81:1 87:3 96:17,20 97:9 123:11 126:6,17 129:19,21 133:25 134:9 135:20,21 137:17 147:10,15	154:14 159:12,14 161:1,9 162:16 164:5 CERTIFICATE (1) 168:1 Certified (2) 5:11 168:10 certify (2) 167:4 168:4 cetera (5) 47:4 120:9 143:8 157:22 159:6 chance (1) 162:18 change (5) 20:9 32:15 138:15 141:3 170:9 changed (4) 46:3 121:15 138:2 154:14 changes (27) 29:25 88:12,14,15,19 89:1,5,9,12,17,20 90:4,8,16,19 91:4 91:11,15,17 92:4 93:6,9 108:9 119:14 119:17 154:13 170:3 changing (1) 24:8 characterized (1) 28:2 charge (9) 99:1,2 139:17 140:1,3 144:3 156:25 157:4 157:7 charged (2) 99:4 139:18 check (1) 155:24 chief (10) 44:15,25 45:3,6,8,10 59:22 60:9 63:3 65:14 choices (2) 143:7,7 chronology (1) 42:18 Civil (1) 1:7 claim (2) 65:2,9 Clause (1) 80:14	clearly (2) 40:22 156:23 click (11) 149:8,8,11,13 153:1 154:4 157:16 158:21 159:5 162:2 165:8 clicked (1) 149:23 clicks (10) 149:17 151:6,12,18 152:10,10,12 153:4 157:16 162:6 click-through (22) 150:24 151:2,3,8,11 151:17,23 152:4 153:10 154:3,8,18 155:2,14,22 157:13 157:19 160:18 162:7 165:3,7,11 click-throughs (3) 152:19 160:15,16 client (2) 8:11 169:13 close (1) 131:12 closer (1) 70:21 CLR (3) 1:22 2:10 168:23 club (1) 74:12 CNET (2) 39:19 169:11 code (47) 23:12 24:7,13,15,18 24:18 25:2 26:25 27:19,20,21 28:2 29:6,17 30:1 32:16 53:23,24 54:2,18,19 54:23 55:1 56:12,13 56:21,24 64:16 65:7 107:7 108:2,3,12,24 115:21 116:4 129:22 134:15,17 134:17,23,24 136:8 136:14,15 137:12 137:19 coding (6) 91:17 135:10,13,13 135:18,23 cofounder (1) 45:10 collect (2)
--	--	---	--	--

14:5 146:24 collected (2) 13:23 14:9 collecting (1) 33:20 collection (5) 13:10,19 14:2,12 28:18 collectively (1) 141:25 colors (1) 143:8 come (13) 25:11 30:12 44:7,7 83:10 112:13 120:3 143:25 160:1,20,20 160:21 161:14 comes (4) 99:13 149:8 163:15 163:19 coming (4) 35:14 89:1 143:9 163:25 commercial (1) 169:17 committee (1) 82:22 communicate (1) 146:2 communications (1) 9:16 companies (10) 8:13 73:10 79:23 80:19 97:1 132:25 133:4 146:10,11,25 company (16) 7:7 18:7 40:25 41:1 43:21 46:21 47:5,10 48:19 80:8 82:22 83:3,10 97:20 124:24 132:10 company's (1) 97:10 compare (1) 141:19 compensation (1) 50:8 competed (1) 146:13 competitors (4) 146:7,8,17,21 compile (1) 32:17 compilers (1)	32:15 complete (1) 130:24 completed (1) 42:15 completely (1) 29:11 complex (3) 107:23 108:13 114:21 component (1) 99:16 components (2) 26:23 46:16 computer (6) 38:24 41:16 42:21 130:4,11 136:24 computers (2) 135:1 140:19 concerned (1) 90:7 conclude (1) 166:21 conditions (1) 6:19 confident (1) 166:16 Confidential (2) 1:13 166:16 confirm (1) 25:23 Congress (3) 95:13,20,24 connect (1) 130:2 connected (3) 37:5,9,10 connecting (2) 37:2 46:14 consider (1) 47:19 consistent (2) 44:14,25 constantly (1) 119:14 constitutes (1) 168:13 construction (2) 65:2,9 consumer (1) 158:9 consumers (2) 117:8 159:3 contacted (2) 131:25 132:3	contained (1) 167:10 contains (1) 69:5 content (4) 121:22,24 158:1,14 contents (2) 130:3,10 context (2) 32:1,19 continue (1) 129:23 continued (1) 43:3 contribute (3) 105:22 112:22 115:20 contributed (11) 106:9,10,11,12 107:3 111:11 112:23 115:21 116:4,13,14 contributes (5) 105:20 111:8 112:14 112:18 115:16 conversation (2) 30:8 61:11 conversations (3) 56:10 95:24 133:25 copies (3) 39:9 79:9 148:17 copy (4) 65:1 76:25 84:23 86:1 copyrights (2) 94:7,21 corporate (2) 96:1,13 correct (33) 18:24 25:9 28:15,20 30:16 35:24 37:1 41:21 42:16 44:4,23 45:1 48:25 53:8 58:23 61:22 67:3,7 67:20,25 68:23 69:6 69:11,22 78:25 82:18 97:11 98:7 109:13 111:13 117:19 167:11 168:13 corrected (1) 167:10 corrections (1) 167:8 correctly (2) 29:14 32:17 counsel (33)	4:23 8:3 9:16,17,18 10:8,9,12,18,18 11:2,2 12:9,15 28:17 39:3 53:18 54:1 55:16 64:8,8 64:13,13 65:7 66:11 76:25 82:15,16 83:5 83:6 92:9,11,14 couple (5) 27:16 38:25 119:13 119:15 120:14 course (4) 44:12 45:15 71:25 116:25 coursework (2) 42:11 43:3 court (11) 1:1 4:12,21 5:6 6:7 7:14,21 48:4,11,14 48:23 Court's (1) 65:9 covers (1) 47:22 Craig (1) 84:12 create (3) 76:9 96:18 159:6 created (5) 33:25 34:2 37:22 76:12,16 creates (1) 161:20 creating (4) 34:19 90:13 98:13 160:22 creators (1) 64:9 creep (1) 27:22 CSR (4) 1:22,23 2:10 168:23 current (12) 5:25 59:10 60:20 70:22 72:22 96:5 107:18 123:16 129:20 133:20 137:20 146:10 currently (3) 5:22 93:15 135:11 customer (2) 46:19 163:25 cut (1) 124:19	D D (1) 169:1 data (2) 47:3 129:25 database (6) 129:25 130:1,4,11,24 131:8 databases (1) 131:6 date (7) 4:18 66:6 68:7 92:18 119:3,5 170:7 dated (5) 68:23 83:19 84:24 86:2 167:14 dates (5) 10:2,4,7,16 18:9 daughter (1) 51:5 David (12) 1:14 2:6 4:9 5:9,19 67:17 131:22 167:4 167:20 169:3 170:3 170:8 Davis's (1) 65:2 day (9) 26:21 29:7 41:2 44:3 155:12,13,16 167:14 168:20 days (3) 46:20 54:17 71:20 day-to-day (1) 117:22 decades (1) 37:5 December (6) 49:4,10,23 50:14 61:18 168:20 decide (1) 75:9 decided (4) 35:25 42:14 43:13 128:4 decision (2) 144:22 145:7 decisions (3) 72:13,19 143:17 deemed (1) 141:3 deeper (1) 119:16 DEFENDANT (1)
--	---	--	---	---

3:11 defendants (3) 1:9 12:18 64:9 define (6) 64:2 103:9,11 136:5 148:5 151:15 defined (2) 128:12 129:15 definite (1) 162:14 definitely (2) 37:16 166:15 definition (4) 37:22 105:15 112:6 129:16 definitively (4) 19:10 20:2 103:2 104:21 degree (13) 41:7,11,13 42:7,19,25 43:2 112:24 118:18 121:9 133:19 134:8 147:21 demonstrations (1) 16:1 denominator (1) 151:5 department (2) 94:25 95:4 departments (1) 12:19 depending (6) 32:22 64:2 111:20 159:4 161:24 162:13 depends (12) 31:12,25 32:1,2 103:9 130:13 134:8 151:15,25 153:13 157:12 164:22 deployment (1) 134:13 deposed (2) 10:25 52:11 deposition (24) 1:14 2:6 4:9,15 6:10 6:22 9:18 10:4 50:2 53:10 67:17 83:25 85:4 86:8 131:22 166:16,21,24 167:6 168:5,9,14 169:3 170:4 depositions (4) 7:2 10:10 55:17 64:13	derive (1) 125:8 derives (1) 124:25 describe (5) 24:1 27:12 96:1,3,12 described (4) 31:8,19,20 96:9 design (5) 142:18,22,24,25 143:7 designate (1) 166:15 detail (5) 13:15 15:9 60:21 65:23 147:22 details (7) 14:22 15:6 64:3 71:19 95:18,25 132:16 determine (7) 92:23 93:8 141:2 149:3 156:8,13 157:6 detrimental (1) 125:13 detriments (1) 128:1 develop (4) 35:18 105:9,12 139:6 developed (4) 24:18 137:25 138:10 142:4 developing (8) 35:22 133:10,13,16 134:3 137:22 139:3 139:18 development (3) 138:17,21 139:13 devel-dhtml@yahoo... 87:13 devel-frontend@ya... 93:13 devices (1) 131:6 Dick (1) 11:15 difference (1) 159:24 different (24) 26:18 31:5 34:2 37:18 37:21,23 44:11 45:14,23 47:23 105:18 111:22 112:11 117:14	129:17 143:4 146:15 150:15 151:21 152:14,14 152:16,24 156:8 dinner (2) 122:24,25 direct (1) 102:6 direction (1) 47:9 directory (4) 33:18,21 34:4,14 dis (1) 93:6 Disc (6) 4:8 67:12,17 131:18 131:22 166:21 discs (1) 166:22 discuss (2) 13:4,5 discussed (5) 13:9 27:5 29:21 30:1 60:18 discussion (11) 14:1,20 15:6,20 23:8 23:11,17,21 28:1,21 139:24 discussions (6) 13:13 14:11,13 56:7 88:5,9 disinterested (1) 168:16 display (2) 153:20 155:1 displayed (2) 89:22 90:21 disposing (1) 71:10 dispute (8) 84:6,11,15 85:8,12,15 85:17 86:14 distribution (2) 86:19,23 District (4) 1:1,2 4:12,13 divest (1) 71:23 Division (2) 1:3 4:13 Doan (115) 3:12,13 5:3,3,3 9:17 12:2,10 19:25 20:24 21:22 22:4,23 26:2	27:7 28:4,25 31:24 34:7 35:6 36:3,25 39:11 40:18 43:15 48:5,12 49:2 50:9 51:20 52:19 53:2,16 54:15 55:11,18,20 56:3 57:4,15,18 59:2 60:1 62:5,18 63:14 65:17,20 66:14,20 67:10 72:10,24 73:3 77:3 78:18 79:14 80:17 81:7,18,25 82:8 84:14 88:20 89:14 90:6 91:7 92:12 94:9 103:20 105:3 107:13 108:5 109:8 109:21 110:19 111:4,18 112:20 113:3,12 114:11 115:7 117:6,11 118:7 121:4 123:8 123:20 124:18 125:14 126:5,13 127:19 128:2,19,24 129:12 130:19 131:2,14 134:5 135:24 137:15 138:4 148:3 149:21 153:12 156:1 161:22 163:4 164:21 165:19 166:3,15 doctorate (4) 42:12,15 43:4,13 document (29) 13:10,19 14:2,12 28:18 39:14,15,18 39:20 68:13,13,18 69:3 76:24 83:15,18 83:21 84:7,11,18,20 84:23 85:1,12,17,22 85:24 86:2,14 documentation (3) 64:19 76:8,11 documents (14) 13:21,22 14:6 16:1,6 19:6,10,21 20:2 68:9 77:24 78:2 79:9 83:12 doing (6) 29:10 42:11 47:20 62:24 65:16 88:22 dollar (2)	78:5,9 dollars (6) 77:11 78:16,20,22 79:3,5 download (3) 130:3,10,23 downside (1) 127:22 drew (1) 39:20 driver (2) 119:19,21 drives (1) 131:4 drop (1) 112:12 drugs (1) 6:13 duly (1) 168:6
E				
E (7) 3:1,1 169:1,9 170:1,1 170:1 earlier (12) 8:17,18 52:11 68:12 68:13,17 69:3 117:3 119:10 127:20 139:23 161:25 earliest (1) 69:7 early (10) 9:3 20:18 42:2 46:20 47:1 68:19,20 77:1 89:11 133:19 earn (4) 98:9 101:24 102:3 165:17 earns (2) 100:1 153:3 easily (1) 23:25 Eastern (2) 1:2 4:13 easy (1) 34:15 Edmunds (1) 146:9 effect (5) 6:6 125:13 128:10,17 128:23 effort (2) 112:18 142:15				

efforts (1) 95:8	160:14,21 162:3	estimate (5) 49:15,20 54:5 70:25 73:2	existing (1) 120:5	50:15 51:14 84:2,6 85:8,13 86:10 97:8
either (8) 21:9,13 22:10 44:17 76:12 92:24 145:21 158:7	engaged (8) 92:9 160:2 161:20,23 162:1,10 165:5,21	estimated (2) 62:15 72:22	exists (1) 79:20	136:1
Electrical (1) 42:10	engagement (30) 122:7 159:12,17,17 159:20 160:1,5,6,10 160:12,13,19 161:3	et (9) 1:8 4:11 47:4 120:9 143:8 157:22 159:6 170:4,5	expect (2) 27:17 32:24	factor (1) 164:13
elements (1) 148:1	engaging (7) 120:4,16 121:1,12 123:6,19,22	events (1) 6:20	expected (1) 58:20	factors (19) 120:24,25 121:2 149:2 152:3 153:15 156:8,13,20 157:1,6 157:10,14,17,23 161:18 164:9,11 166:10
elevate (1) 121:23	engine (1) 34:14	eventually (2) 22:11 40:14	expects (1) 31:4	fair (9) 55:17 64:14 75:5 79:1 99:21 110:5,6 121:7 153:6
elevated (1) 165:8	engineering (5) 41:16 42:10,21 118:22,24	evolved (1) 119:12	experimented (2) 18:18 20:12	fairly (1) 133:12
embedded (6) 129:6 144:23 145:2,5 146:21,22	entire (4) 130:3,10 131:5 165:1	exact (2) 119:3,5	experimenting (1) 18:14	fairness (1) 111:2
emerging (1) 35:5	entrepreneur (1) 80:4	exactly (13) 14:23 20:19 21:7,16 63:6 65:22 68:1 69:16 88:1,22 89:8 96:7 134:21	expert (1) 11:12	fall (2) 41:23 75:18
employed (9) 5:22 50:15 51:23 52:3 57:8 59:3 62:25 65:11,12	entrepreneurial (1) 79:22	EXAMINATION (2) 5:15 169:5	experts (5) 11:14,14 53:14 54:1 56:8	familiar (6) 118:11 137:4 142:11 144:13,23 148:11
employee (3) 43:20 87:4 97:14	entrepreneurs (2) 80:10,16	example (14) 32:13,18 122:18 124:6 134:10 136:23 149:24 150:5,16 152:8,17 153:8,18 165:12	explore (1) 35:4	Fantasy (2) 99:9 100:7
employees (13) 10:24 11:3,3 43:25 61:3,7 87:4 95:17 96:19 97:7,8,18 115:25	entrepreneurship (3) 79:16 80:10,16	examples (8) 98:15 100:24 102:1 106:13 112:17 116:16 128:15 144:25	explorer (8) 88:19 89:6,13,22 90:16,20 91:12 92:5	far (2) 69:9 97:4
employing (1) 122:14	Eolas (36) 1:5 4:10 5:1 8:11,25 9:4 12:12,13 52:13 52:17,20,25 54:7 55:9 58:20 59:25 60:6,19,23 61:8 63:20,25 64:11 65:6 65:18 67:2 87:23 88:3,6,18 92:18 131:25 169:13,17 169:21 170:4	exchange (5) 50:7,11 78:5,21 79:11	exploring (1) 33:25	fashion (1) 34:20
employment (12) 44:8 48:2,6,10,17 50:4 52:7,12,25 57:2,6 59:1	Eolas's (5) 87:18 92:10,17,23 93:10	excluding (1) 154:7	exposure (1) 121:23	faster (1) 124:9
encoded (1) 126:10	Eolas-Microsoft (1) 9:3	Exhibit (26) 39:14,15,18 40:15 83:15,18,22 84:7,12 84:19,20,23 85:2,7 85:13,18,23,24 86:1 86:4,15 169:10,11 169:12,16,20	express (2) 67:1,5	feasible (1) 131:5
encompassed (1) 141:23	equally (1) 6:10	exhibits (1) 23:13	expressed (3) 61:1 63:8 65:25	feature (4) 122:18 148:7,8,12
encompassing (1) 107:23	Esq (4) 3:4,5,12,13	exist (6) 76:22 78:3 80:12,14 129:21 148:20	extent (1) 76:24	features (2) 37:24 120:8
encourage (1) 80:16	essentially (1) 83:9	existed (5) 29:6,16 35:23 37:19 37:25	eye (1) 75:20	February (10) 57:21,23 58:2,4,14,19 58:25 66:4,6,23
ended (1) 166:24			Eyes (2) 1:13 166:17	fee (1) 155:15
enforce (1) 94:16			e-mail (23) 83:19 84:2,12,13,24 85:9,18 86:2,11,15 86:20,23 87:12 93:13,18 98:19 99:7 100:6,25 101:2 169:12,16,20	feel (3) 80:20 119:6 157:21
enforced (2) 94:6,10			e-mails (4) 46:19 87:22 98:20,21	feels (1) 127:24
enforcement (1) 95:5			F	fees (1) 100:14
engage (6) 120:5 121:24 159:5			fact (9)	felt (1) 50:11
				fetch (1) 108:25

figure (2) 90:3 143:1	125:18,20,21 126:3 126:10,11,11,15,15 127:1,3,12,18,21,25 128:4 149:25 150:3 150:7	109:8,21 110:19 111:4,18 112:20 113:3,12 114:11 115:7 117:6,11 118:7 121:4 123:8 123:20 126:5,13 127:19 128:2,19 129:12 130:19 134:5 135:24 138:4 148:3 149:21 153:12 161:22 163:4 164:21 165:19 166:3	front (33) 103:12,15 118:16,20 118:22,24 119:7,17 119:20 120:12,19 121:22 122:1 139:23 140:2,10 142:12,19 143:20 145:25 147:6,18,25 148:1,12,15 149:9 150:6 154:22 155:1 155:5,19 163:9	145:23 151:3,3,22 152:20 159:11
filed (8) 8:12 9:4 92:18 93:21 93:24,25 94:11,16	Flash-based (4) 125:25 126:2,4 127:9	formed (2) 8:3 82:14	full (3) 5:18 44:5 168:13	generate (3) 111:16 117:14 165:23
files (4) 31:2,3,10,21	flat (1) 155:15	forms (2) 152:24 165:23	full-time (2) 43:19,24	generated (1) 100:13
filing (1) 71:20	Flickr (2) 99:6 100:6	forward (1) 90:25	fun (1) 96:19	generates (3) 117:16,17 164:5
Filo (26) 1:14 4:9 5:9,16,19,23 6:2,22 33:2 39:17 67:17,19 69:12 79:15 83:21 85:1 86:4 131:22,24 133:9 156:7 167:4 167:20 169:3 170:3 170:8	focus (7) 46:3,8,22 47:1,2,6,17	found (3) 34:15 75:9 79:23	function (3) 135:2 137:13 151:12	generating (2) 113:9 117:4
FILOK (1) 2:6	focused (4) 45:15 46:2,4,24	founded (4) 18:7 40:4,6 70:4	funding (9) 76:1,3,6,14 77:6,8,15 77:17,20	generic (1) 120:1
finally (1) 43:24	focusing (1) 47:25	founder (2) 61:6 74:17	further (2) 16:24 46:17	getting (9) 30:24 98:24 131:11 145:24 152:18 162:6 163:9 164:7 165:10
finance (1) 98:23	focussed (1) 45:18	frame (31) 15:1 18:13,22 19:9,19 19:24 20:1,10,21 21:20 22:2 24:6 35:5 36:12,21,23 37:19 38:17 40:17 40:21 44:22 68:3 87:21,24 88:4,7 89:4 119:5 138:24 139:2,19	future (2) 34:13 160:5	Gigabytes (1) 131:9
find (9) 38:5,6 76:23 97:10 98:18,19 154:16 163:8 164:6	folks (1) 56:11	framework (1) 142:10	fuzzy (1) 20:16	give (16) 6:5 32:13 49:15 70:25 70:25 73:1,1 98:15 100:16 111:2 122:17 136:23 150:5,16 153:18 164:25
finding (1) 34:10	follow (6) 91:1,1,20,22,23 92:1	free (11) 99:15,18,22 100:2,17 100:19 101:2,8,18 101:23 111:3	games (2) 99:9 100:7	given (35) 18:16 19:2 47:24,24 49:24 71:16 90:12 130:25 131:3 149:14,16,17 153:5 153:9,11 156:9,14 157:7,8,11 158:14 158:16 159:18,21 159:22 160:18 161:4,15 162:10,10 163:15,19,19 164:15,18
fine (3) 130:24 139:8 141:8	following (2) 92:5 170:3	FreeBSD (26) 106:2,15 109:7,12,16 109:18 110:5 111:1 111:9,15,24 112:3 112:19,23,25 113:8 114:3,18,21 115:17 116:1,5,9,12,13,18	gathered (1) 39:2	go (23) 22:13 31:17 35:12 38:5 46:16,17 57:21 67:13 75:21 76:1 83:14 108:25 126:7 131:19 133:5 136:25 141:6 153:15 156:2 157:23 159:5 164:10 166:10
finish (3) 43:13 124:19 131:2	follows (2) 5:12 149:18	FreeSB (1) 110:5	gathering (1) 135:5	goal (1) 122:5
first (37) 8:15 11:16 17:14,18 17:23,25 18:10,25 19:4,7,13 24:25 25:1 34:10,20 35:17 36:4,17 37:12 41:2 42:23 49:1,3,9 52:17 55:8 61:17 63:20 64:5 67:22 68:2,5,11 75:17 87:18 89:8 157:4	font (2) 143:7,8	frequented (2) 103:25,25	general (25) 13:18 38:19,21 65:23 80:22 81:16,23 82:6 82:13 91:24 116:20 117:25 118:1 123:12 133:21 138:23 145:19 151:20 154:20 159:1 162:9 164:3 164:23 165:13,15	goals (11) 121:6,9,12,19,25 122:5,11,12,15,19 124:14
five (5) 46:24,25 47:1,17 135:21	forefront (1) 22:22		generalizations (1) 82:4	
fix (3) 24:22 27:23 31:6	foregoing (3) 167:6 168:5,12		generally (14) 10:21 14:8 45:18 91:22 96:14 114:1 122:10 143:5	
fixed (2) 27:16,17	forget (1) 142:5			
Flash (25) 93:17 125:5,7,9,11,18	form (100) 8:5 12:2,10 19:25 20:24 21:22 22:4,23 26:2 27:7 28:4,25 31:24 34:7 35:6 36:3,25 40:18 43:15 48:5,12 49:2 50:9 51:20 52:19 53:2,16 54:15 55:11,18 56:3 57:4,15 59:2 60:1 62:5,18 63:14 65:20 66:14,20 72:10,16 72:24 73:3 78:18 80:17 81:7,18,25 82:8,21 84:14 88:20 89:14 90:6 91:7 92:12,16 94:9 100:9 101:24 103:20 105:3 107:13 108:5			

goes (2) 124:4 133:18 going (17) 9:14 13:7 14:9 16:23 34:12 38:6 39:8 83:12 85:22 88:13 88:18 90:25 115:10 121:14,18 126:15 136:1 good (10) 4:7 5:16,17 25:20 34:13,14 80:15,19 81:22 134:22 Gopher (1) 20:17 Gotshal (2) 2:7 4:16 governing (1) 83:6 graduating (1) 41:5 grand-unification-t... 84:3 85:9 86:11 graphic (1) 143:7 greater (6) 69:24 161:20 162:11 163:2 165:15,16 group (6) 83:2,8 94:24 95:3 138:13,15 groups (1) 86:20 guess (18) 31:11 41:23 45:8 48:18 54:9 70:20,21 71:25,25 81:12 93:3 95:17,22 112:5 127:16 130:13 137:19 156:23 guessing (1) 119:3 guest (1) 123:2 guidelines (2) 90:11 92:2 <hr/> H <hr/> H (2) 169:9 170:1 habits (1) 21:17 half (5) 21:1 147:20,22	154:10,10 Haltom (3) 3:12,13 5:3 hand (3) 83:12 85:22 168:20 handed (2) 39:17 83:17 handing (1) 84:18 handles (1) 95:4 happened (2) 54:2 97:8 happening (1) 34:1 happens (2) 149:7 152:23 happy (4) 77:2 79:12 82:3 150:22 hard (4) 19:4 32:19 87:25 131:3 hardware (1) 46:13 head (2) 7:24 60:17 heard (16) 17:11,14,18 56:20 63:22 64:3,5 67:22 68:2,5,16 80:4 83:5 148:24 149:13 150:23 hearing (1) 8:22 held (3) 4:15 44:21 166:22 help (9) 25:7 35:18,22 111:15 111:16 117:21 123:19 166:1,8 helpful (2) 141:3,4 helping (1) 98:18 hereunto (1) 168:19 hesitating (1) 124:7 highest (1) 72:21 highlighted (2) 39:20,23 HIGHLY (1)	1:13 hire (2) 92:22 93:5 hired (1) 92:15 historical (1) 146:4 hobby/project (1) 75:24 holders (1) 129:4 homepage (1) 120:12 honesty (1) 96:24 hope (1) 121:11 hour (2) 13:2 28:16 hours (10) 13:3 49:16,22,25 53:4 54:5,10,14 62:16,22 houses (6) 74:4,6,8,11,15,18 HOWARD (4) 1:22 2:10 168:4,23 HT (1) 26:8 HTML (2) 136:17 137:6 HTML5-based (1) 126:20 HTPP (1) 29:1 http (19) 23:15,18 24:4,10 26:1 26:8,11,18,24 27:5 28:3,23 29:7,18 30:14,22 31:9,19,19 hyperlink (1) 34:5 <hr/> I <hr/> idea (5) 33:16,18 40:21 78:3 80:7 ideas (1) 79:24 identification (4) 39:16 83:16 84:21 85:25 Ignacio (5) 1:22 2:9 4:22 168:4 168:23	Image (1) 169:14 images (2) 126:20,20 imagine (1) 119:4 immediately (1) 83:4 impact (11) 6:20 89:20 90:21 91:5 129:10 147:25 148:2 153:10 159:20 160:10 164:2 impacted (2) 89:25 90:4 implement (3) 90:10 144:19 145:5 implemented (3) 24:11 146:16,20 implementing (3) 144:17 145:2 148:1 important (4) 50:12 80:23 81:1 88:24 impressed (1) 23:5 impression (1) 9:10 improve (3) 81:11,12 119:23 improved (1) 82:12 improvement (1) 119:24 include (9) 46:25 61:10 66:10,16 66:17 100:9 109:4 161:3,9 included (5) 12:3 48:3,6,10 53:19 includes (7) 12:9 99:23 101:15 137:6 161:13,17 162:23 including (2) 56:5 120:11 incomparability (1) 26:18 incompatibilities (2) 27:14,22 incompatibility (7) 24:17,23 26:10,25 28:3 29:5,16	incorporated (7) 1:5 4:10,11,21 27:20 43:9,22 incorporation (4) 41:2 43:12 44:16,20 increase (11) 122:6,7,8 144:17 145:2 163:18,20 164:1,18 166:9,11 increases (1) 166:1 index (1) 37:13 individual (3) 120:8 147:7,12 inevitable (1) 72:1 influence (5) 6:13 151:23 158:2,15 160:6 information (7) 14:16 19:6,22 98:24 120:21 135:4 158:22 infrastructure (1) 45:19 infringe (1) 93:10 infringed (1) 92:25 infringement (4) 8:12 93:21,23,25 infringers (1) 94:12 inherent (1) 45:11 initial (2) 5:20 77:9 initialed (1) 167:9 initiated (3) 94:2,17,18 ink (1) 167:8 inline (4) 144:23 145:5 146:21 146:22 innovation (2) 122:24,25 inquire (1) 132:4 insert (1) 129:3 inside (4)
--	--	---	--	--

<p>9:17 11:2 12:9 141:15 instance (7) 102:12,19,25 123:11 124:10 150:20 164:25 instances (5) 18:12 97:6,14,16 132:6 instructed (1) 8:6 insurance (7) 144:14,17,19 146:17 146:18,25 147:1 integrate (1) 27:21 integrated (3) 24:19 27:15 29:9 integrity (2) 96:18,24 intellectual (16) 94:6,16,20,24 95:3,5 95:20 96:20 97:13 132:10,13,17,19,22 133:1,7 intent (2) 91:20 97:10 intention (1) 124:13 inter (1) 147:14 interact (3) 72:11 130:6 136:12 interacted (4) 17:6,9 140:19 150:9 interaction (3) 149:3,14,16 interactions (1) 150:4 interactive (1) 145:3 interacts (1) 150:1 interest (7) 15:11,16 69:12,15 78:4,24 79:2 interested (14) 34:11,12 36:1,5,7,8 145:22,22,24 150:21 158:19,23 163:9 164:7 interesting (1) 15:17 interface (2)</p>	<p>24:16 83:10 interfaces (1) 27:1 interfacing (1) 24:14 interim (5) 82:15,16 83:1,2,5 internal (3) 86:19,22 88:5 internally (1) 103:12 Internet (13) 35:9 37:3,5,10 88:19 89:6,13,22 90:16,20 91:11 92:4 169:22 interpret (1) 139:7 interrupt (1) 26:14 interval (1) 71:16 intervals (1) 166:8 introduce (2) 4:23 122:1 introducing (1) 122:4 invalid (1) 92:24 invalidity (1) 50:23 invest (1) 133:4 invested (6) 77:22 78:16,19,22 80:25 133:6 investment (6) 73:21 77:10 78:6,10 132:13,17 investments (4) 73:9 78:1 79:10,12 investor (1) 132:10 involve (1) 105:16 involved (32) 52:6,13 61:7,17 63:9 72:19 77:19 95:7 106:14 109:4,11,12 110:25 113:9 115:25 116:19,21 118:17,23 133:19 135:12,18,22,25 136:2,3,6 139:3,13</p>	<p>144:5,21 145:7 involvement (12) 17:10 60:18 63:4 65:24 75:5 118:19 132:12 133:23,24 134:3,8 135:9 involving (1) 7:7 IP (4) 80:23,24,25 95:24 IPO (2) 70:7,19 Irving (6) 59:20,23 60:9,12 63:3 65:14 issue (16) 9:3,9,11 23:24 24:22 25:21 27:13,15,24 29:20 30:17 31:2,5 31:10 80:23 88:24 issues (22) 13:7,8 15:10 29:20 30:6,9,21,24 31:1,8 31:12,22 45:22 54:7 55:24 56:2,4 59:12 72:12 88:3 95:18,24 is/was (1) 83:8 Le (1) 152:10</p> <hr/> <p>J</p> <hr/> <p>J (1) 167:1 JavaScript (1) 137:9 Jennifer (2) 3:13 5:3 Jerry (3) 33:10 34:23 45:10 job (4) 1:24 45:6 81:22,22 Josh (3) 3:5 4:25 57:16 Judge (1) 65:2 July (10) 15:1,3 22:14 23:16 27:3,25 28:14 29:15 30:2 64:7</p> <hr/> <p>K</p> <hr/> <p>keep (5) 34:1,18 35:18,25 93:3</p>	<p>keeping (2) 34:3 98:20 Kerhoulas (2) 3:18 4:20 Kevin (2) 5:2,5 kind (36) 13:7 14:15 16:23 21:4 21:15 22:6 32:4 33:19 34:1,10,14,20 35:18 37:7,22 38:9 38:10 43:24 45:4 47:10,22 69:16 72:1 74:2 96:9 99:14 116:16 118:22 119:4 121:22,22 124:7 144:3 148:6 157:1 160:4 kinds (2) 14:10 46:19 knew (4) 9:8 23:2 68:15 89:4 know (131) 9:10 10:3,4,6,7,16 11:16 13:21 14:23 15:21 17:24 21:1,5 21:8 23:22 31:1 32:4 35:7,8,11 39:5 39:7 40:19 45:8,9 46:1,11,12 53:3,5 54:11,13,16 58:16 59:23 60:22 62:19 63:23 64:3 65:23 66:15 68:14 69:16 70:24 71:1,19 72:8 72:25 73:16,17,19 73:20 76:10,19,21 77:7,21,22,23 78:4 78:12,14 82:1 88:22 89:11 93:14,16 94:1 94:23 95:12,15,18 95:19,22,25 96:4,5 96:8,14,17,17 97:4 97:8 102:14,18 104:20,23 106:9 111:1 112:7 113:21 113:25 114:1 115:20 119:5,8 120:3 121:16 122:3 123:5,21 131:1,7,10 132:19 133:6,8 134:18 137:25 138:10 141:19 144:9,18,21 145:4</p>	<p>146:19,23 147:2,14 149:12 150:6 154:11,12,15,20,24 157:13 158:4 160:21 162:15 165:3 knowing (3) 32:19 88:2,25 knowledge (4) 92:8 97:2 108:11 131:24 known (1) 23:1 Kramer (2) 5:5,5</p> <hr/> <p>L</p> <hr/> <p>languages (1) 107:5 large (5) 103:5 107:22 108:13 131:7 140:14 largest (5) 70:1,3 73:12,17,20 late (3) 21:8,9 68:3 launch (1) 122:20 launched (3) 124:10 140:13,22 law (2) 6:7 7:14 lawsuits (4) 93:21,25 94:11,15 lawyers (6) 8:21 11:4 12:3,3 13:6 15:9 lead (4) 137:21 142:14 157:18 163:2 leader (1) 138:5 leadership (1) 82:22 leading (1) 139:13 learn (3) 30:20 49:1 52:17 learned (8) 25:1 49:3,9 52:20 55:9,12 64:4,11 leave (7) 42:14 43:13 50:18 51:1,2,8 82:17</p>
---	--	--	---	--

165:2 led (4) 83:11 137:25 138:16 138:20 left (6) 42:2 43:24 44:7,7 82:21 83:1 legal (7) 6:6 13:7,8 88:23 92:9 94:25 95:4 legal-type (1) 15:10 letter (5) 39:12 77:2 79:13 148:23 150:22 letters (3) 77:25 94:12,14 let's (16) 31:14 46:22 74:19 100:24 106:13 112:12,12 113:19 124:17,20,20 128:14 143:4 157:3 157:3 158:12 level (1) 72:21 libraries (4) 24:10,11,12,15 library (4) 27:2,14 29:10,12 license (4) 1:23 2:10 131:25 133:1 licenses (1) 132:4 likelihood (3) 134:23 161:14 165:8 Lindsay (1) 5:2 line (2) 112:12 170:9 link (5) 38:10 150:18 151:6,7 153:5 links (4) 38:6 149:11,18,23 Linux (25) 106:11,15 109:5,19 109:24 110:2,3 111:1,10,15 112:19 112:23 113:1,6,8,15 114:5,24 115:1,17 116:2,5,9,12,13 list (16)	35:25 36:10,16 37:15 37:18 38:2 40:13 46:11 85:9 86:11 87:1,13,16 99:5 105:7 107:15 listed (2) 66:18 84:3 listing (5) 33:19,21 34:4 37:25 40:9 listings (3) 37:25 38:2,4 lists (5) 37:16,19 38:8 86:20 86:23 litigation (14) 8:16,23 14:18,21,23 52:6,9 87:19,23 88:18 92:11,14 94:2 94:18 litigations (1) 59:24 little (13) 9:10 14:17 20:16 31:11 46:22 51:6 54:25 87:25 110:21 124:7 139:22 157:12 158:4 live (3) 6:7,11 7:13 lived (1) 97:9 LLP (1) 2:7 load (2) 157:24,25 loads (1) 157:25 lobbied (1) 95:19 lobbying (3) 95:8,13,17 located (2) 74:18 135:1 location (2) 31:3,5 locations (1) 87:6 long (3) 13:1 14:25 42:1 longer (1) 129:21 look (12) 55:4 68:10 82:10,11	90:11 92:1 98:17 119:16 122:17 129:5 151:6 157:21 looked (21) 13:23 25:2 26:22 38:12,16 39:1,25 40:17 53:24 55:3,6 56:12,13,14,17,19 64:19 65:3 119:11 147:21,22 looking (19) 24:6 31:1 47:8,12 54:13 56:24,25 64:23 65:7,8,9 88:1 90:25 98:19 105:7 137:18 143:23 157:2 160:22 looks (3) 40:1,20 149:19 loose (2) 148:6 161:8 loosely (2) 128:12 129:15 lot (19) 13:5,6 15:9 47:2,23 79:2 80:25 96:22,25 96:25 99:12 108:9 116:13 121:5,6,16 121:17 150:15 153:15 lots (2) 18:14 126:23 Louisiana (1) 74:19 low-level (1) 47:4 lunchtime (1) 131:12	138:1,5 majority (3) 75:6 155:11,19 making (18) 13:20 72:19 88:12,15 91:5,16 92:4,6 97:22 117:4,9,25 119:14 121:12,21 143:7,15,16 manage (3) 72:2,4,13 managed (1) 72:16 management (1) 72:20 manager (4) 105:2 140:4,6,9 Manges (2) 2:7 4:16 manpower (1) 111:9 manufacturer (1) 91:25 map (6) 129:9 130:13,22,24 152:8 169:14 maps (37) 98:22 99:24 128:17 128:20,22,25 129:5 129:21,23,24,25 130:1,3,11,12,14 131:8 133:17,18,20 133:21,23 134:4,9 134:15,19 135:10 135:11,14 137:23 138:21,22 139:3,6 139:14,18,20 Maps.yahoo.com (1) 130:15 maps@yahoo.com (...) 129:2 March (25) 33:4,9,17 34:23 35:16 35:21 36:11,19,20 36:23 37:20 38:1,12 38:17 40:5,8 41:4 43:6,10,20 44:20 68:21 75:10,11 77:1 March/April (2) 35:17 40:6 mark (2) 39:13 83:14 marked (8) 39:15,18 83:15,18	84:19,20 85:23,24 marks (6) 4:8 67:11,16 131:17 131:21 166:20 Martin (1) 5:2 master's (5) 41:7,20 42:7,24 43:2 materials (3) 56:25 58:9 65:8 matter (3) 4:9 57:14 170:4 matters (4) 49:19 52:24 54:7 58:19 McKool (2) 3:4 4:25 mean (88) 15:9 24:20 25:15 26:9 26:14 29:22,23 30:12,16,25 31:1,12 32:6,13 33:22 37:15 38:3,14,18,19 40:20 43:21 45:4 46:17 56:19 63:22 79:19 79:20 80:6,11,18 81:19 82:1,24 84:10 89:23 92:13 93:14 94:10 95:15,22 96:14 97:4,16 100:20 102:24 103:12,22 105:14 106:17,17 107:10 108:8,22 109:9 110:20 111:20 114:14 116:11 119:21 122:3 124:6 129:16 133:25 136:10 138:23 139:11 140:17 141:11 142:24 145:18 150:6 151:21,22 152:17 152:22 158:17 159:13,17,19 160:14,15,17,25 161:8,9 162:13 164:23 meaning (2) 21:1 160:19 means (6) 95:16 129:1 136:6 148:5 160:12,13 measure (1)
---	--	---	--	---

152:14 media (10) 56:17,25 58:10 64:20 65:8 66:12 98:23 99:23 101:13 122:9 medical (1) 6:19 meet (3) 9:18,21 12:20 meeting (30) 12:6 13:1,9,13,17 14:25 15:2,15 16:2 22:14,17,18,22 23:9 23:16 25:11,20 27:3 27:25 28:13 29:15 30:2,3,7,10 53:12 55:23 56:1 58:17 64:8 meetings (23) 10:1,2,6,12,13,17 11:1,25 12:8,11,15 30:4 53:6,9,17,18 53:19,25 55:16 56:24 64:12 65:6 66:11 Megabytes (1) 131:9 mention (1) 68:22 mentioned (11) 20:11 52:11 53:18,20 100:6 102:21 107:2 120:14 121:8 124:22 161:25 message (6) 157:22 158:20,21 159:2,4 164:7 messenger (6) 102:13,24,25 104:14 104:19,24 met (10) 9:22,24 10:6,8,9 11:7 23:2 97:2,5 122:19 Microsoft (29) 14:23 87:19,23 88:3,6 88:11,14,18,25 89:5 89:12,17,20 90:5,8 90:11,15,19,23 91:4 91:10,15,21,25 92:4 92:6 93:7,8 146:11 Microsoft's (1) 91:2 Microsoft-Eolas (1) 9:9	Microsoft-type (1) 9:12 mid (4) 21:4,15 22:5 89:12 middle (2) 5:20,20 migrating (1) 47:11 million (10) 71:2,4 77:11,15 78:5 78:9,16,20,22 79:3 mind (4) 22:16,22 23:23,24 minor (7) 23:24,24 27:13,15 31:5 32:15 133:12 minutes (2) 27:16 131:13 mix (3) 114:22 146:6 155:20 mobile (6) 102:12,13,17,18,22 130:23 models (1) 152:17 modern (1) 32:14 modifications (2) 29:13 32:16 Monday (1) 84:24 money (20) 72:2,5,16,20 75:15 77:18 80:25 95:12 97:22,24,25 99:17 114:13 117:4,9,12 117:16,17 118:4 133:6 monies (1) 133:4 months (1) 48:9 morning (3) 4:7 5:16,17 Morris (4) 60:15,16,19,22 Mosaic (10) 20:9,14,22 21:5,5,13 21:21 22:3,8,10 motivation (1) 34:21 movies (5) 101:16,19 127:7,9,10 MSN (2)	146:12,13 multiple (2) 9:22 97:25 <hr/> N (2) 3:1 169:1 name (18) 4:20 5:18,20 8:25 11:16 82:19 105:23 105:25 118:15 141:9,10,10,15,22 142:9 150:10,13,14 named (2) 83:4,9 names (1) 141:14 nature (16) 7:25 28:19 38:9 45:25 50:19 51:3,9 58:10 58:11 64:14 76:2 94:8,13,22 101:16 137:10 necessarily (7) 34:15 55:1 88:21 102:24 116:15 122:5 124:15 need (10) 7:23 30:1 32:7,7,12 32:16 91:1 119:6 121:2 148:5 needed (2) 29:13 91:1 needs (1) 122:13 negative (9) 81:5,8 125:19 128:5,5 128:9,17,23 129:10 net (4) 72:22 73:4,13 75:6 Netscape (8) 20:11,23 21:6,13,21 22:3,11,11 network (6) 37:9 46:14,15 47:3 131:4 146:12 never (4) 60:7 63:8 65:25 83:5 new (10) 27:14 29:11 30:20 79:23,24 82:25 83:2 83:4 89:2 143:23 newer (1) 26:24	newest (1) 29:9 news (4) 121:21,23,24 165:1 nine (2) 104:25 105:4 nods (2) 7:24 60:17 noninfringement (8) 50:22 51:15 52:2 59:13 61:25 62:11 92:10,17 non-AJAX (1) 124:11 non-Yahoo (2) 11:3,4 normal (3) 116:10,25 117:22 Nos (3) 169:15,18,22 noted (1) 167:8 notes (1) 155:24 notice (3) 2:9 94:11,14 November (6) 1:16 2:1 4:2,18 167:7 170:5 number (43) 7:6 10:4,5 62:19 71:16 102:23 103:6 103:8,9,13,18,21 104:5,6,12 105:5 121:18 122:7 124:4 124:10 126:23 141:18 144:16 145:1,11,16 146:3 146:15 148:4 151:5 151:12,13,14,16,18 151:18 154:9,15,17 161:13 163:14,18 163:20 numbers (1) 71:22 numerator (1) 151:7 <hr/> O <hr/> oath (1) 6:3 object (1) 8:4 objection (104)	8:5 12:2,10 19:25 20:24 21:22 22:4,23 26:2 27:7 28:4,25 31:24 34:7 35:6 36:3,25 40:18 43:15 48:5,12 49:2 50:9 51:20 52:19 53:2,16 54:15 55:11,18 56:3 57:4,15 59:2 60:1,4 60:8 61:1 62:5,18 63:8,14 65:17,20 66:1,14,20 72:10,24 73:3 78:18 80:17 81:7,18,25 82:8 84:14 88:20 89:14 90:6 91:7 92:12 94:9 103:20 105:3 107:13 108:5 109:8 109:21 110:19 111:4,18 112:20 113:3,12 114:11 115:7 117:6,11 118:7 121:4 123:8 123:20 125:14 126:5,13 127:19 128:2,19,24 129:12 130:19 134:5 135:24 137:15 138:4 148:3 149:21 153:12 161:22 163:4 164:21 165:19 166:3 objects (2) 150:3,7 obviously (2) 127:17,24 October (4) 92:18,22 93:2,5 Odd (1) 124:24 offer (6) 54:8 62:2,10 146:18 146:22 162:4 offered (7) 50:22 51:15,18,23,23 52:2 61:24 office (4) 4:15 38:23 81:22 82:7 officer (4) 59:22 60:10 63:3 65:15 official (1) 45:5 officially (1)
---	--	--	--	--

officially (1) 40:25 Oh (2) 18:11 139:11 okay (239) 6:25 7:13 10:8,15,20 10:23 11:8,13 12:16 13:8,24 14:11,19 16:4,9 17:10,13,18 18:6,19 20:4,13 21:11,18 22:1,9 23:20 25:6,25 27:3 27:11 28:21 29:3 31:14 36:9 39:5,8 39:13,23 40:2 41:3 41:8,11,17 42:6,14 42:17,23 43:9,18 44:10,19 45:14 48:23 49:5 50:1 51:14 52:5,9,22 54:5 55:4 56:2,23 57:13 59:8,16,21 60:9 62:23 63:11,19 66:25 67:8,10 68:4 68:20,25 69:3,10,18 70:1,13,18,22 71:7 71:13,18 72:4,7,15 72:19 73:6,15 74:8 74:22 75:3,19 76:15 77:19 78:12 79:14 80:6,9 82:17,21 83:24 84:11,17 85:7 86:1,10,18,25 87:2 87:8,15 88:17 89:3 89:10 90:1,14 91:9 91:14 92:8 93:2,12 96:16 97:19 99:4,11 99:22 100:12,19 101:6 102:2 103:11 103:18 104:2,5,8 105:12,24 106:13 106:19 107:2,5 108:25 109:3,16 110:1,11,16,23 111:6,12 112:1,10 112:14,17 113:19 114:3,5,9,15 115:2 115:5,14,22,25 116:4,17 117:20 118:10 121:10 123:13 124:20,25 125:16,25 126:8,18 127:7 128:14 129:18 130:2,9	131:14 132:6,21 134:24 135:2,6,17 136:24 138:3,14,24 139:2,11,16 140:9 140:25 141:20 142:11,14,17 143:19 145:1 147:11,24 148:14 148:17,22 149:2,12 150:12,19 151:9,17 152:2,21 153:7 154:25 155:4,17,23 156:1 157:10 158:8 159:16,20 160:10 161:7,11 162:19 163:1,11,18 older (2) 24:5,16 Once (3) 7:17 12:21 27:23 ones (7) 86:25 87:2,3,5 90:12 105:24,25 oOo (2) 3:20 169:25 open (22) 105:10,13,15,16,19 105:21 106:13 107:3 109:3,10 110:25 111:9 112:14,17 115:16 116:1,4,8,21,24 117:20 118:1 operate (2) 55:5 117:12 operating (3) 47:4 109:20,24 operations (6) 47:2,14,15 116:10 134:11 135:4 opinion (2) 81:24 82:6 opinions (13) 50:22 51:15,18,23 52:2 59:5 61:24 62:2,10 67:1,6 92:10,16 opportunities (3) 160:23 162:18 163:7 opportunity (3) 159:13,14 161:1 opposed (2) 37:25 136:12 Optimization (1)	45:24 options (3) 143:23,24 144:4 order (6) 51:9 62:2,10 65:2 98:8 130:11 organization (3) 82:10,11 143:15 original (1) 33:18 outside (8) 10:18 11:2 12:1,8,9 73:10 105:16 153:8 outweigh (1) 127:25 overall (4) 47:8,9 121:9 128:4 overarching (1) 141:22 oversaw (1) 143:13 oversee (1) 143:11 overseeing (2) 144:3,6 owned (1) 70:2 ownership (16) 69:12,15,24 70:23 71:8,23 73:7,10 74:11,15,23 78:4,12 78:23 79:2,11 O'Riley (2) 15:25 23:6	145:24 146:3 147:6 147:18,25 148:1,12 148:15 149:9,10,14 149:17,23,24 150:6 151:4,5,16,18 153:9 154:22 155:1,5,13 155:20,20 156:9,14 157:8,11 158:1,14 159:22 160:2,3 161:4,16 162:2,10 163:15,19 164:4,8 164:15,18,25 165:1 165:4 166:8 169:6 169:10 170:9 pages (31) 38:7 88:13,16 89:21 89:21,23,24,25 90:4 90:21 91:6 98:6,8 106:20,21,23,25 107:7,9 110:7,11 111:16 117:23 120:11 153:24 154:2,7,19 162:12 163:3 166:2 page-view (2) 153:24 155:5 paid (17) 48:20 152:18 153:20 153:24 154:2,4,7,18 155:2,5,8,9,11,20 157:17 162:6 163:3 Palo (1) 6:1 papers (1) 56:21 parameters (2) 143:2 144:1 Parkway (2) 2:8 4:17 part (21) 24:8 28:21 31:4 39:20 48:17 52:7,12,25 74:11,15 115:9 121:9,13 130:6 142:17,20 143:20 147:6,12,24 148:14 particular (24) 8:24 24:9 26:20 29:7 45:9 108:11 120:5 122:18 126:16 133:21 134:25 141:3 148:7 150:10 150:12,14 151:6,7 159:23 160:3 162:7	163:9 164:4 165:6 particularly (1) 45:11 parties (4) 27:20,22 105:16 122:20 partners (2) 96:22,23 partnerships (1) 96:22 parts (1) 108:18 part-time (1) 75:24 pass (1) 166:14 passing (2) 63:23 64:3 patent (13) 7:9 8:12 81:6,9,21 82:6 93:21,23,25 94:2 95:20 132:4 169:18 patents (17) 80:21,22 81:2,14,17 92:11,17,23,24 93:10 94:7,19 132:1 132:4,24 133:1,5 Patents-in-Suit (2) 62:4,12 pay (10) 99:17 145:9,14,17 151:24 152:5,9,10 153:1,11 paying (3) 152:11,12 155:12 PC (1) 102:25 Pei (5) 11:7 23:2 27:20 68:6 68:11 Pei's (1) 23:23 penalties (1) 6:9 Penalty (1) 167:5 people (39) 10:17 11:1,25 12:8 55:24 72:4,7,12 79:22,23 80:1,19 98:9,12,18,24 99:14 112:18 115:16,21 121:23 124:8
---	---	---	---	--

129:16 130:23,25 139:2,17,17 142:7 143:6,9 151:20,22 152:13 158:20,21 158:24 159:3,8 people's (2) 98:20 131:3 percent (17) 69:17,20 70:3,3,9,11 70:15,17,18,21,22 78:7,23 79:1,11 91:24 154:19 percentage (7) 49:18 69:24 70:1,6 78:12 147:17 154:6 perfectly (1) 8:3 perform (1) 157:24 performed (2) 147:4,5 period (3) 44:5,18,19 periodic (1) 166:8 perjury (2) 6:9 167:5 Perl (14) 106:11,15 107:2,8,11 107:20,21 108:2,3 108:14,17,18 134:25 135:2 person (10) 12:22 37:12 63:2 72:9 72:11 138:3,12 144:10,10 168:16 personal (4) 37:7 120:8 133:9,13 personally (3) 13:5 74:10 140:1 persons (3) 138:16,20 139:3 perspective (1) 142:16 per-page-view (1) 153:21 per-view (1) 153:21 pg (1) 169:11 pgs (3) 169:15,19,23 Philips (9) 11:15,24 12:7 30:5,8	30:13,15 53:15 56:8 phone (5) 5:1 11:11,13 53:14,19 phones (1) 130:23 photo (1) 99:6 PHP (12) 106:10,15 107:2,8,11 107:12,17,19 108:15,16,20 109:2 phrased (1) 57:16 picked (1) 71:21 piece (2) 47:25 108:11 Pipes (2) 102:7,21 place (2) 82:25 168:14 placed (2) 6:3 152:3 placement (1) 157:20 places (1) 152:11 Plaintiff (2) 1:6 3:3 plan (18) 57:23 58:1,5,8,13,18 66:7,22 71:10,13,23 76:1,4,7,12,16 77:1 77:5 planned (1) 58:17 plans (2) 59:8,10 plays (1) 150:1 please (4) 4:23 5:7,18 131:2 point (14) 28:7 34:12 40:21,22 68:15 69:2,23 89:11 96:6 104:18 108:11 139:12 142:3 146:4 Polymap (1) 169:13 portal (1) 146:11 position (1) 38:14 positive (6)	125:18 128:4,9,17,22 129:10 positives (3) 125:20,22,22 possession (3) 19:7,22 38:11 possibility (1) 164:5 possible (6) 18:13,17 19:3 23:3 25:16 137:17 possibly (1) 62:22 Post (1) 124:24 posts (2) 123:2,2 potential (12) 31:20,20 94:12 161:21 162:11,23 163:1,2,23 165:17 165:22,22 potentially (10) 14:6 34:12 68:16 89:23 95:17 155:21 160:24 161:2 163:21 164:18 power (2) 131:15,16 powerful (1) 32:21 precise (1) 129:16 precisely (1) 114:16 predecessors (1) 35:10 predetermined (1) 71:15 premium (9) 99:6,7,8,10,16,19 100:5,9,13 prepare (6) 9:18 53:9 55:16 59:8 64:13 67:5 prepared (5) 29:11 59:4,13 67:1 82:12 preparing (6) 58:6 62:16 66:8 83:24 85:4 86:7 prepay (1) 75:1 present (5)	3:18 10:18 12:1 28:14 44:3 president (2) 44:17,21 pretty (9) 22:6 23:5 25:20 44:14 46:8 81:10 93:15 95:23 134:22 preview (1) 148:15 previous (4) 14:18,21 50:25 136:1 previously (1) 10:9 primarily (4) 37:7 46:23 100:4 115:12 primary (19) 20:7,11,22,25 21:20 22:2 47:6 74:7,8 98:1,2 115:12 116:16 117:16 118:8 119:19,21 152:25 153:3 prime (1) 115:9 printout (1) 39:19 prior (12) 10:6,9 16:21 17:10 35:15 55:23 59:11 62:4,13 64:17,21 88:1 Prius (1) 74:3 probably (47) 9:2 14:9,17 15:24 16:8 21:2,13 22:12 37:6 40:20 47:5 49:25 75:18 76:14 87:6,9 99:5 100:23 102:5,25 103:13,25 104:14,16 105:6 106:11,18 114:21 121:8 133:19 134:16,16,17,20 135:1,15 136:2,5 137:20 141:18 143:14 146:6,6,14 147:21 150:15 154:15 problem (2) 31:20 128:11 problems (3)	23:10 29:21,23 proceed (1) 5:7 proceedings (1) 168:14 produce (1) 47:16 produced (4) 39:6,10,11 76:25 product (10) 59:22 60:9 63:3 65:15 140:4,6,9 142:16 143:6,14 production (1) 83:19 products (17) 47:15 55:5,7 56:15 57:1 58:10 62:3,12 64:24,25 65:10 66:12 98:13 100:16 101:23 102:2 130:22 programmed (1) 24:16 programming (3) 19:20 46:15 107:5 project (8) 75:22 109:11 118:15 118:17,23,25 119:1 139:14 projects (15) 105:19,21 106:14 107:3 109:4 110:25 111:9,11 112:15,17 115:16,23 116:1,5 116:22 prominent (2) 88:10 157:15 proper (1) 143:16 properties (49) 98:18,23 99:12,16,18 99:23 100:2 102:23 103:4,5 104:11,12 105:1,5 107:12,14 107:15 110:11,14 110:16,22 113:9,16 113:17,20 117:18 118:2,5,9 119:18 121:17 122:9 125:2 125:9,12 126:25 127:3,13 128:9 129:6 142:2 146:2 154:2 156:10 159:9
--	---	---	--	---

159:12 162:12 163:3 166:9 property (45) 94:6,16,21,24 95:3,5 95:21 96:20 97:13 103:6,10,11,13,19 103:25 104:5,17 119:22 120:1,6 129:2,9,23 130:12 134:19 145:20 146:3 153:9,15 154:7,19 156:15 157:8 158:15,16 159:18,21 160:21 161:5 162:11 163:16,20 164:15 165:16,18 proposed (1) 89:12 proposing (14) 88:15 89:1,5,17,20 90:5,8,16,20 91:5 91:11,16 93:7,8 prospective (1) 76:7 protocol (6) 23:15 24:5,10 26:11 29:7,18 provide (1) 92:9 provided (2) 39:2 65:1 providing (1) 117:8 public (3) 71:20 140:14,22 publicly (1) 97:19 publish (2) 36:17 88:13 publishers (5) 9:13,14 90:9,24 91:17 publishing (1) 36:15 purposes (1) 111:22 pursuant (1) 2:9 pursue (1) 42:24 pursuing (1) 43:3 put (7) 37:12 75:25 76:4	77:18 148:22 150:22 160:24 putting (1) 46:13 p m (5) 131:23 156:3,6 166:23,25 <hr/> Q <hr/> QL (1) 102:11 qualities (1) 162:16 quality (1) 162:15 question (37) 8:7 25:17 28:6,9,11 48:7 50:25 54:22 57:19 67:20,21 71:14 73:11 79:21 80:3 82:2 91:8 105:18 107:10 110:15,21,24 111:7 116:20 123:12 130:22 138:8 139:1 139:7 145:12 149:15 154:21 156:24 157:5 162:16 165:13 166:6 questioning (1) 112:13 questions (20) 6:17 7:24 8:2,4 13:16 13:20 14:4 16:7,12 16:16,18 25:13 81:13 87:11 128:11 136:1 143:4 154:23 158:4 166:18 quick (2) 61:16 155:23 quickly (2) 36:6 157:24 quite (3) 114:16 119:12 126:23 quotes (1) 98:25 <hr/> R <hr/> R (4) 3:1 167:1 170:1,1 ran (7) 140:18,22 141:1 142:18,20 143:20	143:22 randomly (1) 71:21 range (1) 69:17 rate (12) 150:24 151:2,3,10,12 151:18,23 152:4 153:10 154:18 155:2,6 reaction (1) 8:22 read (5) 50:24 56:20 165:5 166:17 167:5 reads (1) 165:1 real (3) 13:15 15:10 61:15 reality (1) 124:9 realize (1) 75:14 realized (1) 124:15 really (15) 30:19 31:25 32:7,8 33:18 34:13,20 63:23 75:17 77:7 82:12 83:11 102:19 159:24 160:4 reason (3) 6:16 124:6 127:16 reasonable (1) 40:1 reasons (4) 120:10,15 121:6 166:7 recall (28) 6:20 8:25 13:16 14:19 15:5 16:1 18:9,25 20:22 21:21 22:3,6 23:2,16,20 29:24 30:15 64:5 77:4 78:9 87:22 88:5,9 121:25 122:20 139:23 140:8 142:1 recalled (2) 9:2 25:24 receive (2) 84:10 153:1 received (7) 78:5,13,23 79:11 84:7 85:13 146:4	receiving (1) 87:22 Recess (3) 67:15 131:20 156:4 recite (1) 121:19 recollection (7) 13:12 15:2 18:21 19:17 20:15 22:17 68:10 recommendations (7) 91:2,21,23 92:1,5 93:7,9 recommending (2) 90:9 91:16 record (9) 4:24 67:13,18 69:7 131:19,23 156:2,5 166:23 redesign (43) 118:20 119:7,9,20,22 119:25 120:11 121:3,6,13 122:16 122:21,24 123:3 139:23 140:2,3,5,7 140:10,13,14,22,23 141:14,23 142:8,11 142:14,18,18,20,23 143:12,20,21,23 147:6,13,18,24 148:14 166:8 redesigning (1) 118:16 redesigns (4) 119:9 120:2 121:17 166:11 Redwood (6) 1:15 2:7,8 4:1,16,17 refer (4) 141:24 142:6 148:24 159:16 reference (1) 69:5 referred (4) 101:12 141:12 142:7 142:9 referring (4) 48:24 68:18 124:23 134:24 refers (1) 151:4 refresh (1) 68:10 refusing (1)	28:8 registered (1) 30:19 relate (1) 19:23 related (48) 12:11 14:6,20 15:6 23:18 26:1,7,10,17 26:23 27:4 28:2,17 28:22 29:17 31:20 50:22 51:15 52:24 54:7 55:24 56:2,25 58:9,12,20 59:5,6 59:12 61:24 64:20 65:8,18 67:2 69:8 77:24 81:6 87:23 88:6 92:16 93:17 95:4 97:12 122:24 123:2 145:10,15,23 relates (1) 152:5 relative (1) 31:12 relatively (3) 24:21 44:18 54:19 releases (1) 169:21 relevance (1) 157:21 relevant (9) 120:7,22 121:1,13 123:7,10 157:14 158:11,18 remember (46) 10:3 13:8 14:1,22,24 15:19 16:12 17:7,8 17:24,25 18:11,11 18:20 19:4 20:19 21:16 25:10,15,16 25:17 29:22 30:3,12 44:17 49:14 52:10 63:6 68:1,5,8 70:8 77:17 87:25 88:1,2 89:7,8 96:7 121:20 122:22,23 123:1,4 137:16 147:19 remembered (1) 34:17 remembering (1) 11:22 remove (4) 125:11 128:8,16,20 repeat (3) 48:7 62:7 163:25
--	--	---	--	--

report (9) 59:16,19 61:3 63:2 139:4,18 140:10 144:11 168:13	164:19 165:11,18 165:24	114:14	154:7	135:7 136:13
reported (4) 138:3,6,17,21	review (4) 93:6 147:7,11,18	round (2) 77:16,19	second (4) 73:17,20 77:19 103:24	servers (32) 45:24 47:3 106:22 109:17,19,23,25 110:3,4,5,7,9,13,17 110:18,22 111:24 112:3,4,9 113:2,6,6 113:15,16,22 114:17,22,24,25 115:3 134:22
reporter (6) 4:21 5:6,11 7:21 168:1,10	reviewed (4) 147:9,10,15,15	RPR (3) 1:22 2:10 168:23	see (20) 27:23 39:19 40:15 74:19 83:24 85:4 119:12 130:6 136:11,14 137:1,2,9 137:13 139:11 153:9 155:24 158:20,24 159:3	serve (1) 125:25
reporting (3) 4:21 60:12 139:6	reviewing (3) 57:1 58:9 64:16	run (12) 44:10 46:21 82:22 111:24 112:3 114:17,24 115:3 135:6 136:12 140:16,17	seeing (1) 25:23	service (2) 46:19 99:14
reports (5) 59:5,9,14 67:1,5	rewording (1) 28:7	running (3) 32:14 46:15 83:3	seen (13) 9:1 17:5 56:21 69:9 83:13,21 85:1 86:4 86:9 136:16,16 144:25 152:13	services (14) 45:20 46:16 98:20 99:1,2,4,17 100:2 100:16 101:23 102:3 117:8 118:3,5
representation (2) 39:24 40:16	right (92) 8:8 9:25 11:20 18:8 18:23 19:12,15 20:20 27:6 28:14,19 28:23 29:19 31:7,10 33:1 34:22,24,25 35:5,20 36:2,24 38:20,21 40:2,3 42:3,17,20 43:14 44:1 51:7 53:7,21 53:23 54:3 55:10,14 55:25 57:18 58:16 60:10,11 61:14,18 61:25 63:5,13 67:8 78:17 79:8 82:15,17 84:22 85:16 89:10 90:17 91:12,18 100:25 101:6 104:22 106:1 109:1 109:5 111:10,17 112:19 114:23 116:6,22 117:1 123:15,22 127:1 132:8 137:2,10 139:16 140:14,20 142:12 153:17 156:10 157:8 158:10 162:21,24 163:16 164:12 166:13	runs (3) 47:5 108:24 109:16	sell (13) 159:13 160:7,11 161:21 162:4,12,20 163:3,7,21,23 164:19 165:17	set (11) 33:19 34:19 40:2 45:12 57:13,20 66:4 84:17 85:21 86:18 168:19
request (4) 39:9 76:25 79:9 148:22	required (1) 8:7	<hr/> S (3) 3:1 169:9 170:1	selling (4) 71:7,10,15 160:16	setting (1) 105:1
reserve (1) 166:18	residence (2) 74:7,9	salary (2) 48:20 50:8	send (3) 39:12 77:2 79:12	shakes (1) 7:25
respect (21) 31:21 65:6 72:20 83:6 92:3 95:20 96:18,20 96:23 97:12,13 128:6 132:13 134:3 147:3,5 153:7 154:25 158:2 162:22 164:14	respected (1) 97:15	Santa (1) 80:14	send/compose/recei... 98:21	share (1) 74:22
responsibilities (3) 44:11 45:6,12	responsibilities (3) 44:11 45:6,12	satisfy (1) 122:12	sense (2) 80:13 111:2	shares (5) 71:8,9,11,16,24
responsible (3) 75:6 102:22 143:15	respect (21) 31:21 65:6 72:20 83:6 92:3 95:20 96:18,20 96:23 97:12,13 128:6 132:13 134:3 147:3,5 153:7 154:25 158:2 162:22 164:14	saw (3) 16:16 86:7 160:3	sent (2) 94:11,14	sharing (1) 99:7
rest (1) 47:7	respected (1) 97:15	saying (4) 91:1 93:3 129:3 158:5	September (3) 86:3,12,15	she'll (1) 8:4
result (3) 88:17 91:15 117:10	responsibilities (3) 44:11 45:6,12	says (1) 108:25	Sequoia (10) 77:13,15,18,25 78:4,9 78:16,19,22 79:10	shipped (1) 136:18
results (3) 147:11,23 148:18	responsible (3) 75:6 102:22 143:15	scheduled (2) 10:5,10	serious (1) 112:7	Shores (6) 1:15 2:8,8 4:1,16,17
Reuters (3) 77:21 78:13 79:10	rest (1) 47:7	scheduling (1) 143:16	seriously (1) 80:24	short (4) 44:18,19,22 54:19
revenue (27) 75:17 98:1,2,9 100:1 100:13 101:24 102:3,6,8 111:16 113:10 114:9 115:5 115:13 117:5,9,14 118:4,8 146:24 153:3 156:18	rights (2) 95:20 169:17	science (1) 42:19	serve (12) 106:19,21,23,25 108:20,22 110:7 111:16 113:8,16 126:11,14	shortage (1) 38:8
	risks (1) 79:23	scope (4) 50:4,5 51:19 58:25	served (5) 110:13,18,22 126:16 126:17	shortcoming (1) 27:10
	Road (1) 3:14	scores (2) 98:25 160:22	server (10) 46:13 106:4,6 108:25 109:14,15 112:6,8	shortcomings (8) 23:9 27:4 29:21,23 30:6,22,24,25
	Robert (1) 5:21	script (2) 134:25 135:3		shorthand (3) 5:11 168:9,10
	role (4) 133:9,11,13,16	search (40) 34:13 98:18 99:24 101:6 104:7,8,10 107:17,20,21,22 108:1,4,9,13 114:18 114:19,20,24 115:1 115:2,4,5,11,12,13 122:8 133:14 137:23 138:11,17 142:4 152:8,17,23 152:25,25 153:4,8		Shortly (1)
	room (1) 13:6			
	roughly (4) 43:23 69:17,20			

70:4 show (5) 38:16,19 98:8 109:1 159:10 showed (1) 119:10 showing (6) 79:9 98:5 114:10 115:6 117:17 118:5 shown (4) 120:22 156:9,14 159:22 shows (4) 19:7 68:14 155:12 158:1 sic (1) 134:19 side (6) 47:14 134:11 143:6,7 164:1 169:14 sign (3) 99:8 146:1 166:17 signed (1) 16:5 significance (1) 61:13 significant (1) 61:12 similar (1) 29:25 simple (2) 27:18 29:12 single (2) 73:12 147:9 singus (1) 73:12 sit (2) 54:8 122:22 site (7) 91:18 99:7 120:4 123:3 146:12 149:8 159:5 sites (17) 33:22 34:2,3,5,6,10 34:11 36:5,6,11,16 37:14 100:6,9,13 146:13,15 sitting (3) 15:5 19:18 94:3 situations (1) 94:5 size (3) 131:3,9 163:24 skims (1)	165:2 slight (4) 26:24 28:3 141:2,13 slower (1) 124:11 small (3) 9:8 102:23 130:6 Smith (2) 3:4 4:25 SMS (1) 102:18 snapshot (3) 26:20,21 169:11 snapshots (2) 24:7 38:25 software (7) 46:16 47:7 105:10,10 105:12,13 106:14 sold (1) 71:9 somebody (1) 139:12 sorry (11) 11:19 26:13 52:16 62:7 93:4 110:14 136:21 141:7 149:5 156:11,21 sounds (2) 29:19 136:17 source (42) 23:12 24:7,21 25:2 29:6,17 32:16 53:23 53:24 73:12,21 75:17 98:1,2 105:10 105:13,15,16,19,21 106:14 107:3 109:3 109:10 110:25 111:9 112:14,17 115:13,16 116:1,5,8 116:21,25 117:20 118:1,8 137:1,1,13 137:19 speak (1) 152:22 speaking (8) 14:8 45:18 88:8 91:22 145:23 151:22 152:20 159:11 specific (27) 13:12 16:12 18:12,20 18:21 19:17 22:17 25:17,17 68:7 71:14 81:13 82:2 87:5,11 92:3 93:22 108:10	113:19 119:24 121:14,19 122:18 128:14 132:6 153:18 165:12 specifically (8) 13:18 16:11 79:20 113:14 139:1,5 149:2 154:21 specifics (4) 32:6,11 123:10 124:21 speculate (2) 144:22 145:8 speed (1) 124:14 speeds (1) 131:4 spend (15) 47:20 49:12,22 54:12 54:17 58:5,5,8,13 58:18,24 66:7,7 164:24 165:3 spending (6) 47:6 49:19 59:23 60:5 60:22 65:15 spends (6) 95:12,14 161:4,15 164:14,17 spent (11) 28:16 45:21 46:1 49:24 50:1 52:24 53:22 54:6 62:15 64:16,23 Spirit (36) 118:12,14,15,20,23 119:1,19,25 121:2,9 121:13,25 122:15 122:21,24 123:2 139:22 140:2,3,4,6 140:9,13,22 141:14 141:23 142:8,12,23 143:12 144:6 147:6 147:13,17,24 148:14 sports (11) 98:23,24 99:9,24 100:7 101:16,18 135:23 136:8 137:14,20 SQL (3) 106:7,7,10 stack (1) 47:7 stacks (1)	47:15 staff (1) 83:9 stake (2) 70:23 73:7 standard (1) 50:8 Stanford (24) 16:14,15,25 17:4,6 33:6,7,13 34:24 36:23 37:4,9 40:4 41:5,7,9,19,22 42:1 42:4,15,24 43:3,13 Stanford's (1) 42:24 start (6) 33:2 35:22 75:10 79:23 80:19 87:4 started (12) 17:15,19 33:17 34:11 35:9,11,13,17 36:4 37:11 75:12,19 starting (2) 35:4 80:7 state (4) 5:18 103:2 146:10 168:10 stated (1) 32:7 statement (10) 47:21 81:23 82:13 96:5,8,15 97:17 159:1 164:3 165:15 statements (4) 96:5,11 97:1 118:1 States (5) 1:1 4:12 81:15 82:6 131:8 Static (1) 126:20 stepping (1) 31:11 sticks (1) 22:16 stock (3) 73:13,15 98:25 stockholding (1) 73:18 stop (2) 126:4,11 stored (1) 31:3 strategic (2) 47:9,12	stream (1) 149:13 Street (2) 3:6 6:1 strictly (1) 145:23 strike (2) 73:8 147:4 String (3) 169:12,16,20 student (4) 15:22 33:5,13 75:22 students (3) 35:1 36:22 40:4 studied (2) 62:3,12 study (6) 54:2 55:1 66:11,12 92:9,23 studying (5) 53:22 54:18,23 64:24 65:9 stuff (8) 16:22 20:18 34:19 35:15 47:15 54:13 88:2 131:4 Subject (3) 169:12,16,20 subscribe (3) 86:22 87:12 93:12 subscribed (5) 84:2 85:8 86:10 87:15 93:17 substance (2) 9:15 13:13 substantial (1) 119:16 substantive (2) 14:12 15:6 successful (1) 143:3 suggest (1) 91:23 suit (2) 9:4 92:18 suits (1) 93:24 summarize (1) 61:15 summarizes (1) 48:1 Summerhill (1) 3:14 Sunnyvale (1)
---	---	---	---	---

87:7 supervisor (1) 65:14 support (5) 26:1,8,9 28:22 29:1 supported (12) 100:20,22 101:4,10 101:21 104:3,9,13 105:2,6 110:12,17 suppose (1) 95:14 sure (72) 13:20 15:8 21:7 22:7 26:5 28:7,12,24 31:18 32:9 42:17 45:17 46:6 48:8 50:10 51:22 57:17 58:11,22 62:9 65:22 66:21 67:24 68:4 71:22 76:13,22 79:19 80:11 81:12 81:19 83:7,13 93:15 94:14 95:16,23 97:6 98:16 102:15 104:7 105:8,17 106:16 108:22 120:20 123:22 125:3 129:1 129:6 133:20 134:21 140:17 141:11 143:13,15 143:16 145:13 146:5,9 147:9 148:9 148:20,23 149:6 150:6 151:21 153:19 156:12,19 156:22 158:17 surprise (1) 62:20 surprised (3) 9:4,12 108:12 surrounding (1) 88:3 swear (1) 5:7 sworn (2) 5:10 168:6 system (29) 16:19,21 18:16 23:10 24:9,14 27:1 29:10 29:13 31:4 32:5,15 32:20 53:23 64:17 64:21 81:6,9,11 107:23 108:14 109:20,24 114:21	115:1 135:4 142:4,5 142:9 systems (4) 1:8 4:11 47:4 142:1 <hr/> T <hr/> T (4) 167:1 169:9 170:1,1 take (16) 50:18 51:2,8 61:16,16 67:9 79:23 80:24 90:12 100:24 119:15,16 127:16 131:11 133:1 155:23 taken (14) 2:6 6:22 26:20 51:1 67:15 127:12,14,15 131:20 156:4 167:6 168:9 170:4,5 takes (1) 111:14 talk (12) 25:9 55:24 56:2,4 113:19 124:17,20 128:14 154:22 157:3 158:12 164:24 talked (31) 11:11,13,15,16 14:17 14:24 15:13,21,24 16:14,20 23:19 29:5 29:16 30:5,9,14,17 30:23 53:25 56:24 109:3 116:22 117:3 117:13,21 139:22 161:11 162:22 163:13 164:13 talking (10) 8:21 15:9 16:12 28:17 111:21 126:19 130:14 134:8 138:24 153:14 tasked (1) 137:22 team (2) 134:10 137:25 teams (1) 137:22 technological (1) 45:22 technologies (27) 1:5 4:10 45:24 111:14 113:8,21,23 115:18	115:24 116:9,25 117:2,21 118:2 122:1,10,14 123:6 123:15,17,18 124:1 125:1 127:1 128:7 129:9,22 technology (13) 9:11 45:19 46:18 47:5 47:10,13,22 111:21 122:11 134:3,7,11 166:1 technology/product... 46:10 telephone (1) 56:7 tell (10) 10:1 15:19 45:14 46:4 46:23 71:18,20 113:25 137:18 168:6 telling (2) 9:9 90:24 temporary (2) 31:3,10 ten (8) 7:12 96:9 104:12,17 104:17 105:1,4 135:16 tend (2) 90:11 91:25 tends (1) 105:16 Terabytes (1) 131:9 term (9) 80:4 83:5,7 128:13 129:15 148:6 150:23 151:1 161:8 terms (30) 18:7 20:18,25 30:24 31:1 37:15 47:12,20 47:22 49:15,18 65:22 71:21 72:12 84:9 102:5 103:7 104:6,12 124:17,21 131:8 143:5 156:17 156:21,24 157:3 158:12 161:12 164:23 test (21) 141:12,15,15,17,17 141:19,24,24 142:1 142:5,8,25 143:2,5 143:10 147:9,25	148:2,15,25,25 tested (4) 141:2 143:1,24 148:7 testified (12) 5:12 7:13 48:14,16,18 49:11 50:21 52:1 61:20 63:11,15 161:12 testify (6) 49:6 51:10 58:1 62:17 66:8,22 testifying (3) 48:3,10 50:2 testimony (6) 6:5 7:20 58:6,20 59:11 167:9 testing (5) 142:6,7,9 144:4,6 tests (26) 140:12,16,18,23,25 141:1,9,10,23,25 142:18,21,22,24 143:11,16,21,22 144:1 147:3,5,7,12 147:17 150:10,11 Texarkana (1) 3:15 Texas (4) 1:2 3:7,15 4:13 Thank (2) 77:3 166:19 they'd (1) 9:13 thing (14) 9:12 20:6 22:21,25 23:4 27:18 28:22 51:4 80:16 88:11,24 149:7 158:18 163:13 things (76) 7:25 8:5,25 13:18 14:10 15:14 16:16 17:8 20:17 25:22 28:17,18 32:22,23 32:24 35:13 38:10 45:25 46:11,20 47:23 56:23 57:2,7 57:11 58:10,11 64:14 65:5,16 66:13 66:18 90:10 94:7,12 94:21 95:2,4 96:18 96:21,25 97:7,8,11 98:25 99:6,23,24 100:7,22 101:15,16	102:21 111:2 113:1 117:24 119:12,16 120:2 121:14,21 122:8 124:14 129:17 136:3,12,25 137:6,9 149:9,13,18 150:15,17 151:21 159:6 think (144) 7:1,7 9:2 10:7,21 13:10,19 15:17,21 16:3,5,13,23 18:13 18:17 19:2 21:8,12 21:15 23:1,11,22,23 24:5 25:19,22 26:21 29:19,22,23 30:11 32:6 41:4 42:21 43:16,22,23 44:13 44:16 58:16 60:25 61:6 62:21 67:22,25 68:23 69:16 70:16 71:19 74:17 75:16 75:18 80:7,15,18,18 80:22,22,23 81:1,14 81:17,21 82:9,11 87:20 88:2,22,25 89:24,24 90:7 91:24 93:14 94:3,5,15,18 96:22,24,25 97:4,14 97:16 99:8,9,12,21 102:2,5,7,13 104:11 104:20 105:6 106:1 106:5,10,11 115:9 115:10 119:8,21 120:9 121:7,21 122:4,5 123:10 124:3,3,4,18,25 125:3 127:20,21,22 128:3 129:15 130:9 130:22 132:6,8 133:3 134:22 142:3 142:3 143:13 145:18,21 148:4,19 148:19 151:21 153:6 154:13,21 155:19 158:6,18 159:1 161:19 166:11 thinking (2) 36:7 54:12 third (5) 27:22 109:7,9,10 120:21 thoughts (2)
--	---	--	--	---

81:5,8 three (9) 10:13 53:9 55:16 56:10 104:5 116:15 120:24,25 121:8 tied (2) 88:23 146:25 tiers (1) 112:11 Tim (2) 60:15,16 time (160) 4:19 8:17 9:2 15:1,22 16:13,15 17:1,3,6 17:23,25 18:2,13,14 18:22,25 19:4,9,14 19:19,24 20:1,9,10 20:21 21:2,4,20 22:2,6,12 24:6 25:19 27:21 29:7,15 30:16 32:15 33:7,14 33:20,23 35:2,5,17 35:23 36:12,21,23 37:11,19 38:4,17 40:8,17,21 42:6 43:9,23 44:5,5,18 44:19,22,24 45:21 46:1,2 47:6,10,20 47:24 48:21 49:9,11 49:12,18,24 50:1,13 51:5,24,25 52:1,24 53:22 54:12,20,21 55:15 57:9,14 58:5 58:8,13,14,18,22,24 59:24 60:5,23 62:24 64:16,23 65:13,16 66:7,10 67:13,18 68:3,21 69:23 70:7 70:19 71:16,21,25 87:20,24 88:4,7 89:4 96:4 108:12 111:8 112:18 119:4 131:23 133:22 134:2,14,18 135:12 135:17,20,22 136:7 138:15,24 139:2,12 139:19 146:4,16,20 154:13,17 156:3,6 161:4,15 164:14,17 164:24 165:4 166:18,23 times (13) 6:25 7:16 8:3 9:22 10:5 12:20 102:14	103:1,3 104:15 150:7 163:14,19 timing (1) 77:25 title (6) 44:14,21,25 45:5,10 45:12 titles (3) 44:11,13 45:2 today (58) 4:18 6:3,10,14 8:11 9:19 15:5 19:18 32:14 38:5,11,14 52:23 53:10 54:6 58:4,14,18,24 59:16 63:21 69:18,20 70:23 72:23 73:13 78:3 79:3,6 82:25 83:22 85:5 86:5 94:3 97:20,24 98:3 102:15,25 103:2,6 103:19 104:6,14,19 108:6,7,8,12 116:22 123:17 127:13 137:19 146:14 147:23 148:20 154:15 166:21 today's (1) 66:6 told (1) 78:8 tool (1) 75:13 tools (2) 35:18,22 top (5) 104:12,17,17 105:1,4 topics (1) 58:12 track (8) 34:1,3,18 35:19 149:12,16,22 150:3 tracked (1) 150:7 tracking (3) 150:12,17,18 tracks (1) 150:1 traded (1) 97:19 trademarks (2) 94:7,21 Trader (1) 146:14	traditionally (1) 146:12 Traffic (1) 106:4 transcribed (2) 7:21 168:11 transcript (2) 167:6 168:12 transition (1) 43:14 transitioned (2) 118:25 139:14 transitioning (2) 29:8,18 treat (1) 96:23 trial (19) 49:6,11,25 50:3,22 57:14,21,23 58:1,4 58:14,19,25 61:20 61:23 63:11 66:3,23 166:18 trivial (2) 24:21 31:6 true (11) 62:17 66:25 67:4 85:7 132:9 149:10 152:20 155:19 158:25 167:10 168:13 trust (2) 72:17,18 truth (3) 168:6,6,7 truthfully (1) 6:17 try (9) 96:18 102:3 119:22 120:2,4,7,8 131:16 143:10 trying (21) 10:21 17:8 32:2,2,3,4 32:5,20,23 34:18 90:3 96:7 119:24 120:25 122:6,7,8,12 137:16 143:17 146:1 TSG (3) 4:20,22 166:22 TUESDAY (2) 1:16 4:2 Tulane (2) 41:12 42:20 turned (1)	124:11 twice (2) 7:1 10:5 two (11) 13:3 28:16 31:8,22 48:2,15 61:12 74:1 101:22 103:18 109:5 Tyler (2) 1:3 4:13 type (8) 82:22 95:18 109:14 109:15 123:25 146:11 159:4 165:7 types (6) 20:16 94:20 98:25 117:23 153:7 163:22 typewriting (1) 168:12 typically (9) 38:6 130:7 155:2,3,5 155:7,9 158:6,23 <hr/> U <hr/> U (1) 167:1 UC (1) 5:1 UD (1) 143:6 Uh-huh (1) 149:1 uh-huhs (1) 7:25 ultimately (7) 33:3,9 35:25 40:16 42:14 43:7 159:4 un (1) 108:10 unclear (2) 110:21 156:24 underlie (1) 113:21 underlies (2) 134:4 137:1 underline (1) 34:5 underlined (1) 121:2 underlying (1) 122:10 understand (13) 6:2 7:20 8:7 21:19	42:18 51:22 55:8 64:21 66:3 67:19 68:4 89:16 95:2 understanding (26) 8:10 19:13 24:3,20 25:4,7,21,25 26:6 26:16 27:17 39:24 57:20 78:15 88:23 90:15 91:3 132:20 132:21,23,25 133:3 143:19 151:1,11,17 understood (6) 24:1 25:1 30:18 88:17 91:10,14 undertake (1) 119:6 undertaken (1) 119:2 undertakes (2) 120:11 166:7 underway (1) 118:25 unfold (1) 35:11 United (5) 1:1 4:12 81:15 82:6 131:8 university (6) 8:11 15:23 37:4,8 40:4 41:6 unsuccessful (1) 143:3 update (1) 24:13 updated (1) 24:12 upgrade (1) 26:23 URL (1) 129:3 usage (3) 21:16,17 99:13 use (76) 18:18 19:23 21:3 27:9 27:9 31:14 33:20 34:3 37:6 74:10 75:1,13 107:11,11 107:12,17,20,21 108:15,16,17,20 109:19,23 110:2,3,4 110:5 111:20 113:5 113:6,7,11,15 114:3 114:5,7,18,24 115:1 115:18,23 116:8,15
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116:24 117:2 118:1 122:8,9 123:5,17,18 123:25 124:2,3 125:1,5,7,8,21,24 126:3,15 127:1,2,18 128:7,22,25 129:9 130:12 142:3 147:1 151:20 165:25 166:4 user (65) 100:14 130:2 136:11 136:16,16,24 137:13 149:7,8,11 149:14,17,17,18,18 150:1,8,8 151:4 152:10,10 153:2,4 156:25 157:15,16 157:22,22 159:17 159:20 160:1,3,6,10 160:13,20 161:3,4 161:11,13,14,14,15 161:20,23 162:6,10 162:22,24 163:2,6 163:10,14,15,19 164:4,14,14,17 165:1,4,15,22 166:2 166:9 users (29) 88:14 90:22 98:14 99:2,4,16 101:8,24 102:23 103:8,9,14 103:22 104:6,13 105:5 110:8 118:6 120:3,5,9,16,19,23 122:7 123:7,19 140:19 166:12 user's (1) 122:13 user-facing (7) 135:10,13,13,18,23 136:9,10 uses (12) 24:11 106:19,21,22 106:25 107:18 110:7,9 111:15 123:14 128:8 149:3 utility (1) 135:5 U.S (4) 81:6,9 130:16,17	vague (6) 107:10,22 125:14 130:21 132:20 133:3 vaguely (3) 60:25 88:8 95:11 validity (7) 51:16 52:2 59:12 61:24 62:11 92:10 92:16 value (21) 81:1 96:4,11,22 97:1 97:12,15 98:13 156:8,14,16,17,21 158:3,5,6,12,15 159:7,21 160:17 values (6) 96:2,10,13 97:3,5,9 variations (3) 141:2,13 143:10 various (22) 23:13 46:15 47:14,15 56:4 96:4 98:6 102:23 107:11 116:21,24 117:20 120:10 126:25 142:2 143:22 144:4 144:4 146:2 149:9 149:11 156:13 vast (1) 75:6 VC (2) 76:6,14 venture (6) 76:1,3,6 77:6,9,14 Ventures (6) 132:10,14,17,19,22 133:7 Ventures's (1) 133:1 verbal (1) 7:23 versa (1) 139:15 Versatile (1) 169:13 version (30) 23:12,15 24:4,5,7 26:19,24 29:6,9,12 29:17 68:14,19,20 69:4 76:15 89:2 99:7,8,10,19 101:2 107:18 124:9,11 129:20 133:20,21	137:20 138:22 versions (15) 23:18 26:7,11,17,18 77:5 99:6,19,22 100:5 101:18 104:23 123:16,24 124:2 versus (7) 4:10 47:25 116:18 122:11 141:19 155:13 165:1 vice (1) 139:15 video (6) 144:24 145:3,5 146:21 149:25 150:2 Videographer (10) 3:18 4:7 5:6 67:11,16 131:17,21 156:2,5 166:20 videos (1) 146:22 videotaped (3) 1:14 2:6 4:9 view (10) 56:18,25 58:10 64:20 65:8 66:12 136:25 137:13 155:21 164:8 views (9) 144:16 145:1,11,16 145:24 146:3 151:16,19 164:4 Viola (64) 16:19,20,21,22 17:11 17:14,18,21 18:10 18:22 19:1,7,14,18 19:23 23:10,10,18 24:7,8,9,24 26:1,7 26:17,20,25 27:5,19 28:2,17 29:17,21 30:1,6,9,22 31:9,21 32:3,14,21 53:23,23 53:24 54:2 55:24 56:2,5,12,13,25 58:10 64:9,17 65:7 66:12 67:22 68:6,11 68:14,22 69:5,8 violators (1) 94:12 Viola's (1) 28:22 visibility (1)	72:17 vision (2) 47:9,13 visited (2) 17:4 151:4 visitors (4) 149:4 151:13,14,15 visits (8) 151:4,5 160:13 161:13 162:23 163:1,6 164:4 voiced (1) 60:7 Volume (2) 67:17 131:22 vs (2) 1:7 170:4	37:17 38:6,10 40:11 88:16 90:9,24 98:6 98:8 106:20,21,22 106:23,25 107:7,9 108:24 109:14,15 109:19,23,25 110:3 110:4,4,7,9,11,13 110:16,18,22 111:16,23 112:3,4,6 112:8 113:2,6,6,15 113:16 117:8,23 120:18,22 123:6 151:4,5 166:8 169:14 Webrouser (1) 169:21 website (12) 38:12,16 39:25 40:9 45:24 68:19,21 91:17 98:10,12 120:15 149:4 websites (15) 35:19,23 36:1 37:15 37:16,18 38:3,4,7,9 40:10,10,13 98:19 128:8 Wei (42) 11:7,24 12:6,20 13:4 13:14,17 14:2,4,11 14:13,20 15:3,7,16 15:20 16:2,7,9,18 16:25 17:5,6,11 22:14 23:2,9 25:13 27:4,25 28:13,16 30:4,7 53:12 54:1 55:23 56:1 64:9 65:7 68:6,11 Weil (2) 2:7 4:16 weird (1) 158:5 Wei's (1) 20:17 Wendell (1) 84:12 went (4) 38:23 41:19 121:6 143:5 weren't (4) 36:7 124:14 126:3 140:18 West (1) 3:6 we'll (4)
<hr/>				
W				
<hr/>				
want (15) 9:15 15:1 22:13 46:11 82:2 96:23 123:9 131:15 139:7 148:6 152:15 154:22 159:2 166:15,17 wanted (2) 67:20 76:20 wanting (1) 111:2 wants (1) 98:9 wasn't (9) 7:10 15:10 29:11 34:15 40:12 140:4 144:3,21 145:7 way (29) 25:1 29:2 34:15 38:16 39:25 40:16 49:20 52:6 55:5 57:16 61:8 82:7 88:13 89:17,21 90:3,21 91:3,6 96:12 100:1 105:5 117:16 145:10,15 152:25 153:3 154:12 160:6 ways (10) 35:12 81:11,12 82:11 97:25 107:11 117:14,15 152:14 152:14 web (67) 9:13,14 16:22 20:7,18 33:23,24 35:4,8,10 35:11,13 37:3,6,14				

67:13 131:19 155:24 156:2 we're (12) 24:6 67:18 116:19 117:7 119:14 126:15 131:23 150:21 156:5 160:16 162:6 166:23 we've (19) 10:4 53:25 80:24 94:1 94:14 95:23 96:4 106:9 112:22 116:13,14,22 117:3 117:13,21 119:9 121:16 128:3 161:11 WHEREOF (1) 168:19 willingness (6) 145:9,14,17 151:24 152:5 153:10 wiring (1) 46:14 wise (1) 46:13 within-entitled (1) 168:7 witness (117) 5:7,10 12:3,11,17 20:1,25 21:12,24 22:5,10,25 26:4 27:8 28:6 29:1 31:25 32:10 34:9 35:7 36:4 37:1 40:19 43:16 48:6,14 49:3 50:10 51:22 52:20 53:3,17 54:16 55:12,19,21 56:4 57:6 59:3 60:3,17 62:7,19 63:15 65:21 66:15,21 72:11,25 73:4 78:19 80:18 81:8,19 82:1,9 84:15 88:21 89:15 90:7 91:8 92:13 94:10 103:21,24 105:4 107:14 108:8 109:9,22 110:20 111:5,7,20 112:22 113:5,14 114:13,16 115:9 117:7,12 118:8 121:5 123:9 123:21 125:15	126:6,14 127:20 128:3,20,25 129:5 129:14,19 130:21 131:3 134:7 135:25 136:5 137:16 138:5 138:8 148:4,10 149:22 153:13 161:23 163:6,12 164:22 165:21 166:4,14 168:5,19 witnesses (2) 10:22 11:12 word (9) 29:2,4,4 96:15,15 123:21,22,22 136:6 words (2) 27:9 96:9 work (17) 15:7,23,25 16:19 29:11,14 32:5,23,24 32:25 45:23 51:19 62:24 87:10 89:18 95:17 96:21 worked (4) 9:1 14:14 18:16 134:9 working (16) 33:2,8 43:7,19 44:2 49:12,22 50:1,6,14 52:24 58:19 59:24 60:5,23 139:19 workplace (1) 96:19 works (5) 87:7,9,10 130:24 153:1 workstations (1) 37:8 worth (9) 70:23 71:4,5 72:22 73:4,13 75:7 79:2,5 wouldn't (19) 21:25 25:16 27:8,9,9 28:10 29:2 30:19,25 47:19 55:1 62:20 79:6 91:23 97:7 107:15 109:2 116:15 123:11 writing (1) 123:1 written (13) 27:19 59:5,9,13 67:1 67:5 69:7 76:7,11 134:18,23 136:15 137:12	wrote (2) 134:14 136:8 WWW (3) 24:9 27:1,19 <hr/> X <hr/> X (2) 169:1,9 XEF (2) 15:23 23:6 <hr/> Y <hr/> Y (1) 102:9 Yahoo (432) 3:11 5:4,5,24 7:7 8:13 8:21 9:5,17 10:18 10:24 11:3,3 12:1,8 17:15,19 18:3,4 33:3,9,16 34:21 37:11 40:4,6,12,13 40:14,17,23,25 41:1 43:7,9,12,14,19 44:2,12,15,16,20,25 45:3,7,8,11,16,19 46:5,7,16,24 47:3,7 47:13,23 48:3,3,10 48:11,17,20 50:4,6 50:8,16 51:19,24 52:3,7,13,25 55:5 56:15 57:1,3,8 58:9 59:1,16 60:10,20 62:25 64:1,24 65:10 65:11,12,15 67:23 68:14,19,21 69:1,4 69:13,21,24 70:1,6 70:18,23 71:8,11,24 73:7,10,12,13,15 75:6,10,11,12,19,20 76:15 77:6,10 78:1 78:16,22 79:10 80:24 82:14,17 83:6 86:19 87:5 88:6 89:21,24 90:2,21 91:5,18 92:5,8,15 92:18,22,25 93:5,12 93:18,20,24,25 94:5 94:16,24 95:12,14 95:16,16,19 96:11 97:2,14,19,24,25 98:6,9,12,17,18 99:1,18,22,23 100:1 100:5,16,25 101:2,6 101:12,15,18,24	102:3,6 103:6,10,11 103:18 104:5,8,11 104:12 105:1,9,12 105:17,19,21 106:4 106:14,19,21,22,25 107:3,7,12,17,18,20 107:21,22 108:1,3 108:15,16,17,18,20 109:4,11,17,25 110:3,4,4,7,9,11,13 110:14,16,22,25 111:8,14,16,22 112:3,4,14,18 113:9 113:10,17,22 114:3 114:4,5,7,9,9,18,20 114:25 115:2,4,5,15 115:17,24,25 116:4 116:8,21,24 117:3 117:15,16,21 118:2 118:4,11 119:6,10 119:22,24 120:10 120:22 121:11 122:1,15,23 123:3,5 123:14,16,18,19,24 124:2,25 125:5,8,11 125:25 126:3,25 127:7,9,12,17,24 128:7,16,16,20,22 128:25 129:8,24 130:3 131:8,25 132:3,9 133:6,10,16 133:18,23 134:4,15 135:10,11,14,18,23 136:8 137:14,22,23 137:23 138:1,5,11 138:17,21 139:3,6 139:13,18,19 140:12,22 141:16 142:18 143:20 144:13,16,19 145:2 145:3,5,6,10,15,21 146:1,7,8,16,20,21 146:24 147:1,25 148:1,24 149:3,9,12 149:14,16,17,25 151:24 152:6,16,17 152:18 153:3,4,8,23 154:1,2,7,7,18 155:1,4 156:10,15 156:17,21 157:4,7,8 158:3,5,14,16 159:8 159:18,21 161:4,5 161:12,15,21 162:10,11,11,23	163:2,7,15,15,19,20 163:20 164:15,18 165:16,17,25 166:2 166:4,7,9 Yahoo's (49) 12:24 38:12,16 39:25 40:9 77:1 89:21 91:20 95:3,5,7 96:1 96:12 98:2 102:23 109:19,23 110:18 111:23 113:2 114:24 118:20 119:20 121:3 125:13,20 128:6,18 129:10 132:13,17 133:14 139:23 140:2,10 142:12 143:20 144:24 146:17 147:6,18,25 148:12,15 149:4 153:20 160:7,11 164:18 Yahoo-E02290323 (...) 83:19 169:15 YAHOO-E0229033... 84:24 169:19 YAHOO-E0229033... 86:2 169:23 Yahoo-related (1) 49:19 Yang (10) 33:10,13 34:23 35:22 36:17,22 40:3 43:6 75:9,25 yeah (45) 11:11 12:5,19 14:8,15 15:17 16:20 19:20 22:20 24:25 26:4,19 27:8 31:11 34:9 38:22 40:1 43:16 47:25 49:25 54:24 55:19 62:22 67:21 68:7 87:25 88:8 92:21 97:4 98:23 100:21 108:8 111:5 113:24 114:13,16 120:24 130:21 136:22 138:22 139:15 144:2 155:16 159:19 161:6 year (3) 8:17 48:9 134:18 years (31)
---	---	--	---	--

7:6,11,12 14:16 17:24 35:9 37:6 46:3,5,24,25 47:1 47:18 48:2,15 80:25 97:6,18 112:24 116:14 119:10,13 119:15 121:18 124:4,10 133:18 135:16,21 138:2 154:14 yesterday (4) 9:22,23,24 10:8 YQL (3) 102:7,10,21 YUI (1) 106:2 \$ \$100 (1) 71:2 \$2 (1) 73:5 \$500 (1) 71:4 0 0.9 (5) 24:4,8,16 29:8,18 09:00 (2) 4:1,2 09:01 (9) 4:3,4,5,6,7,8,9,10,11 09:02 (16) 4:12,13,14,15,16,17 4:18,19,20,21,22,23 4:24,25 5:1,2 09:03 (22) 5:3,4,5,6,7,15,16,17 5:18,19,20,21,22,23 5:24,25 6:1,2,3,4,5 6:6 09:04 (35) 6:7,8,9,10,11,12,13 6:14,15,16,17,18,19 6:20,21,22,23,24,25 7:1,2,3,4,5,6,7,8,9 7:10,11,12,13,14,15 7:16 09:05 (24) 7:17,18,19,20,21,22 7:23,24,25 8:1,2,3,4 8:5,6,7,8,9,10,11,12 8:13,14,15 09:06 (18)	8:16,17,18,19,20,21 8:22,23,24,25 9:1,2 9:3,4,5,6,7,8 09:07 (19) 9:9,10,11,12,13,14,15 9:16,17,18,19,20,21 9:22,23,24,25 10:1 10:2 09:08 (25) 10:3,4,5,6,7,8,9,10,11 10:12,13,14,15,16 10:17,18,19,20,21 10:22,23,24,25 11:1 11:2 09:09 (23) 11:3,4,5,6,7,8,9,10,11 11:12,13,14,15,16 11:17,18,19,20,21 11:22,23,24,25 09:10 (29) 12:1,2,3,4,5,6,7,8,9 12:10,11,12,13,14 12:15,16,17,18,19 12:20,21,22,23,24 12:25 13:1,2,3,4 09:11 (17) 13:5,6,7,8,9,10,11,12 13:13,14,15,16,17 13:18,19,20,21 09:12 (27) 13:22,23,24,25 14:1,2 14:3,4,5,6,7,8,9,10 14:11,12,13,14,15 14:16,17,18,19,20 14:21,22,23 09:13 (23) 14:24,25 15:1,2,3,4,5 15:6,7,8,9,10,11,12 15:13,14,15,16,17 15:18,19,20,21 09:14 (19) 15:22,23,24,25 16:1,2 16:3,4,5,6,7,8,9,10 16:11,12,13,14,15 09:15 (24) 16:16,17,18,19,20,21 16:22,23,24,25 17:1 17:2,3,4,5,6,7,8,9 17:10,11,12,13,14 09:16 (22) 17:15,16,17,18,19,20 17:21,22,23,24,25 18:1,2,3,4,5,6,7,8,9 18:10,11	09:17 (20) 18:12,13,14,15,16,17 18:18,19,20,21,22 18:23,24,25 19:1,2 19:3,4,5,6 09:18 (26) 19:7,8,9,10,11,12,13 19:14,15,16,17,18 19:19,20,21,22,23 19:24,25 20:1,2,3,4 20:5,6,7 09:19 (19) 20:8,9,10,11,12,13,14 20:15,16,17,18,19 20:20,21,22,23,24 20:25 21:1 09:20 (20) 21:2,3,4,5,6,7,8,9,10 21:11,12,13,14,15 21:16,17,18,19,20 21:21 09:21 (23) 21:22,23,24,25 22:1,2 22:3,4,5,6,7,8,9,10 22:11,12,13,14,15 22:16,17,18,19 09:22 (19) 22:20,21,22,23,24,25 23:1,2,3,4,5,6,7,8,9 23:10,11,12,13 09:23 (19) 23:14,15,16,17,18,19 23:20,21,22,23,24 23:25 24:1,2,3,4,5,6 24:7 09:24 (14) 24:8,9,10,11,12,13,14 24:15,16,17,18,19 24:20,21 09:25 (17) 24:22,23,24,25 25:1,2 25:3,4,5,6,7,8,9,10 25:11,12,13 09:26 (21) 25:14,15,16,17,18,19 25:20,21,22,23,24 25:25 26:1,2,3,4,5,6 26:7,8,9 09:27 (16) 26:10,11,12,13,14,15 26:16,17,18,19,20 26:21,22,23,24,25 09:28 (19) 27:1,2,3,4,5,6,7,8,9	27:10,11,12,13,14 27:15,16,17,18,19 09:29 (23) 27:20,21,22,23,24,25 28:1,2,3,4,5,6,7,8,9 28:10,11,12,13,14 28:15,16,17 09:30 (22) 28:18,19,20,21,22,23 28:24,25 29:1,2,3,4 29:5,6,7,8,9,10,11 29:12,13,14 09:31 (18) 29:15,16,17,18,19,20 29:21,22,23,24,25 30:1,2,3,4,5,6,7 09:32 (17) 30:8,9,10,11,12,13,14 30:15,16,17,18,19 30:20,21,22,23,24 09:33 (13) 30:25 31:1,2,3,4,5,6,7 31:8,9,10,11,12 09:34 (21) 31:13,14,15,16,17,18 31:19,20,21,22,23 31:24,25 32:1,2,3,4 32:5,6,7,8 09:35 (17) 32:9,10,11,12,13,14 32:15,16,17,18,19 32:20,21,22,23,24 32:25 09:36 (17) 33:1,2,3,4,5,6,7,8,9 33:10,11,12,13,14 33:15,16,17 09:37 (18) 33:18,19,20,21,22,23 33:24,25 34:1,2,3,4 34:5,6,7,8,9,10 09:38 (23) 34:11,12,13,14,15,16 34:17,18,19,20,21 34:22,23,24,25 35:1 35:2,3,4,5,6,7,8 09:39 (18) 35:9,10,11,12,13,14 35:15,16,17,18,19 35:20,21,22,23,24 35:25 36:1 09:40 (22) 36:2,3,4,5,6,7,8,9,10 36:11,12,13,14,15	36:16,17,18,19,20 36:21,22,23 09:41 (12) 36:24,25 37:1,2,3,4,5 37:6,7,8,9,10 09:42 (20) 37:11,12,13,14,15,16 37:17,18,19,20,21 37:22,23,24,25 38:1 38:2,3,4,5 09:43 (20) 38:6,7,8,9,10,11,12 38:13,14,15,16,17 38:18,19,20,21,22 38:23,24,25 09:44 (25) 39:1,2,3,4,5,6,7,8,9 39:10,11,12,13,14 39:15,16,17,18,19 39:20,21,22,23,24 39:25 09:45 (19) 40:1,2,3,4,5,6,7,8,9 40:10,11,12,13,14 40:15,16,17,18,19 09:46 (22) 40:20,21,22,23,24,25 41:1,2,3,4,5,6,7,8,9 41:10,11,12,13,14 41:15,16 09:47 (29) 41:17,18,19,20,21,22 41:23,24,25 42:1,2 42:3,4,5,6,7,8,9,10 42:11,12,13,14,15 42:16,17,18,19,20 09:48 (25) 42:21,22,23,24,25 43:1,2,3,4,5,6,7,8,9 43:10,11,12,13,14 43:15,16,17,18,19 43:20 09:49 (21) 43:21,22,23,24,25 44:1,2,3,4,5,6,7,8,9 44:10,11,12,13,14 44:15,16 09:50 (19) 44:17,18,19,20,21,22 44:23,24,25 45:1,2 45:3,4,5,6,7,8,9,10 09:51 (22) 45:11,12,13,14,15,16 45:17,18,19,20,21
---	---	---	--	---

46:2,3,4,5,6,7 09:52 (17) 46:8,9,10,11,12,13,14 46:15,16,17,18,19 46:20,21,22,23,24 09:53 (15) 46:25 47:1,2,3,4,5,6,7 47:8,9,10,11,12,13 47:14 09:54 (21) 47:15,16,17,18,19,20 47:21,22,23,24,25 48:1,2,3,4,5,6,7,8,9 48:10 09:55 (22) 48:11,12,13,14,15,16 48:17,18,19,20,21 48:22,23,24,25 49:1 49:2,3,4,5,6,7 09:56 (18) 49:8,9,10,11,12,13,14 49:15,16,17,18,19 49:20,21,22,23,24 49:25 09:57 (18) 50:1,2,3,4,5,6,7,8,9 50:10,11,12,13,14 50:15,16,17,18 09:58 (22) 50:19,20,21,22,23,24 50:25 51:1,2,3,4,5,6 51:7,8,9,10,11,12 51:13,14,15 09:59 (26) 51:16,17,18,19,20,21 51:22,23,24,25 52:1 52:2,3,4,5,6,7,8,9 52:10,11,12,13,14 52:15,16 1 1 (10) 4:8 39:14,15,18 40:15 67:12 73:5 77:15 169:11,11 1.0 (3) 24:8,13 29:18 1.1 (1) 29:8 1:05 (2) 166:23,25 10 (2) 70:11,18 10x (1)	165:3 10:00 (25) 52:17,18,19,20,21,22 52:23,24,25 53:1,2 53:3,4,5,6,7,8,9,10 53:11,12,13,14,15 53:16 10:01 (23) 53:17,18,19,20,21,22 53:23,24,25 54:1,2 54:3,4,5,6,7,8,9,10 54:11,12,13,14 10:02 (30) 54:15,16,17,18,19,20 54:21,22,23,24,25 55:1,2,3,4,5,6,7,8,9 55:10,11,12,13,14 55:15,16,17,18,19 10:03 (30) 55:20,21,22,23,24,25 56:1,2,3,4,5,6,7,8,9 56:10,11,12,13,14 56:15,16,17,18,19 56:20,21,22,23,24 10:04 (22) 56:25 57:1,2,3,4,5,6,7 57:8,9,10,11,12,13 57:14,15,16,17,18 57:19,20,21 10:05 (21) 57:22,23,24,25 58:1,2 58:3,4,5,6,7,8,9,10 58:11,12,13,14,15 58:16,17 10:06 (14) 58:18,19,20,21,22,23 58:24,25 59:1,2,3,4 59:5,6 10:07 (23) 59:7,8,9,10,11,12,13 59:14,15,16,17,18 59:19,20,21,22,23 59:24,25 60:1,2,3,4 10:08 (22) 60:5,6,7,8,9,10,11,12 60:13,14,15,16,17 60:18,19,20,21,22 60:23,24,25 61:1 10:09 (16) 61:2,3,4,5,6,7,8,9,10 61:11,12,13,14,15 61:16,17 10:10 (24) 61:18,19,20,21,22,23	61:24,25 62:1,2,3,4 62:5,6,7,8,9,10,11 62:12,13,14,15,16 10:11 (23) 62:17,18,19,20,21,22 62:23,24,25 63:1,2 63:3,4,5,6,7,8,9,10 63:11,12,13,14 10:12 (22) 63:15,16,17,18,19,20 63:21,22,23,24,25 64:1,2,3,4,5,6,7,8,9 64:10,11 10:13 (19) 64:12,13,14,15,16,17 64:18,19,20,21,22 64:23,24,25 65:1,2 65:3,4,5 10:14 (24) 65:6,7,8,9,10,11,12 65:13,14,15,16,17 65:18,19,20,21,22 65:23,24,25 66:1,2 66:3,4 10:15 (34) 66:5,6,7,8,9,10,11,12 66:13,14,15,16,17 66:18,19,20,21,22 66:23,24,25 67:1,2 67:3,4,5,6,7,8,9,10 67:11,12,13 10:16 (3) 67:14,14,15 10:32 (6) 67:16,17,18,18,19,20 10:33 (24) 67:21,22,23,24,25 68:1,2,3,4,5,6,7,8,9 68:10,11,12,13,14 68:15,16,17,18,19 10:34 (21) 68:20,21,22,23,24,25 69:1,2,3,4,5,6,7,8,9 69:10,11,12,13,14 69:15 10:35 (32) 69:16,17,18,19,20,21 69:22,23,24,25 70:1 70:2,3,4,5,6,7,8,9 70:10,11,12,13,14 70:15,16,17,18,19 70:20,21,22 10:36 (22) 70:23,24,25 71:1,2,3	71:4,5,6,7,8,9,10,11 71:12,13,14,15,16 71:17,18,19 10:37 (25) 71:20,21,22,23,24,25 72:1,2,3,4,5,6,7,8,9 72:10,11,12,13,14 72:15,16,17,18,19 10:38 (23) 72:20,21,22,23,24,25 73:1,2,3,4,5,6,7,8,9 73:10,11,12,13,14 73:15,16,17 10:39 (24) 73:18,19,20,21,22,23 73:24,25 74:1,2,3,4 74:5,6,7,8,9,10,11 74:12,13,14,15,16 10:40 (15) 74:17,18,19,20,21,22 74:23,24,25 75:1,2 75:3,4,5,6 10:41 (15) 75:7,8,9,10,11,12,13 75:14,15,16,17,18 75:19,20,21 10:42 (22) 75:22,23,24,25 76:1,2 76:3,4,5,6,7,8,9,10 76:11,12,13,14,15 76:16,17,18 10:43 (16) 76:19,20,21,22,23,24 76:25 77:1,2,3,4,5,6 77:7,8,9 10:44 (20) 77:10,11,12,13,14,15 77:16,17,18,19,20 77:21,22,23,24,25 78:1,2,3,4 10:45 (28) 78:5,6,7,8,9,10,11,12 78:13,14,15,16,17 78:18,19,20,21,22 78:23,24,25 79:1,2 79:3,4,5,6,7 10:46 (16) 79:8,9,10,11,12,13,14 79:15,16,17,18,19 79:20,21,22,23 10:47 (22) 79:24,25 80:1,2,3,4,5 80:6,7,8,9,10,11,12 80:13,14,15,16,17	80:18,19,20 10:48 (15) 80:21,22,23,24,25 81:1,2,3,4,5,6,7,8,9 81:10 10:49 (21) 81:11,12,13,14,15,16 81:17,18,19,20,21 81:22,23,24,25 82:1 82:2,3,4,5,6 10:50 (22) 82:7,8,9,10,11,12,13 82:14,15,16,17,18 82:19,20,21,22,23 82:24,25 83:1,2,3 10:51 (14) 83:4,5,6,7,8,9,10,11 83:12,13,14,15,16 83:17 10:52 (19) 83:18,19,20,21,22,23 83:24,25 84:1,2,3,4 84:5,6,7,8,9,10,11 10:53 (18) 84:12,13,14,15,16,17 84:18,19,20,21,22 84:23,24,25 85:1,2 85:3,4 10:54 (22) 85:5,6,7,8,9,10,11,12 85:13,14,15,16,17 85:18,19,20,21,22 85:23,24,25 86:1 10:55 (17) 86:2,3,4,5,6,7,8,9,10 86:11,12,13,14,15 86:16,17,18 10:56 (21) 86:19,20,21,22,23,24 86:25 87:1,2,3,4,5,6 87:7,8,9,10,11,12 87:13,14 10:57 (13) 87:15,16,17,18,19,20 87:21,22,23,24,25 88:1,2 10:58 (21) 88:3,4,5,6,7,8,9,10,11 88:12,13,14,15,16 88:17,18,19,20,21 88:22,23 10:59 (23) 88:24,25 89:1,2,3,4,5 89:6,7,8,9,10,11,12
--	--	--	---	--

89:13,14,15,16,17 89:18,19,20,21 100 (7) 49:22,25 53:4 54:10 62:16,22 91:24 1008 (1) 6:1 11:00 (21) 89:22,23,24,25 90:1,2 90:3,4,5,6,7,8,9,10 90:11,12,13,14,15 90:16,17 11:01 (24) 90:18,19,20,21,22,23 90:24,25 91:1,2,3,4 91:5,6,7,8,9,10,11 91:12,13,14,15,16 11:02 (20) 91:17,18,19,20,21,22 91:23,24,25 92:1,2 92:3,4,5,6,7,8,9,10 92:11 11:03 (21) 92:12,13,14,15,16,17 92:18,19,20,21,22 92:23,24,25 93:1,2 93:3,4,5,6,7 11:04 (11) 93:8,9,10,11,12,13,14 93:15,16,17,18 11:05 (18) 93:19,20,21,22,23,24 93:25 94:1,2,3,4,5,6 94:7,8,9,10,11 11:06 (21) 94:12,13,14,15,16,17 94:18,19,20,21,22 94:23,24,25 95:1,2 95:3,4,5,6,7 11:07 (17) 95:8,9,10,11,12,13,14 95:15,16,17,18,19 95:20,21,22,23,24 11:08 (19) 95:25 96:1,2,3,4,5,6,7 96:8,9,10,11,12,13 96:14,15,16,17,18 11:09 (20) 96:19,20,21,22,23,24 96:25 97:1,2,3,4,5,6 97:7,8,9,10,11,12 97:13 11:10 (20) 97:14,15,16,17,18,19	97:20,21,22,23,24 97:25 98:1,2,3,4,5,6 98:7,8 11:11 (17) 98:9,10,11,12,13,14 98:15,16,17,18,19 98:20,21,22,23,24 98:25 11:12 (15) 99:1,2,3,4,5,6,7,8,9 99:10,11,12,13,14 99:15 11:13 (23) 99:16,17,18,19,20,21 99:22,23,24,25 100:1,2,3,4,5,6,7,8 100:9,10,11,12,13 11:14 (27) 100:14,15,16,17,18 100:19,20,21,22,23 100:24,25 101:1,2,3 101:4,5,6,7,8,9,10 101:11,12,13,14,15 11:15 (16) 101:16,17,18,19,20 101:21,22,23,24,25 102:1,2,3,4,5,6 11:16 (19) 102:7,8,9,10,11,12,13 102:14,15,16,17,18 102:19,20,21,22,23 102:24,25 11:17 (25) 103:1,2,3,4,5,6,7,8,9 103:10,11,12,13,14 103:15,16,17,18,19 103:20,21,22,23,24 103:25 11:18 (26) 104:1,2,3,4,5,6,7,8,9 104:10,11,12,13,14 104:15,16,17,18,19 104:20,21,22,23,24 104:25 105:1 11:19 (16) 105:2,3,4,5,6,7,8,9,10 105:11,12,13,14,15 105:16,17 11:20 (19) 105:18,19,20,21,22 105:23,24,25 106:1 106:2,3,4,5,6,7,8,9 106:10,11 11:21 (20)	106:12,13,14,15,16 106:17,18,19,20,21 106:22,23,24,25 107:1,2,3,4,5,6 11:22 (22) 107:7,8,9,10,11,12,13 107:14,15,16,17,18 107:19,20,21,22,23 107:24,25 108:1,2,3 11:23 (23) 108:4,5,6,7,8,9,10,11 108:12,13,14,15,16 108:17,18,19,20,21 108:22,23,24,25 109:1 11:24 (27) 109:2,3,4,5,6,7,8,9,10 109:11,12,13,14,15 109:16,17,18,19,20 109:21,22,23,24,25 110:1,2,3 11:25 (16) 110:4,5,6,7,8,9,10,11 110:12,13,14,15,16 110:17,18,19 11:26 (30) 110:20,21,22,23,24 110:25 111:1,2,3,4 111:5,6,7,8,9,10,11 111:12,13,14,15,16 111:17,18,19,20,21 111:22,23,24 11:27 (32) 111:25 112:1,2,3,4,5 112:6,7,8,9,10,11 112:12,13,14,15,16 112:17,18,19,20,21 112:22,23,24,25 113:1,2,3,4,5,6 11:28 (26) 113:7,8,9,10,11,12,13 113:14,15,16,17,18 113:19,20,21,22,23 113:24,25 114:1,2,3 114:4,5,6,7 11:29 (27) 114:8,9,10,11,12,13 114:14,15,16,17,18 114:19,20,21,22,23 114:24,25 115:1,2,3 115:4,5,6,7,8,9 11:30 (24) 115:10,11,12,13,14 115:15,16,17,18,19	115:20,21,22,23,24 115:25 116:1,2,3,4 116:5,6,7,8 11:31 (25) 116:9,10,11,12,13,14 116:15,16,17,18,19 116:20,21,22,23,24 116:25 117:1,2,3,4 117:5,6,7,8 11:32 (22) 117:9,10,11,12,13,14 117:15,16,17,18,19 117:20,21,22,23,24 117:25 118:1,2,3,4 118:5 11:33 (17) 118:6,7,8,9,10,11,12 118:13,14,15,16,17 118:18,19,20,21,22 11:34 (18) 118:23,24,25 119:1,2 119:3,4,5,6,7,8,9,10 119:11,12,13,14,15 11:35 (17) 119:16,17,18,19,20 119:21,22,23,24,25 120:1,2,3,4,5,6,7 11:36 (23) 120:8,9,10,11,12,13 120:14,15,16,17,18 120:19,20,21,22,23 120:24,25 121:1,2,3 121:4,5 11:37 (20) 121:6,7,8,9,10,11,12 121:13,14,15,16,17 121:18,19,20,21,22 121:23,24,25 11:38 (20) 122:1,2,3,4,5,6,7,8,9 122:10,11,12,13,14 122:15,16,17,18,19 122:20 11:39 (19) 122:21,22,23,24,25 123:1,2,3,4,5,6,7,8 123:9,10,11,12,13 123:14 11:40 (15) 123:15,16,17,18,19 123:20,21,22,23,24 123:25 124:1,2,3,4 11:41 (19) 124:5,6,7,8,9,10,11	124:12,13,14,15,16 124:17,18,19,20,21 124:22,23 11:42 (24) 124:24,25 125:1,2,3,4 125:5,6,7,8,9,10,11 125:12,13,14,15,16 125:17,18,19,20,21 125:22 11:43 (29) 125:23,24,25 126:1,2 126:3,4,5,6,7,8,9,10 126:11,12,13,14,15 126:16,17,18,19,20 126:21,22,23,24,25 127:1 11:44 (24) 127:2,3,4,5,6,7,8,9,10 127:11,12,13,14,15 127:16,17,18,19,20 127:21,22,23,24,25 11:45 (25) 128:1,2,3,4,5,6,7,8,9 128:10,11,12,13,14 128:15,16,17,18,19 128:20,21,22,23,24 128:25 11:46 (21) 129:1,2,3,4,5,6,7,8,9 129:10,11,12,13,14 129:15,16,17,18,19 129:20,21 11:47 (21) 129:22,23,24,25 130:1,2,3,4,5,6,7,8 130:9,10,11,12,13 130:14,15,16,17 11:48 (29) 130:18,19,20,21,22 130:23,24,25 131:1 131:2,3,4,5,6,7,8,9 131:10,11,12,13,14 131:15,16,17,18,19 131:19,20 12:06 (10) 131:21,22,23,23,24 131:25 132:1,2,3,4 12:07 (22) 132:5,6,7,8,9,10,11 132:12,13,14,15,16 132:17,18,19,20,21 132:22,23,24,25 133:1 12:08 (15)
---	---	--	--	--

133:2,3,4,5,6,7,8,9 133:10,11,12,13,14 133:15,16 12:09 (18) 133:17,18,19,20,21 133:22,23,24,25 134:1,2,3,4,5,6,7,8 134:9 12:10 (16) 134:10,11,12,13,14 134:15,16,17,18,19 134:20,21,22,23,24 134:25 12:11 (20) 135:1,2,3,4,5,6,7,8,9 135:10,11,12,13,14 135:15,16,17,18,19 135:20 12:12 (18) 135:21,22,23,24,25 136:1,2,3,4,5,6,7,8 136:9,10,11,12,13 12:13 (28) 136:14,15,16,17,18 136:19,20,21,22,23 136:24,25 137:1,2,3 137:4,5,6,7,8,9,10 137:11,12,13,14,15 137:16 12:14 (12) 137:17,18,19,20,21 137:22,23,24,25 138:1,2,3 12:15 (21) 138:4,5,6,7,8,9,10,11 138:12,13,14,15,16 138:17,18,19,20,21 138:22,23,24 12:16 (23) 138:25 139:1,2,3,4,5 139:6,7,8,9,10,11 139:12,13,14,15,16 139:17,18,19,20,21 139:22 12:17 (20) 139:23,24,25 140:1,2 140:3,4,5,6,7,8,9,10 140:11,12,13,14,15 140:16,17 12:18 (23) 140:18,19,20,21,22 140:23,24,25 141:1 141:2,3,4,5,6,7,8,9 141:10,11,12,13,14	141:15 12:19 (22) 141:16,17,18,19,20 141:21,22,23,24,25 142:1,2,3,4,5,6,7,8 142:9,10,11,12 12:20 (21) 142:13,14,15,16,17 142:18,19,20,21,22 142:23,24,25 143:1 143:2,3,4,5,6,7,8 12:21 (21) 143:9,10,11,12,13,14 143:15,16,17,18,19 143:20,21,22,23,24 143:25 144:1,2,3,4 12:22 (20) 144:5,6,7,8,9,10,11 144:12,13,14,15,16 144:17,18,19,20,21 144:22,23,24 12:23 (23) 144:25 145:1,2,3,4,5 145:6,7,8,9,10,11 145:12,13,14,15,16 145:17,18,19,20,21 145:22 12:24 (16) 145:23,24,25 146:1,2 146:3,4,5,6,7,8,9,10 146:11,12,13 12:25 (21) 146:14,15,16,17,18 146:19,20,21,22,23 146:24,25 147:1,2,3 147:4,5,6,7,8,9 12:26 (21) 147:10,11,12,13,14 147:15,16,17,18,19 147:20,21,22,23,24 147:25 148:1,2,3,4 148:5 12:27 (23) 148:6,7,8,9,10,11,12 148:13,14,15,16,17 148:18,19,20,21,22 148:23,24,25 149:1 149:2,3 12:28 (23) 149:4,5,6,7,8,9,10,11 149:12,13,14,15,16 149:17,18,19,20,21 149:22,23,24,25 150:1	12:29 (20) 150:2,3,4,5,6,7,8,9,10 150:11,12,13,14,15 150:16,17,18,19,20 150:21 12:30 (17) 150:22,23,24,25 151:1,2,3,4,5,6,7,8 151:9,10,11,12,13 12:31 (21) 151:14,15,16,17,18 151:19,20,21,22,23 151:24,25 152:1,2,3 152:4,5,6,7,8,9 12:32 (17) 152:10,11,12,13,14 152:15,16,17,18,19 152:20,21,22,23,24 152:25 153:1 12:33 (22) 153:2,3,4,5,6,7,8,9,10 153:11,12,13,14,15 153:16,17,18,19,20 153:21,22,23 12:34 (22) 153:24,25 154:1,2,3,4 154:5,6,7,8,9,10,11 154:12,13,14,15,16 154:17,18,19,20 12:35 (20) 154:21,22,23,24,25 155:1,2,3,4,5,6,7,8 155:9,10,11,12,13 155:14,15 12:36 (15) 155:16,17,18,19,20 155:21,22,23,24,25 156:1,2,3,3,4 12:52 (15) 156:5,6,6,7,8,9,10,11 156:12,13,14,15,16 156:17,18 12:53 (19) 156:19,20,21,22,23 156:24,25 157:1,2,3 157:4,5,6,7,8,9,10 157:11,12 12:54 (16) 157:13,14,15,16,17 157:18,19,20,21,22 157:23,24,25 158:1 158:2,3 12:55 (21) 158:4,5,6,7,8,9,10,11	158:12,13,14,15,16 158:17,18,19,20,21 158:22,23,24 12:56 (22) 158:25 159:1,2,3,4,5 159:6,7,8,9,10,11 159:12,13,14,15,16 159:17,18,19,20,21 12:57 (19) 159:22,23,24,25 160:1,2,3,4,5,6,7,8 160:9,10,11,12,13 160:14,15 12:58 (18) 160:16,17,18,19,20 160:21,22,23,24,25 161:1,2,3,4,5,6,7,8 12:59 (22) 161:9,10,11,12,13,14 161:15,16,17,18,19 161:20,21,22,23,24 161:25 162:1,2,3,4 162:5 13:00 (22) 162:6,7,8,9,10,11,12 162:13,14,15,16,17 162:18,19,20,21,22 162:23,24,25 163:1 163:2 13:01 (23) 163:3,4,5,6,7,8,9,10 163:11,12,13,14,15 163:16,17,18,19,20 163:21,22,23,24,25 13:02 (22) 164:1,2,3,4,5,6,7,8,9 164:10,11,12,13,14 164:15,16,17,18,19 164:20,21,22 13:03 (19) 164:23,24,25 165:1,2 165:3,4,5,6,7,8,9,10 165:11,12,13,14,15 165:16 13:04 (21) 165:17,18,19,20,21 165:22,23,24,25 166:1,2,3,4,5,6,7,8 166:9,10,11,12 13:05 (9) 166:13,14,15,16,17 166:18,19,20,21 15 (3) 97:6,18 116:14	18 (2) 48:9 86:3 18th (1) 86:15 19 (2) 41:23 49:4 1988 (6) 41:14,23,24 42:4,20 42:23 1990 (1) 16:23 1993 (6) 19:18,24 20:1,8,21 21:19 1994 (25) 17:17,19 18:22 19:14 19:18 20:8 21:6 2
---	---	--	--	--

2009 (4) 92:19,22 93:2,5	131:12	18:12 20:1 21:4,8,9 21:15 22:5 35:16,17 36:12,23 37:20 38:1 40:21,22 68:24		
201 (2) 2:7 4:16	5	95 (9) 18:12 20:5 21:9 22:12 22:12 43:23 76:17 78:11,19		
2010 (6) 49:4,10,23 50:15 61:18,19	5 (6) 69:17,20 70:9,22 169:7,15	95-something (1) 21:8		
2011 (34) 1:16 2:1 4:2,18 8:18 8:19 15:3 22:15 28:1,14 29:16 30:2 49:8,11,23 50:15 52:21,23 54:3,6 55:10,13 61:21 63:12,16,17,19 64:1 64:7,12 167:7,14 168:20 170:5	50 (3) 54:14 70:3 154:19 56 (1) 141:19 57 (1) 141:19	9830 (3) 1:23 2:10 168:23		
2012 (10) 57:21,24 58:2,5,15,19 58:25 66:4,7,23	6			
21 (1) 84:25	6th (1) 3:6 6:09-CV-00446-LE... 1:8 6:09-CV-446 (1) 4:14 6500 (1) 3:14			
21st (5) 83:20 84:7,13 85:13 85:18	7			
25 (3) 78:7,23 79:1	75503 (1) 3:15 78701 (1) 3:7			
27 (1) 169:15	8			
29 (5) 1:16 2:1 4:2 167:7 170:5	8/21/95 (2) 169:12,16 83 (1) 169:12 84 (1) 169:16 85 (1) 169:20			
29th (1) 4:18	9			
3	9/18/95 (1) 169:20 9:02 (3) 2:2 4:3,19 90 (2) 21:4 35:12 91 (1) 35:12 92 (2) 35:12 68:3 93 (4) 21:24 26:21 35:12 68:2 94 (16)			
3 (9) 84:19,20,23 85:2,13 85:18 131:22 166:21 169:16				
300 (1) 3:6				
37 (1) 169:19				
39 (2) 169:11,23				
4				
4 (6) 85:23,24 86:1,4,15 169:20				
44280 (1) 1:24				
45 (1)				