

EXHIBIT H

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

EOLAS TECHNOLOGIES
INCORPORATED,

Plaintiff,

vs.

Civil Action No.

ADOBE SYSTEMS INC., et al.,

6:09-CV-00446-LED

Defendants.

_____ /

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
VIDEOTAPED DEPOSITION OF DAVID FILO
REDWOOD SHORES, CALIFORNIA
TUESDAY, NOVEMBER 29, 2011

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

Page 2

1 NOVEMBER 29, 2011
 2 9:02 a.m.
 3
 4
 5
 6 VIDEOTAPED DEPOSITION OF DAVID FILOK, taken at
 7 WEIL, GOTSHAL & MANGES, LLP 201 Redwood
 8 Shores Parkway, Redwood Shores, California,
 9 pursuant to Notice, before me, ANDREA M. IGNACIO
 10 HOWARD, CLR, CCRR, RPR, CSR License No. 9830.
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1 REDWOOD SHORES, CALIFORNIA 09:00
 2 TUESDAY, NOVEMBER 29, 2011 09:00
 3 9:02 a.m. 09:01
 4 09:01
 5 09:01
 6 09:01
 7 THE VIDEOGRAPHER: Good morning. 09:01
 8 This marks the beginning of Disc 1 of the 09:01
 9 videotaped deposition of David Filo. In the matter 09:01
 10 Eolas Technologies, Incorporated, versus Adobe 09:01
 11 Systems, Incorporated, et al. 09:01
 12 In the United States District Court, for the 09:02
 13 Eastern District of Texas, Tyler Division. Case 09:02
 14 No. 6:09-CV-446. 09:02
 15 This deposition is being held at the office 09:02
 16 of Weil Gotshal & Manges, at 201 Redwood Shores 09:02
 17 Parkway, in Redwood Shores, California. 09:02
 18 The date today is November 29th, 2011, and 09:02
 19 the time is 9:02. 09:02
 20 My name is Aric Kerhoulas, from TSG 09:02
 21 Reporting, Incorporated. Our court reporter is Andrea 09:02
 22 Ignacio, in association with TSG. 09:02
 23 Will counsel please introduce yourself for 09:02
 24 the record. 09:02
 25 MR. BUDWIN: Josh Budwin of McKool Smith on 09:02

Page 3

1 A P P E A R A N C E S:
 2
 3 FOR THE PLAINTIFF:
 4 MCKOOL SMITH, Esq.
 5 By: JOSH BUDWIN, Esq.
 6 300 West 6th Street
 7 Austin, Texas 78701
 8
 9
 10
 11 FOR THE DEFENDANT YAHOO!:
 12 HALTOM DOAN, Esq.
 13 By: JENNIFER HALTOM DOAN, Esq.
 14 6500 Summerhill Road
 15 Texarkana, Texas 75503
 16
 17
 18 ALSO PRESENT: Aric Kerhoulas, Videographer.
 19
 20 ---oOo---
 21
 22
 23
 24
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Page 5

1 behalf of Eolas and UC, and with me on the phone is 09:02
 2 Lindsay Martin and Kevin Burgess. 09:02
 3 MS. DOAN: Jennifer Doan, Haltom & Doan, for 09:03
 4 Yahoo. 09:03
 5 MR. KRAMER: Kevin Kramer from Yahoo. 09:03
 6 THE VIDEOGRAPHER: The court reporter will 09:03
 7 please swear in the witness, and we can proceed. 09:03
 8
 9 DAVID FILO,
 10 having been sworn as a witness,
 11 by the Certified Shorthand Reporter,
 12 testified as follows:
 13
 14
 15 EXAMINATION BY MR. BUDWIN 09:03
 16 MR. BUDWIN: Q. Good morning, Mr. Filo. 09:03
 17 A Good morning. 09:03
 18 Q Can you state your full name, please. 09:03
 19 A David Filo. 09:03
 20 Q Middle name, middle initial? 09:03
 21 A Robert. 09:03
 22 Q And where are you currently employed, 09:03
 23 Mr. Filo? 09:03
 24 A Yahoo. 09:03
 25 Q And what's your current address? 09:03

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

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

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<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>

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

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<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>
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<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>

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1 Viola there was a bug related to its support for HTTP? 09:26
 2 MS. DOAN: Objection; form. 09:26
 3 You can answer. 09:26
 4 THE WITNESS: Yeah, can you -- 09:26
 5 MR. BUDWIN: Sure. 09:26
 6 Q It's your understanding that in one of the 09:26
 7 versions of Viola there was a bug that related to its 09:26
 8 support of the HT -- HTTP? 09:26
 9 A No; it was -- I mean, it's support for -- 09:26
 10 there was a bug that was related to an incompatibility 09:27
 11 between versions of HTTP protocol. 09:27
 12 Q So there's -- 09:27
 13 A And -- I'm sorry. 09:27
 14 Q Well, I didn't mean to interrupt you. 09:27
 15 A That's it. 09:27
 16 Q So it's your understanding that in one of the 09:27
 17 versions of Viola there was a bug that related to an 09:27
 18 incomparability between different versions of HTTP? 09:27
 19 A Yeah. Again, in one -- so in one version of 09:27
 20 Viola, and this is a snapshot taken on one particular 09:27
 21 day, I think, back in May of '93, so on that snapshot 09:27
 22 that I looked at, I believe there's a bug that, again, 09:27
 23 is related to the upgrade of one of the components to 09:27
 24 a newer version of HTTP, and there's a slight 09:27
 25 incompatibility between the code that's in the Viola 09:27

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1 August of 2011, there was a discussion with a bug in 09:29
 2 the Viola code related to -- which you characterized 09:29
 3 as a slight incompatibility with HTTP? 09:29
 4 MS. DOAN: Objection; form. 09:29
 5 You can answer. 09:29
 6 THE WITNESS: I've answered the question. 09:29
 7 I'm not -- I'm not sure the point of rewording it. 09:29
 8 MR. BUDWIN: Q. Are you refusing to answer 09:29
 9 my question? 09:29
 10 A Well, I wouldn't say what you said. 09:29
 11 Q How about let me ask my question again. 09:29
 12 A Sure. 09:29
 13 Q So you had a meeting at which Mr. Wei was 09:29
 14 present in July or August 2011; is that right? 09:29
 15 A That's correct. 09:29
 16 Q And you spent an hour or two with Mr. Wei and 09:29
 17 with counsel talking about things related to the Viola 09:29
 18 background, document collection, things of that 09:30
 19 nature; right? 09:30
 20 A That's correct. 09:30
 21 Q Okay. And as part of that discussion, one 09:30
 22 thing that came up was related to Viola's support for 09:30
 23 HTTP; right? 09:30
 24 A I'm not sure -- 09:30
 25 MS. DOAN: Objection; form. 09:30

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1 WWW system and how that interfaces with this certain 09:28
 2 library. 09:28
 3 Q Okay. So at this meeting in July or August 09:28
 4 2001 with Mr. Wei, one of the shortcomings related to 09:28
 5 Viola that was discussed was this bug in the HTTP; 09:28
 6 right? 09:28
 7 MS. DOAN: Objection; form. 09:28
 8 THE WITNESS: Yeah, I wouldn't say. You 09:28
 9 say -- I wouldn't use those words. I wouldn't use 09:28
 10 "shortcoming." 09:28
 11 MR. BUDWIN: Okay. 09:28
 12 Q How would you -- how would you describe it? 09:28
 13 A I would say a very minor issue with 09:28
 14 incompatibilities between a new library that was 09:28
 15 integrated from Cern. Again, very minor issue that 09:28
 16 could be fixed within a couple of minutes and was 09:28
 17 fixed later, is my understanding, as you would expect. 09:28
 18 Because again, it was a simple thing, and the 09:28
 19 Viola WWW browser was mostly code that was written by 09:28
 20 Pei, but it also incorporated code from other parties 09:29
 21 like Cern. And so any time you integrate code from 09:29
 22 third parties, incompatibilities like that will creep 09:29
 23 in. Once you see them, you address them and fix them, 09:29
 24 and it's not a big issue at all. 09:29
 25 Q So at this meeting with Mr. Wei in July or 09:29

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1 THE WITNESS: -- it's support for HTTP. I 09:30
 2 wouldn't word it that way. 09:30
 3 MR. BUDWIN: Okay. 09:30
 4 Q Word it how you would word it. 09:30
 5 A We talked about, again, an incompatibility 09:30
 6 that existed in one version of the source code on a 09:30
 7 particular day at a time when the HTTP protocol was 09:30
 8 transitioning from 0.9 to 1.1. 09:30
 9 He had integrated the newest version of the 09:30
 10 library from Cern. And by doing that, his system 09:30
 11 wasn't completely prepared to work with that new 09:30
 12 version of the library from Cern, and simple 09:30
 13 modifications needed to be made to his system for that 09:30
 14 to be -- for that to work correctly. 09:30
 15 Q So at the time meeting in July or August of 09:31
 16 2011, you talked about an incompatibility that existed 09:31
 17 in one version of the Viola source code related to 09:31
 18 transitioning the HTTP protocol from 0.9 to 1.0? 09:31
 19 A I think that sounds right. 09:31
 20 Q Other than that issue, were any other issues 09:31
 21 or problems or shortcomings with Viola discussed? 09:31
 22 A I don't remember. I mean, I think that was 09:31
 23 problems and shortcomings. I mean, I think that was 09:31
 24 the one that I can recall. 09:31
 25 Q Were any other bugs or similar changes to the 09:31

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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

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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

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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

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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

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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

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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 Q 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

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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

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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

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1 in March or April of '94? 09:42
 2 A Well, when I say "list," "other listings," I 09:42
 3 mean, every -- not every -- but many websites at the 09:42
 4 time had listings of other websites. 09:42
 5 Just as today, you'll find if you go to any 09:42
 6 web page, you're going to typically find links to 09:43
 7 other pages or other websites on a page. 09:43
 8 So there certainly was no shortage of lists 09:43
 9 of other websites. Again, that is kind of the nature 09:43
 10 of the web to kind of link to other things. 09:43
 11 Q Do you have in your possession today access 09:43
 12 to what Yahoo's website looked like in March or April 09:43
 13 of 1994? 09:43
 14 A My position -- what do you mean today? 09:43
 15 Q Do you have access to something that would 09:43
 16 show us the way Yahoo's website looked like in this 09:43
 17 March or April 1994 time frame? 09:43
 18 A I mean, there is -- when you say do I have 09:43
 19 access to it, you mean in general, not could I show it 09:43
 20 to you right now? 09:43
 21 Q Right. In general. 09:43
 22 A Yeah. 09:43
 23 Q If you went back to your office, on your 09:43
 24 computer; you do? 09:43
 25 A We have -- there are a couple of snapshots of 09:43

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1 A Yeah, it looks reasonable. 09:45
 2 Q Okay. All right. You can set that aside. 09:45
 3 All right. So you and Mr. Yang, you're 09:45
 4 students at Stanford University. You founded Yahoo in 09:45
 5 March or April of 1994? 09:45
 6 A We founded what became Yahoo in March/April 09:45
 7 1994. 09:45
 8 Q And at that time, March or April of 1994, 09:45
 9 Yahoo's website was a listing or a categorization of 09:45
 10 websites, other websites that were available on the 09:45
 11 web? 09:45
 12 A Again, what became Yahoo. It wasn't called 09:45
 13 Yahoo then. It was a list of categorized websites, 09:45
 14 and eventually that became Yahoo. 09:45
 15 Q And what we see in Exhibit 1 is a 09:45
 16 representation of the way -- what ultimately became 09:45
 17 Yahoo looked like in this 1994 time frame? 09:45
 18 MS. DOAN: Objection; form. 09:45
 19 THE WITNESS: I don't know what this -- I 09:45
 20 mean, I couldn't say. It looks like it's probably 09:46
 21 from the '94 time frame, but I have no idea what point 09:46
 22 in '94 this was, but clearly at this point we had 09:46
 23 called it Yahoo. 09:46
 24 MR. BUDWIN: Q. Now, when -- when did the 09:46
 25 company officially become -- called Yahoo? 09:46

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1 what they looked like. 09:44
 2 Q And had you gathered those and provided them 09:44
 3 to counsel in this case? 09:44
 4 A Yes. 09:44
 5 Q Okay. And do you know if those were ever 09:44
 6 produced to us? 09:44
 7 A I don't know. 09:44
 8 MR. BUDWIN: Okay. I'm just going to make a 09:44
 9 request that we get copies of those, because I don't 09:44
 10 believe they've been produced. 09:44
 11 MS. DOAN: I believe they have been produced, 09:44
 12 but why don't you send me a letter. 09:44
 13 MR. BUDWIN: Okay. I'd like to mark a 09:44
 14 document as Exhibit 1. 09:44
 15 (Document marked Exhibit 1 09:44
 16 for identification.) 09:44
 17 MR. BUDWIN: Q. Mr. Filo, I've just handed 09:44
 18 you a document which has been marked as Exhibit 1. 09:44
 19 It's a printout from CNET, and do you see there's a 09:44
 20 part of the document that I drew a highlighted box 09:44
 21 around? 09:44
 22 A Of -- yes. 09:44
 23 Q Okay. Is what's within the highlighted box 09:44
 24 an accurate representation of your understanding of 09:44
 25 the way Yahoo's website looked like in 1994? 09:44

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1 A Well, the company was called Yahoo from the 09:46
 2 first day of incorporation. 09:46
 3 Q Okay. And when was that? 09:46
 4 A I think that was in March of 1995. 09:46
 5 Q And did you end up graduating from Stanford 09:46
 6 University? 09:46
 7 A I have a master's degree from Stanford. 09:46
 8 Q Okay. When did you get your bachelor's from 09:46
 9 Stanford? 09:46
 10 A I didn't. 09:46
 11 Q Okay. Where is your bachelor's degree from? 09:46
 12 A Tulane. 09:46
 13 Q When did you get that degree? 09:46
 14 A 1988. 09:46
 15 Q And what's that in? 09:46
 16 A Computer engineering -- 09:46
 17 Q Okay. 09:47
 18 A -- I believe. 09:47
 19 Q And then you went to Stanford to get a 09:47
 20 master's? 09:47
 21 A Correct. 09:47
 22 Q When did you arrive at Stanford? 09:47
 23 A In 19 -- I guess the fall of 1988. 09:47
 24 Q 1988? 09:47
 25 A Yes. 09:47

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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
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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

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<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>
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<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>

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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

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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

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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

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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

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<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>
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<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>

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

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1 A Yes. 10:10
 2 Q And in order to offer those opinions in the 10:10
 3 Bedrock case, you studied the Accused Products, the 10:10
 4 Patents-in-Suit, and the prior art? 10:10
 5 MS. DOAN: Objection; form. 10:10
 6 You can answer. 10:10
 7 THE WITNESS: Sorry. Can you repeat? You 10:10
 8 said the -- 10:10
 9 MR. BUDWIN: Sure. 10:10
 10 Q And in order to offer those opinions in the 10:10
 11 Bedrock case about validity and noninfringement, you 10:10
 12 studied the Accused Products, the Patents-In-Suit, and 10:10
 13 the prior art? 10:10
 14 A Yes. 10:10
 15 Q And you estimated that you spent 10:10
 16 approximately 100 hours or more in preparing to 10:10
 17 testify in the Bedrock case; is that true? 10:11
 18 MS. DOAN: Objection; form. 10:11
 19 THE WITNESS: Yes. I didn't know the number, 10:11
 20 but it certainly wouldn't surprise me if it was -- I 10:11
 21 think you said would it be -- would it be over 10:11
 22 100 hours, and I said possibly, yeah. 10:11
 23 MR. BUDWIN: Okay. 10:11
 24 Q And at the time that you were doing that work 10:11
 25 on the Bedrock case, you were employed by Yahoo? 10:11

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1 against Yahoo in April of 2011? 10:12
 2 A Again, depending on how you define "aware." 10:12
 3 In passing, I heard about it. Didn't know any details 10:12
 4 about it. But when I then learned more about it 10:12
 5 later, I recall I first heard about this back in 10:12
 6 April. 10:12
 7 Q Then in July or August of 2011, you attended 10:12
 8 a meeting with your counsel, counsel for the other 10:12
 9 defendants, and Mr. Wei, one of the creators of Viola? 10:12
 10 A Yes. 10:12
 11 Q And since you learned about the Eolas case in 10:12
 12 April of 2011, you've had several meetings with 10:13
 13 counsel, your counsel, to prepare for depositions or 10:13
 14 things of that nature in this case; is that fair? 10:13
 15 A Yes. 10:13
 16 Q You've also spent time reviewing the code for 10:13
 17 Viola which is asserted as a prior art system? 10:13
 18 A Yes. 10:13
 19 Q And you've also looked at documentation 10:13
 20 related to something called Media View, which you 10:13
 21 understand is another prior art system? 10:13
 22 A Yes. 10:13
 23 Q And you've also spent time looking at or 10:13
 24 studying the accused Yahoo products? 10:13
 25 A Some of the Accused Products, yes. 10:13

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1 A Yes, I was. 10:11
 2 Q And your -- the person that you report to, 10:11
 3 Blake Irving, who is the chief product officer, he was 10:11
 4 aware of your involvement in the Bedrock case; is that 10:11
 5 right? 10:11
 6 A I believe. I don't remember exactly, but I 10:11
 7 believe he was. 10:11
 8 Q And he never expressed any objection to you 10:11
 9 about being involved in that case? 10:11
 10 A No. 10:11
 11 Q Okay. And then you testified at trial in the 10:11
 12 Bedrock case in April of 2011; is that -- is that 10:11
 13 right? 10:11
 14 MS. DOAN: Objection; form. 10:11
 15 THE WITNESS: I testified in the Bedrock case 10:12
 16 in 2011. 10:12
 17 MR. BUDWIN: Q. April 2011? 10:12
 18 A April, yes. 10:12
 19 Q Okay. And also in April 2011, that's when 10:12
 20 you first became aware of the Eolas case, the case 10:12
 21 that you're here for today? 10:12
 22 A I became aware. I mean, I only heard about 10:12
 23 it in passing, so I didn't really know much of 10:12
 24 anything about it. 10:12
 25 Q But you became aware of the Eolas case 10:12

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1 Q And you've also been provided with a copy of 10:13
 2 Judge Davis's claim construction order in this case, 10:13
 3 and you've looked at that? 10:13
 4 A Yes. 10:13
 5 Q And all of the things that you've done with 10:13
 6 respect to the Eolas case, attending the meetings with 10:14
 7 Mr. Wei and with counsel, looking at the Viola code, 10:14
 8 looking at the materials related to Media View, 10:14
 9 studying the Court's claim construction, and looking 10:14
 10 at some of the accused Yahoo products you did while 10:14
 11 you were employed at Yahoo? 10:14
 12 A Yes, I've been employed at Yahoo during that 10:14
 13 time. 10:14
 14 Q And your supervisor, Mr. Irving, the chief 10:14
 15 product officer at Yahoo, was aware you were spending 10:14
 16 time doing those things -- 10:14
 17 MS. DOAN: Objection. 10:14
 18 MR. BUDWIN: Q. -- related to the Eolas 10:14
 19 case? 10:14
 20 MS. DOAN: Objection; form. 10:14
 21 THE WITNESS: He's aware that I'm -- I'm not 10:14
 22 sure exactly what he's aware of in terms of the 10:14
 23 detail, but I know he's got a general awareness of my 10:14
 24 involvement in -- in the case. 10:14
 25 MR. BUDWIN: Q. And he's never expressed any 10:14

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<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>
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<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>

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1	Q Okay. What's the largest percentage of Yahoo that you've owned?	10:35	10:35
2	A Largest percent would have been 50 percent.	10:35	10:35
3	Q Shortly after it was founded?	10:35	10:35
4	A Yes.	10:35	10:35
5	Q What percentage of Yahoo did you own at the time of its IPO?	10:35	10:35
6	A I don't remember.	10:35	10:35
7	Q Was it more than 5 percent?	10:35	10:35
8	A Yes.	10:35	10:35
9	Q More than 10 percent?	10:35	10:35
10	A Yes.	10:35	10:35
11	Q Okay. More than --	10:35	10:35
12	A Well --	10:35	10:35
13	Q -- 20 percent?	10:35	10:35
14	A -- I -- no, I don't think it was more than 20 percent.	10:35	10:35
15	Q Okay. So between 10 and 20 percent of Yahoo at the time of its IPO?	10:35	10:35
16	A That would be my best guess. Might have been -- I would guess closer to 20 percent.	10:35	10:35
17	Q Okay. What's your current 5 percent ownership stake in Yahoo worth today?	10:36	10:36
18	A I don't know.	10:36	10:36
19	Q Give me -- give me your best estimate.	10:36	10:36
20			
21			
22			
23			
24			
25			
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1	that's kind of inevitable.	10:37	10:38
2	Q Do you -- do you not manage your own money?	10:37	10:38
3	A I don't.	10:37	10:38
4	Q Okay. Do you have people that manage your money for you?	10:37	10:38
5	A Yes.	10:37	10:38
6	Q Okay. How many people?	10:37	10:38
7	A I don't know.	10:37	10:38
8	Q Is it more than one person?	10:37	10:38
9	MS. DOAN: Objection; form.	10:37	10:38
10	THE WITNESS: I interact with one person for most issues, but in terms of people that actually manage and make decisions, it would certainly be more than one.	10:37	10:38
11	MR. BUDWIN: Okay.	10:37	10:38
12	Q And is your money managed in some form of a blind trust? Or do you have visibility to it?	10:37	10:38
13	A It's not a blind trust.	10:37	10:38
14	Q Okay. Are you involved in making decisions with respect to the management of your money?	10:38	10:38
15	A At the highest level, yes.	10:38	10:38
16	Q What's your current estimated net worth today?	10:38	10:38
17	MS. DOAN: Objection; form.	10:38	10:38
18	THE WITNESS: I don't know.	10:38	10:38
19			
20			
21			
22			
23			
24			
25			

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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
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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

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<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>
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<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>

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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	
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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	
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	
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	

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<p>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</p>	<p>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</p>
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<p>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</p>	<p>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</p>

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<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>
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<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>

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<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>
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<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>

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

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<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>
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<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>

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<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>
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<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>

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

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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
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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	<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>	Page 119	<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	<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>	Page 121	<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>

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

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

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<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>
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<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>

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1 Yahoo Mail? 12:14
 2 A It's been -- it's changed over the years. 12:14
 3 Q Okay. Has that person ever reported to you? 12:14
 4 MS. DOAN: Objection; form. 12:15
 5 THE WITNESS: Has a leader of Yahoo Mail ever 12:15
 6 reported to me? 12:15
 7 MR. BUDWIN: Yes. 12:15
 8 THE WITNESS: Is that the question? 12:15
 9 No. 12:15
 10 MR. BUDWIN: Q. Do you know who developed 12:15
 11 Yahoo Search Assist? 12:15
 12 A Again, it's not one person. It's a big 12:15
 13 group -- 12:15
 14 Q Okay. 12:15
 15 A -- and the group would change over time. 12:15
 16 Q Have any of the persons who led the 12:15
 17 development of Yahoo Search Assist ever reported to 12:15
 18 you? 12:15
 19 A No. 12:15
 20 Q Have any of the persons that led the 12:15
 21 development of Yahoo Maps ever reported to you? 12:15
 22 A That, I believe, any version of Maps, yeah. 12:15
 23 I mean, the general answer is yes. 12:15
 24 Q Okay. What time frame are you talking about? 12:15
 25 A Well, what's -- so the answer -- or ask the 12:16

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1 Q You were not personally in charge of the 12:17
 2 Spirit redesign of Yahoo's front page; were you? 12:17
 3 A In charge of the Spirit redesign. 12:17
 4 I wasn't the product manager for Spirit 12:17
 5 redesign, no. 12:17
 6 Q Who was the product manager of the Spirit 12:17
 7 redesign? 12:17
 8 A I don't recall. 12:17
 9 Q Okay. Did the product manager for the Spirit 12:17
 10 redesign of Yahoo's front page report to you? 12:17
 11 A No. 12:17
 12 Q Now, you're aware that Yahoo did some tests 12:17
 13 on -- on the Spirit redesign before it launched that 12:17
 14 redesign to the -- the public at large; right? 12:17
 15 A Yes. 12:17
 16 Q Now, did you run those tests yourself? 12:17
 17 A Those -- I'm not sure what you mean by run -- 12:17
 18 ran them myself. Those tests were -- weren't on 12:18
 19 computers that users interacted with and -- 12:18
 20 Q All right. 12:18
 21 So you're aware, are you not, that before the 12:18
 22 Spirit redesign was launched to the public, Yahoo ran 12:18
 23 some tests on the redesign page? 12:18
 24 A Yes. 12:18
 25 Q Okay. What tests are you aware of? 12:18

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1 question again more specifically. 12:16
 2 Q Okay. In what time frame did people or 12:16
 3 persons who were involved in developing Yahoo Maps 12:16
 4 report to you? 12:16
 5 A Well, so more specifically, while they were 12:16
 6 reporting to me, did they develop Yahoo Maps? 12:16
 7 Q However you want to interpret the question is 12:16
 8 fine. 12:16
 9 A The answer to that is -- I believe it's no to 12:16
 10 that, but... 12:16
 11 Q Oh, okay. I see what you mean. 12:16
 12 So there was somebody at one point in time 12:16
 13 that was involved in leading the development of Yahoo 12:16
 14 Maps who had transitioned off that project -- 12:16
 15 A Or vice versa, yeah. 12:16
 16 Q Okay. All right. 12:16
 17 So did the people or people in charge -- 12:16
 18 charged with developing Yahoo Maps ever report to you 12:16
 19 during the time frame while they were working on Yahoo 12:16
 20 Maps? 12:16
 21 A I don't believe so. 12:16
 22 Q Now, we talked a little bit about the Spirit 12:16
 23 redesign of Yahoo's front page earlier; do you recall 12:17
 24 that discussion? 12:17
 25 A Yes. 12:17

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1 A Well, we were -- we ran many tests that 12:18
 2 tested slight variations in the page to determine 12:18
 3 whether a particular change was deemed to be helpful 12:18
 4 or not helpful. 12:18
 5 Q Is there a -- 12:18
 6 A Go ahead. 12:18
 7 Q I'm sorry. 12:18
 8 A That's fine. 12:18
 9 Q Was there a name for those tests? 12:18
 10 A A name for the tests. A name for the -- I'm 12:18
 11 not sure what you mean by that. 12:18
 12 Q Well, you referred to there was a test that 12:18
 13 was done for slight variations in the page. 12:18
 14 Was there names called the Spirit redesign 12:18
 15 test, the AB test, the -- did it have a name inside 12:18
 16 Yahoo? 12:19
 17 A Well, each test would have -- each test would 12:19
 18 have probably had a number associated with it, and 12:19
 19 we'd compare, you know, whatever, test 56 versus 57 -- 12:19
 20 Q Okay. 12:19
 21 A -- and -- 12:19
 22 Q Was there an overarching name that 12:19
 23 encompassed all of those tests, the Spirit redesign 12:19
 24 test, the AB test, something that we can refer to all 12:19
 25 the tests collectively? 12:19

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

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

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

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<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 its 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>

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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

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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

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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

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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

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1 or increases in its technology to help assist with 13:04
 2 user engagement on Yahoo pages? 13:04
 3 MS. DOAN: Objection; form. 13:04
 4 THE WITNESS: Do we use Yahoo -- 13:04
 5 MR. BUDWIN: Let me ask you a better 13:04
 6 question. 13:04
 7 Q Is one of the reasons that Yahoo undertakes 13:04
 8 to redesign its web page on periodic intervals to help 13:04
 9 increase user engagement on the Yahoo properties? 13:04
 10 A Again, there are many factors that go into 13:04
 11 redesigns. One of them, I think, is to increase 13:04
 12 engagement with our users. 13:04
 13 MR. BUDWIN: All right. 13:05
 14 I'll pass the witness. 13:05
 15 MS. DOAN: We definitely want to designate 13:05
 16 the confident -- the deposition "Confidential - 13:05
 17 Attorney's Eyes Only," and we want to read and sign 13:05
 18 and reserve our questions until the time of trial. 13:05
 19 MR. BUDWIN: Thank you. 13:05
 20 THE VIDEOGRAPHER: This marks the end of 13:05
 21 Disc 3 and will conclude the deposition for today. 13:05
 22 All discs will be held by TSG.
 23 We're off the record. The time is 1:05 p m.
 24 (WHEREUPON, the deposition ended at
 25 1:05 p m.)

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1 CERTIFICATE OF REPORTER
 2
 3
 4 I, ANDREA M. IGNACIO HOWARD, hereby certify
 5 that the witness in the foregoing deposition was by me
 6 duly sworn to tell the truth, the whole truth, and
 7 nothing but the truth in the within-entitled cause;
 8
 9 That said deposition was taken in shorthand
 10 by me, a Certified Shorthand Reporter of the State of
 11 California, and was thereafter transcribed into
 12 typewriting, and that the foregoing transcript
 13 constitutes a full, true and correct report of said
 14 deposition and of the proceedings which took place;
 15
 16 That I am a disinterested person to the said
 17 action.
 18
 19 IN WITNESS WHEREOF, I have hereunto set my
 20 hand this 2nd day of December, 2011.
 21
 22 _____
 23 ANDREA M. IGNACIO HOWARD, RPR, CCRR, CLR, CSR No. 9830
 24
 25

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1 J U R A T
 2
 3
 4 I, DAVID FILO, do hereby certify under
 5 Penalty of perjury that I have read the
 6 foregoing transcript of my deposition taken
 7 on November 29, 2011; that I have made such
 8 corrections as appear noted herein in ink,
 9 initialed by me; that my testimony as
 10 contained herein, as corrected, is true and
 11 correct.
 12
 13
 14 DATED this ____ day of _____, 2011,
 15 at _____, California.
 16
 17
 18
 19 _____
 20 DAVID FILO
 21
 22
 23
 24
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1 I N D E X
 2
 3 DEPOSITION OF DAVID FILO
 4
 5 EXAMINATION
 6 PAGE
 7 BY MR. BUDWIN 5
 8
 9 E X H I B I T S
 10 EXHIBIT PAGE
 11 Exhibit 1 CNET Snapshot; 1 pg. 39
 12 Exhibit 2 8/21/95 E-mail String, Subject: 83
 13 Eolas Polymap: A Versatile Client
 14 Side Image Map for the Web, Bates
 15 Nos. YAHOO-E02290323 - '27; 5 pgs.
 16 Exhibit 3 8/21/95 E-mail String, Subject: 84
 17 Eolas acquires commercial rights
 18 to the applet patent, Bates Nos.
 19 YAHOO-E02290336 - '37; 2 pgs.
 20 Exhibit 4 9/18/95 E-mail String, Subject: 85
 21 Eolas releases Webrouser via the
 22 Internet, Bates Nos.
 23 YAHOO-E02290338 - '39; 2 pgs.
 24
 25 ---oOo---

1 ERRATA SHEET

2

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

6

7 DATE: _____

8

DAVID FILO

9

Page	Line	Change
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