TAB A

THE FOLLOWING TRANSCRIPTS WERE FILED UNDER SEAL:

3/12/10	Jonathan Alferness
3/3/10	Edward Allen Blair
2/23/10	Terri Chen
2/24/10	Edward Chiang
2/26/10	Daniel Dulitz
3/4/10	Baris Glutekin
9/30/04	Rose Hagan in <i>GEICO v. Google, Inc.</i> , No. 1:04CV507 (E.D. Va.)
9/26/06	Rose Hagan in <i>CNG Financial Corp. v. Google, Inc.</i> , No. 1:06-cv-040 (N.D. Ohio)
3/5/10	Rose Hagan
3/5/10	Richard T. Holden
3/10/10	Bill Lloyd
2/25/10	Cory Louie
3/18/10	Susan Wojcicki

DENIS DOYLE (3/11/10)

1

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Alexandria Division

- - - - - - - x

ROSETTA STONE, LTD,

Plaintiff,

vs. : Case No. 1:09-CV-00736

GOOGLE, INC., : (GBL/TCB)

;

Defendant.

- - - - - - - - x

Chevy Chase, Maryland

Thursday, March 11, 2010

Videotaped Deposition of:

DENIS P. DOYLE,

Called for oral examination by counsel for Plaintiff, pursuant to notice, at the residence of Denis P.

Doyle, 110 Summerfield Road, Chevy Chase, MD, before Denise M. Brunet, RPR, of Capital Reporting Company, a Notary Public in and for the State of Maryland, beginning at 10:29 a.m., when were present on behalf of the respective parties:

	2		4
1	APPEARANCES	1	PROCEEDINGS
2		2	THE VIDEOGRAPHER: This is tape number 1 of
3	On behalf of the Plaintiff:	3	the videotape deposition of Mr. Denis P. Doyle, taken
4	MITCHELL S. ETTINGER, ESQUIRE		in the matter Rosetta Stone, Limited, plaintiff,
5	Skadden, Arps, Slate, Meagher & Flom, LLP		versus Google, Inc., defendant, pending before the
6	1440 New York Avenue, Northwest		United States District Court for the Eastern District
7	Washington, D.C. 20005		of Virginia, Alexandria Division, case number
8	(202) 371-7444		1:09-CV-00736. This deposition is being held at the
9	Mitchell.ettinger@skadden.com		residence of Mr. Denis P. Doyle, 110 Summerfield Road,
10		10	
11	On behalf of the Defendant:	11	approximately 10:29 a.m.
12	JONATHAN D. FRIEDEN, ESQUIRE	12	My name is Daniel Holmstock from the firm of
13	Odin Feldman Pittleman, P.C.	13	Capital Reporting Company, and I'm the certified legal
14	9302 Lee Highway	ı	video specialist. Capital Reporting Company is
15	Suite 1100		located at 1821 Jefferson Place, Northwest in
16	Fairfax, Virginia 22031		Washington, D.C.
17	(703) 218-2100	17	Will counsel please introduce themselves and
18	Jonathan.frieden@ofplaw.com		whom they represent.
19	Johannan, meden (gorpiaw.com	19	MR. ETTINGER: Mitchell Ettinger from Skadden
20	ALSO PRESENT: Daniel Holmstock, Videographer	20	
21	ALSO I RESERVI. Damei Hollistock, Videographei	21	MR. FRIEDEN: Jonathan Frieden from Odin,
22		ı	Feldman & Pittleman on behalf of Google.
22			returnal & reternal on benan of Google.
	3		5
1	CONTENTS		THE WIDEOCD ADHED. Will the court reporter
1			THE VIDEOGRAPHER: Will the court reporter
$\frac{1}{2}$		2	please swear or affirm in the witness.
3	1	ı	WHEREUPON, DENIS P. DOYLE,
1		4	· · · · · · · · · · · · · · · · · · ·
	Counsel for plaintiff 61		called as a witness, and after having been first duly sworn, was examined and testified as follows:
6		ı	sworn, was examined and testified as follows: EXAMINATION BY COUNSEL FOR THE PLAINTIFF
7	Counsel for plaintiff 66	7	
8	DOVI E DEDOCITION EVHIDITG. DACE	۱ °	BY MR. ETTINGER:
	DOYLE DEPOSITION EXHIBITS: PAGE	9	Q Would you please state your full name.
	1 - Rosetta Stone Quick Start 19	10	A Denis Philip Doyle.
	2 - Trifold CD 26	11	Q Sir, have you ever been deposed before?
	3 - Audio Companion4 - Rosetta Stone User's Guide29	12	A No.
13	A - R OVERLA NORTE LIVERE LATINGS /U	13	Q So there's certain ground rules we have to
1.4			follow, and I'll just so through them beinfly for your
1	5 - Page from sourceplaza.com 41	14	follow, and I'll just go through them briefly for you.
15		14 15	Everything that is being said today will be reported
15 16	5 - Page from sourceplaza.com 41 6 - Ticket summary 62	14 15 16	Everything that is being said today will be reported verbatim by our stenographer and so or our court
15 16 17	5 - Page from sourceplaza.com 41 6 - Ticket summary 62 (Exhibits 1 through 4 retained by	14 15 16 17	Everything that is being said today will be reported verbatim by our stenographer and so or our court reporter. So we have to make sure that all of our
15 16 17 18	5 - Page from sourceplaza.com 41 6 - Ticket summary 62 (Exhibits 1 through 4 retained by counsel for plaintiff.)	14 15 16 17 18	Everything that is being said today will be reported verbatim by our stenographer and so or our court reporter. So we have to make sure that all of our answers are audible. Okay? A nod of the head or a
15 16 17 18 19	5 - Page from sourceplaza.com 41 6 - Ticket summary 62 (Exhibits 1 through 4 retained by	14 15 16 17 18 19	Everything that is being said today will be reported verbatim by our stenographer and so or our court reporter. So we have to make sure that all of our answers are audible. Okay? A nod of the head or a hand gesture is not sufficient.
15 16 17 18 19 20	5 - Page from sourceplaza.com 41 6 - Ticket summary 62 (Exhibits 1 through 4 retained by counsel for plaintiff.)	14 15 16 17 18 19 20	Everything that is being said today will be reported verbatim by our stenographer and so or our court reporter. So we have to make sure that all of our answers are audible. Okay? A nod of the head or a hand gesture is not sufficient. A All right. I will try to be audible.
15 16 17 18 19 20 21	5 - Page from sourceplaza.com 41 6 - Ticket summary 62 (Exhibits 1 through 4 retained by counsel for plaintiff.)	14 15 16 17 18 19 20 21	Everything that is being said today will be reported verbatim by our stenographer and so or our court reporter. So we have to make sure that all of our answers are audible. Okay? A nod of the head or a hand gesture is not sufficient. A All right. I will try to be audible. Q And to facilitate the process, I will not
15 16 17 18 19 20	5 - Page from sourceplaza.com 41 6 - Ticket summary 62 (Exhibits 1 through 4 retained by counsel for plaintiff.)	14 15 16 17 18 19 20 21	Everything that is being said today will be reported verbatim by our stenographer and so or our court reporter. So we have to make sure that all of our answers are audible. Okay? A nod of the head or a hand gesture is not sufficient. A All right. I will try to be audible.

		1		
	6			8
1	let counsel finish their questions before you answer,	1	Q And i what business does Schoolnet engage?	
	that will make it easier on the court reporter as	2	A We provided data services to school	
3	well.	3	districts, large and small, across the United States.	
4	A Okay.	4	And we provide instruction and management services.	
5	Q From time to time, counsel for Google or	5	Q You said data for schools?	
6	myself when he's asking you questions may interpose	6	A Data we manage data for schools,	
7	an objection. An objection is one just for the	7		
8	record. It will be ruled on later by the Court. So	8	data, student cum files that is to say, the	
9	let the counsel make their objection, and if you can	9	cumulative files for their student records as long as	
10	answer the question that's been posed, please do so.	10		
11	A Okay.	11	We provide teachers with access to student	
12	Q If you do not understand any question that's	12	records and student performance. And we provide	
13	asked of you, please let counsel know and we will try	13	administrators with the capacity to analyze teacher	
14	to rephrase that question for you.	14	and student performance over time in real time. We	
15	A And if it goes on for more than 45 minutes,	15	have about 3 million kids under management whose	
16	will we have time for a break?	16	data out of 50 million kids in public schools in	
17	Q That's my last point. We are guests in your	17	this country. And our clients include Philadelphia,	
18	home today, and at any point that you want a break,	18	Chicago, Denver, Wichita, Atlanta, Washington, D.C.	
19	you just ask for it and we will accommodate you.	19	Q And how many employees does Schoolnet engage?	
20	A Okay. Good. Thanks.	20	A About a hundred full-time equivalent.	
21	Q Could you please state your address.	21	Q Is it a publicly traded company?	
22	A 110 Summerfield Road, Chevy Chase, Maryland,	22	A No, privately held.	
-		┢		
	7			9
1	20815.	1	Q Does Schoolnet advertise on the Internet?	
2	Q How long have you lived at this address?	2	A No, we don't. No, we don't.	
3	A 35 years temporarily.	3		
4	Q Sir, how old are you?		Q You understand that this case involves a	
5		4	Q You understand that this case involves a civil lawsuit between Rosetta Stone and Google,	
ر ا	A I'll be 70 next month.	4 5		
6		1	civil lawsuit between Rosetta Stone and Google,	
	A I'll be 70 next month.	5	civil lawsuit between Rosetta Stone and Google, correct?	
	A I'll be 70 next month.Q What is the highest level of education that	5 6	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do.	
	A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, University of California at Berkeley.	5 6	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that	
6 7 8	 A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, 	5 6 7 8	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that	
6 7 8 9	A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, University of California at Berkeley. Q And where did you get your undergraduate degree?	5 6 7 8 9	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that right? A That's right. Q Are you being compensated in any way for your	
6 7 8 9 10	A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, University of California at Berkeley. Q And where did you get your undergraduate degree? A Berkeley as well.	5 6 7 8 9 10	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that right? A That's right. Q Are you being compensated in any way for your appearance today?	
6 7 8 9 10	A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, University of California at Berkeley. Q And where did you get your undergraduate degree? A Berkeley as well. Q And was what your major?	5 6 7 8 9 10 11	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that right? A That's right. Q Are you being compensated in any way for your appearance today? A No, I'm not.	
6 7 8 9 10 11 12	A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, University of California at Berkeley. Q And where did you get your undergraduate degree? A Berkeley as well. Q And was what your major? A Political science.	5 6 7 8 9 10 11 12 13 14	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that right? A That's right. Q Are you being compensated in any way for your appearance today? A No, I'm not. Q Has anyone promised you anything for your	
6 7 8 9 10 11 12 13 14 15	A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, University of California at Berkeley. Q And where did you get your undergraduate degree? A Berkeley as well. Q And was what your major? A Political science. Q Are you currently employed?	5 6 7 8 9 10 11 12 13 14	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that right? A That's right. Q Are you being compensated in any way for your appearance today? A No, I'm not. Q Has anyone promised you anything for your testimony today?	
6 7 8 9 10 11 12 13 14 15 16	A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, University of California at Berkeley. Q And where did you get your undergraduate degree? A Berkeley as well. Q And was what your major? A Political science. Q Are you currently employed? A I am.	5 6 7 8 9 10 11 12 13 14 15 16	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that right? A That's right. Q Are you being compensated in any way for your appearance today? A No, I'm not. Q Has anyone promised you anything for your testimony today? A No, nothing.	
6 7 8 9 10 11 12 13 14 15 16 17	A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, University of California at Berkeley. Q And where did you get your undergraduate degree? A Berkeley as well. Q And was what your major? A Political science. Q Are you currently employed? A I am. Q And what is your position?	5 6 7 8 9 10 11 12 13 14 15 16 17	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that right? A That's right. Q Are you being compensated in any way for your appearance today? A No, I'm not. Q Has anyone promised you anything for your testimony today? A No, nothing. Q Sir, during your adult life, did you ever	
6 7 8 9 10 11 12 13 14 15 16 17	A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, University of California at Berkeley. Q And where did you get your undergraduate degree? A Berkeley as well. Q And was what your major? A Political science. Q Are you currently employed? A I am. Q And what is your position? A I'm the chief academic officer with a company	5 6 7 8 9 10 11 12 13 14 15 16 17 18	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that right? A That's right. Q Are you being compensated in any way for your appearance today? A No, I'm not. Q Has anyone promised you anything for your testimony today? A No, nothing. Q Sir, during your adult life, did you ever desire to brush up or learn a foreign language?	
66 77 8 9 10 111 122 133 144 155 166 177 188 19	A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, University of California at Berkeley. Q And where did you get your undergraduate degree? A Berkeley as well. Q And was what your major? A Political science. Q Are you currently employed? A I am. Q And what is your position? A I'm the chief academic officer with a company called Schoolnet, Incorporated.	5 6 7 8 9 10 11 12 13 14 15 16 17 18	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that right? A That's right. Q Are you being compensated in any way for your appearance today? A No, I'm not. Q Has anyone promised you anything for your testimony today? A No, nothing. Q Sir, during your adult life, did you ever desire to brush up or learn a foreign language? A I have indeed.	
66 77 8 9 10 11 12 13 14 15 16 17 18 19 20	A I'll be 70 next month. Q What is the highest level of education that you have completed? A Master's degree in political science, University of California at Berkeley. Q And where did you get your undergraduate degree? A Berkeley as well. Q And was what your major? A Political science. Q Are you currently employed? A I am. Q And what is your position? A I'm the chief academic officer with a company	5 6 7 8 9 10 11 12 13 14 15 16 17 18	civil lawsuit between Rosetta Stone and Google, correct? A Yes, I do. Q And you've agreed to provide testimony in this matter without being subpoenaed; isn't that right? A That's right. Q Are you being compensated in any way for your appearance today? A No, I'm not. Q Has anyone promised you anything for your testimony today? A No, nothing. Q Sir, during your adult life, did you ever desire to brush up or learn a foreign language?	

A About a decade, a little over ten years.

22 well, I've always wanted to acquire a second language,

_				
	10			12
11 12 13 14 15	and found that I'm not very adept. Q Have you in the past purchased a product to assist you in learning a foreign language? A I have. Q Which product did you purchase? A Rosetta Stone. Q When did you first purchase Rosetta Stone? A It's been about eight or ten years ago when it was a fairly novel item on the market. And I have spent time at the University of or the Naval Academy at Annapolis also with their electronic instructional programs. Q So you first purchased the product eight or ten years ago? A Uh-huh.	2 ld 3 dd s 5 5 6 7 8 9 rd 10 11 td 12 13 vd 14 15	which I couldn't resist. And I thought it was legitimate and ordered it on the web through PayPal. Q All right. Let's go a little slower. You say you went on the web. Did you use a search engine? A Used Google. Q Is that your default search engine? A Yes, it is, by preference. I love Google. Q How often do you use Google as a general rule? A I would say I must Google five, maybe ten times a day. Q So in the fall of 2009 when you went on the web, you used Google as your search browser? A Yes. Q What did you type into the search browser when searching for Rosetta Stone software?	12
16 17 18 19 20 21 22	that point? A I must have learned of it through the grapevine. I was doing some work with the Foreign Service Language Institute and heard about Rosetta	17 18 19 20	when searching for Rosetta Stone software? A Just Rosetta Stone. Q And no other search terms? A Not that I recall. Q And then you pressed Enter, and what did you see? A I saw a group of sponsored ads on the left	
10 11 12 13 14 15 16 17 18 19 20	when you tried it eight or ten years ago? A I did. I had limited success. And I think the lack of success was my lack of diligence. Q What language did you attempt to learn through Rosetta Stone eight to ten years ago? A Spanish. Q Did there come a point in time, sir, when you decided that you were going to try again in the more recent future A Yes, there did. Q in the more recent past? A Yes. Q When was that? A It was last fall. I got a flyer from American Express with my monthly bill advertising a discounted Rosetta Stone, and it piqued my curiosity. Q And what did you do in response to that curiosity? A I went to the web, and the first sponsored	2 s 3 s 4 5 s 6 a 7 8 9 10 c 11 p 12 s 13 b 14 15 t 16 17 18 s 19 t 20 c 6	and sponsored ads on the right and went to the first sponsored ad to see what it offered, and it offered Spanish 3, 4 1, 2, 3, 4 for 139 bucks. Q And when you say you went to the first sponsored ad, are you referring to the links that appear on the search page? A Yes. Q Do you recall what the link said? A I don't, except that it was I went I cancelled payment on it after I discovered that it was prirated software, and I wrote the name down, SourcePlaza. But I don't remember I remember that being the name of the web page when I got it. Q So SourcePlaza was the name of the company that was advertising on Google? A Yes. Q And do you remember what the ad link itself said? You know, did it you know, did it have the text of the ad, did it say, "by Rosetta Stone" or did it say, "get software here"? What did it say, if	13
21			you remember? A No, something of that sort. It was just a	

	14	16
2 3 3 4 4 5 6 6 7 7 8 9 10 11 12 13 14 15 166 17 18 19 20	standard stock ad, that they were presenting themselves as a retailer of Rosetta Stone. Q And did the ad, the link for the ad itself, use the words "Rosetta Stone," to your knowledge? A I presume it did, since I was looking for Rosetta Stone. Q As you sit here today, do you remember whether the URL or the address associated with the website SourcePlaza, whether it used the terms "Rosetta Stone"? A I don't remember, no, but I doubt it. I would be surprised if it did, but I don't remember. Q Why would that surprise you? A Because the URL, universal locator network reference, is not something that I would expect to see there. Q And why is that? A I wouldn't be aware of it. I guess I would just be surprised. Q Okay. So in your experience, you've not seen	1 on the website and you saw the box that was displayed, 2 was there anything on the website that led you to 3 believe that this product wasn't genuine? 4 A No. I didn't look at it with great care, but 5 I nothing led me to believe that it wasn't genuine. 6 Q And did you actually purchase from 7 SourcePlaza? 8 A I did, yes. 9 Q So you placed an order that very same day 10 that you went on the web? 11 A I did. 12 Q At the time you placed your order with 13 SourcePlaza, did you think you were buying genuine 14 Rosetta Stone software? 15 A I did, yes. 16 Q Do you know what the term "counterfeit 17 software" means? 18 A I presume I do, yeah. Self-explanatory. 19 Pirated software. I mean, made up, like counterfeit 20 money.
20	Q Okay. So in your experience, you've not seen	20 money.
21 22	trademark terms appear in the URLs of companies offering products?	21 Q You said pirated before. What does that mean 22 to you?
	15	5
1 2	A No, I've never looked for that. I use Amazon frequently and Amazon-related activities, and I don't	1 A That it's been stolen from the intellectual
1	get that far. Q So when you clicked on the link that offered this Rosetta Stone software for \$139, what did you	 2 property rights holder. 3 Q Did you intend to purchase pirated software, 4 sir? 5 A No, I did not. I fully intended I'm a
4	Q So when you clicked on the link that offered this Rosetta Stone software for \$139, what did you	3 Q Did you intend to purchase pirated software, 4 sir?
4 5 6 7 8 9	Q So when you clicked on the link that offered this Rosetta Stone software for \$139, what did you see? A I saw a picture of the Rosetta Stone box with a little blue seal on it, guaranteed, or a hundred percent satisfaction or some such thing. So I ordered	3 Q Did you intend to purchase pirated software, 4 sir? 5 A No, I did not. I fully intended I'm a 6 professional writer, and I prize intellectual 7 property. I live on royalties. There are some book 8 covers here on the wall that were my first efforts at 9 intellectual property, and I still get royalties.
4 5 6 7 8 9 10	Q So when you clicked on the link that offered this Rosetta Stone software for \$139, what did you see? A I saw a picture of the Rosetta Stone box with a little blue seal on it, guaranteed, or a hundred	3 Q Did you intend to purchase pirated software, 4 sir? 5 A No, I did not. I fully intended I'm a 6 professional writer, and I prize intellectual 7 property. I live on royalties. There are some book 8 covers here on the wall that were my first efforts at
4 5 6 7 8 9 10 11 12	Q So when you clicked on the link that offered this Rosetta Stone software for \$139, what did you see? A I saw a picture of the Rosetta Stone box with a little blue seal on it, guaranteed, or a hundred percent satisfaction or some such thing. So I ordered it, and thought that I thought it was too good to be true, which it turned out to be too good to be true.	3 Q Did you intend to purchase pirated software, 4 sir? 5 A No, I did not. I fully intended I'm a 6 professional writer, and I prize intellectual 7 property. I live on royalties. There are some book 8 covers here on the wall that were my first efforts at 9 intellectual property, and I still get royalties. 10 Q Had you ever purchased a product from 11 SourcePlaza prior to October 2009? 12 A Never. And I won't again, you may be sure.
4 5 6 7 8 9 10 11 12 13	Q So when you clicked on the link that offered this Rosetta Stone software for \$139, what did you see? A I saw a picture of the Rosetta Stone box with a little blue seal on it, guaranteed, or a hundred percent satisfaction or some such thing. So I ordered it, and thought that I thought it was too good to be true, which it turned out to be too good to be	3 Q Did you intend to purchase pirated software, 4 sir? 5 A No, I did not. I fully intended I'm a 6 professional writer, and I prize intellectual 7 property. I live on royalties. There are some book 8 covers here on the wall that were my first efforts at 9 intellectual property, and I still get royalties. 10 Q Had you ever purchased a product from 11 SourcePlaza prior to October 2009?
4 5 6 7 8 9 10 11 12 13 14 15	Q So when you clicked on the link that offered this Rosetta Stone software for \$139, what did you see? A I saw a picture of the Rosetta Stone box with a little blue seal on it, guaranteed, or a hundred percent satisfaction or some such thing. So I ordered it, and thought that I thought it was too good to be true, which it turned out to be too good to be true. Q What color was the box that was displayed on the ad? A Oh, it was the characteristic yellow of	3 Q Did you intend to purchase pirated software, 4 sir? 5 A No, I did not. I fully intended I'm a 6 professional writer, and I prize intellectual 7 property. I live on royalties. There are some book 8 covers here on the wall that were my first efforts at 9 intellectual property, and I still get royalties. 10 Q Had you ever purchased a product from 11 SourcePlaza prior to October 2009? 12 A Never. And I won't again, you may be sure. 13 Q Did you know anything about the company 14 SourcePlaza when you made your purchase? 15 A No, I had no idea. It could have been Barnes
4 5 6 7 8 9 10 11 12 13 14 15	Q So when you clicked on the link that offered this Rosetta Stone software for \$139, what did you see? A I saw a picture of the Rosetta Stone box with a little blue seal on it, guaranteed, or a hundred percent satisfaction or some such thing. So I ordered it, and thought that I thought it was too good to be true, which it turned out to be too good to be true. Q What color was the box that was displayed on the ad?	3 Q Did you intend to purchase pirated software, 4 sir? 5 A No, I did not. I fully intended I'm a 6 professional writer, and I prize intellectual 7 property. I live on royalties. There are some book 8 covers here on the wall that were my first efforts at 9 intellectual property, and I still get royalties. 10 Q Had you ever purchased a product from 11 SourcePlaza prior to October 2009? 12 A Never. And I won't again, you may be sure. 13 Q Did you know anything about the company 14 SourcePlaza when you made your purchase?
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q So when you clicked on the link that offered this Rosetta Stone software for \$139, what did you see? A I saw a picture of the Rosetta Stone box with a little blue seal on it, guaranteed, or a hundred percent satisfaction or some such thing. So I ordered it, and thought that I thought it was too good to be true, which it turned out to be too good to be true. Q What color was the box that was displayed on the ad? A Oh, it was the characteristic yellow of amarillo, as they say in Espanol. Q So you were familiar with what the Rosetta Stone box looked like?	3 Q Did you intend to purchase pirated software, 4 sir? 5 A No, I did not. I fully intended I'm a 6 professional writer, and I prize intellectual 7 property. I live on royalties. There are some book 8 covers here on the wall that were my first efforts at 9 intellectual property, and I still get royalties. 10 Q Had you ever purchased a product from 11 SourcePlaza prior to October 2009? 12 A Never. And I won't again, you may be sure. 13 Q Did you know anything about the company 14 SourcePlaza when you made your purchase? 15 A No, I had no idea. It could have been Barnes 16 and Noble, for all I knew. 17 Q Did you, in fact, receive a product from 18 SourcePlaza?
4 4 5 6 6 7 8 8 9 10 11 12 13 14 15 16 17 18 19 20	Q So when you clicked on the link that offered this Rosetta Stone software for \$139, what did you see? A I saw a picture of the Rosetta Stone box with a little blue seal on it, guaranteed, or a hundred percent satisfaction or some such thing. So I ordered it, and thought that I thought it was too good to be true, which it turned out to be too good to be true. Q What color was the box that was displayed on the ad? A Oh, it was the characteristic yellow of amarillo, as they say in Espanol. Q So you were familiar with what the Rosetta Stone box looked like? A Yes, I've seen it. And I had priced it at	3 Q Did you intend to purchase pirated software, 4 sir? 5 A No, I did not. I fully intended I'm a 6 professional writer, and I prize intellectual 7 property. I live on royalties. There are some book 8 covers here on the wall that were my first efforts at 9 intellectual property, and I still get royalties. 10 Q Had you ever purchased a product from 11 SourcePlaza prior to October 2009? 12 A Never. And I won't again, you may be sure. 13 Q Did you know anything about the company 14 SourcePlaza when you made your purchase? 15 A No, I had no idea. It could have been Barnes 16 and Noble, for all I knew. 17 Q Did you, in fact, receive a product from

18 20 1 in the mail. I think it came by Priority Mail, 1 right-hand corner. Do you see the Rosetta Stone 2 because it came pretty quickly. 2 trademark with the stone next to it there? Q Did you retain the outside shipping --A I see that. It had the stone next to it, I'm A No, I didn't. I discarded that immediately. 4 sure it did, on the box. That seems to be ubiquitous. Was there anything about the package that you 5 They usually use the stone. 6 received that would indicate to you its country of Q Could I get you to turn that to the camera so 7 that we could -- just point to the trademark that A I don't remember, I'm afraid. At some point 8 you're referring to there. Okay. Thank you. 9 in time, I discovered it was from Hong Kong. And I So when you opened up the product, you 10 think it was -- I presume it was the return address on 10 thought it was genuine. Did you try to install it in 11 the package. But I don't have any specific memory of your computer? 12 that. 12 A I did install it. And I always install it by 13 Q But your recollection is that the package 13 ignoring the installation instructions. So I just 14 originated in Hong Kong? popped it into the computer and followed the prompts 15 A Yeah, that was my recollection. Yeah. on the screen. 16 Q When you opened the package, did it -- did 16 Q And what happened? 17 the product come in what you believed to be the 17 A It came up, and I began to use it fairly 18 Rosetta Stone box? 18 19 A It did, yeah. I was pleased to see that it Q All right. Did you encumber -- did you incur 20 came in what seemed to be the Rosetta Stone -- the 20 any problems with the software? 21 real McCoy, it looked like. 21 A I did later on. I found it clumsy to use, Q From looking at the outside packaging of the 22 and I contacted Rosetta Stone to see what was going on 19 21 1 product, could you tell that it was anything but 1 because I went back to look at this written material 2 genuine product? 2 and it said that I was not to register it with Rosetta A No. 3 Stone and ignore the activation information. And that Q Do you recall what the color of the box was 4 began to make me suspicious that it was not real 5 that you got? 5 Rosetta Stone material. A Of the --Q Okay. So -- was the product functional? Q Of the product itself. A It was functional at first, but it did not --A Yeah, it was the Rosetta Stone yellow. 8 it was not satisfying. I couldn't get certain Q And did it have the Rosetta Stone trademark processes to work. I've forgotten what they were, but 10 with the Rosetta Stone -- actual Rosetta Stone next to I remember being frustrated with it. 11 the mark? 11 Q So then when you went back to the user guide, A Oh, I don't know if it had a TM mark or not. 12 could you identify for us the paragraphs that you saw 12 13 that directed the user not to register online? 13 I presume it did. Q Let me show you what I'm going to mark as 14 A Yes. The centerfold here in this -- in the 15 text, if you can see that -- I don't know if that's 15 Exhibit 1. 16 (Doyle Deposition Exhibit Number 1 was marked going to show or not. 17 17 for identification.) THE VIDEOGRAPHER: Can you indicate -- point MR. ETTINGER: This is a document that was 18 to where you're -- yeah, that is visible. Okay. 19 provided by the witness this morning. It's just 19 BY MR. ETTINGER: 20 entitled, "Rosetta Stone quick start." 20 Q And could you just -- it's under, "Register 21 BY MR. ETTINGER: and activate"? Is that what you're looking at?

A Yeah, "register and activate" and "add user."

Q And, sir, can I get you to look at the upper

_		T
	22	24
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	And that, of course, aroused my suspicion given the fact that it was so cheap and that it was so clumsy to execute, that I began to wonder. That's when I called Rosetta Stone. Q Could I get you, sir there's one other question I have about that document. Is there anything in there, in that same section, about the term "OEM"? A Yes. This is OEM products, so you cannot activate "activation Rosetta Stone over the Internet." And the broken English was also a tip-off, of course. Q And what does the term "OEM" mean to you? A It means original equipment manufacturer. Q So if OEM means original equipment manufacturer, what did you understand that sentence to	1 Q And when you called Rosetta Stone, to whom or 2 what department were you directed? 3 A I don't have any recollection. I just got 4 the switchboard, and they directed me wherever they 5 directed me. 6 Q And what did you tell Rosetta Stone? 7 A I told them that I had this software and 8 wanted to check its authenticity. And they said that 9 it was inauthentic, that it was probably I use the 10 word "pirated" and I think they used the word 11 "pirated." And 12 Q I'm sorry. Please finish. 13 A No. And that was really essentially it. And 14 I then called American Express to see if I could 15 cancel payment on the product. 16 Q Now, when you called Rosetta Stone and you 17 advised them that you were having problems with the 18 software, did you tell them the source from which you 19 purchased it? 20 A I presumably did. I must have told them I 21 purchased it on the web. I made no secret of that. 22 Q Do you recall whether you told them that
3 4 4 5 6 6 7 7 8 9 10 11 12 13 14 15 16	Q And who at Rosetta Stone did you call? A I called just the 800 number, whoever I got through to. Q Did you go online to find Rosetta Stone to get the number? A I probably did. Yeah, I would have done that. Q Do you remember if you used Google or not to do that? A Yeah, I would have used Google, yes. Q And you were able to find A Yes. Q the Rosetta Stone company?	1 SourcePlaza was the company that was selling software 2 on the web? 3 A I don't recall, and I don't remember the name 4 of the company. I had to look it up before today's 5 deposition. So if I did tell them, it was something 6 that's escaped my memory. 7 Q And were you successful in getting your money 8 back from American Express? 9 A I was, mercifully. 10 Q Did you ultimately purchase the original or 11 genuine Rosetta Stone software? 12 A I did. I went to Barnes and Noble within a 13 couple of weeks and bought it for 450 bucks, as I 14 recall. 15 Q Did you go to Barnes and Noble store or did 16 you do it online? 17 A I actually went to the Barnes and Noble 18 store, uncharacteristically. I usually buy stuff 19 online. 20 Q And have you had success with the product? 21 A Yes. Insofar as I've been diligent, it's 22 worked fine.

	26			28
16 17 18 19 20	Source Plaza? A Yeah. I only recognize them because they where I stored them in the cabinet, because they looked exactly like the real McCoy, so it's hard to tell the real from the false. Q Could I get you to hold that up, and if you would, sir, actually open that up so that the camera can get a shot of the pictures that appear on the	3 4 5 6 7 8 9	as a registered. But I guess that means the same thing, legally. Q Okay. Just two more A It says Harrisonburg, Virginia, USA. Q And where are you reading from? A The inside cover here. Q And do you know whether or not Rosetta Stone is actually based in Harrisonburg, Virginia? A No. I know they're a Virginia-based company, but I don't have any idea where they're based. (Doyle Deposition Exhibit Number 3 was marked for identification.) MR. ETTINGER: Handing the witness what's been marked as Exhibit 3. BY MR. ETTINGER: Q If I could get you to do the same thing with this. This is entitled, "Audio companion." A Do you want to open it up? Q If you could just open it up. THE VIDEOGRAPHER: Hold on. Scanning our	
	inside.	21	left window. Our right window. We're good.	
22	THE VIDEOGRAPHER: One second, please. I'm	22	BY MR. ETTINGER:	
	27			29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	scanning the first window, middle window, last window. Okay. BY MR. ETTINGER: Q And, sir, if you could, what does it say on that last window in the interior? A Language learning success trademark. Q And if you could just then fold it together and then hold it up for the camera to get a shot of that side and then the other side. THE VIDEOGRAPHER: One second. Okay. Visual flip. Okay. BY MR. ETTINGER: Q And lastly, sir, could you just take out one of the CDs, just one of them, and hold it up for the camera. THE VIDEOGRAPHER: One second, please, while I get that in focus. Confirmed. BY MR. ETTINGER: Q And, again, you would agree with me that the Rosetta Stone trademark and symbol appears on that disk? A Yeah. It doesn't appear as a TM. It appears	10 11 12 13 14 15 16 17 18 19 20	Q And then, sir, what is that entitled? A "Audio companion. Practice what you've learned in Rosetta Stone." This has audio companion trademark, TM. Q As opposed to the R? A As opposed to the R. Q And did you try that CD to see if it A No, I've never tried it. I don't even know what an MP3 player is, or if I own one. I guess it's the Apple. (Doyle Deposition Exhibit Number 4 was marked for identification.) BY MR. ETTINGER: Q And, lastly, let me show you what's been marked as Exhibit 4. It's entitled, Rosetta Stone user guide user's guide. And Did that come in the package that you received from SourcePlaza? A Yes, it did. Q And if you could hold that up just for a second. THE VIDEOGRAPHER: Okay.	

		1		
	30		3	2
1	BY MR. ETTINGER:	1	A Uh-huh.	
2	Q And so, sir, Exhibits 1, 2, 3 and 4, do they	2	Q offering discounted	
3	comprise the entirety of the package that you received	3	A Yes.	
4	from SourcePlaza?	4	Q Rosetta Stone software. Do you recall	
5	A I presume they do. I threw the wrapping away	5		
6	and threw the box away.	6	A No. It was, like, 20 percent off. I think	
7	Q And if you I'm sorry. Please finish.	7	there's an ad today, in fact, for 20 percent off on	
8	A No, no. That was all I was going to say.	8	Rosetta Stone software.	
9	Q And did you have you had custody of these	9	Q And was that a and that was a flyer that	
	four exhibits since you've received them from		came with your bill, some sort of a quarter sheet of	
11	SourcePlaza?	11	paper	
12	A I have, yes.	12	A Exactly.	
13	MR. ETTINGER: No further questions.	13	Q or color ad?	
14	EXAMINATION BY COUNSEL FOR THE	14	And did it how did the ad that you got	
.	DEFENDANT	ı	with your American Express bill direct you to purchase	
15	BY MR. FRIEDEN:		the software? Was it through a certain store? Was it	
16	Q Mr. Doyle, my name is Jon Frieden. I	17	through a website?	
17	represent Google.	18	A Oh, I don't recall. I think it was through	
18	THE VIDEOGRAPHER: Microphone, please.	19	American Express. I think you I don't recall.	
19	BY MR. FRIEDEN:	20	Q Do you recall I know you said that it was	
20	Q Now that I'm wired, Mr. Doyle		20 percent off. Did it happen to say what the regular	
21	A Yes.		price was at that time of the Rosetta Stone software?	
22	Q my name is Jon Frieden. I represent		1	
	31		3	3
		ı		
1	Google Liust have a few questions about starting	l ,	A I progume it did but I don't remember	
1 _	Google. I just have a few questions about starting	1	A I presume it did, but I don't remember.	
2	with your purchase of the Rosetta Stone software eight	2	Q And at the time that you saw that ad and then	
2 3	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased	2 3	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software,	
2 3 4	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software?	2 3 4	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software	
2 3 4 5	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a	2 3 4 5	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs?	
2 3 4 5 6	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web.	2 3 4 5 6	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than	
2 3 4 5 6 7	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people	2 3 4 5 6 7	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was	
2 3 4 5 6 7 8	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then.	2 3 4 5 6 7 8	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350.	
2 3 4 5 6 7 8 9	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight	2 3 4 5 6 7 8 9	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually	
2 3 4 5 6 7 8 9 10	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago?	2 3 4 5 6 7 8 9	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of	
2 3 4 5 6 7 8 9 10 11	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago? A No, I don't. A couple hundred dollars.	2 3 4 5 6 7 8 9 10	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of other sites, Barnes and Noble one of them; is that	
2 3 4 5 6 7 8 9 10 11 12	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago? A No, I don't. A couple hundred dollars. Q When you looked at the software more recently	2 3 4 5 6 7 8 9 10 11 12	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of other sites, Barnes and Noble one of them; is that correct?	
2 3 4 5 6 7 8 9 10 11 12 13	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago? A No, I don't. A couple hundred dollars. Q When you looked at the software more recently in the fall of 2009	2 3 4 5 6 7 8 9 10 11 12 13	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of other sites, Barnes and Noble one of them; is that correct? A That was after I returned it.	
2 3 4 5 6 7 8 9 10 11 12 13 14	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago? A No, I don't. A couple hundred dollars. Q When you looked at the software more recently in the fall of 2009 A That's a household phone. It will be off in	2 3 4 5 6 7 8 9 10 11 12 13 14	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of other sites, Barnes and Noble one of them; is that correct? A That was after I returned it. Q Okay. But at the time that you went to the	
2 3 4 5 6 7 8 9 10 11 12 13 14 15	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago? A No, I don't. A couple hundred dollars. Q When you looked at the software more recently in the fall of 2009 A That's a household phone. It will be off in a second.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of other sites, Barnes and Noble one of them; is that correct? A That was after I returned it. Q Okay. But at the time that you went to the site where you got this software for \$139, it was your	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago? A No, I don't. A couple hundred dollars. Q When you looked at the software more recently in the fall of 2009 A That's a household phone. It will be off in a second. (Telephone interruption.)	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of other sites, Barnes and Noble one of them; is that correct? A That was after I returned it. Q Okay. But at the time that you went to the site where you got this software for \$139, it was your understanding that the Rosetta Stone software was	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago? A No, I don't. A couple hundred dollars. Q When you looked at the software more recently in the fall of 2009 A That's a household phone. It will be off in a second. (Telephone interruption.) BY MR. FRIEDEN:	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of other sites, Barnes and Noble one of them; is that correct? A That was after I returned it. Q Okay. But at the time that you went to the site where you got this software for \$139, it was your understanding that the Rosetta Stone software was typically in the range of \$350?	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago? A No, I don't. A couple hundred dollars. Q When you looked at the software more recently in the fall of 2009 A That's a household phone. It will be off in a second. (Telephone interruption.) BY MR. FRIEDEN: Q Turning your attention now to the fall of	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of other sites, Barnes and Noble one of them; is that correct? A That was after I returned it. Q Okay. But at the time that you went to the site where you got this software for \$139, it was your understanding that the Rosetta Stone software was typically in the range of \$350? A Exactly.	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago? A No, I don't. A couple hundred dollars. Q When you looked at the software more recently in the fall of 2009 A That's a household phone. It will be off in a second. (Telephone interruption.) BY MR. FRIEDEN: Q Turning your attention now to the fall of 2009 when you made this purchase that we just	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of other sites, Barnes and Noble one of them; is that correct? A That was after I returned it. Q Okay. But at the time that you went to the site where you got this software for \$139, it was your understanding that the Rosetta Stone software was typically in the range of \$350? A Exactly. Q And I believe that you indicated that you	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago? A No, I don't. A couple hundred dollars. Q When you looked at the software more recently in the fall of 2009 A That's a household phone. It will be off in a second. (Telephone interruption.) BY MR. FRIEDEN: Q Turning your attention now to the fall of 2009 when you made this purchase that we just discussed, did you do any I know that you indicated	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of other sites, Barnes and Noble one of them; is that correct? A That was after I returned it. Q Okay. But at the time that you went to the site where you got this software for \$139, it was your understanding that the Rosetta Stone software was typically in the range of \$350? A Exactly.	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	with your purchase of the Rosetta Stone software eight to ten years ago. Do you recall where you purchased that software? A No, I don't. It would have been in a bookstore, though. I did not buy it on the web. Q I don't think there was a ton of people buying things like this on the web back then. Do you recall how much you paid for it eight to ten years ago? A No, I don't. A couple hundred dollars. Q When you looked at the software more recently in the fall of 2009 A That's a household phone. It will be off in a second. (Telephone interruption.) BY MR. FRIEDEN: Q Turning your attention now to the fall of 2009 when you made this purchase that we just	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q And at the time that you saw that ad and then went to look to purchase the Rosetta Stone software, did you become aware of how much that software typically costs? A I was aware it would cost a lot more than \$139. Yeah, I didn't know what it cost, but I was expecting to pay about 350. Q Okay. And I believe that you actually indicated that you had price checked it at a couple of other sites, Barnes and Noble one of them; is that correct? A That was after I returned it. Q Okay. But at the time that you went to the site where you got this software for \$139, it was your understanding that the Rosetta Stone software was typically in the range of \$350? A Exactly. Q And I believe that you indicated that you thought you were getting a real bargain at \$139?	

	-	
	34	36
1	true?	1 sponsored links and organic links.
2	A Yes.	2 A Yes.
3	Q You indicated that you did a search on Google	3 Q When did he give you that education?
4	for the Rosetta Stone software; is that correct?	4 A Today.
5	A Yes, that's right.	5 Q Okay. Was that the first time you met
6	Q Had you searched for other products or	6 Mr. Ettinger?
7	services through Google previously?	7 A Yes, face to face. We talked on the phone.
8	A Other than Rosetta Stone?	8 Q Okay. How many other times did you talk on
9	Q Yes.	9 the phone prior to today's deposition?
10	A Oh, yeah, for many things.	10 A Twice. Once to schedule it and once to
11	Q Had you ever purchased, on the basis of doing	11 confirm it.
	a search on Google, either a product or service	12 Q Okay. And then you spoke to him some this
13		13 morning where you had this conversation about the
14	A Yes.	14 difference between
15	Q And I believe you used the term "sponsored	15 A Yes.
	link."	16 Q organic search results and sponsored
17	A Uh-huh.	17 A Uh-huh.
18		
19		19 this morning before your deposition?20 A Just the timing of it, and that was
20	side.	21 essentially it.
22	A Yes.	22 MR. ETTINGER: We did discuss Montgomery
	A 165.	VIX. ETTIVOLK. We did discuss Worldgomery
_		
	35	37
1		
1 2	Q Okay. And I take it, from your use of the	1 County schools.
	Q Okay. And I take it, from your use of the terminology, that you understand that there are what	1 County schools.
2	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search?	 County schools. THE WITNESS: Well, yes, that was small talk.
2 3	Q Okay. And I take it, from your use of the terminology, that you understand that there are what	 County schools. THE WITNESS: Well, yes, that was small talk. I just finished a book on Montgomery County schools.
2 3 4	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah.	 County schools. THE WITNESS: Well, yes, that was small talk. I just finished a book on Montgomery County schools. BY MR. FRIEDEN:
2 3 4 5	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well?	 County schools. THE WITNESS: Well, yes, that was small talk. I just finished a book on Montgomery County schools. BY MR. FRIEDEN: Q You correctly inferred that I was excluding
2 3 4 5 6	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh.	 County schools. THE WITNESS: Well, yes, that was small talk. I just finished a book on Montgomery County schools. BY MR. FRIEDEN: Q You correctly inferred that I was excluding small talk in the scope of my questions.
2 3 4 5 6	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that	 County schools. THE WITNESS: Well, yes, that was small talk. I just finished a book on Montgomery County schools. BY MR. FRIEDEN: Q You correctly inferred that I was excluding small talk in the scope of my questions. MR. ETTINGER: I just want the record to be
2 3 4 5 6 7 8	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete.
2 3 4 5 6 7 8 9	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding?	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN:
2 3 4 5 6 7 8 9 10 11 12	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding? A More recently. Q Okay. A I wasn't aware of the sponsored links on the	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN: 10 Q Now, you indicated that you had previously
2 3 4 5 6 7 8 9 10 11 12 13	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding? A More recently. Q Okay. A I wasn't aware of the sponsored links on the left-hand side of the page. I thought those were	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN: 10 Q Now, you indicated that you had previously 11 purchased goods or services after having searched for
2 3 4 5 6 7 8 9 10 11 12 13	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding? A More recently. Q Okay. A I wasn't aware of the sponsored links on the left-hand side of the page. I thought those were organic links.	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN: 10 Q Now, you indicated that you had previously 11 purchased goods or services after having searched for 12 those goods or services through Google; is that 13 correct? 14 A Yes.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding? A More recently. Q Okay. A I wasn't aware of the sponsored links on the left-hand side of the page. I thought those were organic links. Q And how did you become aware of the	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN: 10 Q Now, you indicated that you had previously 11 purchased goods or services after having searched for 12 those goods or services through Google; is that 13 correct? 14 A Yes. 15 Q Aside from this product that we're discussing
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding? A More recently. Q Okay. A I wasn't aware of the sponsored links on the left-hand side of the page. I thought those were organic links. Q And how did you become aware of the difference between sponsored links?	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN: 10 Q Now, you indicated that you had previously 11 purchased goods or services after having searched for 12 those goods or services through Google; is that 13 correct? 14 A Yes. 15 Q Aside from this product that we're discussing 16 today, the Rosetta Stone product, had you have had any
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding? A More recently. Q Okay. A I wasn't aware of the sponsored links on the left-hand side of the page. I thought those were organic links. Q And how did you become aware of the difference between sponsored links? A The attorney here from representing the	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN: 10 Q Now, you indicated that you had previously 11 purchased goods or services after having searched for 12 those goods or services through Google; is that 13 correct? 14 A Yes. 15 Q Aside from this product that we're discussing 16 today, the Rosetta Stone product, had you have had any 17 other problems with goods or services you purchased
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding? A More recently. Q Okay. A I wasn't aware of the sponsored links on the left-hand side of the page. I thought those were organic links. Q And how did you become aware of the difference between sponsored links? A The attorney here from representing the other side informed me of that.	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN: 10 Q Now, you indicated that you had previously 11 purchased goods or services after having searched for 12 those goods or services through Google; is that 13 correct? 14 A Yes. 15 Q Aside from this product that we're discussing 16 today, the Rosetta Stone product, had you have had any 17 other problems with goods or services you purchased 18 using Google as a search tool?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding? A More recently. Q Okay. A I wasn't aware of the sponsored links on the left-hand side of the page. I thought those were organic links. Q And how did you become aware of the difference between sponsored links? A The attorney here from representing the other side informed me of that. Q Okay. So Mr. Ettinger, who represents	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN: 10 Q Now, you indicated that you had previously 11 purchased goods or services after having searched for 12 those goods or services through Google; is that 13 correct? 14 A Yes. 15 Q Aside from this product that we're discussing 16 today, the Rosetta Stone product, had you have had any 17 other problems with goods or services you purchased 18 using Google as a search tool? 19 A No, I haven't. No. And I use Google all the
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding? A More recently. Q Okay. A I wasn't aware of the sponsored links on the left-hand side of the page. I thought those were organic links. Q And how did you become aware of the difference between sponsored links? A The attorney here from representing the other side informed me of that. Q Okay. So Mr. Ettinger, who represents Rosetta Stone, had	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN: 10 Q Now, you indicated that you had previously 11 purchased goods or services after having searched for 12 those goods or services through Google; is that 13 correct? 14 A Yes. 15 Q Aside from this product that we're discussing 16 today, the Rosetta Stone product, had you have had any 17 other problems with goods or services you purchased 18 using Google as a search tool? 19 A No, I haven't. No. And I use Google all the 20 time.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding? A More recently. Q Okay. A I wasn't aware of the sponsored links on the left-hand side of the page. I thought those were organic links. Q And how did you become aware of the difference between sponsored links? A The attorney here from representing the other side informed me of that. Q Okay. So Mr. Ettinger, who represents Rosetta Stone, had A Yeah.	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN: 10 Q Now, you indicated that you had previously 11 purchased goods or services after having searched for 12 those goods or services through Google; is that 13 correct? 14 A Yes. 15 Q Aside from this product that we're discussing 16 today, the Rosetta Stone product, had you have had any 17 other problems with goods or services you purchased 18 using Google as a search tool? 19 A No, I haven't. No. And I use Google all the 20 time. 21 Q Now, I believe that you indicated that, with
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q Okay. And I take it, from your use of the terminology, that you understand that there are what we call organic results in a search? A Yeah, I do, now. Yeah. Q And then sponsored links as well? A Uh-huh. Q And you indicated that you now have that understanding. When did you come to that understanding? A More recently. Q Okay. A I wasn't aware of the sponsored links on the left-hand side of the page. I thought those were organic links. Q And how did you become aware of the difference between sponsored links? A The attorney here from representing the other side informed me of that. Q Okay. So Mr. Ettinger, who represents Rosetta Stone, had	1 County schools. 2 THE WITNESS: Well, yes, that was small talk. 3 I just finished a book on Montgomery County schools. 4 BY MR. FRIEDEN: 5 Q You correctly inferred that I was excluding 6 small talk in the scope of my questions. 7 MR. ETTINGER: I just want the record to be 8 complete. 9 BY MR. FRIEDEN: 10 Q Now, you indicated that you had previously 11 purchased goods or services after having searched for 12 those goods or services through Google; is that 13 correct? 14 A Yes. 15 Q Aside from this product that we're discussing 16 today, the Rosetta Stone product, had you have had any 17 other problems with goods or services you purchased 18 using Google as a search tool? 19 A No, I haven't. No. And I use Google all the 20 time.

	38		40
2 ii 3 ii 4 ii 5 ii 6 ii 7 ii 8 ii 10 ii 11 ii 12 ii 13 ii 14 ii 15 ii 16 ii 17 ii 18 ii	software that has been in part admitted into evidence in this deposition today, you don't recall what that link said? A No, I don't. Q Do you recall what the description of the link underneath the link in the search results said? A No, I don't. MR. ETTINGER: Objection as to form. I'm sorry. I just have to make an objection to the form. THE WITNESS: No, I don't recall. I did look up the link this morning, and it seems to be pretty much the same as it was last fall. BY MR. FRIEDEN: Q And how did you look up the link this morning? A Went to Google and went to Rosetta Stone, and it was the I think it was the second one today rather than the first one, of the sponsored links.	1 ask. Has she been happy with the 2 A Oh, yeah, she's been very happy with Google. 3 And advanced she's finally advanced to first place 4 in the listings. 5 Q And so she began that process 15 months 6 ago. So you understood, certainly by virtue of that 7 experience with your wife, that when you look at an 8 advertisement on Google, it's not Google that's 9 offering the product? 10 A Right. Same way in the newspaper. 11 Q Same with the newspaper, like a classified 12 ad? 13 A Yes, exactly. 14 Q Now, when Mr. Ettinger asked you if the link 15 for the material on the search results that led you to 16 purchase the software that has been admitted into 17 evidence used the terms "Rosetta Stone," you indicat 18 that you presumed that it did.	ed
19 20	Q Did you do that with Mr. Ettinger?A No, I did that by myself. I was just	19 A Yes.20 Q Do you recall precisely whether it did or	
21 (22	curious. Q I believe you described the material that you	21 not? 22 A Well, I'm sure it did. I mean, I don't have	
	39		41
1 :	saw on the search results that led you to the site		I
3 : 4 : 5 : 6 : 7 : 8 : 6 : 9 : 6 : 10 : 11 : 12 : 13 : 14 : 6 : 16 : 16 : 16 : 16 : 16 : 16	that you eventually purchased this software from as a standard stock ad; is that correct? A Yeah, that's what I assumed it was. Q And what did you mean by that, standard stock	1 any it was such an innocent foray on my part that 2 it had to say Rosetta Stone since I was buying Rosett 3 Stone. 4 Q Sure. Okay. The when you clicked on the 5 link from the Google search results that took you to 6 the site from which you eventually purchased the 7 software which has been admitted into evidence as 8 Deposition Exhibits 1 through 4, do you recall and 9 I know that the company you purchased it from was 10 SourcePlaza. Do you recall whether or not it was a 11 sourceplaza.com sub-domain that you were directed 12 A Oh, no, I don't. Sorry. 13 Q Let's try this, just because I took a quick 14 look at sourceplaza.com this morning. I just want to 15 see if you recognize 16 (Doyle Deposition Exhibit Number 5 was mark 17 for identification.) 18 BY MR. FRIEDEN: 19 Q Mr. Doyle, I'm going to show you what's been	o? ed

	42			44
1	appeared yesterday morning at 9:14 a.m. Does that	1	Q Correct? You understand that?	
2	look familiar to you, sir?	2	A Exactly.	
3	A No. It doesn't look unfamiliar, but it	3	Q And if I was to purchase you may not play	
4	doesn't look familiar either.		deo games, but you may	
5	Q So you can't say whether or not this was the		A No, I don't.	
6	page or a page that you were directed to?		Q I do. And if I purchase a video game in	
7	A No, I don't think I would have been directed		oftware form, either for a console or for a computer,	
1	to a page like this. It seems to I think it was a		many instances I can take that product and I can	
9	Rosetta Stone page.		en sell it	
10	Q Okay. I believe you indicated that, though		A Yes.	
1	you were directed to the sourceplaza.com website, or	11	Q So I can sell it back to the game store or I	
1	SourcePlaza on the web, to purchase the software which		an sell it to a friend. You understand that as well?	
	has been admitted into evidence as Deposition		A Yeah. My wife's book is being resold by	
1	Exhibits 1 through 4, you had never previously		mazon. Amazon has not accepted the book as its own,	
15	purchased from that website before; is that correct?		at resold as a used book.	
16	A No, never.		Q As a used book. Exactly. Were you aware	
17	Q Did you do anything to check the website out		at Rosetta Stone's policy prevent a purchaser for	
18	to determine where the company was located, whether		stance, you've now purchased their software	
19	the company had positive, you know, product reviews or	_	revents you from reselling that software to a third	
20 21	positive reviews in terms of service at all? A No, I didn't.	20 pa 21	arty? A No, I'm not aware of that.	
22	Q How much time would you say elapsed between	22	Q Does that strike you as being unfair?	
22	Q Trow much time would you say erapsed between	22	Q Does that surke you as being unian?	
	43			45
1	43 your looking at the Google search results and what you	1	MR. ETTINGER: Objection.	45
1	your looking at the Google search results and what you saw what you indicated to be a link to this	1 2	MR. ETTINGER: Objection. THE WITNESS: I'd have to mull that one over,	45
1	your looking at the Google search results and what you	2		45
1	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site?	2	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN:	45
2 3 4 5	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately.	2 3 I g 4 5	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from	45
2 3 4	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that	2 3 I g 4 5 6 Sc	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later	45
2 3 4 5 6 7	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up.	2 3 I g 4 5 6 Sc 7 dis	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you	45
2 3 4 5 6 7 8	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several	2 3 I g 4 5 6 Sc 7 di: 8 be	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone	45
2 3 4 5 6 7 8 9	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books.	2 3 I § 4 5 6 So 7 di: 8 be 9 its	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct?	45
2 3 4 5 6 7 8 9 10	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes.	2 3 I g 4 5 6 Sc 7 dis 8 be 9 its	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes.	45
2 3 4 5 6 7 8 9 10	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes. Q I think I've seen some of those online. And,	2 3 I g 4 5 6 So 7 di: 8 be 9 its 10	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes. Q And I believe you already indicated that	45
2 3 4 5 6 7 8 9 10 11 12	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes. Q I think I've seen some of those online. And, as a result, you get royalties from those books?	2 3 I g 4 5 6 Sc 7 di: 8 be 9 its 10 11 12 the	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes. Q And I believe you already indicated that e the disks and the documentation between the two	45
2 3 4 5 6 7 8 9 10 11 12 13	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes. Q I think I've seen some of those online. And, as a result, you get royalties from those books? A Small pittance royalties, but royalties	2 3 I g 4 5 6 Sc 7 di: 8 be 9 its 10 11 12 the 13 pr	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes. Q And I believe you already indicated that e the disks and the documentation between the two roducts are virtually identical.	45
2 3 4 5 6 7 8 9 10 11 12 13 14	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes. Q I think I've seen some of those online. And, as a result, you get royalties from those books? A Small pittance royalties, but royalties nonetheless.	2 3 I g 4 5 6 Sc 7 di: 8 be 9 its 10 11 12 the 13 pr 14	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes. Q And I believe you already indicated that e the disks and the documentation between the two roducts are virtually identical. A Uh-huh.	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes. Q I think I've seen some of those online. And, as a result, you get royalties from those books? A Small pittance royalties, but royalties nonetheless. Q And you understand that and I think that	2 3 I g 4 5 6 Sc 7 dix 8 be 9 its 10 11 12 thc 13 pr 14 15	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes. Q And I believe you already indicated that e the disks and the documentation between the two roducts are virtually identical. A Uh-huh. Q And you have indicated that you had some	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes. Q I think I've seen some of those online. And, as a result, you get royalties from those books? A Small pittance royalties, but royalties nonetheless. Q And you understand that and I think that you have some sort of basic understanding of	2 3 I g 4 5 6 Sc 7 dis 8 be 9 its 10 11 12 the 13 pr 14 15 16 fu	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes. Q And I believe you already indicated that e the disks and the documentation between the two roducts are virtually identical. A Uh-huh. Q And you have indicated that you had some unctionality of the Rosetta Stone software that you	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes. Q I think I've seen some of those online. And, as a result, you get royalties from those books? A Small pittance royalties, but royalties nonetheless. Q And you understand that and I think that you have some sort of basic understanding of intellectual property law as a result of that at	2 3 I g 4 5 6 Sc 7 dis 8 be 9 its 10 11 12 the 13 pr 14 15 16 fu 17 bo	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes. Q And I believe you already indicated that e the disks and the documentation between the two roducts are virtually identical. A Uh-huh. Q And you have indicated that you had some inctionality of the Rosetta Stone software that you ought in in the fall of 2009 which you later	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes. Q I think I've seen some of those online. And, as a result, you get royalties from those books? A Small pittance royalties, but royalties nonetheless. Q And you understand that and I think that you have some sort of basic understanding of intellectual property law as a result of that at least you have used the right terminology. You	2 3 I g 4 5 6 Sc 7 dis 8 be 9 its 10 11 12 the 13 pr 14 15 16 fu 17 be 18 de	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes. Q And I believe you already indicated that e the disks and the documentation between the two roducts are virtually identical. A Uh-huh. Q And you have indicated that you had some unctionality of the Rosetta Stone software that you ought in in the fall of 2009 which you later ecided was not authentic, as you described it?	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes. Q I think I've seen some of those online. And, as a result, you get royalties from those books? A Small pittance royalties, but royalties nonetheless. Q And you understand that and I think that you have some sort of basic understanding of intellectual property law as a result of that at least you have used the right terminology. You understand that, if I purchase one of your books, for	2 3 I g 4 5 6 So 7 di 8 be 9 its 10 11 12 the 13 pr 14 15 16 fu 17 bo 18 de 19	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes. Q And I believe you already indicated that e the disks and the documentation between the two roducts are virtually identical. A Uh-huh. Q And you have indicated that you had some anctionality of the Rosetta Stone software that you ought in in the fall of 2009 which you later excided was not authentic, as you described it? A Uh-huh. Right.	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes. Q I think I've seen some of those online. And, as a result, you get royalties from those books? A Small pittance royalties, but royalties nonetheless. Q And you understand that and I think that you have some sort of basic understanding of intellectual property law as a result of that at least you have used the right terminology. You understand that, if I purchase one of your books, for instance, and then I want to sell it to a used book	2 3 I g 4 5 6 Sc 7 dis 8 be 9 its 10 11 12 the 13 pr 14 15 16 fu 17 be 18 de 19 20	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes. Q And I believe you already indicated that e the disks and the documentation between the two roducts are virtually identical. A Uh-huh. Q And you have indicated that you had some unctionality of the Rosetta Stone software that you ought in in the fall of 2009 which you later ecided was not authentic, as you described it? A Uh-huh. Right. Q And you indicated that the software that	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	your looking at the Google search results and what you saw what you indicated to be a link to this sourceplaza.com site and your actually purchasing the software from that site? A I bought immediately. Q Mr. Doyle, are you aware of the fact that Rosetta Stone well, let's back up. You indicated that you've written several books. A Yes. Q I think I've seen some of those online. And, as a result, you get royalties from those books? A Small pittance royalties, but royalties nonetheless. Q And you understand that and I think that you have some sort of basic understanding of intellectual property law as a result of that at least you have used the right terminology. You understand that, if I purchase one of your books, for	2 3 I g 4 5 6 Sc 7 dis 8 be 9 its 10 11 12 th 13 pr 14 15 16 fu 17 be 18 de 19 20 21 th	THE WITNESS: I'd have to mull that one over, guess. I don't know that it would be unfair or not. BY MR. FRIEDEN: Q In this instance, you received software from ourcePlaza that we've discussed that you then later scussed with Rosetta, and then you received what you elieve to be the genuine product from Rosetta Stone self, correct? A Uh-huh. Yes. Q And I believe you already indicated that e the disks and the documentation between the two roducts are virtually identical. A Uh-huh. Q And you have indicated that you had some anctionality of the Rosetta Stone software that you ought in in the fall of 2009 which you later excided was not authentic, as you described it? A Uh-huh. Right.	45

1 understanding as to whether or not the disk that has 2 been admitted into evidence is actually a disk 3 containing the software and, for whatever reason, 4 because it wasn't registered, doesn't give you full 5 functionality or whether the actual Rosetta Stone 6 software is not on this disk? 7 MR. ETTINGER: Objection as to form. 8 THE WITNESS: No, I would have no way to know 9 that. But it seemed to be real when I - authentic 10 material when I opened it up and loaded it and began 11 to use it. 12 BY MR. FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone the genuine Rosetta Stone 16 software, appeared to be, genuine? 17 A I seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 10 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone, and I presumably was not eligible for oupdates as well. I presume there were updates that would have come on occasion, bug fixes or whatever that they would have come on occasion, bug fixes or whatever that they would have come on occasion, bug fixes or whatever that they would have come on occasion, bug fixes or whatever that they would have come on occasion, bug fixes or whatever that would have come on occasion, bug fixes or whatever that they would have come on occasion, bug fixes or whatever that they would have come on occasion, bug fixes or whatever that they would have come on occasion, bug fixes or whatever that they would have come on occasion, bug fixes or whatever that they would have come on occasion, bug fixes or whatever that they would have come on occasion, bug fixes or whatever that they would have come on occasion, bug fixes or whatever that the probability of the first or second one first. I would that the contents? 1 A
2 been admitted into evidence is actually a disk 3 containing the software and, for whatever reason, 4 because it wasn't registered, doesn't give you full 5 functionality or whether the actual Rosetta Stone 6 software is not on this disk? 7 MR_ETINGEE: Objection as to form. 8 THE WITNESS: No, I would have no way to know 9 that. But it seemed to be real when I – authentic 10 material when I opened it up and loaded it and began 11 to use it. 12 BY MR_FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone – the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 47 1 Q Because some functionality was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr, Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 14 Chodid you pay for that software? 15 Pay Pal. Which they came up as a PayPal
2 been admitted into evidence is actually a disk 3 containing the software and, for whatever reason, 4 because it wasn't registered, doesn't give you full 5 functionality or whether the actual Rosetta Stone 6 software is not on this disk? 7 MR ETTINGER: Objection as to form. 8 THE WITNESS: No, I would have no way to know 9 that. But it seemed to be real when I – authentic 10 material when I opened it up and loaded it and began 11 to use it. 12 BY MR. FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone – the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone; 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone; 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone; 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone; 47 1 A You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A Yaphal. Which they came up as a PayPal
3 Deposition Exhibits 1 through 4, do you have any of 4 because it wasn't registered, doesn't give you full 5 functionality or whether the actual Rosetta Stone 6 software is not on this disk? 7 MR. ETTINGER: Objection as to form. 8 THE WTINESS: No, I would have no way to know 9 that. But it seemed to be real when I authentic 10 material when I opened it up and loaded it and began 11 to use it. 12 BY MR. FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone based on your experience with 16 the Rosetta Stone the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A I seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 4 would have come on occasion, bug fixes or whatever 5 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 the other materials which were associated with your 5 purchase of the Rosetta Stone to that it came 7 in - not only the outer packaging, but the inner 8 rime rationally mere or anoty the outer packaging, but the inner 18 conor anoty the outer packaging, but the inner 18 conor or any other software or magnetic or 9 optical media related to that purchase? 10 A No, 10 dm't. 11 Q Mr. Doyle, I saw you look at your watch. 12 Would you like to take a break? 13 A No, no. That's fine. 14 Q With respect to the search that you did on 15 Google that came up with a link to the sourceplaza.com 16 website, do you recall precisely where that link was 17 on the page? 18 MR. ETTINGER: Objection a
4 the other materials which were associated with your 5 functionality or whether the actual Rosetta Stone 6 software is not on this disk? 7 MR. ETTINGER: Objection as to form. 8 THE WITNESS: No, I would have no way to know 9 that. But it seemed to be real when I – authentic 10 material when I opened it up and loaded it and began 11 to use it. 12 BY MR. FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone - the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 19 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone; 4 A Yeah, and I – it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that would have come on occasion, bug fixes or whatever they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza com to 11 purchase the software, correct? 11 A It looked like the others, as I recall. I 2 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation in the strong and online investigation in the fall of 6 2009 including the packaging, but the inner 8 Rosetta Stone box or any other software or magnetic or 9 purchase of the Rosetta Stone box or any other software or magnetic or 9 purchase of the Rosetta Stone box or any other software or magnetic or 9 purchase of the Rosetta Stone has not only the outer packaging, but the inner 8 Rosetta Stone box or any other software or magnetic or 9 purchase of the Rosetta Stone to that loads of the Inner 12 Would have to take a break? 10 Q W
5 functionality or whether the actual Rosetta Stone 6 software is not on this disk? 7 MR ETTINGER: Objection as to form. 8 THE WITNESS: No, I would have no way to know 9 that. But it seemed to be real when I authentic 10 material when I opened it up and loaded it and began 11 to use it. 12 BY MR FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone the genuine? Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off: 47 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone, and I presumably was not eligible for oupdates as well. I presume there were updates that would have come on occasion, bug fixes or whatever they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 purchase the software, correct? 10 A No, 1 don't. 11 Q Mr. Doyle, I saw you look at your watch. 12 Would you like to take a break? 13 A No, no. That's fine. 14 Q With respect to the search that you did on 15 Google that came up with a link to the sourceplaza.com 16 software, appeared to be genuine? 18 Rosetta Stone, and other updates of the Rosetta Stone or on the related to that purchase? 10 A No, 1 don't. 11 Q With respect to the search that you did on 15 Google that came up with a link to the sourceplaza.com 16 software appeared? 18 MR. ETTINGER: Objection as to form. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand 23 A My recollection, it was on the left-hand 24 side. 25 Q And this was the link that you followed to 26 purchase the software in the fall to that purchase? 26 Q Do you recall if it was set off in any way 27 officerent from other links on the p
6 software is not on this disk? 7 MR. ETTINGER: Objection as to form. 8 THE WITNESS: No, I would have no way to know 9 that. But it seemed to be real when I authentic 10 material when I opened it up and loaded it and began 11 to use it. 12 BY MR. FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for oupdates as well. I presume there were updates that would have come on occasion, bug fixes or whatever they would have. 9 Q To back up a little bit, Mr. Doyle, just to confirm, ou clicked on the link at sourceplaza.com to lipurchase the software, correct? 10 A No, 1don't. 11 Q Mr. Doyle, I saw you look at your watch. 12 Would you like to take a break? 13 A No, no. That's fine. 14 Q With respect to the search that you did on 15 Google that came up with a link to the sourceplaza.com 16 website, do you recall precisely where that link was 17 on the page? 18 MR. ETTINGER: Objection as to form. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand 24 A Yeah, and I it couldn't be registered with 25 Rosetta Stone, and I presumably was not eligible for updates as well. I presume there were updates that 25 Q And this was the link that you followed to 26 purchase the software in 2009? 27 A Yes. 28 Q Do you recall if it was set off in any way 29 different from other links on the page or did it look 110 file all the others?
7 in not only the outer packaging, but the inner 8 THE WITNESS: No, I would have no way to know 9 that. But it seemed to be real when I authentic 10 material when I opened it up and loaded it and began 11 to use it. 12 BY MR. FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone; 6 A No, I don't. 11 Q Mr. Doyle, I saw you look at your watch. 12 Would you like to take a break? 13 A No, no. That's fine. 14 Q With respect to the search that you did on 15 Google that came up with a link to the sourceplaza.com 16 website, do you recall precisely where that link was 17 on the page? 18 MR. ETTINGER: Objection as to form. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand side? 47 49 1 A You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 3 croll through and pick out the one that looks the 14 A PayPal. Which they came up as a PayPal
8 Rosetta Stone box or any other software or magnetic or 9 that. But it seemed to be real when I authentic 10 material when I opened it up and loaded it and began 11 to use it. 12 BY MR. FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone; 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 8 Rosetta Stone box or any other software or anguetic or 9 optical media related to that purchase? 10 A No, I don't. 11 Q Mr. Doyle, I saw you look at your watch. 12 Would you like to take a break? 10 A No, I. That's fine. 11 Q With respect to the search that you did on 15 Google that came up with a link to the sourceplaza.com 16 website, do you recall precisely where that link was 17 on the page? 18 MR. ETTINGER: Objection as to form. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand side? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other l
9 that. But it seemed to be real when I authentic 10 material when I opened it up and loaded it and began 11 to use it. 12 BY MR, FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for oupdates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the fall 11 Q Mr. Doyle, 1 saw you look at your watch. 12 Would you like to take a break? 13 A No, no. That's fine. 14 Q With respect to the search that you did on 15 Google that came up with a link to the sourceplaza com 16 website, do you recall precisely where that link was 17 on the page? 18 MR. ETTINGER: Objection as to form. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand side? 47 49 1 A You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
10 material when I opened it up and loaded it and began 11 to use it. 12 BY MR. FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have. 8 they would have come on occasion, bug fixes or whatever 8 they would have come on occasion, bug fixes or whatever 8 they would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q Mr. Doyle, I saw you look at your watch. 14 Q With respect to the search that you did on 15 Google that came up with a link to the sourceplaza com 16 website, do you recall precisely where that link was 17 on the page? 18 MR. ETTINGER: Objection as to form. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand side? 47 49 1 A You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
11 to use it. 12 BY MR. FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone — the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I — it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 Q With respect to the search that you did on 15 Google that came up with a link to the sourceplaza.com 16 website, do you recall precisely where that link was 17 on the page? 18 MR. ETTINGER: Objection as to form. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand wide. 22 o Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 22 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
12 BY MR. FRIEDEN: 13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47
13 Q So the software that you received in the fall 14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off: 47 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 A No, no. That's fine. 14 Q With respect to the search that you did on 16 website, do you recall precisely where that link was 17 on the page? 18 MR. ETTINGER: Objection as to form. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand side? 47 49 49 49 40 41 A You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 11 La It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
14 of 2009 appeared to be, based on your experience with 15 the Rosetta Stone the genuine Rosetta Stone 16 software, appeared to be genuine? 16 software, appeared to be genuine? 17 A It seemed to be, yes. 17 on the page? 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand side? 1 A You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 2 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
15 the Rosetta Stone the genuine Rosetta Stone 16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 15 Google that came up with a link to the sourceplaza.com 16 website, do you recall precisely where that link was 17 on the page? 18 MR. ETTINGER: Objection as to form. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand side? 47
16 software, appeared to be genuine? 17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 Pah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 16 website, do you recall precisely where that link was 17 on the page? 18 MR. ETTINGER: Objection as to form. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand side? 47 4 You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others, as I recall. I 2 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
17 A It seemed to be, yes. 18 Q Except that it had limited functionality? 19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 17 on the page? 18 MR. ETTINGER: Objection as to form. 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand side? 47 49 1 A You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 2 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
18
19 A Yeah, and then when I went back to the 20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand side? 47 49 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 19 THE WITNESS: No, I don't. 20 BY MR. FRIEDEN: 21 Q So it could have been on the right-hand side, 22 in the center or on the left-hand side? 47 4 A You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others, as I recall. I 11 Looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
20 installation instructions and discovered you couldn't 21 get web connections with it, that was what really 22 tipped me off. 47 49 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 47 48 49 1 A You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
21 get web connections with it, that was what really 22 tipped me off. 47 48 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 47 48 49 1 A You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
22 in the center or on the left-hand side? 47 49 1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 20 Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 4 You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
1 Q Because some functionality was limited 2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 1 A You mean, the link to SourcePlaza? 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
1
2 because you couldn't activate or register the software 3 through Rosetta Stone? 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 2 Q Yes. 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
3 A My recollection, it was on the left-hand 4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 3 A My recollection, it was on the left-hand 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
4 A Yeah, and I it couldn't be registered with 5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 11 A It looked like the others, as I recall. I 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 4 side. 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
5 Rosetta Stone, and I presumably was not eligible for 6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 5 Q And this was the link that you followed to 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
6 updates as well. I presume there were updates that 7 would have come on occasion, bug fixes or whatever 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 6 purchase the software in 2009? 7 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
7 A Yes. 8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 17 A Yes. 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
8 they would have. 9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 8 Q Do you recall if it was set off in any way 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
9 Q To back up a little bit, Mr. Doyle, just to 10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 9 different from other links on the page or did it look 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
10 confirm, you clicked on the link at sourceplaza.com to 11 purchase the software, correct? 11 A It looked like the others, as I recall. I 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 10 like all the others? 11 A It looked like the others, as I recall. I 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
11 purchase the software, correct? 12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 15 A It looked like the others, as I recall. I 16 12 usually go to the first or second one first. I would 17 Scroll through and pick out the one that looks the 18 14 most promising when I'm making an online investigation
12 A Uh-huh. 13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 12 usually go to the first or second one first. I would 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
13 Q How did you pay for that software? 14 A PayPal. Which they came up as a PayPal 13 scroll through and pick out the one that looks the 14 most promising when I'm making an online investigation
14 A PayPal. Which they came up as a PayPal 14 most promising when I'm making an online investigation
15 on tion. I'm not a mambar of DayDal, but I
13 option. Thi not a member of Fayl at, but I
16 Q Did you join for that purpose? 16 Q Could it be that that link was not an
17 A No, I didn't. I just typed in my American 17 advertisement but just one of the links that normally
18 Express card number. 18 comes up organically on the Google search?
10 Empress that name of the control of the cools state of the cools of
19 Q And it was your American Express card? 19 MR. ETTINGER: Objection.
1 ' ' ' '
19 Q And it was your American Express card? 19 MR. ETTINGER: Objection.

50 52 1 SourcePlaza. 1 to your website from Google searches? BY MR. FRIEDEN: A No, it's certainly -- we could certainly find 3 Q And you assumed that it was a sponsored link 3 out, but I'm not aware. 4 based on your discussion with Mr. Ettinger this Q Okay. 5 morning? 5 Google has got, like, 80 percent of the Well, yes. That's my understanding from my 6 search engine market in the whole world, don't they? 7 discussion with Mr. Ettinger what a sponsored link is, Maybe higher than Europe. 8 but I knew intuitively what a sponsored link was Q Your information is probably as good as mine 9 before. I mean, I know that Rosetta Stone is sold by on that subject, but I think it's -- I think it's 10 second-hand -- secondary retailers, both online and about that. But certainly, you're aware that Internet 11 physical. users find their site as a result of Google searches? Q And you believed that you were going to an 12 Uh-huh. 13 authorized retailer of Rosetta Stone when you --13 What is it about Google that you find to be 14 so valuable in terms of -- essentially, why is it now A I presumed I was, yeah. 15 Q I know that you indicated that you use Google your exclusive search engine? 16 probably five to ten times a day. 16 A Well, speed and accuracy are the two that I 17 A Uh-huh. 17 would value most highly. And the fact that you don't 18 Q I assume you use -- do you use -- do you need to put much information in to get a lot of 19 really use any other search engine? information out. I used it twice yesterday to get 20 directions on Google Maps. I used it recently to get A No, not any longer. 21 Q And for how long has that been your practice, some information about some people I know, people I 22 to use exclusively Google as your search engine? 22 was going to meet. And it just -- very, very -- trace 51 53 A Oh, my goodness. As long as I remember 1 amounts of information produced stupendous results, 2 and the algorithms are really fabulous. 2 Google being around. 3 Q Would that be five years? Ten years? Q And I think that we indicated that at the 4 A Yeah, I would say five years. 4 time that you did this search in the fall of 2009 that Q I know that you indicated that your wife 5 led you to the Rosetta Stone software which has been 6 advertises her book on Google, and has for the last 15 6 marked and admitted as Deposition Exhibits 1 through 7 months. 7 4, you didn't at that time know the difference between A Uh-huh. 8 an organic search result and a sponsored link; is that Q Do you know any of the details of that 9 correct? 10 advertising program or how exactly it works with 10 A No, I didn't. 11 respect to her? After having been educated by Mr. Ettinger 11 A No, I don't. I just pay the bill. It's 12, about sponsored links, do you now look back on your 12 13 \$15 a month. experience with Google and know whether or not you 14 Q Have you ever advertised anything on Google? 14 had, other than the Rosetta Stone software, clicked on 15 A No. I've not. 15 sponsored links in the past to get --16 And I know that you have a website -- I've 16 I've clicked on sponsored links in the past, 17 been on it, I think -- or Schoolnet does. 17 yeah. A Yeah, Schoolnet has a website, and my wife 18 And as a result of clicking on sponsored 19 has a website. I don't have a website. 19 links in the past, have you purchased goods or 20 Q Okay. Schoolnet has a website? 20 services? 21 A Yes. 21 A Yes, I have. 22 Q And are you aware of how much traffic is led 22 And you've been happy with those purchases?

54 56 A Yes, very happy. I got a thousand dollar 1 additional problem. 2 refund from American Express on a purchase I made 11 I know, when we went through Deposition 3 months ago -- 11 months before the refund. This was 3 Exhibit Number 1, which is a quick start guide that 4 came with your Rosetta Stone software in the fall of 4 last year, 2008. It was a business class airline that 5 flew out of Dulles to London -- I forgot the name of 2009 --6 it now -- and it went bankrupt before my ticket was 6 A Right. 7 used. And I immediately contacted American Express -- you noted some -- what you refer to as 8 and they refunded the money even though it had been 11 broken English in the writing of this document. months since I bought the ticket. In the center panel there you'll see it. 10 Q That's a good ad for American Express. Right. Did you notice this when the product Q 11 Yes, it would be. 11 first came? 12 At the time that you purchased the Rosetta 12 No, I don't use the quick start information. 13 Stone software in 2009 that's been marked as 13 I just go right to the source and grab the install 14 Deposition Exhibits 1 through 4, did you understand disk and start going when I buy computer software. 15 the distinction between a counterfeit product, which 15 Q Okay. But --16 is not what it purports to be, and an unauthorized 16 A When I went back and looked at it, I noticed 17 product, which I would define as being a product which 17 it. 18 it is what it purports to be but hasn't been 18 Okay. Having -- when you went back and 19 looked at it, it's fairly glaring? authorized by the software developer for your use? 20 A No, I hadn't thought about that, but it seems 20 Yes. 21 to be self-evident and clear that the terminology 21 Q Were there any other similar problems that 22 does -- so if someone had asked me the question, I 22 you noted with the documentation for the software that 55 57 1 wouldn't understand it. 1 you received in the fall of 2009 in other aspects Q I know we talked in terms of pirated software 2 other than this part of the quick start? 3 when we discussed Deposition Exhibits 1 through 4, and A No, there were -- nothing I was aware of. 4 my fear is that that's an imprecise term. Based on And have you carefully reviewed any of the 5 documentation? 5 those definitions that you understand, do you believe 6 what you purchased in 2009 to be counterfeit software 6 A No, I haven't. 7 or unauthorized software? Q Okay. When you went to the website sourceplaza.com that sold you the software in the fall A Counterfeit. 9 Q And why is that? of 2009, did you note any broken English or, I guess, A Because it looks and acts and performs the non-standard use of the English language on the 11 way the real product does with only minor exceptions. 11 12 You need a magnifying glass to find out the 12 A No, I didn't. That would have alerted me, I 13 difference. With counterfeit money, you're stuck with 13 think, to the fact that it was bogus. 14 it. If someone passes counterfeit money to you, you 14 Q And you indicated that you used the product 15 have no recourse, is my understanding. 15 for a period of time and then it became clumsy to use. 16 Q Well, we could probably have a half-day Do you recall how long you used it before you --17 discussion about what your possible recourses are. 17 Oh, a couple of weeks, off again, on again. A Well, your recourse -- you find the person 18 Do you know --19 that passed the counterfeit money to you. But other Just my habit with Rosetta Stone is to use 20 than that, you have no recourse. You can't go to the 20 it -- I haven't used it for weeks now. I keep 21 bank and get it exchanged for real money. forgetting to return to it.

Q In that period of time in the fall of 2009,

Q No, you can't pass it on. That would be an

1		Г		
	58			60
1	do you recall how many times you utilized the	l 1	A 139.	
	software?	2	Q And since that time in the fall of 2009,	
3	A No, I don't, but I must have used it two	3	you're still using Google on a daily basis?	
4	dozen times, I suppose.	4	A Yes.	
5	Q So a dozen times over a few weeks?	5	Q And still using Google to purchase to	
6	A Or a month.	1	research and purchase	
7	Q Okay. So a dozen times over, you know, a few	7	A Yes.	
8	weeks to a month before you realized that there was a	8	Q goods and services?	
9	problem with the software that you purchased in 2009?	9	A Did all our Christmas shopping online,	
10	A Uh-huh.		including international presents.	
11	Q If you could if you could say yes or no	11	MR. FRIEDEN: Let's go off the record for	
12	A Oh, yes, I'm sorry.	ı	about five minutes, if that's all right with you,	
13	Q because it's easier for her to transcribe.		Mr. Ettinger.	
14	A Yes.	14	THE VIDEOGRAPHER: The time is 11:20 a.m.	
15	Q And then, as a result, you contacted Rosetta	15	Going off the record.	
16		16	(Whereupon, a short recess was taken.)	
17	A Yes.	17	THE VIDEOGRAPHER: The time is 11:23 a.m.	
18			We're back on the record.	
19	Q But you didn't contact Google? A No, I didn't contact Google. No, I didn't	19		
			MR. FRIEDEN: Mr. Doyle, thank you very much. I don't have any further questions at this time.	
20	I would not have thought to have contacted Google	21	THE WITNESS: You're most welcome.	
21	for it's like contacting The Washington Post if	$\begin{vmatrix} 21 \\ 22 \end{vmatrix}$		
22	they ran an ad that you didn't like.	22	MR. ETTINGER: Just a couple of follow-up.	
	59			61
1	Q Right, it would be like contacting The	1	THE WITNESS: Sure. Go ahead.	61
1		1 2	THE WITNESS: Sure. Go ahead. FURTHER EXAMINATION BY COUNSEL FOR THE	61
1	Q Right, it would be like contacting The	1		61
2	Q Right, it would be like contacting The Washington Post if they ran a classified ad.	1	FURTHER EXAMINATION BY COUNSEL FOR THE	61
2 3	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood.	2	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF	61
2 3 4	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business	3 4	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER:	61
2 3 4 5	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau?	3 4 5	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the	61
2 3 4 5 6	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No.	2 3 4 5 6	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up	61
2 3 4 5 6	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency	2 3 4 5 6 7	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on.	61
2 3 4 5 6 7 8	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency?	2 3 4 5 6 7	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page,	61
2 3 4 5 6 7 8 9	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't.	2 3 4 5 6 7 8 9 10	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes. Q And during your direct testimony you said you	61
2 3 4 5 6 7 8 9 10	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't. Q So about the problem, you spoke to Rosetta Stone and I assume you spoke to your credit card	2 3 4 5 6 7 8 9 10	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes.	61
2 3 4 5 6 7 8 9 10	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't. Q So about the problem, you spoke to Rosetta Stone and I assume you spoke to your credit card	2 3 4 5 6 7 8 9 10	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes. Q And during your direct testimony you said you thought it was the first link, and I thought during cross you said it might have been the second link. As	61
2 3 4 5 6 7 8 9 10 11 12	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't. Q So about the problem, you spoke to Rosetta Stone and I assume you spoke to your credit card company?	2 3 4 5 6 7 8 9 10	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes. Q And during your direct testimony you said you thought it was the first link, and I thought during cross you said it might have been the second link. As you sit here today, do you know if it was the first or	61
2 3 4 5 6 7 8 9 10 11 12 13	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't. Q So about the problem, you spoke to Rosetta Stone and I assume you spoke to your credit card company? A I did, yes.	2 3 4 5 6 7 8 9 10 11 12	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes. Q And during your direct testimony you said you thought it was the first link, and I thought during cross you said it might have been the second link. As you sit here today, do you know if it was the first or	61
2 3 4 5 6 7 8 9 10 11 12 13 14	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't. Q So about the problem, you spoke to Rosetta Stone and I assume you spoke to your credit card company? A I did, yes. Q To dispute the charge? A Yes. Asked them if they would dispute the	3 4 5 6 7 8 9 10 11 12 13	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes. Q And during your direct testimony you said you thought it was the first link, and I thought during cross you said it might have been the second link. As you sit here today, do you know if it was the first or	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't. Q So about the problem, you spoke to Rosetta Stone and I assume you spoke to your credit card company? A I did, yes. Q To dispute the charge? A Yes. Asked them if they would dispute the charge on my behalf.	3 4 5 6 7 8 9 10 11 12 13 14	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes. Q And during your direct testimony you said you thought it was the first link, and I thought during cross you said it might have been the second link. As you sit here today, do you know if it was the first or second? A I don't know if it was the first or second.	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't. Q So about the problem, you spoke to Rosetta Stone and I assume you spoke to your credit card company? A I did, yes. Q To dispute the charge? A Yes. Asked them if they would dispute the	3 4 5 6 7 8 9 10 11 12 13 14 15	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes. Q And during your direct testimony you said you thought it was the first link, and I thought during cross you said it might have been the second link. As you sit here today, do you know if it was the first or second? A I don't know if it was the first or second. My recollection is it was the first link when I went	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't. Q So about the problem, you spoke to Rosetta Stone and I assume you spoke to your credit card company? A I did, yes. Q To dispute the charge? A Yes. Asked them if they would dispute the charge on my behalf. Q Okay. And the charge was ultimately fully reversed?	3 4 5 6 7 8 9 10 11 12 13 14 15 16	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes. Q And during your direct testimony you said you thought it was the first link, and I thought during cross you said it might have been the second link. As you sit here today, do you know if it was the first or second? A I don't know if it was the first or second. My recollection is it was the first link when I went up to get it in the fall. And I think it was the	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't. Q So about the problem, you spoke to Rosetta Stone and I assume you spoke to your credit card company? A I did, yes. Q To dispute the charge? A Yes. Asked them if they would dispute the charge on my behalf. Q Okay. And the charge was ultimately fully reversed? A Yeah, reversed within the month.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes. Q And during your direct testimony you said you thought it was the first link, and I thought during cross you said it might have been the second link. As you sit here today, do you know if it was the first or second? A I don't know if it was the first or second. My recollection is it was the first link when I went up to get it in the fall. And I think it was the	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't. Q So about the problem, you spoke to Rosetta Stone and I assume you spoke to your credit card company? A I did, yes. Q To dispute the charge? A Yes. Asked them if they would dispute the charge on my behalf. Q Okay. And the charge was ultimately fully reversed? A Yeah, reversed within the month. Q The your purchase price for the software	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes. Q And during your direct testimony you said you thought it was the first link, and I thought during cross you said it might have been the second link. As you sit here today, do you know if it was the first or second? A I don't know if it was the first or second. My recollection is it was the first link when I went up to get it in the fall. And I think it was the second link when I went up this morning, so it's got	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q Right, it would be like contacting The Washington Post if they ran a classified ad. Understood. And you didn't contact the Better Business Bureau? A No. Q Did you contact any other government agency or quasi-governmental agency? A No, I didn't. Q So about the problem, you spoke to Rosetta Stone and I assume you spoke to your credit card company? A I did, yes. Q To dispute the charge? A Yes. Asked them if they would dispute the charge on my behalf. Q Okay. And the charge was ultimately fully reversed? A Yeah, reversed within the month.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFF BY MR. ETTINGER: Q You've indicated that when you put in the Rosetta Stone search terms, the links that came up I believe you testified on cross-examination that you believed they were on the left-hand side of the page, the one that you clicked on. A Yes. Q And during your direct testimony you said you thought it was the first link, and I thought during cross you said it might have been the second link. As you sit here today, do you know if it was the first or second? A I don't know if it was the first or second. My recollection is it was the first link when I went up to get it in the fall. And I think it was the second link when I went up this morning, so it's got me confused.	61

	-	_		
	6.	2		64
1	France accord shows	1		
	Express record shows. Q Okay. And do you remember how long it took	$\frac{1}{2}$	would be six weeks [sic] instead of BY MR. ETTINGER:	
$\frac{2}{2}$	for the package to arrive from the time you ordered	$\frac{1}{3}$		
3		1		
	it?	1	ordered it, correct?	
5	A No. It came fairly quickly, though. It was	5	8	
6	within the week.		thereabouts, and I called them the 29th. That's about	
7	Q So you think by October 21st it would have		right.	
8	been in your hands?	8		
9	A I think so, exactly.	19	3	
10	Q And, sir, as you sit here today, do you have		had received it?	
1	a recollection of the date on which you called Rosetta	111	A Yes.	
	Stone.	12	` 5	
13	A It would have been probably the same day I	13		
	called the American Express people. I called them on	14	FURTHER EXAMINATION BY COUNSEL FOR THE DEFENDANT	
	November 20th, according to the American Express	15		
	records online, which I got through a Google search.	1		
	And then I waited another I guess the next week I	16	, ,	
	went out and bought the Barnes and Noble stuff.	17		
19	Q Okay. Let me show you	18		
20	MR. ETTINGER: Can I have a sticker, please.	$\begin{vmatrix} 19 \\ 20 \end{vmatrix}$,	
21	(Doyle Deposition Exhibit Number 6 was marked	$\frac{1}{21}$		
22	for identification.)	$\begin{vmatrix} 21 \\ 22 \end{vmatrix}$	Q And that you then contacted American Express about the product on November 20th of 2009, correct?	
			about the product on November 20th of 2009, correct:	
	6.	3		65
1	6. BY MR, ETTINGER:	3 1	A I apparently said that's my recollection,	65
1 2	BY MR. ETTINGER:	1	A I apparently said that's my recollection, yeah. That's what the American Express record shows.	65
		1	yeah. That's what the American Express record shows.	65
2	BY MR. ETTINGER: Q Let me show you what's been marked as	1 2 3	yeah. That's what the American Express record shows.	65
2 3 4	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates	1 2 3 4	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone	65
2 3 4	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that,	1 2 3 4	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day?	65
2 3 4 5 6	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir.	1 2 3 4 5 6	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day?	65
2 3 4 5 6	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an	1 2 3 4 5 6 7	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy	65
2 3 4 5 6 7 8	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a	1 2 3 4 5 6 7 8	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy	65
2 3 4 5 6 7 8 9	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon	1 2 3 4 5 6 7 8	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it.	65
2 3 4 5 6 7 8 9 10 11	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon White. And all I want you to do is look at the creation date in the ticket summary is October 29th, 2009. Does that refresh your recollection, sir, that	1 2 3 4 5 6 7 8 9	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it. Q So it may have been that you received the	65
2 3 4 5 6 7 8 9 10 11	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon White. And all I want you to do is look at the creation date in the ticket summary is October 29th,	1 2 3 4 5 6 7 8 9 10	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it. Q So it may have been that you received the product very quickly, on or about October 14th, 2009, and then some two weeks later contacted Rosetta Stone?	65
2 3 4 5 6 7 8 9 10 11 12	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon White. And all I want you to do is look at the creation date in the ticket summary is October 29th, 2009. Does that refresh your recollection, sir, that you reached out to Rosetta Stone on October 29th, 2009?	1 2 3 4 5 6 7 8 9 10	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it. Q So it may have been that you received the product very quickly, on or about October 14th, 2009, and then some two weeks later contacted Rosetta Stone?	65
2 3 4 5 6 7 8 9 10 11 12 13 14	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon White. And all I want you to do is look at the creation date in the ticket summary is October 29th, 2009. Does that refresh your recollection, sir, that you reached out to Rosetta Stone on October 29th, 2009? A Yeah, that sounds entirely plausible to me,	1 2 3 4 5 6 7 8 9 10 11 12	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it. Q So it may have been that you received the product very quickly, on or about October 14th, 2009, and then some two weeks later contacted Rosetta Stone? MR. ETTINGER: Objection. THE WITNESS: Well, looks to me like the	65
2 3 4 5 6 7 8 9 10 11 12 13 14	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon White. And all I want you to do is look at the creation date in the ticket summary is October 29th, 2009. Does that refresh your recollection, sir, that you reached out to Rosetta Stone on October 29th, 2009? A Yeah, that sounds entirely plausible to me, yes.	1 2 3 4 4 5 6 6 7 8 9 10 11 12 13	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it. Q So it may have been that you received the product very quickly, on or about October 14th, 2009, and then some two weeks later contacted Rosetta Stone? MR. ETTINGER: Objection. THE WITNESS: Well, looks to me like the	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon White. And all I want you to do is look at the creation date in the ticket summary is October 29th, 2009. Does that refresh your recollection, sir, that you reached out to Rosetta Stone on October 29th, 2009? A Yeah, that sounds entirely plausible to me, yes. Q So when you testified that you might have	1 2 3 4 4 5 6 6 7 8 8 9 10 11 12 13 14 14	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it. Q So it may have been that you received the product very quickly, on or about October 14th, 2009, and then some two weeks later contacted Rosetta Stone? MR. ETTINGER: Objection. THE WITNESS: Well, looks to me like the documents here from Rosetta Stone show I contacted them the 29th. That would be three weeks later.	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon White. And all I want you to do is look at the creation date in the ticket summary is October 29th, 2009. Does that refresh your recollection, sir, that you reached out to Rosetta Stone on October 29th, 2009? A Yeah, that sounds entirely plausible to me, yes. Q So when you testified that you might have used it for a few weeks or a month, that time period	1 2 3 3 4 4 5 6 6 7 7 8 8 9 10 11 12 13 14 15 16 17	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it. Q So it may have been that you received the product very quickly, on or about October 14th, 2009, and then some two weeks later contacted Rosetta Stone? MR. ETTINGER: Objection. THE WITNESS: Well, looks to me like the documents here from Rosetta Stone show I contacted them the 29th. That would be three weeks later. BY MR. FRIEDEN:	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon White. And all I want you to do is look at the creation date in the ticket summary is October 29th, 2009. Does that refresh your recollection, sir, that you reached out to Rosetta Stone on October 29th, 2009? A Yeah, that sounds entirely plausible to me, yes. Q So when you testified that you might have used it for a few weeks or a month, that time period had to have been shorter than that, correct?	1 2 3 3 4 4 5 6 6 7 7 8 8 9 10 11 12 13 14 15 16 17 18	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it. Q So it may have been that you received the product very quickly, on or about October 14th, 2009, and then some two weeks later contacted Rosetta Stone? MR. ETTINGER: Objection. THE WITNESS: Well, looks to me like the documents here from Rosetta Stone show I contacted them the 29th. That would be three weeks later. BY MR. FRIEDEN: Q And in those in that period of time, it's	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon White. And all I want you to do is look at the creation date in the ticket summary is October 29th, 2009. Does that refresh your recollection, sir, that you reached out to Rosetta Stone on October 29th, 2009? A Yeah, that sounds entirely plausible to me, yes. Q So when you testified that you might have used it for a few weeks or a month, that time period had to have been shorter than that, correct? MR. FRIEDEN: Objection to form of the	1 2 3 3 4 4 5 6 7 7 8 8 9 10 11 12 13 14 15 16 17 18 19	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it. Q So it may have been that you received the product very quickly, on or about October 14th, 2009, and then some two weeks later contacted Rosetta Stone? MR. ETTINGER: Objection. THE WITNESS: Well, looks to me like the documents here from Rosetta Stone show I contacted them the 29th. That would be three weeks later. BY MR. FRIEDEN: Q And in those in that period of time, it's your recollection that you had used the software	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon White. And all I want you to do is look at the creation date in the ticket summary is October 29th, 2009. Does that refresh your recollection, sir, that you reached out to Rosetta Stone on October 29th, 2009? A Yeah, that sounds entirely plausible to me, yes. Q So when you testified that you might have used it for a few weeks or a month, that time period had to have been shorter than that, correct? MR. FRIEDEN: Objection to form of the question.	1 2 3 3 4 4 5 6 7 7 8 9 10 11 12 13 13 14 15 16 17 18 19 20	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it. Q So it may have been that you received the product very quickly, on or about October 14th, 2009, and then some two weeks later contacted Rosetta Stone? MR. ETTINGER: Objection. THE WITNESS: Well, looks to me like the documents here from Rosetta Stone show I contacted them the 29th. That would be three weeks later. BY MR. FRIEDEN: Q And in those in that period of time, it's your recollection that you had used the software approximately a dozen times?	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	BY MR. ETTINGER: Q Let me show you what's been marked as Exhibit 6. It's a two-page document bearing Bates number RS 008000003000004. Just take a look at that, sir. I'll represent to you, sir, that this is an internal document from Rosetta Stone which reflects a call that was made by you to a woman named Shannon White. And all I want you to do is look at the creation date in the ticket summary is October 29th, 2009. Does that refresh your recollection, sir, that you reached out to Rosetta Stone on October 29th, 2009? A Yeah, that sounds entirely plausible to me, yes. Q So when you testified that you might have used it for a few weeks or a month, that time period had to have been shorter than that, correct? MR. FRIEDEN: Objection to form of the	1 2 3 3 4 4 5 6 7 7 8 8 9 10 11 12 13 14 15 16 17 18 19	yeah. That's what the American Express record shows. Q And before seeing this Rosetta Stone document, it was your recollection that you spoke to American Express and Rosetta Stone on the same day? A That was my recollection, but it's it was not a very high priority in my otherwise fairly heavy schedule. So I don't have any very good recollection of it. Q So it may have been that you received the product very quickly, on or about October 14th, 2009, and then some two weeks later contacted Rosetta Stone? MR. ETTINGER: Objection. THE WITNESS: Well, looks to me like the documents here from Rosetta Stone show I contacted them the 29th. That would be three weeks later. BY MR. FRIEDEN: Q And in those in that period of time, it's your recollection that you had used the software approximately a dozen times? A About that, yes.	65

	Doyle, Dellis			
	66			68
1 anything further. 2 FURTHER EXAMINATION BY PLAINTIFF 3 BY MR. ETTINGER: 4 Q Mr. Doyle, do you have a composition of actually purchased the product from A I don't have a copy of it, no. 8 I could it's a matter of me going 9 downloading it. 10 Q Is that something that you was 11 to share with counsel for both sides 12 convenience? 13 A Yeah. Sure. I'd be happy to 14 MR. FRIEDEN: Thank you make 15 MR. ETTINGER: Thank you make 16 The with MR. Sure.	Or COUNSEL FOR THE Opy of your ald reflect when you on SourcePlaza? But, I mean, to the web and ovould be willing at your on. Very much.	4 5 6 7 8 9 10 11 12 13 14 15 16	CERTIFICATE OF NOTARY PUBLIC I, Denise M. Brunet, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me stenographically and thereafter reduced to print by means of computer-assisted transcription by me; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to this litigation and have no interest, financial or otherwise, in the outcome of this matter.	08
16 THE WITNESS: Okay. 17 THE VIDEOGRAPHER: The March 11th, 2010. Going off the result of the videotape deposition. 20 (Discussion held off the reconstant of	ecord, completing rd.) it to Mr. Doyle and		Notary Public in and for the State of Maryland My commission expires: November 7, 2011	
1 other ones as well. 2 (Whereupon, at 11:28 a.m. th 3 DENIS P. DOYLE was concluded. 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	_	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A C K N O W L E D G E M E N T O F D E P O N E N T I, DENIS P. DOYLE, do hereby acknowledge I have read and examined the foregoing pages of testimony, and the same is a true, correct and complete transcription of the testimony given by me, and any changes and/or corrections, if any, appear in the attached errata sheet signed by me. Date DENIS P. DOYLE	69

schoolnet

Rosetta Stone Ltd. v. Google Inc. Case No. 1:09-CV-00736 (E.D. Va.)

Deposition of Denis P. Doyle March 11, 2010

ERRATA SHEET

Page/Line	Correction
Page 8, line 1	change "i" to "in"
Page 8, line 2	change "provided" to "provide"
Page 9, line 4	change "instruction and management" to "instructional management"
Page 33, line 8	change "350" to "\$350"
Page 60, line 1	change "139" to "\$139"

Dun P. Dunk 3/23/2010

STEVE DUBOW (3/8/10)

IN THE DISTRICT COURT FOR THE DISTRICT OF VIRGINIA ALEXANDRIA DIVISION

ROSETTA STONE, LTD., :

Plaintiff,

VS.

. C.A. No.: : 1:09-cv-00736 (GBL/TCB)

1

GOOGLE, INC.,

Defendant.

Lakewood, Colorado

Monday, March 8, 2010

Videotaped Deposition of:

STEVE F. DUBOW

called for oral examination by counsel for Plaintiff, pursuant to notice, at the Sheraton Denver West Hotel, 360 Union Blvd., Lakewood, Colorado, before Barbara J. Castillo, RMR/CRR, of Capital Reporting Company, a Notary Public in and for the State of Colorado, beginning at 10:52 a.m., when were present on behalf of the respective parties:

2	
1 APPEARANCES	1 PROCEEDINGS
2 On behalf of Plaintiff: MITCHELL S. ETTINGER, ESQ.	2 THE VIDEOGRAPHER: This begins Volume 1,
3 Skadden, Arps, Slate, Meagher & Flom, LLP	Tape
1440 New York Avenue, N.W.	3 Number 1 of the videotaped deposition of Steve Floyd
4 Washington, D.C. 20005	4 DuBow in the matter of Rosetta Stone Limited versus
(202) 371-7444 5	
On behalf of Defendant:	5 Google, Incorporated in the U.S. District Court for the
6 CLAUDE M. STERN, ESQ.	6 Eastern District of Virginia, Alexandria Division, Case
Quinn, Emanuel, Urquhart, Oliver & Hedges, LLP	7 Number 1:09-ev-00736
7 555 Twin Dolphin Drive, Suite 560 Redwood Shores, California 94065	8 (GBL/TCB).
8 (650) 801-5002	9 This deposition is being held at the Sheraton
	10 Hotel located at 360 Union Boulevard, Lakewood,
9 ALSO PRESENT:	11 Colorado on March 8, 2010, at approximately 10:52 a.m.
Carie Finegan 10 Victor Sieff	12 My name is Carie Finegan with the firm of Capital
11 *****	13 Reporting Company. I am the legal video specialist.
12	14 The court reporter is Barbara Castillo in association
13	15 with Capital Reporting Company located at 1821
14 15	16 Jefferson Place, Washington, D.C., 20036.
16	
17	17 For the record, will counsel please introduce
18	18 themselves and who they represent. Then the court
19 20	19 reporter reporter will swear in the witness.
21	20 MR. ETTINGER: Mitchell Ettinger from Skadden
22	21 Arps on behalf of Rosetta Stone.
	MR. STERN: Claude Stern of Quinn Emanuel on
3	
1 CONTENTS	1 behalf of Google.
2 EXAMINATION BY: PAGE	2 STEVE F. DUBOW, called as a witness, and
Counsel for Plaintiff 5, 113	3 having been first duly sworn, was examined and
3 Counsel for Defendant 47, 125	4 testified as follows:
4 DUBOW DEPOSITION EXHIBITS PAGE	
5 Exhibit 1 Web page printout 20	5 EXAMINATION
Exhibit 2 E-mail string, beginning	6 BY MR. ETTINGER:
6 message dated 2/17/10 from	7 Q Good morning.
6 message dated 2/17/10 from DuBow to Ettinger 26	8 A Good morning.
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32	8 A Good morning.9 Q Please state your full name.
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger)	 8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow.
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8	8 A Good morning.9 Q Please state your full name.
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8 9	 8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow.
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8	 8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow. 11 Q Have you ever been deposed before, sir?
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8 9 10	8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow. 11 Q Have you ever been deposed before, sir? 12 A Yes, sir. 13 Q On how many occasions?
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8 9 10 11 12 13	8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow. 11 Q Have you ever been deposed before, sir? 12 A Yes, sir. 13 Q On how many occasions? 14 A At least twice from my memory.
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8 9 10 11 12 13 14	8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow. 11 Q Have you ever been deposed before, sir? 12 A Yes, sir. 13 Q On how many occasions? 14 A At least twice from my memory. 15 Q Well, the ground rules that applied to those
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8 9 10 11 12 13 14 15	8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow. 11 Q Have you ever been deposed before, sir? 12 A Yes, sir. 13 Q On how many occasions? 14 A At least twice from my memory. 15 Q Well, the ground rules that applied to those 16 depositions will apply here, and I'd like to go over
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8 9 10 11 12 13 14 15 16	8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow. 11 Q Have you ever been deposed before, sir? 12 A Yes, sir. 13 Q On how many occasions? 14 A At least twice from my memory. 15 Q Well, the ground rules that applied to those 16 depositions will apply here, and I'd like to go over 17 them briefly with you just to make sure we're on the
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8 9 10 11 12 13 14 15 16 17	8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow. 11 Q Have you ever been deposed before, sir? 12 A Yes, sir. 13 Q On how many occasions? 14 A At least twice from my memory. 15 Q Well, the ground rules that applied to those 16 depositions will apply here, and I'd like to go over 17 them briefly with you just to make sure we're on the 18 same page. Okay?
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8 9 10 11 12 13 14 15 16 17 18	8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow. 11 Q Have you ever been deposed before, sir? 12 A Yes, sir. 13 Q On how many occasions? 14 A At least twice from my memory. 15 Q Well, the ground rules that applied to those 16 depositions will apply here, and I'd like to go over 17 them briefly with you just to make sure we're on the 18 same page. Okay? 19 A Uh-huh.
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8 9 10 11 12 13 14 15 16 17 18 19	8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow. 11 Q Have you ever been deposed before, sir? 12 A Yes, sir. 13 Q On how many occasions? 14 A At least twice from my memory. 15 Q Well, the ground rules that applied to those 16 depositions will apply here, and I'd like to go over 17 them briefly with you just to make sure we're on the 18 same page. Okay? 19 A Uh-huh. 20 Q Everything that we say in this room today
6 message dated 2/17/10 from DuBow to Ettinger 26 7 Exhibit 3 Product brought by DuBow 32 (Retained by Attorney Ettinger) 8 9 10 11 12 13 14 15 16 17 18	8 A Good morning. 9 Q Please state your full name. 10 A Steve Floyd DuBow. 11 Q Have you ever been deposed before, sir? 12 A Yes, sir. 13 Q On how many occasions? 14 A At least twice from my memory. 15 Q Well, the ground rules that applied to those 16 depositions will apply here, and I'd like to go over 17 them briefly with you just to make sure we're on the 18 same page. Okay? 19 A Uh-huh.

6 8 1 over one another. And I will try my best not to I did. I went to USC graduate school, did 2 interrupt your answers, and I would ask that you permit 2 not complete my master's there. I started a software 3 counsel both for Google and Rosetta Stone to complete 3 company in 1973, and that was the end of my college 4 their question before you begin your answer. Okay? 4 work. 5 MR. STERN: Mr. DuBow, I'm terribly sorry. Q All of your answers today must be audible. 6 This is Claude Stern. The acoustics of this room are 7 That means a nod of the head, while it will be recorded 7 horrendous, and the court reporter is nodding. You're 8 on the videotape, is not acceptable. So please answer 8 doing fine, but if I could ask you to speak up just a 9 audibly. From time to time, counsel for Google or little bit 10 myself may inter- -- interpose an objection to a 10 THE DEPONENT: I'll do my best. 11 question that is asked by counsel. That is for the 11 MR. STERN: We have -- we have literally 12 record and the court reporter at a later time. If you 12 airplanes outside and --13 13 can answer the question, you can let the counsel make THE DEPONENT: Air-conditioning. 14 their objection and then go ahead and answer the 14 MR. STERN: -- air-conditioning going on. I'm 15 request if you're able to do so. Okay? 15 terribly sorry for the conditions, but if you can speak 16 Okay. up just a little bit, that would be great. 17 Q If you do not understand a question that is 17 THE DEPONENT: Okay. 18 asked, please ask counsel to clarify the question. 18 MR. STERN: Thank you. 19 19 Yes, sir. THE DEPONENT: I'll do my best. 20 Q All right. Finally, you're not captive here 20 Q (BY MR. ETTINGER) And are you currently 21 today. You're -- you're our guest. And if you need a 21 employed? 22 break, all you need to do is request a break and, of A Yes. 9 1 course, we'll accommodate you. All right? Okay. Through what business? 2 Thank you. 2 I'm in the software development business. Α 3 3 Q Sir, where do you reside? What is the name of the business? 4 Α I reside in Conifer, Colorado. It's called Comm-Pro Associates, C-o-m-m, 5 Q What is your address? hyphen, P-r-o Associates. 6 26500 Long View Drive, 80433. 6 And how long have you been employed by Comm-7 Q And how long have you lived there? 7 Pro? 8 About a year and a half now. 8 We started that company in 1973, as I said. 9 And are you married? 9 Q And what is the business of Comm-Pro? Q 10 10 Α Yes. Α We write communications software for IBM 11 Q What is your wife's name? 11 computers. 12 Sandra. 12 And who are your principal customers? Q 13 And I'm not trying to be intrusive, but would 13 Our customers are generally banks, insurance 14 you mind stating your age. 14 companies, cross platform -- or I should say cross 15 My age is 65. 15 industry. 16 What is the highest level of education that 16 Q And what is the functionality of the software 17 you completed? 17 that you sell? 18 Bachelor in mathematics. 18 Our current iteration of software is --19 And from what university did you receive that 19 provides an interface between users on a network and 20 20 degree? IBM applications that run on a mainframe. 21 21 From Cal State Northridge. Q Okay. And you understand that this case that 22 Q Did you do any follow-on graduate work? 22 you're testifying in today involves a civil lawsuit

10 12 1 between Rosetta Stone and Google, correct? 1 was probably the best for me. Q So through what medium or mediums did you And you've agreed to provide testimony in 3 learn of Rosetta Stone? 3 4 this matter; is that right? Print media, commercials on television, and Correct. my own research on the Internet, on the Web. You're not under any subpoena to appear here Q You mentioned that there were competitor 7 products that you considered. Do you recall which 7 today, are you, sir? 8 ones? No. 9 9 Q Are you being compensated for your appearance I'm not pronouncing this correctly. 10 today? 10 Pimsleur, if that's correct. 11 11 Not at all. Q Any other product? 12 Q Did anyone promise you anything in return for 12 Α Well, there's Berlitz, which I -- I used in 13 your testimony? 13 the past a little bit, but . . . 14 No. 14 You indicated that you did some Internet 15 Have you ever taken or studied a foreign 15 research to determine which language learning software Q 16 language in your life? 16 --17 Yes. I took Spanish in high school. 17 Α Uh-huh. 18 Q Did you achieve fluency in that foreign 18 Q -- to pursue. Could you describe how you 19 language? 19 conducted that research? 20 Not really. 20 A I -- I'm trying to remember. I -- I -- I Α 21 During your adult life, have you had the got on the Internet and looked for language software 22 desire to learn a foreign language? 22 programs and read the reviews on a number of the 11 13 I wanted to review my Spanish again and 1 products and decided, based on my review of Rosetta 2 become fluent in it. Stone, that that was the best for me. 3 Q And when did that spark or desire come about? 3 Q Did you use a search engine to conduct that 4 I would say in the last two years or so. 4 research? And why is it that you wanted to learn to Oh, I use Google and Yahoo! quite often. 6 speak Spanish? Do you recall what you used as your search query when attempting to learn about language learning My career in computing is winding down and I 8 wanted to do some traveling, and I thought it would be software? 9 9 advantageous to learn -- learn another language like Well, when I -- when it came time to buy the 10 Spanish. 10 software, I used Google. When I was learning, I Q Mr. DuBow, have you ever heard of the company 11 probably used Google for that, too, looking for reviews 12 Rosetta Stone? 12 on different products. 13 Oh, yes. 13 Q And do you recall what search query you made, 14 Q And what do you understand Rosetta Stone 14 you put into the search bar when looking for reviews on 15 sells? 15 language learning software? 16 Rosetta Stel- -- Rosetta Stone sells 16 Well, I don't recall that. I -- I do recall 17 language learning software. 17 when I went to purchase it I used Rosetta Stone. Q And how did you arrive at the understanding That's simply what I entered. 19 that Rosetta Stone sells language learning software? 19 Q So ultimately you selected Rosetta Stone as Well, I've -- I've looked around at other 20 your product of choice? 21 21 products or competitors with Rosetta Stone and, based Yes. Q And why did you select Ros- -- Rosetta Stone? 22 on doing a little research, decided that that product 22

14 16 1 bar? Well, as I say, based on the reviews that I 2 read, the fact that the government agencies use this Well, I guess my wife did the -- the typing, 3 software. It's the quickest, based on what they're 3 and then I helped her scroll through the links that were presented. 4 telling me, of all the learning software products 5 available right now. Q And did you direct your wife what terms to Q And when did you decide to purchase Rosetta enter into the search bar? 7 Stone software? My wife -- I had been talking to her about 8 0 All right. And were those terms Rosetta 9 this for quite some time, and she decided she wanted to 9 Stone? 10 give me a gift. So we -- she's not a computer literal 10 Α 11 person, so I assisted her. We got on the Web, went to 11 Q Did you use any other terms other than 12 Google, entered Rosetta Stone, and started going 12 Rosetta Stone at the time you searched on Google to 13 look for the purchase of software? 13 through all the links that were presented to us. 14 Q Okay. And when did that occur? 14 15 We did this in October of last year. 15 Do you know what the term "sponsored link" O 16 Q October 2009? 16 means? 17 Yes. 17 A I do now. I heard it for the first time 18 When you went on the Internet to look for 18 this morning. I wasn't exactly sure. I've seen those 19 Rosetta Stone -on the right-hand side of the -- of the Google Web 20 Uh-huh. page, but I wasn't exactly sure what it was. 21 21 Q -- did you have a specific source in mind Q Okay. At the time that you entered the terms 22 from which you wanted to purchase the software? 22 or your wife entered the terms "Rosetta Stone" in the 15 17 1 Google search engine --1 No. Not really. And you indicated that you used Google as Uh-huh. 3 your search engine when looking for Rosetta Stone; is Q -- in October 2009, do you recall whether any 4 that right? 4 advertisements appeared on the first page? 5 Α That's correct. A I -- what -- what do you mean by All right. Are you certain of that? 6 advertisements? 7 7 Q Links that appear to you to be companies Absolutely. Q And do you recall specifically the search selling goods in response to your query. 9 terms that you entered on the Google search bar when 9 Yes. Yeah. There were quite a few under 10 looking for Rosetta Stone software? 10 that description, yes. 11 11 Q What do you recall seeing on the search page I simply typed in Rosetta Stone. 12 Why did you use the trademark Rosetta Stone 12 results when you entered Rosetta Stone in the Google 13 at that time? 13 search engine? 14 14 A I saw a number of sites and -- advertising A Because --15 MR. STERN: Objection, foundation. 15 Rosetta Stone software for a number of different 16 A Because as I said -discounted prices. What attracted us to this 17 MR. STERN: Excuse me. I'm sorry. Objection, particular site was that they presumed to be a Rosetta 18 foundation. Go ahead. 18 Stone reseller reselling OEM or original equipment Okay. As I said, I had decided that Rosetta 19 manufactured product. 20 20 Stone was the product that I was most interested in. Q Did you click on one or more of the -- of the 21 links that appeared to offer Rosetta Stone products for Q (BY MR. ETTINGER) Did you actually do the 22 typing or did your wife do the typing on the search 22 sale?

18 20 We probably clicked on a few before deciding 1 what's been marked as DuBow Exhibit 1. It is a two-2 on this one. I don't remember. It was six months ago. 2 page document that I'll represent to you is a landing Q Ultimately you selected one particular link -3 page from a Google search to Gain Soft Mall, not 3 4 -4 Bossdisk, but I want to ask you if this -- if you can 5 5 take a look at this exhibit and ask you whether or not Α 6 Q -- to purchase your software; is that 6 it bears any resemblance to the one that you saw when 7 correct? 7 you clicked on the Bossdisk site. Correct. A It's virtually identical. The price here is 9 9 \$142. I guess it's gone up. Mine was 139. And I Q And what attracted you to that link? 10 I think the fact, again, re- -- my memory is 10 don't remember the version number being presented on 11 not a hundred percent here, but I think the fact that 11 the level of Rosetta Stone. 12 they -- they presumed to be a reseller. And it looked 12 Q The page that was presented to you and your 13 wife, did it have the Rosetta Stone boxes appear on the 13 like a legitimate Rosetta Stone site. 14 What do you mean by reseller? 14 Web itself? 15 That they were a -- a sanctioned reseller of 15 To the best of my recollection, it looked 16 Rosetta Stone product. 16 almost exactly like this. 17 Was that important to you? 17 Q All right. Sir, if you'd look to the second 18 Α Absolutely. page, do you see at the bottom of the second page 19 19 there's some links like to -- conditions of use. Q Why is that? 20 Well, because there's -- there's a lot of 20 contact us. 21 bootlegged software product out there. This one looked 21 Uh-huh. 22 22 to be legitimate. Q Do you recall whether you and your wife 19 21 Q Did the ad text, the actual text of the ad clicked on any of those? 2 itself, appearing on the link use the term "Rosetta A I don't remember looking at conditions of 3 Stone"? 3 use. However, when -- as time went on, I -- I -- well, 4 MR. STERN: Objection, foundation. 4 I -- I don't remember, to be honest with you. 5 Q Okay. What color, if any, do you associate Yes. 6 MR. STERN: Objection, foundation. 6 with Rosetta Stone products? (BY MR. ETTINGER) It's okay. You may 7 Q Oh, it's yellow, of course. answer 8 And you say of course. Why is that? 8 now. 9 Well, that's their trademark. 9 Α Yes, it did. 10 Q Do you recall, sir, what, if anything, the When you clicked on the -- the link or your Q 11 Website -- the Bossdisk Website promised you with 11 wife clicked on the link --12 respect to a guarantee on the software? 12 Uh-huh. Α 13 I don't actually. I don't remember if this 13 -- did you see the page that came up? 14 on the left-hand side was actually on that site. I just 14 Yeah, oh, absolutely. 15 don't remember. 15 Q Sir, do you recall the name of the -- the 16 Q What, if anything, did the Bossdisk Website 16 company that advertised on the link that you -- you and offer with respect to the cost of shipping? 17 17 your wife clicked on? 18 Oh, the shipping, I remember, was free. 18 Yes. It was a company called Bossdisk. 19 It was included in the purchase price? 19 Could you spell that, please. 20 It was included in the purchase. 20 B-o, double, s-d-i-s-k. 21 Q Was there anything else about the Web site 21 (Exhibit Number 1 was marked.) 22 itself that you -- that you went to that led you to 22 Q (BY MR. ETTINGER) Sir, I'm going to hand you

	<u> </u>
22	24
1 believe that it was offering genuine Rosetta Stone 2 products? 3 A I again, I think I remember choosing 4 the site because they said they were a Rosetta Stone 5 reseller. 6 Q How many times do you believe you searched 7 the Internet before getting to the point that you were 8 ready to buy Rosetta Stone software? 9 MR. STERN: Objection, vague. 10 Q (BY MR. ETTINGER) Let me re-ask the 11 question. How many times did you search the Internet 12 for language learning software before you determined 13 that you were ready to buy a product? 14 MR. STERN: Same objection. 15 Q (BY MR. ETTINGER) You can answer. 16 A Okay. I would say a couple of times. I had 17 also read articles in magazines, advertisements.	1 A Not at all. 2 Q And why is that? 3 A I thought it was back level software, in 4 other words, an earlier version. I don't necessarily 5 have to have the latest and greatest. I thought it 6 would work sufficiently good for me. 7 Q Have you ever heard of the term "counterfeit 8 software"? 9 A Absolutely. 10 Q And had what does that mean to you? 11 A It means not produced by the original 12 manufacturer. 13 Q At the time you placed your order with 14 Bossdisk, did you intend to purchase counterfeit 15 software? 16 A Oh, no, never, no. 17 Q At the time you placed your order with
18 Q When you and your wife sat down at the 19 computer on the day that you were purchasing the 20 software, how long did the whole session take between 21 the time you started until the time that you actually 22 placed an order?	18 Bossdisk, did you believe that you were purchasing 19 counterfeit software? 20 A No, I didn't. 21 Q How did you pay for the order? 22 A I used PayPal.
23	25
1 A Probably less than a half hour, I'd say. 2 Q Did you, in fact, place an order with the 3 company Bossdisk? 4 A Yes, I did. 5 Q And what did you do? 6 A I ordered Latin American Spanish, Levels 1, 7 2, and 3, which I received. 8 Q And what was the purchase price? 9 A It was \$139. 10 Q At the time that you placed the order with 11 Bossdisk Bossdisk, did you know how much other 12 companies were, charging for the Rosetta Stone software 13 Levels 1, 2, and 3? 14 A Oh, yes. 15 Q And how did you know this? 16 A Well, I going into Borders or looking at 17 Amazon.com, I knew the price for the latest version was	1 Q Did you provide your credit card information 2 directly to PayPal or did you have an account there 3 already? 4 A I had an account there with PayPal. They 5 have my bank account and my credit card. I used my 6 credit card for this purchase. 7 Q And which credit card? 8 A It's a Citibank MasterCard. 9 Q Okay. Did you receive confirmation from 10 Bossdik Bossdisk that your order had been received? 11 A I did. 12 (Exhibit Number 2 was marked.) 13 Q (BY MR. ETTINGER) I want to show you what's 14 been marked as Exhibit 2. Mr. DuBow, these are the e- 15 mails that you provided to me this morning. 16 A Uh-huh. 17 Q I believe some of them had been previously
18 much higher than what I paid. 19 Q Did the lower price purchase price offered 20 through Bossdisk lead you to conclude that the software 21 that was being offered was not genuine Rosetta Stone	 18 provided. 19 A Okay. 20 Q Counsel has a copy of these, I believe.

	· · · · · · · · · · · · · · · · · · ·	<u> </u>
	26	28
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	yours quick. If it's this document that's pages there's no Bates stamps on this. MR. ETTINGER: That's correct. I just got it this morning. MR. STERN: If it's THE DEPONENT: The date stamps on the send or the receive up in the top. Original message. MR. STERN: We use the phrase it's "Bates stamp." Bates stamp is a term for THE DEPONENT: Oh, I'm sorry. I'm sorry. MR. STERN: That's all right. It's a it's a legal thing that lawyers do. We number documents to make sure they were produced. THE DEPONENT: I got you. MR. STERN: But, Counsel, on your representation, I'll presume that what you handed me is Exhibit 2 for Steve DuBow's deposition.	1 A Yes. This appears to be a receipt for the 2 purchase showing the price that I paid for it. 3 Q Okay. And does this accurately reflect that 4 you paid \$139 for the set? 5 A Yes, uh-huh. 6 Q And that there was free shipping? 7 A Yes. 8 Q And the delivery address, is that your home 9 address? 10 A Is that where is that on here? 11 MR. STERN: Right below the middle of the 12 page. 13 Q (BY MR. ETTINGER) There's a delivery address 14 and a billing address that are Long View Drive. 15 A Am I looking at the right one here? 16 Q I'm sorry. Second page of the exhibit. 17 MR. STERN: Below the center of the page.
18 19 20 21	Exhibit 2 for Steve DuBow's deposition. MR. ETTINGER: Okay. And for the record, it's eight pages front there's some photocopy on front and back. Q (BY MR. ETTINGER) Could I get you to look at the very first page of the exhibit, sir.	17 MR. STERN: Below the center of the page. 18 A Below the center of the page. 19 MR. STERN: Page 1 of 2. 20 A I'm sorry, I'm having a problem here. 21 Q (BY MR. ETTINGER) Okay. Let's hand the 22 exhibit back to me and let's make sure that we didn't
	27	29
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A Okay. Q And you see there, there is an e-mail from Bossdisk to sfdubow@attglobal.net. A Dot net, yes. Q All right. Is that your e-mail address? A It is. Q And does this document did you receive this e-mail from Bossdisk? A Yes. Q Okay. And, sir, what is this e-mail? A It's a confirmation, appears to be, of my purchase. Q And what is the date of your purchase? A I guess it was October 6th. Q And what year? A 2009. Q And could I get you to turn to the second page of the exhibit. A Okay. Q And could you please describe for the court the second e-mail that you received from Bossdisk at 3:09 p.m.?	1 mix up pages as we did that does happen. 2 A Maybe my glasses, too. 3 Q I think two pages just stuck together. 4 A Oh. Ah, there they go. 5 Q Could you confirm, sir, that the delivery 6 address is your home? 7 A Yes, it is. 8 Q All right. Could I get you, if you would, 9 sir, to turn to the next page. 10 A Okay. 11 Q Could you please tell us what this document 12 reflects. 13 A It appears to be PayPal acknowledging what 14 they paid. 15 Q And did you receive this from PayPal? 16 A Apparently I did, yes. 17 Q Okay. And, sir, do you see that in the 18 subject line 19 A Uh-huh. 20 Q it says your payment to and then there's 21 some Chinese figures there? 22 A Yes.

30 32 1 the package that you received from Bossdisk? Q Do you recall seeing that in October of 2009? 2 No. Not until this came. I did. 3 3 MR. STERN: I'm sorry? Okay. And do you have that? 4 Not until I received this. I do. Α 5 (BY MR. ETTINGER) When you say "this," are Q I'm going to mark this as Exhibit 3, and I'll 6 you referring to the e-mail? work with counsel to get whatever photocopies or Yes. This acknowledgment from PayPal. photographs that he would like. Okay. So the date that you received the 8 (Exhibit Number 3 was marked.) 9 acknowledgment from PayPal was October 6, 2009, 9 Q (BY MR. ETTINGER) Could you please describe -- keep that in front of you, sir. Right. It appears to be with -- almost 11 11 Front of me. 12 simultaneously with the order confirmation from 12 O Could you please describe the contents of 13 Bossdisk. 13 that box. 14 Q Okay. At the time you received this 14 It has a number of CDs, CD-ROMs, a headset 15 confirmation from PayPal, do you remember seeing the 15 for an audio -- for audio CDs, a little instruction 16 Chinese figures in the subject line? 16 manual. 17 A I don't remember paying attention to it. I 17 Q Okay. Could you please hold it up so the 18 certainly do now. 18 camera could record it. 19 Q And if I could get you to turn to the next 19 All right. 20 page, please. 20 Q So when you received this package from 21 21 Bossdisk, did you have any reason to suspect that it Okay. 22 Q In the next e-mail from Bossdisk, do they 22 was not original Rosetta Stone -- Rosetta Stone 31 33 1 provide you a tracking number for your shipment? 1 software? MR. STERN: Objection, foundation. All right. And did you actually receive a 3 Not at all, no. 4 product from Bossdisk? Q (BY MR. ETTINGER) The packaging was Α I did. 5 consistent with what you had seen on the Internet? How long between the time that you placed Yes. And it was consistent with what I had your order lapsed before you received the product? seen in the stores. I -- I honestly don't remember. I believe Q On the top part of the box, do you see that 9 it was weeks. 9 it says -- could you read that into the record? What 10 Q And where was the product received? does it say at the very top of the box? 11 At my home. 11 Rosetta Stone with a trademark symbol. Q Do you recall the carrier that provided the 12 12 And the trademark symbol, what is that? And 13 delivery? when I say what is -- is it just a --14 I don't. I'd like to say UPS, but I just 14 It's an R and a circle. Α 15 don't remember. 15 O Okay. And next to it is what? 16 Q Could you describe the package that you 16 It looks like the Rosetta Stone. 17 received? 17 Q Okay. And could you turn it to make sure the Well, the -- the yellow box, the standard 18 camera gets that. All right, sir, could you open the 19 Rosetta Stone software is delivered in, was contained box and just detail the index -- or index the -- the 20 in a cardboard box, which I didn't save unfortunately, 20 contents for us by holding up each piece in front of 21 and I don't remember the markings on that box. 21 the camera --22 22 Q Did you bring with you today the contents of A Okay.

34 36 -- and telling us what it purports to be. Okay. And how many disks were in that box? This is supposed to be the audio disks, There were three -- there appear to be three 3 which I did not use, for the Spanish Levels 1, 2, 3. 3 disks. Q All right. And could you take one of the 4 Q Okay. Could you just hold one of those up 5 disks out of the audio companion and just hold that up 5 for the camera. 6 for the camera. And if you could, sir, if you could A Sure. 7 read into the record what it says on the top of it. MR. STERN: Could I just ask the witness to -It says, "Rosetta Stone Audio Companion - make sure not to confuse the disks with the boxes. 8 9 Spanish Level 1." 9 I'll put these back. Q All right. And what else is in that box? 10 MR. ETTINGER: Thank you. 11 This is Rosetta Stone audio component Level 11 Yeah. I'll put these back. 12 1 -- also Level 1. That's confusing. 12 Q (BY MR. ETTINGER) Why don't you take that 13 Q All right. Could you hold that up for the -one out of its container and just hold it up. 14 the camera, please. The next disk? 14 Okay. The next disk is Spanish Level 2. 15 And this is one of the disks that you 16 16 attempted to install on your computer, sir, is that Q Okay. 17 May I interject something here? 17 correct? Α 18 Q Go ahead. 18 A Yes. 19 19 This -- the second disk may have come from Q Okay. Just point to the camera. All right. 20 the copy that I bought at Borders after this whole 20 So if you would just take a moment and do a little 21 21 episode and I happened to put it in this box. I don't housekeeping --22 22 -- I don't remember. A Okay. 37 35 Q Okay. Could you tell from looking at it Q -- to put those back in to comply with Mr. 2 whether the disk that's in your hand originated with 2 Stern's request. Were there any other computer disks 3 Bossdisk or the -- the product you bought through 3 in the box you received? 4 Borders? 4 Well, there appear to be. 5 Α I can't tell a difference at all. They look 6 This probably is a tutorial, which I did not 6 identical. 7 Q All right. Could you go to the next disk. 7 use 8 please. 8 And the name of that tutorial is? 9 "Rosetta Stone Language Learning Success I did the Level 2. Oh, this is Level 2 as Α 10 Applicable Disk." 10 well, so I'm not sure why they're duplicated. 11 Okay. And then the last disk? 11 Okay. 12 And the last disk is Level 3, and there just 12 Let me back up for one second. This may be, 13 appears to be one of these packages. 13 if I remember correctly, the specific language that I 14 had chosen. The other disks that I installed were the Q All right. What else was in the box that you 15 received from Bossdisk? 15 actual software that uses this disk. 16 This is the -- I believe the software that I 16 Q Okay. And when you say the specific language 17 installed on my computer. 17 you chose, which language did you choose? Q And what is the name of the software that's 18 I chose Latin American Spanish. 19 19 on the outside of the package? Q Okay.

20

22

This is Ros- -- Rosetta Stone user's guide.

Q Did you try to load that onto your computer?

21 If I remember correctly, it's a PDF file.

Rosetta Stone. I don't see a -- a

21 registered trademark on here, though. Learning

22 software CD-ROM.

38 40 I don't remember if I did. 1 provided. Anything else? Q So without the keys, was the software 3 And finally there's a headphone for the 3 functional? 4 audio -- for the audio disks. It was somewhat functional. It's very basic Q Okay. And that came in the original package 5 function, as far as I could tell. But in order to 6 from Bossdisk? 6 enjoy the complete complement of that product, you need Yes. Yes. Sir, did you receive any instruction manual 8 Q And what -- what did you do to determine how 9 or user manual from Bossdisk? to get the key? It -- the only -- I don't remember. It's 10 Well, the first thing I did is call Rosetta 11 not in here, so it may have been on this disk, the --11 Stone. 12 the user guide. I -- I don't remember. 12 Q Why did you call Rosetta Stone? 13 13 Q So you don't recall whether there were any Because I thought that since this company 14 written materials in the package you received, correct? 14 was a representative perhaps they just forgot to put I'm almost certain there was not. And the welcome kit in this package and that they would 16 certainly there was not a welcome package that I got in 16 have a key. 17 17 the Borders version of this. Q And who did you contact at Rosetta Stone? 18 Q Now, what happened when you attempted to load 18 I called their customer service. 19 19 the disks onto your computer? Q How did you get their number? 20 They loaded successfully. And it recognized 20 From their Website. 21 21 the fact that the software -- there were updates Q What did you ask of Rosetta Stone? 22 22 available on the Rosetta Stone Website. It A I explained that I bought this from what I 39 41 1 automatically went to that Website, downloaded those 1 thought was one of their resellers and that they forgot 2 updates and then asked me for a key to activate the 2 to provide a key and could Rosetta Stone give me that 3 software. 3 key. Q So make sure I understand. When you load the 4 And what did Rosetta Stone respond to you? 5 disks from Bossdisk --They said no, I would have to go back to the reseller and get the key from him. Uh-huh. 6 7 Q -- they took you to the Rosettastone.com 7 Q Did you attempt to do that? 8 Website? 8 Α 9 9 Were you successful? Q Yes. 10 And that is where your computer automatically 10 Α No. 11 downloaded the most recent versions? Q What happened when you tried to contact the -11 12 Α Yes. 12 - the company that sold you the software? 13 O And were you able to access those versions? 13 MR. STERN: Objection, foundation. 14 14 Q (BY MR. ETTINGER) You may answer. 15 Q Okay. When you say it requested an 15 I sent an e-mail off to them, which was 16 authorization code, what is it that you were asked to 16 never responded to. 17 put into the computer? 17 Q Do you recall when you sent that e-mail? There's a key provided to allow you to use 18 I'd have to look. 19 the entire functionality of each level of the software, 19 Why don't you look at Exhibit Number -- is it 20 Level 1, Level 2, et cetera. And each level requires a 20 Number 2 and see if you can find the e-mail that you're 21 21 separate key. There were no keys in here. I didn't 22 realize when this I bought it, but there were no keys 22 Yes. It was sent on November 15th of

42	44
1 2009.	1 together now?
2 MR. STERN: Can can you identify the page	2 MR. STERN: Yeah.
3 you're looking at?	3 Q (BY MR. ETTINGER) Okay. Is this the e-mail
4 A It's this one here. You can see it with my	4 you received from Rosetta Stone?
5 scribbling on it. It's	5 A Yes, it is.
6 MR. STERN: Yes. This is the e-mail of	6 Q In which they advised you that Bossdisk was
7 February 17, 2010, at 2:38 p.m.	7 not an authorized reseller?
8 A These are just copies of what I received	8 A Yes.
9 that I sent to Mr. Ettinger.	9 Q All right. And is this this e-mail what
10 MR. STERN: I'm sorry, so this is the e-mail	10 prompted you to call your credit card company?
11 of November 7 November 15	11 A Yes.
12 A Right.	12 Q All right. And what happened when you called
1	13 your credit card company?
13 MR. STERN: 2009, at 2:27. 14 A Yes.	14 A I initiated a dispute over this charge. So
	15 they they removed the charge from the credit card
15 MR. STERN: Thank you. 16 Q (BY MR. ETTINGER) And what did you ask of	16 and tried to contact the this Bossdisk company.
1	
17 Bossdisk?	17 Q And so you you were made whole on the
18 A I asked them to they obviously forgot to	18 purchase?
19 give the key so I need the key to use their software.	19 A I was.
20 Q And is this the e-mail that you never	Q Had you ever before purchased software on the
21 received a response to?	21 Internet that turned out to be counterfeit or pirated?
22 A That's correct.	22 A No.
43	45
1 Q When you didn't receive a response from	1 Q Did the experience with Bossdisk cool your
1 Q When you didn't receive a response from 2 Bossdisk, what did you do?	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language?
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no.
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source?
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did.
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source?
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe.
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company.	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person?
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company. 11 Q Okay. Could I get you to turn to the e-mail	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person? 11 A Well, they were just not too far away, so I
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company. 11 Q Okay. Could I get you to turn to the e-mail 12 November 15, 2009, at 3:38 p.m	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person? 11 A Well, they were just not too far away, so I 12 just went down and bought it.
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company. 11 Q Okay. Could I get you to turn to the e-mail 12 November 15, 2009, at 3:38 p.m 13 A Yes.	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person? 11 A Well, they were just not too far away, so I 12 just went down and bought it. 13 Q And how much did you pay for the Rosetta
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company. 11 Q Okay. Could I get you to turn to the e-mail 12 November 15, 2009, at 3:38 p.m 13 A Yes. 14 Q from support at Rosetta Stone to you.	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person? 11 A Well, they were just not too far away, so I 12 just went down and bought it. 13 Q And how much did you pay for the Rosetta 14 Stone software?
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company. 11 Q Okay. Could I get you to turn to the e-mail 12 November 15, 2009, at 3:38 p.m 13 A Yes. 14 Q from support at Rosetta Stone to you. 15 A Right.	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person? 11 A Well, they were just not too far away, so I 12 just went down and bought it. 13 Q And how much did you pay for the Rosetta 14 Stone software? 15 A For Level I when I bought the one from
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company. 11 Q Okay. Could I get you to turn to the e-mail 12 November 15, 2009, at 3:38 p.m 13 A Yes. 14 Q from support at Rosetta Stone to you. 15 A Right. 16 Q Okay. And is this he the e-mail	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person? 11 A Well, they were just not too far away, so I 12 just went down and bought it. 13 Q And how much did you pay for the Rosetta 14 Stone software? 15 A For Level I when I bought the one from 16 Borders, I believe I bought just Level 1, and I
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company. 11 Q Okay. Could I get you to turn to the e-mail 12 November 15, 2009, at 3:38 p.m 13 A Yes. 14 Q from support at Rosetta Stone to you. 15 A Right. 16 Q Okay. And is this he the e-mail 17 MR. STERN: Wait, wait. Where are you?	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person? 11 A Well, they were just not too far away, so I 12 just went down and bought it. 13 Q And how much did you pay for the Rosetta 14 Stone software? 15 A For Level I when I bought the one from 16 Borders, I believe I bought just Level 1, and I 17 honestly don't remember what I paid, but it was sig
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company. 11 Q Okay. Could I get you to turn to the e-mail 12 November 15, 2009, at 3:38 p.m 13 A Yes. 14 Q from support at Rosetta Stone to you. 15 A Right. 16 Q Okay. And is this he the e-mail 17 MR. STERN: Wait, wait. Where are you? 18 MR. ETTINGER: If you flip I'm sorry.	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person? 11 A Well, they were just not too far away, so I 12 just went down and bought it. 13 Q And how much did you pay for the Rosetta 14 Stone software? 15 A For Level I when I bought the one from 16 Borders, I believe I bought just Level 1, and I 17 honestly don't remember what I paid, but it was sig 18 significantly more than Bossdisk.
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company. 11 Q Okay. Could I get you to turn to the e-mail 12 November 15, 2009, at 3:38 p.m 13 A Yes. 14 Q from support at Rosetta Stone to you. 15 A Right. 16 Q Okay. And is this he the e-mail 17 MR. STERN: Wait, wait. Where are you? 18 MR. ETTINGER: If you flip I'm sorry. 19 A This is the last page actually.	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person? 11 A Well, they were just not too far away, so I 12 just went down and bought it. 13 Q And how much did you pay for the Rosetta 14 Stone software? 15 A For Level I when I bought the one from 16 Borders, I believe I bought just Level 1, and I 17 honestly don't remember what I paid, but it was sig 18 significantly more than Bossdisk. 19 Q Have you tried the software?
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company. 11 Q Okay. Could I get you to turn to the e-mail 12 November 15, 2009, at 3:38 p.m 13 A Yes. 14 Q from support at Rosetta Stone to you. 15 A Right. 16 Q Okay. And is this he the e-mail 17 MR. STERN: Wait, wait. Where are you? 18 MR. ETTINGER: If you flip I'm sorry. 19 A This is the last page actually. 20 MR. STERN: Okay. I'm sorry.	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person? 11 A Well, they were just not too far away, so I 12 just went down and bought it. 13 Q And how much did you pay for the Rosetta 14 Stone software? 15 A For Level I when I bought the one from 16 Borders, I believe I bought just Level 1, and I 17 honestly don't remember what I paid, but it was sig 18 significantly more than Bossdisk. 19 Q Have you tried the software? 20 A Yes, but not a lot, but I plan on it.
1 Q When you didn't receive a response from 2 Bossdisk, what did you do? 3 A Well, actually I had already talked to 4 Rosetta Stone at that point. When I didn't receive the 5 response from from Bossdisk, I I guess I if I 6 remember correctly, I sent off an e-mail to Rosetta 7 Stone with a copy of the bill of sale or the receipt 8 and then finally got a response from them indicating 9 that these people were not a legitimate reseller. And 10 subsequently I contacted my credit card company. 11 Q Okay. Could I get you to turn to the e-mail 12 November 15, 2009, at 3:38 p.m 13 A Yes. 14 Q from support at Rosetta Stone to you. 15 A Right. 16 Q Okay. And is this he the e-mail 17 MR. STERN: Wait, wait. Where are you? 18 MR. ETTINGER: If you flip I'm sorry. 19 A This is the last page actually.	1 Q Did the experience with Bossdisk cool your 2 desire to learn a foreign language? 3 A Oh, no. 4 Q Did you ultimately purchase Rosetta Stone 5 software from another source? 6 A I did. 7 Q What source? 8 A It was Borders, I believe. 9 Q Did you use the Internet to buy the software 10 or did you go down and buy it in person? 11 A Well, they were just not too far away, so I 12 just went down and bought it. 13 Q And how much did you pay for the Rosetta 14 Stone software? 15 A For Level I when I bought the one from 16 Borders, I believe I bought just Level 1, and I 17 honestly don't remember what I paid, but it was sig 18 significantly more than Bossdisk. 19 Q Have you tried the software?

46	48
1 Are you satisfied with it the product? 2 A I love it. 3 MR. ETTINGER: I have no further questions. 4 MR. STERN: Mr. DuBow, how are you doing? 5 You've it's only been about half an hour now. 6 THE DEPONENT: I'm doing good. 7 MR. STERN: Doing good? 8 THE DEPONENT: Yeah. 9 THE REPORTER: I might have trouble hearing 10 you from back there. 11 MR. STERN: Can we go off the record? 12 THE VIDEOGRAPHER: We're going off the record 13 at 11:30. 14 (Recess from 11:30 to 11:42 a.m.) 15 THE VIDEOGRAPHER: We're going back on the 16 record at 11:42. 17 EXAMINATION 18 BY MR. STERN: 19 Q Mr. DuBow, I'm sorry for the the technical 20 difficulties 21 A Oh, no problem.	1 done consulting in the past for companies like IBM. 2 We've actually written software for them, sold them 3 software, companies like Timeshare in Cupertino, HSBC 4 in Hong Kong, they're customers and clients. 5 Q Okay. When you deliver your product, do you 6 deliver it in the form of a CD-ROM or a DVD, or is it a 7 download? 8 A It's a download. 9 Q And with respect to the clients that obtain 10 this download from Comm-Pro, is this done through a 11 license? 12 A Yes. 13 Q Okay. You understand that then that what 14 you're doing is you're giving permission for your 15 customers or clients to be able to use the software 16 based on the conditions and terms of the license that 17 you have with them, right? 18 A Absolutely. 19 Q Do you know if under the terms of your 20 license with your customers your customers are 21 authorized to resell the software they get from you to 22 third parties?
22 Q we had during the break. My name is	
47	49
1 Claude Stern again. I represent Google. 2 A Mr. Stern. 3 Q And I really appreciate your coming here this 4 morning. I know these sorts of depositions can be 5 intrusive, and I just appreciate you coming here. I'm 6 going to have some follow-up questions. I hope you 7 don't mind. 8 A Not at all. 9 Q First of all, by way of background, you I 10 think you mentioned in 1973 you started a company that 11 was called Comm-Pro; is that right? 12 A That's correct. 13 Q And Comm-Pro, if I understand, you offer some 14 sort of communication bridge between IBM mainframes and 15 people who are working on a network? 16 A Yes. Specifically, it's an X-25 network,	1 A No, they're not. 2 Q Okay. So you understand that sometimes 3 companies create conditions under which 4 MR. STERN: I'm sorry I'm we're getting 5 feedback. Do you hear an echo or is that just me? 6 Sorry. I apologize. 7 Q (BY MR. STERN) Sometimes companies restrict 8 the ability of people who license software to re- 9 license it down the chain, correct? 10 A Yes. 11 Q And that's particularly true in the business 12 community; is that right? 13 A I would I would think so, yes. 14 Q Were you aware of the fact that Rosetta Stone 15 has a policy that prohibits customers that acquire 16 versions of its language learning software from 17 reselling or re-licensing that software after they've

50 52 Q Okay. So you -- you understand that there's 1 they have no right to be able to license it? 2 some companies that, for example -- do you play video A No, they have no right. 3 games, by any chance? Q All right. And you understand that if they No. I'm not a big video game. 4 try to license that software, that software wouldn't Okay. There's some software companies, 5 probably be characterized as bootleg or counterfeit, 6 whether they're games, there's other software 6 correct? 7 applications where you can buy a program from a MR. ETTINGER: Objection. company 8 No. Technically it wouldn't. It would just 8 and after you use it, you can sell the program on the be stolen software. 9 open market and someone can buy it from you. You Q (BY MR. STERN) Or put another way, would you 10 understand that? 11 agree with me that that would be software which might 11 Uh-huh. Open source? be genuine, but it's not authorized for resale? 12 Open source is an example, but even -- even 13 Yes. Α 13 proprietary programs. You've heard of companies that 14 Q Okay. Now, when you went onto this Website -14 allow you to resell games, for example, correct? 15 - first of all, let me just see if I can lay some 15 I wasn't aware of that, but okay. 16 foundation for this. Did anybody from -- let's lay 16 Q Okay. I mean, for example, you're aware of 17 some -- lay some foundation for this. When you 17 other copyrighted products like, for example, records 18 communicated with Rosetta Stone, did you ever actually 18 that you could buy and then decide to sell to somebody talk with somebody on the phone, or was it all by e-19 else, right? 20 20 You mean physical media? 21 No. That was the thirst thing I did was 21 Physical media, exactly. 22 called them. 22 Yeah, sure. 51 53 Q Okay. I want to make sure that we're talking Q And do you remember the name of the person who you spoke with? 2 the same language. You used the definition before. 3 which I agreed with, which is you understand that It was a lady by the name of Jennifer. 4 counterfeit software is software that is manufactured 4 Q Okay. And do you know how long the 5 by someone other than the original titleholder or 5 conversation was? 10, 15, minutes. I don't remember. It was 6 trademark holder, right? quite a while ago. Correct. Q You understand, though, that, for example, Q I take it because this was the first 9 for the -- for the Comm-Pro software that you licensed communication she had with you, she was not in a 10 to your customers, you're the trademark holder and the position to tell you what you had purchased. She 11 titleholder, right? 11 couldn't characterize it one way or another? 12 That's true. 12 That's correct. And when you license it to a customer, you 13 She couldn't tell you whether it was 14 prohibit that customer from re-licensing it to anybody 14 counterfeit or unauthorized software or anything, 15 right? 15 else, right? A With a caveat. We have business partners in 16 She didn't know at that time. 17 France, in Germany who essentially are our first level 17 Basically she told you that, if I understand 18 of support there. They have their own license with 18 your testimony correctly, look, if you didn't buy it 19 their customers. So we're like -- we're one step back 19 from us directly and you bought it from some reseller, you've got to go back from the reseller to try to get 20 from them. We supply the software and the support, and 21 the authentication number? 21 then they have a separate license with their customers. 22 Q That's fine. But those end users customers, 22 That's correct.

54 56 Q All right. And you tried to do that 1 correct? 2 afterwards? 3 I did. Q And then it downloaded some sort of upgrades Α Q Okay. And that was the only telephonic 4 or updates; is that correct? 5 communication you ever had with anybody at Rosetta That's correct. 6 Stone, right? 6 And then based on that, you obtained some 7 sort of functionality of the product, correct? That's true. Okay. And after that, the only other Very limited in its function. 9 communications you had with the folks at Rosetta Stone 9 Q Can you describe what the functionality was? 10 are the -- are the e-mails that you have produced in 10 I think they even tell you that this will 11 this case, right? 11 not have full functionality unless you supply a key. 12 Α That is true. 12 That's my remembrance. And -- and is it accurate, Mr. DuBow, that 13 13 Q Okay. But can you -- what -- what was the 14 you have produced all the documents that you have that 14 functionality? Did it -- did it, for example, tell 15 relate to your acquisition or searching or anything you, you know, basic Level 1 Spanish language? 16 else related to the software that was obtained from 16 Very basic. Very basic stuff. Not -- not 17 this company called Bossdisk? 17 the full complement you'd expect with their software. 18 I save virtually all the e-mails that I've 18 Q And can you be any more granular about 19 ever sent. I'm a -- I'm a packrat, and I think this is 19 exactly what sort of functionality was provided, what 20 just about everything I've got. 20 learn -- what language learning features you got to see 21 Q You know, I'm a packrat too, and it really even with this limited function? 22 22 bothers my IT department because I think they have a A I -- to be honest with you, once I had this 57 55 1 special server just for me. 1 problem with the key, I wasn't really interested in Too much information, huh? 2 fooling with the basic functionality. I started Too much information. All right. So if I'm 3 contacting Rosetta Stone at that point. I decided that 4 correct and this is the -- the totality of the 4 if -- you know, if I -- if I -- if I couldn't have the 5 full functionality that I really did not want this 5 documentation that you produced, which is Exhibit 2, at 6 no time did anybody at Rosetta Stone tell you what you 6 product. So I -- I mean, that's what I thought I was buying. 7 purchased was -- and I'm using this word carefully --8 counterfeit software; is that right? Q Okay. And as you sit here right now today, They didn't specifically say counterfeit. you're not in a position to say whether the product was 10 Okay. Now, you mentioned that when you got either what you've described as counterfeit or Q 11 the software you loaded it onto a computer; is that unauthorized software, namely original genuine software 12 right? 12 that was resold? 13 Α Uh-huh. My laptop. 13 A I -- to be honest with you, I -- I can't 14 Was -- was it a PC or a Mac? 14 tell the difference. I don't know. Q 15 It's a Dell PC. 15 Q Okay. I have a question about the Comm-Pro 16 Q I have a Dell PC in front of me. And from 16 software that you sell. 17 what I understand, the software, in fact, did load, 17 Α Okay. 18 correct? 18 Q And I'm not trying to delve into trade 19 A It did. 19 secrets or anything, so if I step too far, please let 20 Q And it took you to a Website, correct? 20 me know. 21 21 It took me to Rosetta Stone. Α 22 When you license your end user or you license Q It took you to the Rosetta Stone Website, 22

58 60 1 your contractors for further contact with your 1 which is the last e-mail I received -- saying that 2 customers with your software --2 these people were not authorized resellers. Q Okay. I take it at no time during that Uh-huh. Q -- do you require an authentication key or an 4 process -- I'm sorry. I misspoke. You also at some 5 activation key? point contacted, I think -- correct me if I'm wrong --We -- we have two versions of the software. 6 you contacted your credit card company to try to get a 7 We have a trial version that we provide with a -- it's 7 refund; is that right? 8 essentially a date stamp, and it will stop functioning 8 A Oh, yes. Once -- once I determined that 9 after a certain date unless you order a permanent this was not a real legitimate Rosetta Stone and I 10 version. And then with the permanent version, we have 10 wasn't going to get a key, then I contacted my credit 11 a key that says essentially how long this software can 11 card company. 12 be used before you have to renew the key. 12 Q Okay. But that was after Jennifer had told 13 Q And if the person fails to renew the key in 13 you though the last e-mail, sorry, we can't help you? 14 time the key expires? 14 I'm almost certain it was after, yes, yeah. 15 The key will expire. 15 And your credit card company reimbursed you, Q And then they have to come back to you for a 16 right? 17 new key and to re-up the contract, right? 17 Yes, uh-huh. Α 18 Correct. 18 Okay. At any time during this time or 19 Q Okay. So the question is: This concept --19 thereafter did you contact the Better Business Bureau? 20 just so we're clear, this concept of a company 20 No, I didn't at that point. 21 21 requiring an activation key to be able to start Did you -- at any point did you contact the 22 Federal Trade Commission? 22 software again, that's not something that was unique 59 61 1 and learned by you for the first time with Rosetta Not for this particular case, no. 2 Stone? Okay. At any point did you contact Google? Q 3 3 No. It's been going on for a long time. I did not contact Google. Q Okay. Okay. All right. Let's talk about 4 Q Okay. 5 5 the -- the actual software itself. If I understand Α May I interject one thing here? 6 6 correctly, you obtained the software from Bossdisk? Oh, please. Uh-huh. Considering that I had already talked to Q And then after you determined that you 8 Rosetta Stone, my feeling was that they determined that 9 couldn't get full functionality, you first communicated this is a -- not a true reseller, my assumption was 10 or tried to communicate with Rosetta Stone? that they would look into this. Also, I thought the 11 That's true. credit card company would. 12 They told you to contact the reseller? 12 Q Which stands -- I mean, your -- your thinking Q 13 13 was I've reported this to certain people --14 14 Q You then contacted the reseller and got no Α Right. 15 15 response? Q -- let them find out what went wrong? 16 16 That's what they do. 17 Q And then you went back to Rosetta Stone and 17 Q Let me ask you: Was this the first time you 18 that was the final connection where they told you they 18 had ever acquired -- I'll withdraw that. Technically 19 couldn't help you? was the credit card your wife's credit card or your 20 Well, I sent them -- I sent them the -- the credit card? 21 21 receipt for the product. And then Jennifer, this gal It's -- it's a joint credit card. Q I was going to use the phrase "your," and I 22 that I talked to, sent me an e-mail back saying --22

62 64 1 wanted to make sure I was being completely accurate, so 1 generally just toss those, because I -- I believe that 2 that's --2 they're pretty much all bogus anyway. Α Okay. When I go to Google, I have a certain 3 Q Was this the first time that you had been 4 expectation that when -- that these -- and honestly 5 involved in acquiring something over the Internet? 5 this is the truth. I was under the impression that Oh, no. I use the Internet all the time. 6 many of these sites were vetted and that they -- that I Okay. And is it accurate that your -- the 7 could trust them. I did -- unlike these junk e-mails 8 primary search tool that you use for the Internet is 8 that I get, when I go to Google, I'm expecting somebody 9 Google? 9 has done some homework on these sites and they're --10 Α 10 they're going to be legitimate sites. I hadn't --11 Okay. I mean, would you agree with me that 11 Q Did -- did anybody at Google ever tell you 12 Google is your primary search tool both for personal 12 that they did that? 13 and for professional reasons? 13 A I didn't see any fine print. Buyer beware, 14 Α It is. 14 I understand that now, but --15 And you may occasionally use other search 15 Q But actually -- and I really just meant to 16 tools like Yahoo! or Ask.com or maybe even Bing -- I 16 ask, is this sort of an assumption that you use? 17 don't know if you do -- but the -- the primary search 17 A It was an assumption. I thought that -- I 18 tool you use is Google, right? 18 thought that I could trust Google, buying things 19 Α 19 It is. through Google, more than I could receiving an -- an 20 And when you say primary, what percentage of unsolicited advertisement. 21 21 the time would you say it is? Q Let's talk about newspapers, if we can, for a 22 second. A Oh, I'd say 80 to 90 percent. 63 65 Q Okay. And just so -- you understand that the 2 way that the search engine works is that you type in a Q You're -- you're aware of the fact that in newspapers that are advertisements, right? 3 particular query --Uh-huh. 4 Uh-huh. -- and then as a result of that, you get Q I'm sorry, one just important thing is 6 certain search results, right? 6 because the court reporter is using a device that records phonetically, if you could just say yes instead True. Q Okay. Now, in the past when you've acquired of uh-huh. 9 9 product over the Internet, have you acquired it through Α I'm sorry. 10 the same type of search that you conducted for Rosetta 10 Q It's all right. You're fine. You and I understand it. I just need the record --11 Stone; namely you first look for general category of 11 12 product, in this case, it was language learning 12 I understand. 13 software, and then after you found out what you thought 13 So you understand that newspapers have 14 was the best product that you wanted to buy, you then 14 advertisements, right? 15 15 focused in on that product and then conducted searches Of course, yes. 16 for that particular product name? 16 Q And those advertisements are paid 17 That's -- that is a case. May I -- may I 17 advertisements by advertisers, right? 18 just say one thing? 18 Correct, yes. 19 Q Please. 19 And the advertisers -- I mean, there's all 20 Okay. When I -- I get a lot of junk e-20 sorts of the advertisements in the newspaper, 21 mails, and I'm sure you do too. Some selling their 21 everything from jewelry to plumbing to God knows what, 22 wares, some I recognize, some I -- I don't. I 22 right?

	1
66	68
1 A Right.	1 A Yeah.
THE REPORTER: Plumbing to what?	2 Q But, in fact, you know, we all if you go
3 MR. STERN: To God knows what.	3 on to if you go on to the classified ads and someone
4 MR. ETTINGER: That's a legal term.	4 says they're advertising a Yamaha motorcycle for
5 MR. STERN: That's a legal term. It's a type	5 A I had one of those.
6 of product.	6 Q for \$500 say what?
7 Q (BY MR. STERN) You understand that the	7 A I had one of those.
	8 Q I had one once when I was in college. But a
8 newspaper, by allowing people to advertise, doesn't 9 necessarily endorse or sponsor or be affiliated with	9 Yamaha motorcycle for \$500 and it's a 350 CC, you might
10 whatever the advertisement is, correct?	· · · · · · · · · · · · · · · · · · ·
	10 you don't know by looking at that classified ad
1	11 whether or not it's a genuine Yamaha motorcycle or
12 Q (BY MR. STERN) You can answer.	12 whether it's a knockoff, right?
13 A Yeah. I see where you're going with this. I	13 A True.
14 understand, yes.	14 Q Okay. And if I asked you the same sort of
15 Q And you also understand that the that the	15 questions about television let's when you watch a
16 newspaper makes money from advertisements, right?	16 television set do you watch television?
17 A Right.	17 A I watch the news.
18 Q Also, on have you ever either used	18 Q The news. Right. Do you know even on the
19 personally or placed a classified ad?	19 news when you watch television, you see advertisements,
20 A Oh, of course, yes.	20 right?
Q Which one, have you placed or just used?	21 A Of course.
22 A I have placed.	22 Q And you understand that I'll pick an
67	69
67 1 Q Okay. You understand that when you place a	69 1 example. If NBC as a television broadcaster allows
1 Q Okay. You understand that when you place a	1 example. If NBC as a television broadcaster allows
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right?
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct?	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes.
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right.	example. If NBC as a television broadcaster allows people to well, let me ask the question. You understand that broadcasters, stations sell advertising space to advertisers, right? A Yes. Q And you understand that just because NBC, for
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest 10 person from whom they can obtain whatever it is that is	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing 10 whatever the product is, right?
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest 10 person from whom they can obtain whatever it is that is 11 in the classified ad, right?	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing 10 whatever the product is, right? 11 A Right.
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest 10 person from whom they can obtain whatever it is that is 11 in the classified ad, right? 12 A Okay. Yes.	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing 10 whatever the product is, right? 11 A Right. 12 Q And you understand that NBC makes money from
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest 10 person from whom they can obtain whatever it is that is 11 in the classified ad, right? 12 A Okay. Yes. 13 Q Okay. And you've also seen so it's fair	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing 10 whatever the product is, right? 11 A Right. 12 Q And you understand that NBC makes money from 13 this form of advertising, right?
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest 10 person from whom they can obtain whatever it is that is 11 in the classified ad, right? 12 A Okay. Yes. 13 Q Okay. And you've also seen so it's fair 14 to say that the idea, at least for you, of a newspaper	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing 10 whatever the product is, right? 11 A Right. 12 Q And you understand that NBC makes money from 13 this form of advertising, right? 14 A Of course.
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest 10 person from whom they can obtain whatever it is that is 11 in the classified ad, right? 12 A Okay. Yes. 13 Q Okay. And you've also seen so it's fair 14 to say that the idea, at least for you, of a newspaper 15 having advertisements that are paid for by advertisers, 16 for which the newspaper makes money, is not something	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing 10 whatever the product is, right? 11 A Right. 12 Q And you understand that NBC makes money from 13 this form of advertising, right? 14 A Of course. 15 Q Okay. If I understood your testimony before,
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest 10 person from whom they can obtain whatever it is that is 11 in the classified ad, right? 12 A Okay. Yes. 13 Q Okay. And you've also seen so it's fair 14 to say that the idea, at least for you, of a newspaper 15 having advertisements that are paid for by advertisers,	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing 10 whatever the product is, right? 11 A Right. 12 Q And you understand that NBC makes money from 13 this form of advertising, right? 14 A Of course. 15 Q Okay. If I understood your testimony before, 16 I think you said and please correct me if I'm wrong
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest 10 person from whom they can obtain whatever it is that is 11 in the classified ad, right? 12 A Okay. Yes. 13 Q Okay. And you've also seen so it's fair 14 to say that the idea, at least for you, of a newspaper 15 having advertisements that are paid for by advertisers, 16 for which the newspaper makes money, is not something 17 that you find socially abhorrent?	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing 10 whatever the product is, right? 11 A Right. 12 Q And you understand that NBC makes money from 13 this form of advertising, right? 14 A Of course. 15 Q Okay. If I understood your testimony before, 16 I think you said and please correct me if I'm wrong 17 that the first time that you heard about sponsored
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest 10 person from whom they can obtain whatever it is that is 11 in the classified ad, right? 12 A Okay. Yes. 13 Q Okay. And you've also seen so it's fair 14 to say that the idea, at least for you, of a newspaper 15 having advertisements that are paid for by advertisers, 16 for which the newspaper makes money, is not something 17 that you find socially abhorrent? 18 A No, of course not	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing 10 whatever the product is, right? 11 A Right. 12 Q And you understand that NBC makes money from 13 this form of advertising, right? 14 A Of course. 15 Q Okay. If I understood your testimony before, 16 I think you said and please correct me if I'm wrong 17 that the first time that you heard about sponsored 18 links was this morning, is that is that correct? 19 A I didn't realize what sponsored links were
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest 10 person from whom they can obtain whatever it is that is 11 in the classified ad, right? 12 A Okay. Yes. 13 Q Okay. And you've also seen so it's fair 14 to say that the idea, at least for you, of a newspaper 15 having advertisements that are paid for by advertisers, 16 for which the newspaper makes money, is not something 17 that you find socially abhorrent? 18 A No, of course not 19 Q Okay. 20 A unless the unless the advertisement	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing 10 whatever the product is, right? 11 A Right. 12 Q And you understand that NBC makes money from 13 this form of advertising, right? 14 A Of course. 15 Q Okay. If I understood your testimony before, 16 I think you said and please correct me if I'm wrong 17 that the first time that you heard about sponsored 18 links was this morning; is that is that correct? 19 A I didn't realize what sponsored links were 20 until Mr. Ettinger explained it to me.
1 Q Okay. You understand that when you place a 2 classified ad, the newspaper when they acquire your 3 classified ad, they know very little about you in that 4 you're restricted to the number of words and what 5 information you can put in the ad, correct? 6 A Right. 7 Q And that people who look at that classified 8 ad then have to do their own diligence to figure out 9 whether or not you are a respectable, reputable, honest 10 person from whom they can obtain whatever it is that is 11 in the classified ad, right? 12 A Okay. Yes. 13 Q Okay. And you've also seen so it's fair 14 to say that the idea, at least for you, of a newspaper 15 having advertisements that are paid for by advertisers, 16 for which the newspaper makes money, is not something 17 that you find socially abhorrent? 18 A No, of course not 19 Q Okay.	1 example. If NBC as a television broadcaster allows 2 people to well, let me ask the question. You 3 understand that broadcasters, stations sell advertising 4 space to advertisers, right? 5 A Yes. 6 Q And you understand that just because NBC, for 7 example, has certain advertisements being publicized on 8 the on the network doesn't mean that that NBC is 9 sponsoring, being affiliated with, or endorsing 10 whatever the product is, right? 11 A Right. 12 Q And you understand that NBC makes money from 13 this form of advertising, right? 14 A Of course. 15 Q Okay. If I understood your testimony before, 16 I think you said and please correct me if I'm wrong 17 that the first time that you heard about sponsored 18 links was this morning; is that is that correct? 19 A I didn't realize what sponsored links were 20 until Mr. Ettinger explained it to me.

70 72 1 you'll see a line that says results 1 through 10 of 1 Yes. Would you -- what did he tell you? 2 about 68,500 for, quote, Comm-Pro, close quote. Do you If I remember correctly, these are links 3 see that? 4 that -- that -- that Google gets money for every time A It's hard to read, but I -- I see it. It's -5 the link is accessed. - it's rather -- it's right here. I see it, yeah. Q Okay. But in your view, if I understand you Right. Oh, it is -- it is hard to read. 7 correctly, when you went onto the Website -- when you It's right there. Yeah. 8 went onto the Website that you ultimately went on to --8 Q If you want to see my screen, I'm happy to show you my screen. Uh-huh. 10 -- and picked or clicked on the Bossdisk link 10 No. I -- I -- I can understand it. 11 ---11 Q And you understand that that means that --12 Right. 12 you understand that for -- that's me. You understand 13 -- is it accurate that, in your view, they 13 that for that search that means that essentially that 14 were all simply a collection of search results and you search query produced some 68,500 impressions --15 didn't distinguish one from the other? 15 Uh-huh. 16 16 They -- they -- if I remember correctly, the Q -- or images that can be viewed that would 17 Bossdisk Website came up on the very first page, and as 17 have the actual language Comm-Pro, not Pro Comm or just 18 you know, you've got multiple pages on -- when you get Comm or Pro, but actually Comm-Pro. Do you see that? 18 19 a hit. They were on the first page, and basically we 19 Α Right. 20 scrolled down and were looking for what -- you know, 20 Do you see that? Am I right? 21 the best price for -- and for a Rosetta Stone reseller. 21 Correct, yes. Α Q Okay. I'm -- unfortunately something just --22 And yours happens to be at the very top, 71 73 1 is it up? 1 right? It's up, yeah. Right. Do you see it? I'm showing you -- I typed in You are not -- let me see if one thing is 4 just so that you could see -- and the record should clear. Are you a Google advertiser? 5 reflect I've typed in the following. And I'm -- this Α No. That is to say what this did is this may have 6 is a hunch. This may not be the right name of your 7 company, but I typed in Comm-Pro. Do you see that? called up a Website or other information that you Uh-huh. posted on the Internet but isn't the subject something And you see you'll see it says, "Comm, that you necessarily identified as advertising, right? 10 hyphen, Pro." Do you see that? 10 Α That's true. 11 Q Okay. Now, on the right side you'll see Uh-huh. 11 12 Q Is that how you spell your --12 there are two hyperlinked phrases. One says, "Hire 13 It is, yes. student painters," and the other one says, "Replace 14 Procomm Plus." Do you see that? Okay. And the very first link is a company 15 called Comm-Pro Associates, Inc. Do you see that? 15 Α Yes. 16 That's true. 16 Q And have you -- do you recognize either of 17 17 those? Q Is that you? 18 Yes, it is. Procomm Plus is a communication software 19 product. I don't know that they're still in business. Q All right. There are other companies that 20 are identified below here, and you'll see on the -- on 20 Apparently they are. 21 21 the page that we're looking at -- tell me if we're Q Okay. And the -- am I correct that the fact 22 looking at the same page. On the very top right side, 22 that these are on the right side, has that ever meant

74 76 1 something to you when you've --1 there is something that says, "Sponsored link"? Well -- well, the --I probably have and just not paid much 3 attention to it --3 -- looked at them? 4 THE REPORTER: Has that ever meant something Q Okay. 5 to you? 5 Α -- to be honest with you. 6 MR. STERN: Let me repeat the question. Q Okay. And I take it you -- you haven't done Q (BY MR. STERN) When you've done Google 7 any research to find out what sponsored link meant? 8 searches, I want to make -- I don't want -- there's no 8 Α No. 9 trickery here. I just want to make sure -- let me 9 Q Okay. And have you -- have you ever done 10 start over. Have you ever done the specific Google 10 that same search -- withdraw that. Have you ever done 11 search that I've just done? similar searches on other search engines and seen that 12 A I'd go directly to our Website, so I 12 other search engines use other phrases like sponsored 13 link? 13 wouldn't do it, but I can put my name in there and I -- I probably have seen it and just don't 14 you'll get a few hits there, too. 14 O Exactly. So the question is you've seen 15 remember what they were, yeah. 16 search results where on the right side there was some Q Okay. 16 17 sort of listing, correct? 17 A I generally -- not to interrupt. When --18 Α Yes. 18 when I do the search, I am generally looking at a 19 Q Okay. And have you understood what those collection and not focusing on just sponsored links. 20 were? 20 Q Okay. Let me see if I can do one more here. 21 21 There we go. So I've just done one called The Gap. Do It says sponsored link. I was assuming that 22 those are advertisers on Google, but I don't -- you 22 you see that? 75 77 1 know, I don't know more than that. Α Yes. Q Okay. And let's -- let me -- let me put in Q And you'll see on the top left there's 3 another phrase. I'm just going to -- I'm going to put 3 something that says Gap with a circle R, official site. 4 in the phrase -- this -- let's put in Borders Books. 4 On the far right, there's something that says, "The 5 You mentioned them this morning. Children's Place." Do you see that? Right. Right. Uh-huh. Q So I'll click on that. And you'll see -- do Q And you see there's the word "sponsored link" 8 you see that particular search result? next to both of those. Yes. Right. 10 Q Okay. And that search result, you'll see at 10 Q Do you see that? And you'll also see that 11 the very top there is a hyperlink that says, "Books at 11 below on the right side, the phrase "the Children's 12 Borders." Do you see that? 12 Place," there is a -- there is a -- a line that says, 13 Α Yes, I do. 13 "See your ad here," which I'm circling with the cursor. 14 Q And it's against a pinkish, tannish --14 Do you see that? 15 Yes. 15 Α Right. Yes. Α 16 Q -- background. 16 Q So you understand that what these sponsored 17 Uh-huh. 17 links indicate are these are advertisements that people Α 18 Q Do you see that? And on the far right side, place, correct? 19 it says, "Sponsored link." Do you see that? 19 Α I see that now, yes. 20 20 Α Yes. Q Now, the -- when -- I know that -- let me lay 21 21 some foundation for this. What has previously been Q Have you ever seen images like that as well 22 where you do a search and at the very top of the page 22 marked as Exhibit 1 --

78	80
1 A Uh-huh. 2 Q that's the what was marked as Exhibit 3 1. You will agree with me that this document, Exhibit 4 1, is not a an image or representation of the 5 Bossdisk Website that you went to. 6 A I don't remember a hundred percent. It 7 looks very similar. 8 Q Take if you look at the very bottom of the 9 page of Exhibit 1 10 A Uh-huh. 11 Q you'll see there is an HTML listing. Do 12 you see that? 13 A Right. Okay. 14 Q And if you look at this, would you agree with 15 me that the phrase "Bossdisk" does not appear anywhere 16 in that HTML? 17 A It does not appear. 18 Q And and if you look at the second page, 19 would you agree with me as well that 20 A It does not appear. 21 Q And if you look at the the second page as 22 well, you'll see copyright that says, "Copyright 2009	1 Q So that that link, the Bossdisk link was 2 somewhere on the first page, correct? 3 A Yes. 4 Q Other than that granularity, can you say 5 whether it was in the middle of the page or at the 6 bottom of the page? 7 A I don't remember. I I one thing I 8 I I believe is that and I've seen this before. 9 The same link will appear on multiple pages, but I 10 believe this was probably in the lower part of the 11 first page. 12 Q The lower part of the first page. 13 A Yeah. 14 Q Okay. And and that's the link that you 15 clicked on to ultimately buy the product? 16 A Right. 17 Q And do you know if when what you if 18 what you clicked on I'm sorry. Just some more 19 foundation. So what we're clear about is that what you 20 clicked on was not on the right side of the page? 21 A It was not on the right side. 22 Q And it wasn't the Number 1 on the top of the
22 wen, you'n see copyright that says, Copyright 2009	22 Q And it wasn't the Number 1 on the top of the
79	81
1 gainsoftmail.com." Do you see that? 2 A Yes. 3 Q There's nothing in here that indicates this 4 is a Bossdisk Website, right? 5 A True. 6 Q Okay. But what you meant to say is that 7 what you intended is that even though this may not be 8 the precise image that you saw, it's similar in general 9 appearance to whatever you looked at, right? 10 A That's true. 11 Q Now, can you tell me where on the page if 12 you remember, where on the page that you ultimately 13 clicked on to buy I'm not talking about this I'm 14 not talking about the Exhibit 1. 15 A Oh. 16 Q I'm talking about the search result page. 17 A Search result. 18 Q Where on the page that you the Bossdisk 19 search result was actually located. 20 A I had I remember having to scroll down. 21 Didn't have to change pages, but I scrolled down. It 22 was on the first page.	1 page? 2 A It was not Number 1. 3 Q Okay. Can you tell me whether or not that 4 link for that led you to the Boss 5 A Disk. 6 Q Bossdisk site whether it was located 7 behind the field that said, "Sponsored link"? 8 MR. ETTINGER: Objection. 9 A I don't I just can't remember that. 10 Q (BY MR. STERN) Okay. 11 A I don't think so. I don't know. 12 Q So the best the best you can recall is 13 that it was somewhere on the first page? 14 A Yes. 15 Q Now, when you clicked on the site, you saw 16 some sort of discounted prices similar to 17 A Very similar. 18 Q Exhibit 1? 19 A Yeah. 20 Q And if I understand your testimony, you 21 didn't think it was counterfeit. You thought it was 22 I think you used the phrase "back"?

82 84 Back levels. 1 just prior versions, right? 2 Q Back levels. Which is prior versions? That's -- give you an example. Our software 3 3 works at Version 1. It doesn't have as many features Prior versions. Q Okay. And -- because you had no intention of 4 as Version 3. 5 buying counterfeit product, right? Q Sure. A I'd never buy -- I wouldn't want somebody 6 Α Yeah. 7 counterfeiting my software. Q You might go out today and buy -- if you went Q But did you -- you thought -- and just so I 8 out today on the market and bought a version Windows 9 understand what you mean by back level, you thought 2003, you would expect not to pay the same amount --10 that what you were buying were earlier versions of what 10 Absolutely. 11 is today a current program? 11 Q -- as Windows 2007 costs? 12 12 Α That's correct. Α Exactly. 13 And you wanted to buy Levels 1, 2, and 3 of 13 Q Okay. But am I -- is it accurate, Mr. DuBow, 14 Latin American Spanish? 14 that what you did not do is when you saw these prices 15 Correct. 15 and you did this comparative shopping, you didn't do Q You understand that when you -- when you buy 16 any actual background check on this company called 16 17 Rosetta Stone product, Rosetta Stone sells product at 17 Bossdisk? 18 various educational levels, correct? 18 MR. ETTINGER: Objection. 19 Yes. 19 A I -- no. I mean, I -- as mentioned before, 20 Q And that with each level there is 50 hours of 20 I -- I tend to have always trusted the Google search. 21 training, correct? 21 I know now that you've got to be very careful. But, 22 A Okay. Yes. 22 no. I -- I -- unlike e-mail solicitations I get, I --85 83 Q So that at -- if you're buying three levels, 1 I -- I figured that these guys were probably 2 that means that for you to become facile or fluent in 2 legitimate. They sure looked legitimate to me. 3 whatever the language is you've got to devote 150 hours 3 Q (BY MR. STERN) The Website looked authentic 4 of time to this, right? 4 to you? 5 That would seem correct, yes. A It looked very authentic. This looks pretty You also understand that the more levels that 6 authentic, too. Q And when you said this, you were referring to 7 you buy of Rosetta Stone, the more you pay? Correct. 8 Exhibit 1? 9 Q So -- and from the -- from the prior shopping Yes. Α 10 that you did, you knew that buying three levels costs 10 Q But one of the things that you learned now 11 more than buying one level, right? 11 from this is that when you go on the Internet and you 12 Oh, absolutely. 12 check on the Website you have to do more background Q Okay. And you also knew that when you -- if search on the people that are offering products for 14 sale? 14 you go to Amazon or if you go to Borders, three levels 15 of Latin American Spanish costs somewhere between 15 Α I know now. \$400 16 Q Yeah. Right. 16 and \$600? 17 Α Yeah. 17 A Depending on the discounts that might be 18 But getting back to this company, 18 applicable at that time, yeah. 19 Bossdisk, you didn't -- let me ask you: Do Q But you saw that this site was offering three you recall any other resellers that are with selling 20 levels for \$139. 21 Rosetta Stone Level 1, 2, 3 Latin American Spanish at 21 Α True. 22 prices comparable to the Bossdisk price? 22 Q But you thought that was okay because it was

86 88 I think there were, but this one -- the 1 Stone and say -- contact them and say, by the way, I'm 2 Bossdisk, if my memory serves me correctly, said they 2 about to buy some what I think is earlier version of 3 were a Rosetta Stone reseller --3 the products, is that okay? O Okav. You mean -- in hindsight, I probably should -- an OEM provider. And that's what led me 5 have done that, but I didn't. 6 to that link. I -- I honestly feel that using -- when 6 Q Okay. 7 I use Google, I felt that I was getting some protection No. I just assumed -- I -- I guess I 8 there unlike you might with a -- just a random e-mail 8 shouldn't have assumed. 9 that I get every now and then. Q Excuse me for a second. I think you -- if Q Well, I understand that you felt that you --10 you -- do you have Exhibit 2 in front of you, by any 11 you were getting more protection, but that wasn't based 11 chance? 12 on anything that Google had said. Am I right? 12 A I do. 13 13 Q If you take a look at -- and I apologize. The MR. ETTINGER: Asked and answered. 14 Q (BY MR. STERN) You can answer. 14 -- there's e-mail -- there's writing on both sides of 15 Yeah. No. I've never seen it in writing. 15 the page, so I'm talk -- when I talk about pages, I'm 16 It was just a -- my feeling about Google. They're a 16 talking about the hard pages, the actual turn pages. 17 big company and they -- I thought they would vet some 17 A Got you. 18 of these other advertisers. 18 Q Could you turn to the third page of the 19 Q Okay. Have you ever had any of your software 19 document. There's an e-mail below the one that you 20 from your company Pro-Comm -sent to Mr. Ettinger dated October 6, 2009, 3:09 p.m. 21 21 Comm-Pro. Do you see that? 22 Q I'm sorry, Comm-Pro. Have you ever had it A I do. 89 87 Q And that was what you testified to was 1 counterfeited or pirated? Nobody would know how it works, yeah. 2 PayPal's e-mail to you talking about who they were 3 Q It's too complex? 3 effecting payment to. 4 Yes. 4 Right. What about unauthorized copies? Q And you'll notice Mr. Ettinger mentioned that We have one instance, if I remember 6 they were what he called Chinese figures or Chinese 7 correctly, where somebody inadvertently copied the characters --8 software, moved it to another installation. It stopped 8 Α Right. 9 working there. 9 Q -- on this page, right? 10 Q That is to say, do you key your specific 10 Α Uh-huh. 11 products to specific IP addresses? Q Now, just so we're clear, you -- you produced 11 Not to IP addresses. And we don't -- IBM 12 this document in this litigation, correct? 13 mainframes have a serial number. We don't do that 13 I did, yeah. 14 either. But we've had -- when we get -- if there's a 14 Q And you received this document on or about 15 problem, we get a phone call, the thing doesn't work, 15 October 6, 2009, at 3:09 p.m.? 16 and we look and see if this customer is -- is a 16 Right. 17 legitimate customer. It turns out, well, you're not 17 Q And at the time that you received it, you did 18 supposed to be using it at this site. That's how we --18 not notice these Chinese characters? 19 that's how we found out. No. I just noticed the fact that the -- the Q When you found this site, this Bossdisk site, price at the bottom there was the same as the receipt 21 that I received from Bossdisk. 21 what you also didn't do -- just correct me if I'm wrong 22 -- what you also didn't do is you didn't go to Rosetta 22 Q Okay. But I think you said, and the record

90	92
 1 will reflect, once you saw this literally in this 2 deposition, once you looked at it, it gave you pause; 3 is that right? 4 A Well, of course, yeah. 5 Q And tell me why it gave you pause. 6 A Well, I just I I assumed that the 7 transaction would be with a U.S. company. 8 Q If you had known had the company that 9 the transaction was being done with a Chinese company, 10 what would you have done? 11 A It would have raised it would have raised 12 a red flag 13 Q Okay. 14 A yeah. 15 Q But but I take it that that's something 16 you didn't notice in October? 17 A I I guess apparently not. 18 THE REPORTER: You guys are talking over the 19 end of one another. Can you give me your question 20 again? 21 MR. ETTINGER: You didn't notice that on 22 October 6th. 	1 copyright, right? 2 A Copyright. 3 Q Where it says, "Copyright 2009 Special 4 Discount and Free Shipping. Powered by Zen Cart." Do 5 you see that? 6 A Okay. Yes. 7 Q Did you ever notice that before? 8 A Probably not. 9 Q Okay. And if you had noticed that, would 10 that have given you any pause? 11 A You know, people use strange name. That 12 would that probably wouldn't have raised a flag, but 13 14 Q Okay. The by the way, let me ask you 15 you obviously know Mr. Ettinger's e-mail address. Have 16 you spoken to Mr. Ettinger before today's deposition? 17 A Oh, yes. 18 Q How often time how many times do you think 19 you spoke with him? 20 A Brief phone calls, three, four. I don't 21 remember exactly. 22 Q Okay. And other than the documents that
1 Q (BY MR. STERN) But I take it that you did 2 not notice that on October 6th? 3 A Apparently I I didn't notice it then. 4 Q If you look at the prior page you don't 5 have to turn the page. It's on the back side of the 6 prior page. 7 A Okay. 8 Q You see that you had received an e-mail on 9 October 6 at 3:09 p.m. from something called Special 10 Discount and Free Shipping bossdisk@gmail.com. Do you 11 see that? 12 A That's on is that on the front page? 13 Q It's on the second page, second page. 14 A Oh, yes. Second page, right. 15 Q If you look at October 6, 2009 at 3:09 p.m., 16 you received an e-mail from Special Discount and Free 17 Shipping. 18 A Uh-huh, yes. 19 Q Do you see that? 20 A Right. Okay. 21 Q Okay. And if you turn to the very end of it, 22 turn the page, the very back side, you'll see a	1 you've seen here, are there any other documents that 2 you've sent Mr. Ettinger? 3 A Not not that I remember. This is 4 this, I believe, is it. 5 Q Okay. 6 A Yeah, these are all of them. 7 Q And did he contact you originally or did you 8 contact him? 9 A He contacted me. 10 Q And do you recall when he contacted you, did 11 he tell you why he was contacting you? 12 A Yes. 13 Q What did he tell you? 14 A Basically I was one of ten people that 15 Rosetta Stone asked Mr. Ettinger to contact. I believe 16 that's the case because of the experience we had with 17 these purchasing software over the Internet. 18 Q Okay. And did you tell I assume Mr. 19 Ettinger asked you various questions, you answered 20 those questions? 21 A Yes. 22 Q During that conversation at all, did you

94 96 1 happen to relate to him what your experiences with Of course, yes. 2 Google were outside of this particular situation? I mean, that's an effective way for you to get business, right? A I don't recall that, no. Q Mr. -- Mr. DuBow, would you agree with me Right. Α 5 that except for this situation, Google has been an Okay. And I think you said that except for -6 effective and valuable search tool for you? - you've previously purchased products or services over 7 the Internet, correct? Google is fantastic. No argument. How many -- how many times a day do you use 8 Α Yes. 9 Google? That's a bad question. 9 Q Both personally and professionally? 10 Yeah. It's tough. 10 Yes, of course. 11 That's a bad question. Let me ask you this: 11 Q How many -- I mean, I know this is -- and I'm 12 Do you believe that you use Google every day? 12 not holding you to any specific number but more than 13 13 ten times? Almost every day. 14 Okay. And you use it for personal work? 14 I buy computers. I buy printers. I buy 15 Personal business, yes. printer products through the Internet -- over the 16 Q Person reasons as well as business? 16 Internet. 17 Uh-huh. Yes, I mean. 17 Q And of those times that you've purchased 18 Yes. That's fine. You're doing great. Do products over the Internet, how many times have you 19 you have a -- does -- does -- does Comm-Pro used Google in the same way that you used in this case, 20 have a Website? namely to do price shopping and comparative shopping? 21 21 Oh, of course, yes. A I will -- I will use Google a lot. I will 22 Q Okay. And have you seen -- have you gotten 22 use Google a lot. I also use NexTag, which is a great 97 95 1 any customers or clients from people looking on the site for computer equipment for any electronics. 2 Internet for you? They're our client, too. Most of our -- as I mentioned before, most 3 Α Are they? 4 of our product is sold overseas, not so much here in 4 O But that's -- that's a comparative shopping 5 site? 5 the United States any longer. And we have business 6 partners who do the advertising and -- and the actual 6 Right. Q Okay. But I'm actually thinking about Goog-7 legwork. We also are an IBM business partner, and so 8 people who knew this particular software could go to -- my question is -- pertains to Google. Have you used 9 the IBM Website. 9 Google before in order to find information about 10 Q I see. Have you ever heard of any customer products before buying them? 11 or client coming to you through your Website? 11 Yes. 12 For information, yes. 12 And based on the information you got from 13 Okay. So -- and -- and they found -- do you 13 Google, you purchased products? 14 know if they found your Website on Google? 14 Yes. Α 15 Α Some may, some may have found it on the IBM 15 Q And that's -- you've done that many times? 16 Website. 16 A number of times, yes. 17 Okay. You don't know one way or the other? 17 Okay. And except for this situation, that's Q 18 I -- I actually don't, no. 18 been a valuable experience for you? 19 19 Okay. But in all events, is it fair to say Α Yes. 20 that you make your Website available for the purpose of 20 Okay. These are basic questions. I'm sorry. 21 people being able to find it if they conduct an 21 I just want to make sure that we're all on the same 22 appropriate search? 22 page. First of all, you understand that Google is a

98 100 1 search engine, correct? 1 hardware over the Internet. Have you ever sold Yes. 2 computers? Okay. You understand that when you see all 3 Α I've sold things on Craigslist, but not 3 4 these Websites or all these hyperlinks that show up as 4 computers. 5 a result of your searches, you understand that those Q Good enough. So you haven't -- have you ever 6 hyperlinks are not created by and developed by Google, 6 sold any computers or peripherals or software on 7 correct? 7 Craigslist? 8 Α MR. ETTINGER: Objection. No. 9 9 I understand. Q Have you ever seen people offering software 10 (BY MR. STERN) You understand that Google is 10 products like, you know, Microsoft Word or Microsoft 11 not the actual advertiser, correct? 11 PowerPoint or Office for sale? 12 12 MR. ETTINGER: Object. 13 You understand that Google is the medium by 13 A I've seen -- I've seen ads for that and for 14 which these various advertisers make their Websites or 14 Adobe Postscript, things like that. 15 other ads available? 15 Q (BY MR. STERN) Okay. Have you -- are you 16 Yes. 16 aware of the fact that for some software publishers if 17 Q And you understand that just because Google 17 you buy their product, you can resell their product as 18 has all sorts of ads or Websites that appear as a long as you delete it off your system? 19 A I've -- I've heard that, but I -- and I 19 result of a search, that doesn't mean that Google is 20 either sponsoring, endorsing, or is otherwise 20 wasn't aware that's a general rule. 21 21 affiliated with those sites? MR. STERN: Just a second. 22 22 MR. ETTINGER: Objection. (Pause in proceedings.) 99 101 Q (BY MR. STERN) You used a phrase -- I want 1 I understand that. 2 (BY MR. STERN) Have you ever paid money to 2 to make sure I'm sure about this. You used the phrase 3 Google for advertising? 3 when you looked on the Bossdisk site that you presumed Not for advertising. 4 them to be a reseller selling OEM product. When you say 5 Q Have you ever paid money to Google for 5 presumed, do you mean that you assumed or did they 6 actually say they were --6 anything? Yes. I've -- before PayPal, I would use A I -- my recollection is that they said they Google Pay. I've done that before. were a Rosetta Stone reseller. 9 Okay. Did you find that a reliable service? Q Okay. When you typed in the words -- I think 10 Α Yes. 10 Mr. Ettinger asked you whether or not what -- what your Q With respect to the Rosetta Stone purchase 11 search query was that led you to the page that you 12 that you made, you didn't pay any money to Google? scrolled down and found near the bottom of this link that you ultimately clicked on to buy your product. 13 Α I'm sorry? 14 You didn't pay any money to Google? 14 Q MR. ETTINGER: Objection. 15 15 Α Oh, no. No. Uh-huh. Α 16 Dumb question, but I have to answer -- ask 16 Q (BY MR. STERN) I think you said what your 17 you it. The -- the actual Web page that you ultimately query was was Rosetta Stone, right? 17 18 clicked on to buy the Ro- -- Rosetta Stone product that 18 That's correct. That's right. 19 19 you purchased, you don't have a copy of that, do you? Do you remember exactly how you typed it? Was 20 20 Α No. Unfortunately I didn't think to print it all caps? Was it initial caps? 21 that off. 21 Initial caps. 22 22 Q You mentioned that you bought software and So it was capital R --

_	<u>'</u>	
	102	104
16 17 18 19 20 21	A Yes. Q And it was more than one page. It was one of those search results where it stopped at a certain portion of the page? A That's my recollection, yeah. Q And I think you testified that you searched and you saw discounts on many of the pages, correct? A I don't know how many pages I actually went through. I don't remember, but certainly on the first	1 which CDs you let me ask you this 2 A Yeah. 3 Q do you recall what CDs you didn't install? 4 A First of all, I don't think I even opened 5 the audio CD pack because I wasn't interested in the 6 in that part of the package. I wanted to install the - 7 - I guess you'd say the engine, Rosetta Stone engine 8 followed by the actual Spanish language disks. 9 Q Is is that what you understood had to be 10 done, namely you had to first install the engine and 11 then you install the actual applications? 12 A Yes. I believe that's yes, that's true. 13 Q Can you can you hand me your the box of 14 products? 15 A Oh, sure. 16 Q And actually before you hand it to me, can 17 you pull out, if you can, if you can recall the CD that 18 you loaded, if you can remember. 19 A Oh, boy. Yeah. It's I think the 20 application CD, this one here, which I believe is the 21 engine. 22 Q Okay. Can can you hand that to me?
		-
	103	105
7 8 9 10 11 12 13 14 15 16 17 18	A I don't I don't think we did. Q Okay. That's great. Okay. So on that first page, even on that first page, there were multiple hyperlinks that when you clicked on them, they indicated that they were selling Rosetta Stone at a discounted price, right? MR. ETTINGER: Objection. A I didn't have to click on them to see that they were selling at a discounted price, yeah. The	1 A Sure. 2 Q Actually, before you hand it, can you get a 3 close-up of that particular CD? 4 MR. STERN: Thank you very much. Thanks. 5 A Yeah. 6 Q (BY MR. STERN) Have you ever let me ask 7 you this: Have you ever taken any of these products 8 and actually sent them to Rosetta Stone to see whether 9 or not they're either authorized or counterfeited? 10 A I did not do that. I was actually when I 11 when I decided that I wasn't going to get the key, I 12 wanted to send this thing back to them and get my money 13 back. So I was planning on doing that, but I they 14 just disappeared, so there was nobody to send it back 15 to. 16 Q Have you since tried to find them? 17 A I've totally given up, yeah. 18 Q When I say them, I mean Bossdisk. 19 A Bossdisk, no. 20 Q Is can you see a screen in front of you 21 right now? 22 A It's fuzzy, but I can see it, yes.

106	108
1 Q Do you see that there's a there's a	1 Q That's what you needed the key for?
2 A You're loading the software?	2 A I think that's what you needed the key for.
3 Q There's a box that says Rosetta Stone LTD,	3 Q I see. Well, that's going to take I don't
4 extracting data tab. Do you see that?	4 want to how long do you think I mean, based on
5 A Uh-huh. Yes, I do.	5 your own experience, how long would it take to download
6 Q Is that the sort of sort of visual that	6 all these things?
7 you saw when you loaded the software?	7 A Well, because there are updates to this as
8 A I think that's pretty much a standard	8 well as to that I don't remember how long it took me
9 Windows type of installation thing, yes, I believe so.	9 to install them. I don't remember.
10 MR. ETTINGER: And, Counsel, for the record,	10 Q Okay.
11 could you just state what you're doing?	11 A It was it was it could have been an
MR. STERN: Oh, sure. I took the disk that	12 hour.
13 was contained in the	13 Q That's not going to happen here. All right.
14 THE DEPONENT: Right.	MR. ETTINGER: We're happy to make these
MR. STERN: in the jewel case that was	15 available to you, Counsel.
16 provided to me by Mr. DuBow and I've put it in my hard	MR. STERN: I appreciate that. Hand these
17 drive, but I thought it would load faster. And at this	17 back.
18 rate we'll be here all day, so I'm going to I'm	MR. ETTINGER: You want to put these back in
19 going to stop the loading because it's going to just	19 the box, that's fine.
20 end up taking too long.	20 MR. STERN: Thank you very much. I
21 Q (BY MR. STERN) But that was the sort of	21 appreciate your time, Mr. DuBow.
22 just the question is that was the sort of visual you	22 THE DEPONENT: Thank you.
107	109
1 saw while it was loading, correct?	1 MR. ETTINGER: I just have a few follow-up
1 saw while it was loading, correct?2 A Yes, that's correct.	1 MR. ETTINGER: I just have a few follow-up 2 questions.
 saw while it was loading, correct? A Yes, that's correct. Q All right. I'm going to end that now and 	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right.
 saw while it was loading, correct? A Yes, that's correct. Q All right. I'm going to end that now and then I'm going to give you back your disk. All right. 	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that
 saw while it was loading, correct? A Yes, that's correct. Q All right. I'm going to end that now and then I'm going to give you back your disk. All right. And if you would, can you hand me that the 	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your
 saw while it was loading, correct? A Yes, that's correct. Q All right. I'm going to end that now and then I'm going to give you back your disk. All right. And if you would, can you hand me that the application program that you said that you loaded? 	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead.
 1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right?
 saw while it was loading, correct? A Yes, that's correct. Q All right. I'm going to end that now and then I'm going to give you back your disk. All right. And if you would, can you hand me that the application program that you said that you loaded? A That is the application. Q Oh, this is this is the actual engine? 	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the
 saw while it was loading, correct? A Yes, that's correct. Q All right. I'm going to end that now and then I'm going to give you back your disk. All right. And if you would, can you hand me that the application program that you said that you loaded? A That is the application. Q Oh, this is this is the actual engine? A I believe that's the engine. These are the 	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet?
 saw while it was loading, correct? A Yes, that's correct. Q All right. I'm going to end that now and then I'm going to give you back your disk. All right. And if you would, can you hand me that the application program that you said that you loaded? A That is the application. Q Oh, this is this is the actual engine? 	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search.
1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 8 Q Oh, this is this is the actual engine? 9 A I believe that's the engine. These are the 10 actual data disks which the engine would use, I 11 believe.	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search. 11 MR. STERN: Actually, I could click you right
1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 8 Q Oh, this is this is the actual engine? 9 A I believe that's the engine. These are the 10 actual data disks which the engine would use, I 11 believe.	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search. 11 MR. STERN: Actually, I could click you right 12 in there if you could
1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 8 Q Oh, this is this is the actual engine? 9 A I believe that's the engine. These are the 10 actual data disks which the engine would use, I 11 believe. 12 Q Okay. Can you hand me let's make it easy.	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search. 11 MR. STERN: Actually, I could click you right 12 in there if you could
1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 8 Q Oh, this is this is the actual engine? 9 A I believe that's the engine. These are the 10 actual data disks which the engine would use, I 11 believe. 12 Q Okay. Can you hand me let's make it easy. 13 A Level 1?	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search. 11 MR. STERN: Actually, I could click you right 12 in there if you could 13 MR. ETTINGER: Okay.
1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 8 Q Oh, this is this is the actual engine? 9 A I believe that's the engine. These are the 10 actual data disks which the engine would use, I 11 believe. 12 Q Okay. Can you hand me let's make it easy. 13 A Level 1? 14 Q Let me ask you: Was was it the data discs	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search. 11 MR. STERN: Actually, I could click you right 12 in there if you could 13 MR. ETTINGER: Okay. 14 MR. STERN: load that onto your computer.
1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 8 Q Oh, this is this is the actual engine? 9 A I believe that's the engine. These are the 10 actual data disks which the engine would use, I 11 believe. 12 Q Okay. Can you hand me let's make it easy. 13 A Level 1? 14 Q Let me ask you: Was was it the data discs 15 that had the limited functionality?	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search. 11 MR. STERN: Actually, I could click you right 12 in there if you could 13 MR. ETTINGER: Okay. 14 MR. STERN: load that onto your computer. 15 Could we go off for a second?
1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 8 Q Oh, this is this is the actual engine? 9 A I believe that's the engine. These are the 10 actual data disks which the engine would use, I 11 believe. 12 Q Okay. Can you hand me let's make it easy. 13 A Level 1? 14 Q Let me ask you: Was was it the data discs 15 that had the limited functionality? 16 A Yes. Well, these are the ones that need the	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search. 11 MR. STERN: Actually, I could click you right 12 in there if you could 13 MR. ETTINGER: Okay. 14 MR. STERN: load that onto your computer. 15 Could we go off for a second? 16 THE VIDEOGRAPHER: Going off the record at
1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 8 Q Oh, this is this is the actual engine? 9 A I believe that's the engine. These are the 10 actual data disks which the engine would use, I 11 believe. 12 Q Okay. Can you hand me let's make it easy. 13 A Level 1? 14 Q Let me ask you: Was was it the data discs 15 that had the limited functionality? 16 A Yes. Well, these are the ones that need the 17 key.	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search. 11 MR. STERN: Actually, I could click you right 12 in there if you could 13 MR. ETTINGER: Okay. 14 MR. STERN: load that onto your computer. 15 Could we go off for a second? 16 THE VIDEOGRAPHER: Going off the record at 17 12:40.
1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 8 Q Oh, this is this is the actual engine? 9 A I believe that's the engine. These are the 10 actual data disks which the engine would use, I 11 believe. 12 Q Okay. Can you hand me let's make it easy. 13 A Level 1? 14 Q Let me ask you: Was was it the data discs 15 that had the limited functionality? 16 A Yes. Well, these are the ones that need the 17 key. 18 Q Those are but there is some sort of	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search. 11 MR. STERN: Actually, I could click you right 12 in there if you could 13 MR. ETTINGER: Okay. 14 MR. STERN: load that onto your computer. 15 Could we go off for a second? 16 THE VIDEOGRAPHER: Going off the record at 17 12:40. 18 (Recess from 12:40 to 12:49 p.m.)
1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 8 Q Oh, this is this is the actual engine? 9 A I believe that's the engine. These are the 10 actual data disks which the engine would use, I 11 believe. 12 Q Okay. Can you hand me let's make it easy. 13 A Level 1? 14 Q Let me ask you: Was was it the data discs 15 that had the limited functionality? 16 A Yes. Well, these are the ones that need the 17 key. 18 Q Those are but there is some sort of 19 functionality on them?	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search. 11 MR. STERN: Actually, I could click you right 12 in there if you could 13 MR. ETTINGER: Okay. 14 MR. STERN: load that onto your computer. 15 Could we go off for a second? 16 THE VIDEOGRAPHER: Going off the record at 17 12:40. 18 (Recess from 12:40 to 12:49 p.m.) 19 THE VIDEOGRAPHER: We're going back on the
1 saw while it was loading, correct? 2 A Yes, that's correct. 3 Q All right. I'm going to end that now and 4 then I'm going to give you back your disk. All right. 5 And if you would, can you hand me that the 6 application program that you said that you loaded? 7 A That is the application. 8 Q Oh, this is this is the actual engine? 9 A I believe that's the engine. These are the 10 actual data disks which the engine would use, I 11 believe. 12 Q Okay. Can you hand me let's make it easy. 13 A Level 1? 14 Q Let me ask you: Was was it the data discs 15 that had the limited functionality? 16 A Yes. Well, these are the ones that need the 17 key. 18 Q Those are but there is some sort of 19 functionality on them? 20 A The engine itself provides some basic	1 MR. ETTINGER: I just have a few follow-up 2 questions. 3 THE DEPONENT: All right. 4 MR. ETTINGER: Can we switch places, so that 5 I could use your 6 MR. STERN: Sure. Go ahead. 7 MR. ETTINGER: Would that be all right? 8 MR. STERN: Yeah. You want to get the 9 Internet? 10 MR. ETTINGER: Yes. Just do a Google search. 11 MR. STERN: Actually, I could click you right 12 in there if you could 13 MR. ETTINGER: Okay. 14 MR. STERN: load that onto your computer. 15 Could we go off for a second? 16 THE VIDEOGRAPHER: Going off the record at 17 12:40. 18 (Recess from 12:40 to 12:49 p.m.) 19 THE VIDEOGRAPHER: We're going back on the 20 record at 12:49.

110 112 Q All right. So now we've -- counsel have Yes. It's coming up now. 2 changed positions so that I can ask you questions using Mr. DuBow, do you see that there's a number 3 the Internet hookup that we have. Do you see the 3 of Rosetta Stone boxes that appear on -- on your 4 Google search page in front of you, sir? 4 screen? 5 Not unlike Bossdisk's Website. All right. Counsel has been so kind as to 6 That was what my next question is. Is this 7 type in Rosetta Stone and enter search. And you see 7 similar to what you saw with Bossdisk? 8 the search results? Yes, it is similar. I do. Α Q And do you see that the retail price has been Q All right. Looking at the -- the far right-10 crossed out and then a -- a current purchase price has 11 hand side, all right, can you tell from looking at 11 been listed? 12 those sponsored links which, if any, of those links are 12 A It's -- it's difficult to read, but it --13 authorized resellers of Rosetta Stone product? 13 yes. I -- yes, I -- I think so. 14 MR. STERN: Objection, foundation. 14 Q Like, for example, the first box on the left 15 It's -- it's very difficult to read, but I 15 says \$229 crossed out with a sale price of \$118. Do you 16 see eBay. Honestly, Mr. Ettinger, I can't read the 16 see that? 17 others. My eyes are just not that good. 17 Α I see something in red. I can't honest tell 18 (BY MR. ETTINGER) Okay. Do we need to 18 you -move 19 You can't see the numbers? Q 19 the monitor closer to you? 20 I can't see the numbers. 20 MR. STERN: I think the -- I don't think it's 21 Q Okay. And when you went on the Bossdisk 21 -- I think it's the resolution. 22 Website, did it have similar entries where there was a It's the resolution, yeah. It's very 111 113 1 retail price that was crossed out with a sales price? 1 blurry. My eyes are not that good anyway. MR. ETTINGER: Do we have the best resolution A I -- I don't remember, honestly. Probably. 3 on this --3 But I -- I don't remember. 4 MR. SIEFF: Yeah. It's coming out of a 4 Q Okay. Looking at this site that we've just 5 called up off the Googled sponsored link, do you know 5 VGA. Q (BY MR. ETTINGER) Okay. I'm going to click 6 whether or not this is an EOM or an authorized reseller 7 on the link -- do you see the second sponsored link of Rosetta Stone product? 8 that says, "\$118 get Rosetta software"? Do you see 8 MR. STERN: Foundation, objection. 9 that? A It didn't actually say reseller. 10 A I see that, yes. 10 Q (BY MR. ETTINGER) But do you know from Q All right. And do you see below it says, 11 looking at this site whether you're -- you're buying 11 12 "Save 75 percent free shipping"? Do you see that? 12 product from someone who's authorized to sell Rosetta 13 A I believe -- yes. That's where your cursor 13 Stone product? 14 is? Yes. Okay. 14 A It looks like a legitimate site, but I --15 Q And do you see below that it says, "Accepts 15 there's no way to know. 16 PayPal. Buy now"? 16 Q Do you know how much money Rosetta Stone --17 Α Yes. 17 excuse me. Do you know how much money Google gets Q And below that, it says, "Learn" to play --18 Google makes every time someone clicks on one of these 19 "learntoplanguage.com/Rosetta Stone." Do you see that? 19 sponsored links? 20 I do. 20 Well, I -- I learned this morning it's a bit 21 Q All right. I'm going to click on that link. 21 over a dollar every click. 22 Can you see what's come up? MR. STERN: Objection, foundation.

114 116 Q (BY MR. ETTINGER) Okay. Other than what Q All right. That Website -- I'm going to give 2 I've told you this morning about how auctions work and 2 it just another second, see if it comes up. Rather than 3 pricing works, okay, do you know how much money 3 wait, I'm going to go down to the right-hand side again Google 4 to the sponsored link where it says, "Buy Rosetta 4 makes when someone clicks on a sponsored link? Do you 5 Stone," the fourth one down. 5 know that personally? Α Uh-huh. MR. STERN: Objection, foundation. Q Do you see that? I forget -- I forget the exact number. I 8 8 think it was a dollar and some odd cents. 9 Q Rosetta Stone up to 43 percent off. Q My question is, sir, do you have personal 10 Α 10 knowledge of how much Google makes every time 11 Q All right. I'm going to go above that one. someone 12 Α Okay. 11 clicks on a sponsored link? 13 O The third one down, "Rosetta software on 12 Oh, no, I don't, no. 14 sale." 13 Q The third one down on the left side of the 15 MR. STERN: Which was that one? 14 page says, "119, get Rosetta on sale." Do you see 16 MR. ETTINGER: I apologize. Let me go back. 15 that? 17 MR. STERN: It's still loading. 16 Α I do. 18 Q (BY MR. ETTINGER) This is -- this is the 17 Q Do you know whether or not that Website 19 earlier site that we -- that we clicked on? 18 pertains to a authorized reseller of Rosetta Stone 20 Right. Right. 19 product? 21 Do you see that site? Q 20 MR. STERN: Objection, foundation. 22 I do. 21 I don't. 115 117 1 at it whether it's a genuine Website at which you can Can you see the pictures that are coming up Q 2 buy genuine Rosetta Stone product? 2 now? MR. STERN: Same objection. 3 Very professional. I -- I can't looking at this, no. 4 Q Do these compare to the ones that appear on Q (BY MR. ETTINGER) All right. Let's click on the Rosettastone.com site that you visited? 6 it. So I've clicked on it. We are waiting for 6 MR. STERN: Objection, foundation, vague. A I don't -- I don't remember the moving --7 something to happen. 7 That's a pretty slow Internet. 8 the slide show above it. I don't remember that, but it MR. STERN: It's the -- it's the wireless may have been there. 10 Internet this in this room. 10 Q (BY MR. ETTINGER) From looking at this Website now that it's loaded --11 Yeah. Or it could be the number of servers 11 12 that it's going through as well. 12 Uh-huh. 13 Q (BY MR. ETTINGER) While we're waiting for 13 Q -- can you tell whether or not this is an 14 authorized reseller of Rosetta Stone product? 14 that to come up, given the price tag that's placed on 15 that Website, \$119, are you -- do you suspect that this 15 MR. STERN: Foundation. 16 is not an authorized reseller? 16 It -- it looks like it, but I can't tell. 17 MR. STERN: Objection, foundation. 17 (BY MR. ETTINGER) You don't know one way 18 Based on -- it doesn't appear to be. That's 18 another whether this is a -- another site where people 19 a pretty good price. 19 are selling software to individuals that have no Q And that would be based on your personal 20 activation key? 21 experience, correct? 21 I -- no way to know for me. 22 A Correct. Q I want to go to one more of the sites. The

118 120 1 third one down, "Rosetta software on sale." Do you see I -- I -- it appears like it would be, yes. 2 that on the right-hand side? (BY MR. ETTINGER) Well, counsel asked you I do. 3 about red flags. Is this going to send up some red Q All right. It says, "Learn foreign language 4 flags for you now? 5 with Rosetta award winning software," then there's a It certainly will now, yes. 6 space and a comma and it says, "Ship free." Do you see So of the seven sponsored links that appear 7 on the Google search this morning, three of them raise 8 Very difficult to read, but I -- I believe 8 questions, in your mind, as to the authenticity; isn't 9 that's what it says, yes. that right? Q All right. And the URL for that is 10 Α Yes, indeed. 11 www.onlyrosetta.com. Do you see that? 11 MR. ETTINGER: No further questions. 12 12 I see that, yes. MR. STERN: Let's leave that up for a second. 13 13 Q All right. I'm going to click on that link. MR. ETTINGER: Do you want to trade? Give me 14 Do you see what's coming up? 14 two seconds, Counsel, because I want to try to catch up 15 I do. on my computer so I can see it. 16 Q Do you see the familiar yellow boxes, yes? 16 MR. STERN: Sure. 17 17 Oh, yes. MR. ETTINGER: Are you refreshing? 18 MR. STERN: Objection, foundation. 18 MR. STERN: I'm going to see if I can. 19 Q (BY MR. ETTINGER) You said earlier in your 19 MR. ETTINGER: I just want you to know when I 20 testimony that you've associated the color yellow with -- when I call mine up, it's different. 21 21 Rosetta Stone, correct? MR. STERN: Is that right? 22 22 Yes. MR. ETTINGER: Because every minute or two it 119 121 Q And you also testified that the box that you 1 will change because I've refreshed. 2 got from Bossdisk looked very much like the one that MR. STERN: So I should refresh it? 3 3 you saw on the Rosetta Stone Website; isn't that right? MR. ETTINGER: Only if you don't want to ask Correct. 4 him about what's exactly on the page that I showed him. 5 Q Looking at this Website now, sir, does this (A discussion was held off the record.) 6 not look exactly like the ones that you saw on the 6 THE VIDEOGRAPHER: Microphone. 7 Bossdisk Website? 7 MR. ETTINGER: Can I ask one more time, are MR. STERN: Objection, foundation. we back to the page we were at when I was on? 9 9 A It -- it looks very, very similar. MR. STERN: This is a new page? 10 Q (BY MR. ETTINGER) And do you see, sir, that, MR. ETTINGER: Okay. 11 again, like the other Website we just saw a moment ago, 11 **EXAMINATION** 12 the retail price has been crossed out and a sales price 12 BY MR. STERN: 13 is entered? 13 Q The record should reflect I've added a -- a 14 14 search called Rosetta Stone discount. Do you see that? A I see that, yes. Q Do you know whether or not this Website 15 15 Α I do. 16 offers genuine Rosetta Stone product for sale with an 16 Q Okay. Did you ever do a search for something 17 activation key? 17 like that where you were looking for Rosetta Stone 18 No, I don't. I don't know. 18 discounted product? 19 19 Given the price that it's offered at, do you I did not do that. 20 You see here when I see discounted Rosetta 20 suspect that maybe this is another rip-off Website 21 that's appearing on Google? 21 Stone, I click and I get this site here. Do you see 22 22 that? MR. STERN: Objection, foundation.

	122	124
11 12 13 14 15 16 17	A I do. Q Okay. And if I click on a particular site here, I'm looking I'm looking for Spanish. Do you see where I've I've got my cursor on Spanish? A I see it. Q I click on Spanish. And now I've got various prices that you see in front of you. A Right. Q First of all, have you ever been to this site? A No, I have not. Q Okay. Do you know are you acquainted with this site at all? A No. I've never been there. Q Do you know if they are offering authentic or inauthentic Rosetta Stone product? A I I wouldn't know.	1 Q I see. Okay. But you see it's a 2 predominantly yellow box? 3 A It's a yellow box, yes. 4 Q All right. And you'll see I've put now just 5 another box over on the far on the it's below 6 that one also where it says, "Rosetta Stone Latin 7 American Spanish V2, Levels 1 and 2." Do you see that? 8 A Right. I see that. 9 Q And that's for \$62. 10 A That's incredible. 11 Q Yeah. So would you agree with me this is 12 another site that's offering product discounted 13 what appears to be Rosetta Stone product, yes? 14 A Yes. 15 Q And you can't tell from looking at it as 16 whether it's genuine or not, right? 17 A If you well, no, but then there's
18 19	Q Okay. If you look at the product, you'll see that there's a learning CD for Spanish at \$19.99. Do	18 above it, there's oh, that's that's the U.S. 19 price. I see.
20 21		 Q Yes. A Yeah. Those are the legitimate prices.
22	Q Does that give you pause about a concern	22 Q Well so the question is: Now that you see
	123	125
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	about whether this is a legitimate site? A Well, that doesn't look like a Rosetta Stone box. Q Okay. You see how it says, "The Rosetta Stone key to Spanish language learning CD." A Yes. Q Okay. Does the fact that it calls itself Rosetta Stone indicate to you that that may not be genuine product? A I I suppose there there are let me let me back up for a second. There are a number of companies that produce manuals for products that they don't actually write. Q Take a look at what's I've I've just put in the center of the screen, it says, "Rosetta Stone Spanish Espanol, Levels 1 and 2, U.S., 129.99." Do you see that? A Yes, I do. Q Does that box look like it's a Rosetta Stone box? A It's pretty blurry, but it's hard it's very difficulty for me to tell.	1 that there's one on the same page both priced three 2 levels of Latin or of Spanish Latin for \$402 and 3 various levels of Spanish for less than a hundred 4 dollars, would you agree with me that just by looking 5 at the site you can't tell whether it's genuine or not? 6 A I'd have to think it's not genuine. 7 Q Okay. And with respect to this site? 8 MR. ETTINGER: And for the record, because 9 I'm behind you and I can't see the screen at this 10 point. It's totally blurred from this distance. Can I 11 just make sure I understand. You typed in Rosetta 12 Stone discounts. And then what hyperlink did you go 13 to? 14 MR. STERN: The hyperlink the hyperlink I 15 went to in fact, I could go back to it. 16 17 MR. ETTINGER: If you don't mind because I'm 18 behind you here. 19 MR. STERN: Absolutely. Right here. 20 A You can cut and paste it and 21 Q (BY MR. STERN) It's actually on the top of 22 the screen.

126	128
1 A Yeah. 2 Q The URL is http full colon, forward slash, 3 forward slash, free language dot org, forward slash, 4 tags, forward slash, blogs, forward slash, discount, 5 hyphen, Rosetta, hyphen, Stone. Hold on. 6 MR. ETTINGER: So my my question to you is 7 if you can just put on the record that's what you 8 clicked on from the search result page? 9 MR. STERN: Here it is. The search what 10 you were looking at now is the search result page, 11 Rosetta Stone discount. 12 MR. ETTINGER: Yes. 13 MR. STERN: If you go down, I've clicked on 14 this non-advertised in the search results page of 15 discount Rosetta Stone with a line free language, which 16 I'm now 17 MR. ETTINGER: Now I see where you are. Thank 18 you. 19 Q (BY MR. STERN) And just so we can recap, the 20 appearance of a Website that you're not sure if it has 21 either genuine or not genuine Rosetta Stone product was 22 from a link not on the on the sponsored	1 change. 2 MR. STERN: We're going to finish. 3 Q (BY MR. STERN) You would agree with me that 4 the people who offer Rosetta Stone product or other 5 counterfeit product aren't being withdraw that. Let 6 me ask the question this way: You have no information 7 that that Google is either sponsoring, endorsing, or 8 otherwise affiliated with any of these companies that 9 offer counterfeit product 10 MR. ETTINGER: Objection. 11 Q (BY MR. STERN) right? 12 A I have no knowledge of that. 13 Q And you have no knowledge that Google has 14 either endorsed, sponsored, or is affiliated with any 15 of these sites that offer unauthorized older version of 16 product, right? 17 MR. ETTINGER: Same objection. 18 A I I'm not. No, I don't know. 19 MR. STERN: I'm done. 20 THE VIDEOGRAPHER: Anything further? 21 MR. ETTINGER: Thank you, Mr. DuBow. MR. STERN: Thank you so much.
22 from a link not on the on the sponsored	22 MR. STERN: Thank you so much.
127	129
1 link portions of the page 2 A Right. 3 Q but rather just in the organic search 4 results? 5 A Right. 6 Q Let me let me ask you a question. You've 7 been in the software world for 8 A Forever. 9 Q I'm doing the math. At least 37 years, 10 probably before 1973, correct? 11 A Before then, yeah. Yes. 12 Q And you're aware of the fact that something 13 which is endemic to the software world is either 14 unauthorized software, which is the sale of prior 15 versions without authority of the titleholder, or 16 another problem, counterfeiting, correct? 17 MR. ETTINGER: Objection. 18 A Correct. 19 Q (BY MR. STERN) This is not a problem that 20 as far as you know is unique to Rosetta Stone, right? 21 A No. 22 THE VIDEOGRAPHER: Six minutes until tape	THE DEPONENT: Thank you fellows. THE VIDEOGRAPHER: This marks the end of Tape 1 of 1 in today's testimony of Steve Floyd DuBow. We're going off the record at 1:07 p.m. (The deposition concluded at 1:07 p.m. on March 8, 2010.) Results of the deposition concluded at 1:07 p.m. 10 on March 8, 2010.) 11 on the deposition concluded at 1:07 p.m. 12 on March 8, 2010.) 13 on March 8, 2010.

	21.00-00-2010
130	132
1 STATE OF COLORADO) 2) ss. REPORTER'S CERTIFICATE 3 COUNTY OF DENVER) 4 I, Barbara J. Castillo, do hereby certify that I am a Registered Merit Reporter, Certified Realtime 5 Reporter and Notary Public within and for the State of that previous to the commencement of the examination, 6 the deponent was duly sworn to testify to the truth. I further certify that this deposition was taken 7 in shorthand by me at the time and place herein set forth, that it was thereafter reduced to typewritten 8 form, and that the foregoing constitutes a true and correct transcript. 9 I further certify that I am not related to, employed by, nor of counsel for any of the parties or 10 attorneys herein, nor otherwise interested in the result of the within action. 11 In witness whereof, I have affixed my signature and seal this 10th day of March, 2010. 12 My commission expires January 5, 2013. 13 14 15 Barbara J. Castillo, CRR 216 - 16th Street, Suite 650 Denver, Colorado 80202 17 18 19 20 21 22	1 ACKNOWLEDGEMENT OF DEPONEN T 2 3 I, STEVE F. DUBOW, do hereby acknowledge I have 4 read and examined the foregoing pages of testimony, and 5 the same is a true, correct and complete transcription 6 of the testimony given by me, and any changes or 7 corrections, if any, appear in the attached errata 8 sheet signed by me. 9 10 11 12 13 14 15 16 17 18 Date STEVE F. DUBOW 19 20 21 22
131 1 Capital Reporting Company 2 1821 Jefferson Place, NW 3 3rd Floor 4 Washington, DC 20036 5 (202) 857-3376 6 ERRATA SHEET 7 Case Name: Rosetta Stone vs. Google 8 Witness Name: STEVE F. DUBOW 9 Deposition Date: March 8, 2010 10 Page No. Line No. Change/Reason for Change 11 12 13 14 15 16 17 18 19 20 21	133 1 Mitchell S. Ettinger, Esq. 2 Skadden, Arps, Slate, Meagher & Flom, LLP 3 1440 New York Avenue, N.W. 4 Washington, D.C. 20005 5 (202) 371-7444 6 7 IN RE: Rosetta Stone vs. Google 8 Dear Mr. Ettinger: 9 Enclosed please find your copy of the deposition 10 of STEVE F. DUBOW, along with the errata sheet and 11 original signature page. As agreed, you will be 12 responsible for contacting the witness regarding 13 signature. Within 30 days of March 10, 2010, please 14 forward errata sheet and original signed signature page 15 to counsel for Plaintiff, Claude M. Stern. If you have 16 any questions, please do not hesitate to call. Thank 17 you. 18 19 Yours, 20 Barbara J. Castillo, CRR
22 Date Signature	22 cc: Claude M. Stern

2 3 4	STATE OF COLORADO)	1	132
5 6 7 8 9 10) ss. REPORTER'S CERTIFICATE COUNTY OF DENVER) I, Barbara J. Castillo, do hereby certify that I am a Registered Merit Reporter, Certified Realtime Reporter and Notary Public within and for the State of that previous to the commencement of the examination, the deponent was duly sworn to testify to the truth. I further certify that this deposition was taken in shorthand by me at the time and place herein set forth, that it was thereafter reduced to typewritten form, and that the foregoing constitutes a true and correct transcript. I further certify that I am not related to, employed by, nor of counsel for any of the parties or attorneys herein, nor otherwise interested in the result of the within action. In witness whereof, I have affixed my signature and seal this 10th day of March, 2010.	5 6	of the testimony given by me, and any changes or corrections, if any, appear in the attached errata
12 13 14 15 16 17 18	My commission expires January 5, 2013. Barbara J. Castillo, CRR 216 - 16th Street, Suite 650 Denver, Colorado 80202	13 14 15 16 17 18	03/17/10 Street J. Dy 3on
19 20 21 22	131	19 20 21 22	
1	Capital Reporting Company	1	
2	1821 Jefferson Place, NW		Mitchell S. Ettinger, Esq. Skadden, Arps, Slate, Meagher & Flom, LLP
3	3rd Floor		1440 New York Avenue, N.W.
4	Washington, DC 20036		Washington, D.C. 20005
5	(202) 857-3376	5	(202) 371-7444
6	ERRATA SHEET	6	
7	Case Name: Rosetta Stone vs. Google	7	IN RE: Rosetta Stone vs. Google
8	Witness Name: STEVE F. DUBOW	8	Dear Mr. Ettinger:
9	Deposition Date: March 8, 2010	9	Enclosed please find your copy of the deposition
	Page No. Line No. Change/Reason for Change		of STEVE F. DUBOW, along with the errata sheet and
11			original signature page. As agreed, you will be
12 13		12	
14		13	signature. Within 30 days of March 10, 2010, please forward errata sheet and original signed signature page
15		15	to counsel for Plaintiff, Claude M. Stern. If you have
16		16	any questions, please do not hesitate to call. Thank
17		100000000000000000000000000000000000000	you.
18	18.	18	,
19	n		Yours,
20	THE STANDARD CONTRACTOR OF		Barbara J. Castillo, CRR
21		21	and an outling of the
-	Date Signature	22	cc: Claude M. Stern

DEBORAH JEFFRIES (3/9/10)

IN THE UNITED STATES DISTRICT COURT	1
FOR THE EASTERN DISTRICT OF VIRGINIA	
ALEXANDRIA DIVISION	
ROSETTA STONE LTD.,) Plaintiff,) v.) No. 1:09-cv-00736	
) (GBL/TCB)	
GOOGLE INC.,) Defendant.)	
Eugene, Oregon	
Tuesday, March 9, 2010	
DEPOSITION OF:	
DEBORAH JEFFRIES	
BE IT REMEMBERED THAT the deposition	
of DEBORAH JEFFRIES was taken before Rosemary	
Tanzer, a Registered Professional Reporter and	
a Certified Shorthand Reporter for Oregon and	
Washington, on Tuesday, March 9, 2010,	
commencing at the hour of 9:13 a.m., at HILTON	
HOTEL & CONFERENCE CENTER, 66 East Sixth	

Avenue, Eugene, Oregon.

,	·
	2
1 APPEARANCES	1 PROCEEDINGS
2 SKADDEN, ARPS, SLATE, MEAGHER &	·
3 BY MR. MITCHELL S. ETTINGER	, ,
4 1440 New York Avenue, N.W.	4 video specialist with Alpenglow Video
5 Washington D.C. 20005	5 Productions working today for Capital
6 202.371.7444	6 Reporting Company. This is the videotaped
7 mitchell.ettinger@skadden.com	7 deposition of Deborah Park Jeffries
8 Attorney for Plaintiff	8 beginning at 9:13 a.m. on the 9th day of
9	9 March, 2010, in the matter of the United
10 QUINN EMANUEL URQUHART OLIVER	
HEDGES, LLP	district of Virginia, Alexandria Division.
11 BY MR. CLAUDE M. STERN	The plaintiffs are Rosetta Stone. The
12 555 Twin Dolphin Drive, Suite 560	defendant is Google, Inc. Our case number
13 Redwood Shores, CA 94065	14 is 1:09-CV-00736 GBL/TCB.
14 650.801.5002	This deposition is being taken at the
15 claudestern@quinnemanuel.com	16 Eugene Hilton and Conference Center
16 Attorney for Defendant	located at 66 East Sixth Avenue in Eugene,
17	18 Oregon 97401. Our court reporter is
18 ALSO PRESENT: Mr. Randall Beiderwell,	
19 ***	taken on behalf of the plaintiff, and at
20	21 this time we will do introductions,
21	beginning with the witness, please. Just
22	, , , , , , , , , , , , , , , , , , ,
	3
1 CONTENTS	1 state your full name.
2 Page	2 THE WITNESS: Deborah Jeffries.
3 Examination by MR. ETTINGER 5	3 MR. ETTINGER: Mitchell Ettinger, Skadden
4 Examination by MR. STERN 45	4 Arps on behalf of Rosetta Stone.
5 Examination by MR. ETTINGER 85	5 MR. STERN: Claude Stern of Quinn Emanuel
6 EXHIBITS	6 on behalf of Google.
7 No. Item Page	7 THE VIDEOGRAPHER: And Rosemary, if you
8 1 Internet search for Rosetta 15	8 would swear in the witness.
9 Stone Spanish	9 DEBORAH JEFFRIES,
10 2 Internet document advertising 18	10 Having first been sworn by the reporter
11 Rosetta Stone	
12 3 Document entitled Staples 22	
price match guarantee	12 follows:
14 4 E-mail from Debbie Jeffries to 23	13 THE VIDEOGRAPHER: We're on the record.
15 Dorothy Park	14 EXAMINATION
16 5 Box of materials entitled 25	15 BY MR. ETTINGER:
17 Rosetta Stone	16 Q Good morning.
18 6 Package shipment label 27	17 A Good morning.
19 7 Letter dated November 9, 2009 35	18 Q Ms. Jeffries, have you ever been
20 8 Letter dated November 30, 2009 36	19 deposed before?
21 9 PayPal receipt 38	20 A Yes.
22 (Other than Exhibit No. 5, all exhibits	21 Q So you know there are certain ground
1 Attached boosts Dalable Continued by No. Peri	
Attached hereto. Exhibit 5 retained by Mr. Ettinge	c.) 22 rules we have to follow.

	6		
1	A Yes.	1	A Unfortunately 59, yes.
2	Q First, everything you say will be	2	Q And what is the highest level of
3	recorded verbatim by the court reporter. So we	$\frac{1}{3}$	education that you've completed?
4	need for you to answer all questions orally, not	$\begin{bmatrix} 3 \\ 4 \end{bmatrix}$	A Masters.
5	just nodding your head or giving hand gestures.	5	Q What was your area of study?
6	A I understand.	6	A I have an MBA and a masters in
7	Q Secondly, we need to be careful not to	7	
1	· · · · · · · · · · · · · · · · · · ·	1	
8 9	speak over one another. So I will allow you to finish your answer before I begin the next	8 9	Q From what university or colleges? A Stanford is the masters in physical
1.	question and just ask that you ensure that	10	
10		I	Alabama.
11	Counsel has finished their question before you	111	
12	begin your answer. Okay? A Will do.	12	Q Are you currently employed?
13		13	A Yes.
14	Q From time to time Counsel for Google or	14	Q What do you do?
	myself, if Mr. Stern is questioning you, may	15	A I co-own and manage a golf course.
	impose an objection on the record. That's an	16	Q Is that here in Eugene?
17	3	17	A Yes.
18	, , , , , , , , , , , , , , , , , , ,	18	Q How long have you done that?
19	3	19	A Twenty-two years.
20	you can answer the question, you should do so.	20	Q You understand that this case involves
21	č	21	E
22	A All right.	22	Correct?
	7		
1	Q If you do not understand a question		A Yes.
2			
	that Lack you today inlease just tell me and	1	O And you've agreed to provide testimony
	that I ask you today, please just tell me and	2	Q And you've agreed to provide testimony
3	I'll rephrase it.	2 3	voluntarily; is that right?
3 4	I'll rephrase it. A Will do.	2 3 4	voluntarily; is that right? A Yes.
3 4 5	I'll rephrase it. A Will do. Q Lastly, you are not captive here today,	2 3 4 5	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to
3 4	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for	2 3 4 5 6	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today?
3 4 5	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break	2 3 4 5 6 7	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No.
3 4 5 6 7 8	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will	2 3 4 5 6 7 8	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in
3 4 5 6 7 8 9	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you.	2 3 4 5 6 7 8 9	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony?
3 4 5 6 7 8 9 10	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right.	2 3 4 5 6 7 8 9 10	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No.
3 4 5 6 7 8 9 10 11	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right. Q Just some background information. Could	2 3 4 5 6 7 8 9 10 11	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No. Q Do you speak a foreign language?
3 4 5 6 7 8 9 10 11 12	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right. Q Just some background information. Could you please state your address?	2 3 4 5 6 7 8 9 10 11 12	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No. Q Do you speak a foreign language? A No.
3 4 5 6 7 8 9 10 11 12 13	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right. Q Just some background information. Could you please state your address? A My mailing address is 3800 North	2 3 4 5 6 7 8 9 10 11 12 13	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No. Q Do you speak a foreign language? A No. Q Have you ever studied foreign
3 4 5 6 7 8 9 10 11 12 13 14	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right. Q Just some background information. Could you please state your address? A My mailing address is 3800 North Delta Highway, Eugene, Oregon 97408.	2 3 4 5 6 7 8 9 10 11 12 13 14	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No. Q Do you speak a foreign language? A No. Q Have you ever studied foreign languages.
3 4 5 6 7 8 9 10 11 12 13 14 15	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right. Q Just some background information. Could you please state your address? A My mailing address is 3800 North Delta Highway, Eugene, Oregon 97408. Q How long have you lived in Eugene?	2 3 4 5 6 7 8 9 10 11 12 13 14 15	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No. Q Do you speak a foreign language? A No. Q Have you ever studied foreign languages. A Yes.
3 4 5 6 7 8 9 10 11 12 13 14 15 16	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right. Q Just some background information. Could you please state your address? A My mailing address is 3800 North Delta Highway, Eugene, Oregon 97408. Q How long have you lived in Eugene? A Twenty-two years.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No. Q Do you speak a foreign language? A No. Q Have you ever studied foreign languages. A Yes. Q Which language?
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right. Q Just some background information. Could you please state your address? A My mailing address is 3800 North Delta Highway, Eugene, Oregon 97408. Q How long have you lived in Eugene? A Twenty-two years. Q And are you married?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No. Q Do you speak a foreign language? A No. Q Have you ever studied foreign languages. A Yes. Q Which language? A Spanish.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right. Q Just some background information. Could you please state your address? A My mailing address is 3800 North Delta Highway, Eugene, Oregon 97408. Q How long have you lived in Eugene? A Twenty-two years. Q And are you married? A Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No. Q Do you speak a foreign language? A No. Q Have you ever studied foreign languages. A Yes. Q Which language? A Spanish. Q When did you study the language?
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right. Q Just some background information. Could you please state your address? A My mailing address is 3800 North Delta Highway, Eugene, Oregon 97408. Q How long have you lived in Eugene? A Twenty-two years. Q And are you married? A Yes. Q And your husband's name?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No. Q Do you speak a foreign language? A No. Q Have you ever studied foreign languages. A Yes. Q Which language? A Spanish. Q When did you study the language? A My freshman and sophomore year of
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right. Q Just some background information. Could you please state your address? A My mailing address is 3800 North Delta Highway, Eugene, Oregon 97408. Q How long have you lived in Eugene? A Twenty-two years. Q And are you married? A Yes. Q And your husband's name? A Eric Howard Jeffries.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No. Q Do you speak a foreign language? A No. Q Have you ever studied foreign languages. A Yes. Q Which language? A Spanish. Q When did you study the language? A My freshman and sophomore year of high school.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	I'll rephrase it. A Will do. Q Lastly, you are not captive here today, you're our guest, and we want to thank you for coming. But if you want a break, comfort break or otherwise, you just let us know and we will accommodate you. A All right. Q Just some background information. Could you please state your address? A My mailing address is 3800 North Delta Highway, Eugene, Oregon 97408. Q How long have you lived in Eugene? A Twenty-two years. Q And are you married? A Yes. Q And your husband's name?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	voluntarily; is that right? A Yes. Q No one has sent you a subpoena to appear today? A No. Q Did anyone promise you anything in return for your testimony? A No. Q Do you speak a foreign language? A No. Q Have you ever studied foreign languages. A Yes. Q Which language? A Spanish. Q When did you study the language? A My freshman and sophomore year of

	10			12
1	A Yes.	1	and told me she found a good price.	
2	Q How did you learn of the company?	2	Q So your mother, whose name is?	
3	A I'm not real sure, maybe a magazine,	3	A Dorothy Park.	
4	maybe I'm not sure. Television. Maybe just in	4	Q And she's how old?	
5	the store. I'm not sure.	5	A She's now 89.	
6	Q What do you understand Rosetta Stone	6	Q When you say she enjoys surfing, you're	
7	sells?	7	not referring to the beach, are you?	
8	A A learning method for being	8	A No.	
9	proficient at a particular language.	9	Q You're talking about the use of the	
10	Q Did there come a point in time when you	1	Internet?	
11	were interested in purchasing Rosetta Stone	11	A Right.	
12	software?	12	Q So did you come up with a plan with	
13	A Yes.		your mother to purchase the software for your	
14	Q Was that for yourself or some other		son?	
15	member of your family?	15	A Uh-huh. She asked me to actually do	
16	A It was a Christmas gift for my son.		the purchase, and she gave me her American	
17	Q Why did you want to purchase Rosetta		Express card.	
18		18	Q And now you said that she called you	
19	A He works in the wine industry in	19	after doing a search on Google.	
20	Napa, and he works with a large contingent of	20	A Uh-huh.	
21	Latinos.	21	Q And that she had found a good price.	
22	Q Did you do any research to explore	22	A Uh-huh.	
	11			13
				15
1	whether there were other products available on	1	O Did you replicate that search?	13
	whether there were other products available on	1 2	Q Did you replicate that search?	13
2	the marketplace that would serve the same purpose	2	A Uh-huh.	13
3	the marketplace that would serve the same purpose of teaching your son Spanish?	2 3	A Uh-huh. Q Tell me what you did.	13
3 4	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of	2 3 4	A Uh-huh.Q Tell me what you did.A I you mean my	13
2 3 4 5	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand.	2 3 4 5	A Uh-huh.Q Tell me what you did.A I you mean myQ Physically, what did you do?	13
2 3 4 5 6	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led	2 3 4 5 6	 A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in 	
2 3 4 5	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand	2 3 4 5 6 7	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found	
2 3 4 5 6 7 8	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software?	2 3 4 5 6 7 8	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked	
2 3 4 5 6 7 8 9	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again.	2 3 4 5 6 7 8 9	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did.	
2 3 4 5 6 7 8 9 10	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led	2 3 4 5 6 7 8 9	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone,	
2 3 4 5 6 7 8 9 10 11	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led you to purchase Rosetta Stone?	2 3 4 5 6 7 8 9 10	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone, were you typing that into the Google search	
2 3 4 5 6 7 8 9 10 11 12	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led you to purchase Rosetta Stone? A Just I thought it was a good product.	2 3 4 5 6 7 8 9 10 11 12	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone, were you typing that into the Google search engine?	
2 3 4 5 6 7 8 9 10 11 12 13	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led you to purchase Rosetta Stone? A Just I thought it was a good product. Just from probably advertisement is all. I don't	2 3 4 5 6 7 8 9 10 11 12 13	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone, were you typing that into the Google search engine? A Yes.	
2 3 4 5 6 7 8 9 10 11 12 13 14	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led you to purchase Rosetta Stone? A Just I thought it was a good product. Just from probably advertisement is all. I don't know anybody who had used it.	2 3 4 5 6 7 8 9 10 11 12	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone, were you typing that into the Google search engine? A Yes. Q And do you recall when you did this?	
2 3 4 5 6 7 8 9 10 11 12 13 14 15	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led you to purchase Rosetta Stone? A Just I thought it was a good product. Just from probably advertisement is all. I don't know anybody who had used it. Q Did you attempt to purchase Rosetta	2 3 4 5 6 7 8 9 10 11 12 13 14 15	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone, were you typing that into the Google search engine? A Yes. Q And do you recall when you did this? A No. The actual date?	
2 3 4 5 6 7 8 9 10 11 12 13 14 15	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led you to purchase Rosetta Stone? A Just I thought it was a good product. Just from probably advertisement is all. I don't know anybody who had used it. Q Did you attempt to purchase Rosetta Stone software for your son?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone, were you typing that into the Google search engine? A Yes. Q And do you recall when you did this? A No. The actual date? Q Yes.	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led you to purchase Rosetta Stone? A Just I thought it was a good product. Just from probably advertisement is all. I don't know anybody who had used it. Q Did you attempt to purchase Rosetta Stone software for your son? A Actually my mother and I did it	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone, were you typing that into the Google search engine? A Yes. Q And do you recall when you did this? A No. The actual date? Q Yes. A No. I know that when we purchased	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led you to purchase Rosetta Stone? A Just I thought it was a good product. Just from probably advertisement is all. I don't know anybody who had used it. Q Did you attempt to purchase Rosetta Stone software for your son? A Actually my mother and I did it together.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone, were you typing that into the Google search engine? A Yes. Q And do you recall when you did this? A No. The actual date? Q Yes. A No. I know that when we purchased it, just because I was looking it was in	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led you to purchase Rosetta Stone? A Just I thought it was a good product. Just from probably advertisement is all. I don't know anybody who had used it. Q Did you attempt to purchase Rosetta Stone software for your son? A Actually my mother and I did it together. Q Can you describe how that came about?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone, were you typing that into the Google search engine? A Yes. Q And do you recall when you did this? A No. The actual date? Q Yes. A No. I know that when we purchased it, just because I was looking it was in October.	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led you to purchase Rosetta Stone? A Just I thought it was a good product. Just from probably advertisement is all. I don't know anybody who had used it. Q Did you attempt to purchase Rosetta Stone software for your son? A Actually my mother and I did it together. Q Can you describe how that came about? A My mom enjoys surfing, and she was on	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone, were you typing that into the Google search engine? A Yes. Q And do you recall when you did this? A No. The actual date? Q Yes. A No. I know that when we purchased it, just because I was looking it was in	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	the marketplace that would serve the same purpose of teaching your son Spanish? A Not really, huh-uh. We just kind of made up our mind to get that particular brand. Q Is there anything particular that led you to decide to purchase the Rosetta Stone brand of language learning software? A Say that again. Q Is there any particular reason that led you to purchase Rosetta Stone? A Just I thought it was a good product. Just from probably advertisement is all. I don't know anybody who had used it. Q Did you attempt to purchase Rosetta Stone software for your son? A Actually my mother and I did it together. Q Can you describe how that came about? A My mom enjoys surfing, and she was on	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Uh-huh. Q Tell me what you did. A I you mean my Q Physically, what did you do? A Physically what I did? I typed in Rosetta Stone and the information that Mom found popped up on the right-hand side, and I clicked it and found the same thing she did. Q So when you typed in Rosetta Stone, were you typing that into the Google search engine? A Yes. Q And do you recall when you did this? A No. The actual date? Q Yes. A No. I know that when we purchased it, just because I was looking it was in October. Q October of what year?	

	, ,	_		
	14			16
1	"Rosetta Stone" into the Google search engine.	1	side, the left or the right?	
2	A Right.	2	A Right.	
3	Q And then you pressed enter?	3	Q And you clicked on the link on the	
4	A Yeah.	-	right-hand side?	
5	Q And then you saw links appear on the	5	A Yes.	
_	right-hand side?	6	Q Did you print out the landing page?	
7	A Yes.	7	A Yes.	
8	Q Do you know what the term "sponsored	8	Q That you went to when you clicked on	
_	link" means?	9	the link on the right-hand side?	
10	A I do now.	10	A Yes. Actually my mother did.	
11	Q How do you know that?	11	Q Your mother printed it out?	
12	A Because once we went through this	12	A Uh-huh.	
	fiasco and I called Rosetta Stone, they told me.	13	Q So did you bring that with you today?	
14	Q What is your understanding of what a	14	A Yes.	
	sponsored link is?	15	Q When you did the search that your	
16	A It's paid. It's like a billboard.		mother did, you replicated the search engine, did	
1	That's my description.		you find the same link that she was talking	
18	Q I'm going to mark as Jeffries Exhibit 1		about?	
-	just an example search for Rosetta Stone Spanish.	19	A Uh-huh.	
	I'm not suggesting that this was done in October,	20	Q Yes?	
	Ms. Jeffries. But I would just ask that you take	21	A Yes. I'm sorry, yes.	
	a look at this layout.	22	Q Do you remember the name of the company	
22	a rook at this layout.		Q Do you remember the name of the company	
	15			17
1	(Exhibit No. 1 marked.)	1	or the URL that appeared on that link?	
2	A Okay.	2	A No. No. I know it's on what I	
$\frac{2}{3}$	Q And tell me if the layout appears as	ı	brought.	
1	did it on your screen, with searches on the left-	4	Q Let me show you what actually what I	
	hand side or the right-hand side.	5	want to do	
6	MR. STERN: Objection. Vague. Objection.	6	A Soft something I think is what it	
7	Foundation.	7	Was.	
8	Q You can answer.	8	MR. ETTINGER: Because the copies that we	
9	A Yeah, it generally looked like that.	9	had made earlier, Claude, cut off the	
10	Q And you indicated you typed in Rosetta	10	bottom, if it's all right with Ms.	
	Stone, but not Rosetta Stone Spanish. Correct?	11	Jeffries, I'm going to mark your originals	
12	A Yes; that's correct.	12	and I'll give them back to you when we	
13	Q And do you recall when you clicked on	13	make better copies.	
		ı	A I don't care.	
1 1	the right-hand side, do you remember whether	14	A LUOITECATE.	
	the right-hand side, do you remember whether there was actually like a line like this that	14 15		
15	there was actually like a line like this that	15	MR. ETTINGER: That way we don't have to	
15 16	there was actually like a line like this that appeared that separated the left from the right	15 16	MR. ETTINGER: That way we don't have to go back and forth. Is that all right with	
15 16 17	there was actually like a line like this that appeared that separated the left from the right on your screen?	15 16 17	MR. ETTINGER: That way we don't have to go back and forth. Is that all right with you?	
15 16 17 18	there was actually like a line like this that appeared that separated the left from the right on your screen? A Yes. Oh, the line? I don't know. I	15 16 17 18	MR. ETTINGER: That way we don't have to go back and forth. Is that all right with you? MR. STERN: That's fine. So do I	
15 16 17 18 19	there was actually like a line like this that appeared that separated the left from the right on your screen? A Yes. Oh, the line? I don't know. I just know there were two there is a narrow	15 16 17 18 19	MR. ETTINGER: That way we don't have to go back and forth. Is that all right with you? MR. STERN: That's fine. So do I understand that Ms. Jeffries copies don't	
15 16 17 18 19 20	there was actually like a line like this that appeared that separated the left from the right on your screen? A Yes. Oh, the line? I don't know. I just know there were two there is a narrow column and then the wide area where you can find	15 16 17 18 19 20	MR. ETTINGER: That way we don't have to go back and forth. Is that all right with you? MR. STERN: That's fine. So do I understand that Ms. Jeffries copies don't have a cut-off bottom.	
15 16 17 18 19 20	there was actually like a line like this that appeared that separated the left from the right on your screen? A Yes. Oh, the line? I don't know. I just know there were two there is a narrow	15 16 17 18 19	MR. ETTINGER: That way we don't have to go back and forth. Is that all right with you? MR. STERN: That's fine. So do I understand that Ms. Jeffries copies don't	

			•		
		18			20
1	bottom.			MR. STERN: Yes.	
2	MR. STERN: Okay.		2	Q MR. ETTINGER: When you looked at the	
3	THE VIDEOGRAPHER: Did you want any of			web page that your mother provided to you after	
4	these on video?			replicating her search, what did you believe that	
5	MR. ETTINGER: If I do, I'll ask her to			this company was offering for sale?	
6	hold them up.		6	A What I was looking for was Spanish	
7	THE VIDEOGRAPHER: Thank you.			Rosetta Stone.	
8	Q MR. ETTINGER: So I'm handing you a		8	Q Did you have any belief or suggestion	
9	four-page document that you brought with you			in your mind that this was not an authorized sale	
	today.			of Rosetta Stone software?	
11	(Exhibit No. 2 marked.)		11	A No.	
12	A Okay.		12	MR. STERN: Objection. Foundation.	
13	Q It's got a date of October 11, 2009 and		13	Q MR. ETTINGER. Let him make his	
14			_	objection and then you can answer.	
15	Could you take a look at that for me, please?		15	A Sorry.	
16	A Uh-huh.		16	MR. STERN: It's okay. You're doing fine.	
17	Q Is that the printout that your mother		17	Q MR. ETTINGER: It's just the format.	
18			18	Did you have any belief in your mind	
19	A Yes, less this one name I just wrote			that the company that was offering this product	
20			20	through the Internet that you found on the Google	
21	MR. STERN: I'm sorry to interpose this.		21	search engine was offering a legal software for	
22	Was this marked as an exhibit?			sale?	
	was this marked as an exhibit:			Sure:	
		19			21
	MR. ETTINGER: Yes, that was Exhibit 1.		l		
	MIX. ETTINGER. TCS, that was Exhibit 1.		l 1	MR STERN: Objection Foundation	
1 7			1 2	MR. STERN: Objection. Foundation.	
2	MR. STERN: I'm sorry.		2	A No.	
3	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what		2 3	A No. Q MR. ETTINGER: What did you do next in	
3 4	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you?		2 3 4	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone	
3 4 5	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes.		2 3 4 5	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software?	
3 4 5 6	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the		2 3 4 5 6	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site	
3 4 5 6 7	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this		2 3 4 5 6 7	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local	
3 4 5 6	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the		2 3 4 5 6 7 8	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could	
3 4 5 6 7 8 9	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes.		2 3 4 5 6 7 8 9	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples	
3 4 5 6 7 8 9 10	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website,		2 3 4 5 6 7 8 9 10	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples	
3 4 5 6 7 8 9 10 11	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website, what did you believe the softer		2 3 4 5 6 7 8 9 10	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples store and took this printout with us.	
3 4 5 6 7 8 9 10 11 12	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website, what did you believe the softer MR. STERN: Unfortunately I have no idea		2 3 4 5 6 7 8 9 10 11 12	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples store and took this printout with us. Q When you say this printout, you're	
3 4 5 6 7 8 9 10 11	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website, what did you believe the softer MR. STERN: Unfortunately I have no idea if we're talking about the same thing. I'm		2 3 4 5 6 7 8 9 10 11 12	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples store and took this printout with us.	
3 4 5 6 7 8 9 10 11 12 13	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website, what did you believe the softer MR. STERN: Unfortunately I have no idea if we're talking about the same thing. I'm sorry. You said there was handwriting?		2 3 4 5 6 7 8 9 10 11 12 13	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples store and took this printout with us. Q When you say this printout, you're referring to Exhibit 2? A Yes.	
3 4 5 6 7 8 9 10 11 12 13 14	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website, what did you believe the softer MR. STERN: Unfortunately I have no idea if we're talking about the same thing. I'm sorry. You said there was handwriting? A Yes. It's her son's name.		2 3 4 5 6 7 8 9 10 11 12 13 14 15	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples store and took this printout with us. Q When you say this printout, you're referring to Exhibit 2? A Yes. Q And what did you learn when you went to	
3 4 5 6 7 8 9 10 11 12 13 14 15	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website, what did you believe the softer MR. STERN: Unfortunately I have no idea if we're talking about the same thing. I'm sorry. You said there was handwriting? A Yes. It's her son's name. MR. STERN: I don't have that on my copy.		2 3 4 5 6 7 8 9 10 11 12 13 14 15	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples store and took this printout with us. Q When you say this printout, you're referring to Exhibit 2? A Yes. Q And what did you learn when you went to the Staples?	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website, what did you believe the softer MR. STERN: Unfortunately I have no idea if we're talking about the same thing. I'm sorry. You said there was handwriting? A Yes. It's her son's name. MR. STERN: I don't have that on my copy. A We were just chatting about her son,		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples store and took this printout with us. Q When you say this printout, you're referring to Exhibit 2? A Yes. Q And what did you learn when you went to the Staples? A That they didn't match web pricing.	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website, what did you believe the softer MR. STERN: Unfortunately I have no idea if we're talking about the same thing. I'm sorry. You said there was handwriting? A Yes. It's her son's name. MR. STERN: I don't have that on my copy.		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples store and took this printout with us. Q When you say this printout, you're referring to Exhibit 2? A Yes. Q And what did you learn when you went to the Staples? A That they didn't match web pricing. Q Did they give you any did they give	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website, what did you believe the softer MR. STERN: Unfortunately I have no idea if we're talking about the same thing. I'm sorry. You said there was handwriting? A Yes. It's her son's name. MR. STERN: I don't have that on my copy. A We were just chatting about her son, so I wrote the name so I could give it to my husband.		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples store and took this printout with us. Q When you say this printout, you're referring to Exhibit 2? A Yes. Q And what did you learn when you went to the Staples? A That they didn't match web pricing. Q Did they give you any did they give you anything in writing that suggested to you	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website, what did you believe the softer MR. STERN: Unfortunately I have no idea if we're talking about the same thing. I'm sorry. You said there was handwriting? A Yes. It's her son's name. MR. STERN: I don't have that on my copy. A We were just chatting about her son, so I wrote the name so I could give it to my husband.		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples store and took this printout with us. Q When you say this printout, you're referring to Exhibit 2? A Yes. Q And what did you learn when you went to the Staples? A That they didn't match web pricing. Q Did they give you any did they give you anything in writing that suggested to you what their policy was regarding matching prices	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	MR. STERN: I'm sorry. Q MR. ETTINGER: Is that a copy of what your mother provided to you? A Yes. Q And you say the handwriting on the right-hand side is something you wrote down this morning? A Yes. Q So when you looked at this website, what did you believe the softer MR. STERN: Unfortunately I have no idea if we're talking about the same thing. I'm sorry. You said there was handwriting? A Yes. It's her son's name. MR. STERN: I don't have that on my copy. A We were just chatting about her son, so I wrote the name so I could give it to my husband. MR. STERN: That's fine. Go ahead, please.		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A No. Q MR. ETTINGER: What did you do next in your pursuit of the purchase of Rosetta Stone software? A I read through what was on the site and then I my mother and I went to a local office supply place and wanted to see if we could find it there, because we had read that Staples matched prices. So we went to a local Staples store and took this printout with us. Q When you say this printout, you're referring to Exhibit 2? A Yes. Q And what did you learn when you went to the Staples? A That they didn't match web pricing. Q Did they give you any did they give you anything in writing that suggested to you	

			_
	22	24	1
1 2 3 4 5 6 7 7 8 9 10 11 12 13 14 15 16 17 18 19	Q I will hand you what's been marked as Exhibit 3. It is a one-page document that is entitled Staples price match guarantee. Has the date at the bottom Claude, your copy probably will not have it, 10/11/2009. I will hand that to the witness. Ms. Jeffries, could you please verify for us that Exhibit 3 is what you were provided by Staples. (Exhibit No. 3 marked.) A Yes. Q So when Staples said that they wouldn't match the price that you found on the Internet, what did you do next? A We went home and bought it on-line. Q Did you buy it from the company, softer4world.com? A Yes.	1 find out which documents we're talking 2 about. I've got it. Thank you very much. 3 A Sure. 4 MR. ETTINGER: Claude, I apologize. 5 MR. STERN: That's all right. 6 Q MR. ETTINGER: So this is this 7 exhibit reflects two e-mails, one from 8 softer4world confirming your order? 9 A Right. 10 Q And you forwarded that to your mother. 11 Correct? 12 A Yes. 13 Q And when you placed the order, whose 14 name did you make the order in? 15 A I used my name. 16 Q And you used your mother's credit card? 17 A Yes. 18 Q How much was the purchase price? 19 A \$158.	
	1 1 1	* * * * * * * * * * * * * * * * * * * *	
$\begin{vmatrix} 20 \\ 21 \end{vmatrix}$	the Google search engine? A Yes.	20 Q Did you actually receive product in 21 response to your order?	
22	Q Did you actually place the order or did	22 A Yes.	
1	your mother place the order?	25	5
		1 Q What did you receive?	
2	A I did.	2 A A box about that size.	
3	A I did. Q Do you remember the day upon which you	 2 A A box about that size. 3 Q I'm going to mark as exhibit 	
3 4	A I did. Q Do you remember the day upon which you did that?	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent	
3 4 5	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you.	
3 4	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought.	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you. 6 Q I'm going to mark as Exhibit 5 this box	
3 4 5 6	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought.	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you.	
3 4 5 6	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you. 6 Q I'm going to mark as Exhibit 5 this box 7 of materials entitled Rosetta Stone, and it 8 contains certain CDs, and I'll have the witness 9 go through that. On the outside of the box is a	
3 4 5 6 7 8 9 10	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been marked as Exhibit 4. It is an e-mail from Debbie Jeffries to Dorothy Park. That's your mother? Correct?	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you. 6 Q I'm going to mark as Exhibit 5 this box 7 of materials entitled Rosetta Stone, and it 8 contains certain CDs, and I'll have the witness 9 go through that. On the outside of the box is a 10 mailer I'll have the witness identify. So this	
3 4 5 6 7 8 9 10 11	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been marked as Exhibit 4. It is an e-mail from Debbie Jeffries to Dorothy Park. That's your mother? Correct? (Exhibit No. 4 marked.)	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you. 6 Q I'm going to mark as Exhibit 5 this box 7 of materials entitled Rosetta Stone, and it 8 contains certain CDs, and I'll have the witness 9 go through that. On the outside of the box is a 10 mailer I'll have the witness identify. So this 11 will all be Exhibit 5. First of all, could you	
3 4 5 6 7 8 9 10 11 12	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been marked as Exhibit 4. It is an e-mail from Debbie Jeffries to Dorothy Park. That's your mother? Correct? (Exhibit No. 4 marked.) A Yeah.	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you. 6 Q I'm going to mark as Exhibit 5 this box 7 of materials entitled Rosetta Stone, and it 8 contains certain CDs, and I'll have the witness 9 go through that. On the outside of the box is a 10 mailer I'll have the witness identify. So this 11 will all be Exhibit 5. First of all, could you 12 identify the outside mailer for me?	
3 4 5 6 7 8 9 10 11 12 13	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been marked as Exhibit 4. It is an e-mail from Debbie Jeffries to Dorothy Park. That's your mother? Correct? (Exhibit No. 4 marked.) A Yeah. Q And you're forwarding your	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you. 6 Q I'm going to mark as Exhibit 5 this box 7 of materials entitled Rosetta Stone, and it 8 contains certain CDs, and I'll have the witness 9 go through that. On the outside of the box is a 10 mailer I'll have the witness identify. So this 11 will all be Exhibit 5. First of all, could you 12 identify the outside mailer for me? 13 (Exhibit No. 5 marked.)	
3 4 5 6 7 8 9 10 11 12 13	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been marked as Exhibit 4. It is an e-mail from Debbie Jeffries to Dorothy Park. That's your mother? Correct? (Exhibit No. 4 marked.) A Yeah.	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you. 6 Q I'm going to mark as Exhibit 5 this box 7 of materials entitled Rosetta Stone, and it 8 contains certain CDs, and I'll have the witness 9 go through that. On the outside of the box is a 10 mailer I'll have the witness identify. So this 11 will all be Exhibit 5. First of all, could you 12 identify the outside mailer for me? 13 (Exhibit No. 5 marked.)	
3 4 5 6 7 8 9 10 11 12 13 14	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been marked as Exhibit 4. It is an e-mail from Debbie Jeffries to Dorothy Park. That's your mother? Correct? (Exhibit No. 4 marked.) A Yeah. Q And you're forwarding your confirmation?	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you. 6 Q I'm going to mark as Exhibit 5 this box 7 of materials entitled Rosetta Stone, and it 8 contains certain CDs, and I'll have the witness 9 go through that. On the outside of the box is a 10 mailer I'll have the witness identify. So this 11 will all be Exhibit 5. First of all, could you 12 identify the outside mailer for me? 13 (Exhibit No. 5 marked.) 14 A This is the one that it came that	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been marked as Exhibit 4. It is an e-mail from Debbie Jeffries to Dorothy Park. That's your mother? Correct? (Exhibit No. 4 marked.) A Yeah. Q And you're forwarding your confirmation? A Yeah. Q Could you please look at Exhibit 4 and verify that that is, in fact, the e-mail that you	A A box about that size. Q I'm going to mark as exhibit A That's the box, isn't it? They sent the whole thing to you. Q I'm going to mark as Exhibit 5 this box for materials entitled Rosetta Stone, and it contains certain CDs, and I'll have the witness go through that. On the outside of the box is a mailer I'll have the witness identify. So this will all be Exhibit 5. First of all, could you identify the outside mailer for me? (Exhibit No. 5 marked.) A This is the one that it came that the Rosetta Stone came in, yes. Q So this mailer is addressed to whom? This was a gentleman that	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been marked as Exhibit 4. It is an e-mail from Debbie Jeffries to Dorothy Park. That's your mother? Correct? (Exhibit No. 4 marked.) A Yeah. Q And you're forwarding your confirmation? A Yeah. Q Could you please look at Exhibit 4 and verify that that is, in fact, the e-mail that you received from softer4world that you forwarded to	A A box about that size. Q I'm going to mark as exhibit A That's the box, isn't it? They sent the whole thing to you. Q I'm going to mark as Exhibit 5 this box mailer I'll sent that. On the outside of the box is a mailer I'll have the witness identify. So this will all be Exhibit 5. First of all, could you identify the outside mailer for me? (Exhibit No. 5 marked.) A This is the one that it came that the Rosetta Stone came in, yes. Q So this mailer is addressed to whom? This was a gentleman that What's the name on there?	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been marked as Exhibit 4. It is an e-mail from Debbie Jeffries to Dorothy Park. That's your mother? Correct? (Exhibit No. 4 marked.) A Yeah. Q And you're forwarding your confirmation? A Yeah. Q Could you please look at Exhibit 4 and verify that that is, in fact, the e-mail that you received from softer4world that you forwarded to your mother.	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you. 6 Q I'm going to mark as Exhibit 5 this box 7 of materials entitled Rosetta Stone, and it 8 contains certain CDs, and I'll have the witness 9 go through that. On the outside of the box is a 10 mailer I'll have the witness identify. So this 11 will all be Exhibit 5. First of all, could you 12 identify the outside mailer for me? 13 (Exhibit No. 5 marked.) 14 A This is the one that it came that 15 the Rosetta Stone came in, yes. 16 Q So this mailer is addressed to whom? 17 A This was a gentleman that 18 Q What's the name on there? 19 A William Thomas.	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been marked as Exhibit 4. It is an e-mail from Debbie Jeffries to Dorothy Park. That's your mother? Correct? (Exhibit No. 4 marked.) A Yeah. Q And you're forwarding your confirmation? A Yeah. Q Could you please look at Exhibit 4 and verify that that is, in fact, the e-mail that you received from softer4world that you forwarded to your mother. A Yes.	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you. 6 Q I'm going to mark as Exhibit 5 this box 7 of materials entitled Rosetta Stone, and it 8 contains certain CDs, and I'll have the witness 9 go through that. On the outside of the box is a 10 mailer I'll have the witness identify. So this 11 will all be Exhibit 5. First of all, could you 12 identify the outside mailer for me? 13 (Exhibit No. 5 marked.) 14 A This is the one that it came that 15 the Rosetta Stone came in, yes. 16 Q So this mailer is addressed to whom? 17 A This was a gentleman that 18 Q What's the name on there? 19 A William Thomas. 20 Q Who is William Thomas?	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A I did. Q Do you remember the day upon which you did that? A No. But there is a confirmation thing someplace in there that I brought. Q I will hand the witness what has been marked as Exhibit 4. It is an e-mail from Debbie Jeffries to Dorothy Park. That's your mother? Correct? (Exhibit No. 4 marked.) A Yeah. Q And you're forwarding your confirmation? A Yeah. Q Could you please look at Exhibit 4 and verify that that is, in fact, the e-mail that you received from softer4world that you forwarded to your mother.	2 A A box about that size. 3 Q I'm going to mark as exhibit 4 A That's the box, isn't it? They sent 5 the whole thing to you. 6 Q I'm going to mark as Exhibit 5 this box 7 of materials entitled Rosetta Stone, and it 8 contains certain CDs, and I'll have the witness 9 go through that. On the outside of the box is a 10 mailer I'll have the witness identify. So this 11 will all be Exhibit 5. First of all, could you 12 identify the outside mailer for me? 13 (Exhibit No. 5 marked.) 14 A This is the one that it came that 15 the Rosetta Stone came in, yes. 16 Q So this mailer is addressed to whom? 17 A This was a gentleman that 18 Q What's the name on there? 19 A William Thomas.	

	26			28
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A Correct. Q Why did you do that? A Because they asked me to. Q Did they tell you why they wanted it? A They said that they had a fraud division, and I was rather alarmed that the thing came from someplace in the Pacific Rim when I had no idea that's where I ordered it from, and was	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	opened the shipping box. But when it said it was from Shanghai I figured I had a problem. Q So did this label or package shipment label come with the package you received with the Rosetta Stone software? A Yes. Q What did you do with this label? A You mean right away? I just kept it, obviously. And then when I called Rosetta Stone and they wanted everything, I made a copy I didn't make a copy of this. I just put everything in and sent it. Q So you sent the shipping label to Rosetta Stone, as well? A Yeah. I sent the box, the shipping label, the whole shooting match. Q Can you tell, from the shipping label, what the company indicated was being shipped to Ms. Dorothy Park? A Yes. A dress and shoes. Q And you indicated that when you received	
	27			29
15 16 17 18 19 20 21	A No, but there was stuff on it that was weird, because it came from this it obviously came it came from something EMS or something, and then it came was delivered by the post office. So there was some sort of step one, step two. Q Let me show you what I've marked as Exhibit 6. A Okay. Yeah. (Exhibit No. 6 marked.) MR. STERN: Exhibit what? MR. ETTINGER: I'm handing it to you. Q This is a one-page document. Yours is a cleaner version, Ms. Jeffries. But it has RS008000016 is the Bate's numbers, but that's not on the copy A What? Q There is a number on the bottom that	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A And a gift, yeah. Q You indicated when you received the package, you thought there might be something amiss because of its country of origin. Why is that? A Well, I thought because, A, I didn't know I bought it from overseas. B, it clearly wasn't a dress and shoes unless it was Barbie doll stuff. And it just looked like we have a problem. Q Could you please go back to Exhibit 5, which is the box? A Okay. Q Could you please identify for us, if you could, which portion of the software you attempted to load on your computer? A Well, it's whatever was number one. I don't really it must have been it was whatever was the number one disk. Q Why don't we do this first. Why don't we go through and identify all of the pieces that are in the box. You don't have to take out all	

		_		
	30			32
1	the disks, but what is in your hand that you are		A You can open them.	
2		$\frac{1}{2}$	_	
3		3	doesn't have cellophane on it at this point.	
4		4		
5	THE VIDEOGRAPHER: Can you hold that up	5		
6		6	•	
7		1 7		
8		8		
9		9	•	
10	-	10	hold up the box that it came in. I know it's	
11		11		
12		12	that it was when you received it?	
13		13		
14		14	Q What's different about it now?	
15		15		
16		16	Q If you could just hold that up for the	
17		17		
18		18	A (The witness complied.)	
19		19		
20	_	20	<u> </u>	
21	Q Could you hold that up for the camera,	21	Q When you loaded the software or	
22	as well?	22	attempted to load the software, what happened?	
		\perp		
	3	1		33
1	A (The witness complied.)		A It didn't work.	
$\frac{1}{2}$		2		
$\frac{1}{3}$.	$\frac{1}{3}$		
$\frac{3}{4}$		$\frac{1}{4}$		
5		1 '	we put in to listen to while we were in the car,	
6		6		
1 0	Q What's the name of that package?	1	and it didn't work.	
1 7	what's the name of that package:	/	O Did you try to load the software on to	
7 8	A Rosetta Stone	7 8	Q Did you try to load the software on to	
8 9	A Rosetta Stone. O If you could turn it around so the	8	your computer?	
8 9	Q If you could turn it around so the	8 9	your computer? A No.	
8 9 10	Q If you could turn it around so the camera could see it. That says, language	8 9 10	your computer? A No. Q You only tried the audio disk?	
8 9 10 11	Q If you could turn it around so the camera could see it. That says, language learning software, does it not?	8 9 10 11	your computer? A No. Q You only tried the audio disk? A Yes.	
8 9 10 11 12	Q If you could turn it around so the camera could see it. That says, language learning software, does it not? A Yes.	8 9 10 11 12	your computer? A No. Q You only tried the audio disk? A Yes. Q When that didn't work when you say	
8 9 10 11 12 13	Q If you could turn it around so the camera could see it. That says, language learning software, does it not? A Yes. Q And then the next thing?	8 9 10 11 12 13	your computer? A No. Q You only tried the audio disk? A Yes. Q When that didn't work when you say it didn't work, did you hear anything come out?	
8 9 10 11 12 13 14	Q If you could turn it around so the camera could see it. That says, language learning software, does it not? A Yes. Q And then the next thing? A This is a user guide CD.	8 9 10 11 12 13 14	your computer? A No. Q You only tried the audio disk? A Yes. Q When that didn't work when you say it didn't work, did you hear anything come out? A No.	
8 9 10 11 12 13 14 15	Q If you could turn it around so the camera could see it. That says, language learning software, does it not? A Yes. Q And then the next thing? A This is a user guide CD. Q What else was in the package?	8 9 10 11 12 13 14 15	your computer? A No. Q You only tried the audio disk? A Yes. Q When that didn't work when you say it didn't work, did you hear anything come out? A No. Q It was totally silent?	
8 9 10 11 12 13 14 15 16	Q If you could turn it around so the camera could see it. That says, language learning software, does it not? A Yes. Q And then the next thing? A This is a user guide CD. Q What else was in the package? A This is an application disk CD.	8 9 10 11 12 13 14 15	your computer? A No. Q You only tried the audio disk? A Yes. Q When that didn't work when you say it didn't work, did you hear anything come out? A No. Q It was totally silent? A Yeah. It just didn't work. Maybe	
8 9 10 11 12 13 14 15 16 17	Q If you could turn it around so the camera could see it. That says, language learning software, does it not? A Yes. Q And then the next thing? A This is a user guide CD. Q What else was in the package? A This is an application disk CD. THE VIDEOGRAPHER: Can you hold that still	8 9 10 11 12 13 14 15 16	your computer? A No. Q You only tried the audio disk? A Yes. Q When that didn't work when you say it didn't work, did you hear anything come out? A No. Q It was totally silent? A Yeah. It just didn't work. Maybe there was some static. I don't know. It did	
8 9 10 11 12 13 14 15 16 17 18	Q If you could turn it around so the camera could see it. That says, language learning software, does it not? A Yes. Q And then the next thing? A This is a user guide CD. Q What else was in the package? A This is an application disk CD. THE VIDEOGRAPHER: Can you hold that still for me.	8 9 10 11 12 13 14 15 16 17	your computer? A No. Q You only tried the audio disk? A Yes. Q When that didn't work when you say it didn't work, did you hear anything come out? A No. Q It was totally silent? A Yeah. It just didn't work. Maybe there was some static. I don't know. It did nothing.	
8 9 10 11 12 13 14 15 16 17 18	Q If you could turn it around so the camera could see it. That says, language learning software, does it not? A Yes. Q And then the next thing? A This is a user guide CD. Q What else was in the package? A This is an application disk CD. THE VIDEOGRAPHER: Can you hold that still for me. A Sorry.	8 9 10 11 12 13 14 15 16 17 18	your computer? A No. Q You only tried the audio disk? A Yes. Q When that didn't work when you say it didn't work, did you hear anything come out? A No. Q It was totally silent? A Yeah. It just didn't work. Maybe there was some static. I don't know. It did nothing. Q As a result of that, what did you do	
8 9 10 11 12 13 14 15 16 17 18 19 20	Q If you could turn it around so the camera could see it. That says, language learning software, does it not? A Yes. Q And then the next thing? A This is a user guide CD. Q What else was in the package? A This is an application disk CD. THE VIDEOGRAPHER: Can you hold that still for me. A Sorry. Q On the user guide that's on the CD	88 99 100 111 122 133 144 155 166 177 188 199 200	your computer? A No. Q You only tried the audio disk? A Yes. Q When that didn't work when you say it didn't work, did you hear anything come out? A No. Q It was totally silent? A Yeah. It just didn't work. Maybe there was some static. I don't know. It did nothing. Q As a result of that, what did you do next?	
8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q If you could turn it around so the camera could see it. That says, language learning software, does it not? A Yes. Q And then the next thing? A This is a user guide CD. Q What else was in the package? A This is an application disk CD. THE VIDEOGRAPHER: Can you hold that still for me. A Sorry.	88 99 100 111 122 133 144 155 166 177 188 199 200 211	your computer? A No. Q You only tried the audio disk? A Yes. Q When that didn't work when you say it didn't work, did you hear anything come out? A No. Q It was totally silent? A Yeah. It just didn't work. Maybe there was some static. I don't know. It did nothing. Q As a result of that, what did you do	

	3	4		36
1	it. I spoke to well, I either spoke to my mom	1	well as the packing slip has been included."	
	or I called Rosetta Stone first and then I called	1 2		
	the Rosetta Stone people recommended that I	- 1	Stone?	
4	call American Express.	4		
5	Q Why did you call Rosetta Stone?	- 1	- eventually they sent a actually they sent me	
6	A Because after I got this thing		Mom a letter. They sent it to me, but it was	
7	Q This thing is the		a letter for Mom to be able to use with American	
8	A The shipping label, and it didn't	8		
9	work, all right, I thought they should know that	9	· -	
10	somebody was counterfeiting their stuff.	10		
11	Q What did Rosetta Stone tell you?	111		
12	A They told me that they asked me to	12		
13	they thanked me for calling and asked me to	13	,	
	send them the stuff.	14	_	
15	Q Had they ever heard of	15		
	softer4world.com?	16		
17	MR. STERN: Objection. Foundation.	17		
18	MR. ETTINGER: Let me rephrase it.	18		
19	A I don't know.	19	•	
20	Q MR. ETTINGER: Did you tell them who	20		
21	you purchased the materials from?	21	addressed to Dorothy Park from a Jason Calhoun.	
22	A I don't remember. I offered to send	22	It bears Bates number RS008000017. The address on	
	3	5		37
1			this letter, 3800 North Delta Highway, is that	37
1 2	them all the stuff so they would know.	1	this letter, 3800 North Delta Highway, is that yours or your mother's?	37
	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more	1	yours or your mother's?	37
2	them all the stuff so they would know.	1 2	yours or your mother's? A Both.	37
2 3	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to	1 2 3	yours or your mother's? A Both. Q Does she live with you?	37
2 3 4 5	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been	1 2 3 4	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the	37
2 3 4 5 6	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter	1 2 3 4 5	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah.	37
2 3 4 5 6 7	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been	1 2 3 4 5 6 7	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah.	37
2 3 4 5 6 7 8	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah	1 2 3 4 5 6 7	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter?	37
2 3 4 5 6 7 8	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015.	1 2 3 4 5 6 7 8	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh.	37
2 3 4 5 6 7 8 9	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter?	1 2 3 4 5 6 7 8 9	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh. Q When you received this letter from	37
2 3 4 5 6 7 8 9 10 11	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter? (Exhibit No. 7 marked.)	1 2 3 4 5 6 7 8 9 10	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh.	37
2 3 4 5 6 7 8 9 10 11	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter? (Exhibit No. 7 marked.) A It's a letter I wrote to Rosetta	1 2 3 4 5 6 7 8 9 10	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh. Q When you received this letter from Rosetta Stone, is that when you understood that the software that you purchased from the company	37
2 3 4 5 6 7 8 9 10 11 12 13	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter? (Exhibit No. 7 marked.) A It's a letter I wrote to Rosetta Stone.	1 2 3 4 5 6 7 8 9 10 11 12	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh. Q When you received this letter from Rosetta Stone, is that when you understood that the software that you purchased from the company in China was counterfeit?	37
2 3 4 5 6 7 8 9 10 11 12 13	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter? (Exhibit No. 7 marked.) A It's a letter I wrote to Rosetta Stone. Q And did you send it to Mr. Thomas at	1 2 3 4 5 6 6 7 7 8 9 9 10 11 12 13	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh. Q When you received this letter from Rosetta Stone, is that when you understood that the software that you purchased from the company in China was counterfeit? A Actually I we knew that before	37
2 3 4 5 6 7 8 9 10 11 12 13 14	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter? (Exhibit No. 7 marked.) A It's a letter I wrote to Rosetta Stone. Q And did you send it to Mr. Thomas at Rosetta Stone?	1 2 3 4 5 6 6 7 8 9 10 11 12 13 14	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh. Q When you received this letter from Rosetta Stone, is that when you understood that the software that you purchased from the company in China was counterfeit? A Actually I we knew that before this letter. We knew that well, I didn't know	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter? (Exhibit No. 7 marked.) A It's a letter I wrote to Rosetta Stone. Q And did you send it to Mr. Thomas at Rosetta Stone? A Uh-huh. Q Is this the letter that you used to	1 2 3 4 5 6 6 7 7 8 9 10 11 12 13 14 14 15 15 16 16 17 17 18 18 18 18 18 18 18 18 18 18 18 18 18	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh. Q When you received this letter from Rosetta Stone, is that when you understood that the software that you purchased from the company in China was counterfeit? A Actually I we knew that before this letter. We knew that well, I didn't know it, but I guessed it when I called them when we	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter? (Exhibit No. 7 marked.) A It's a letter I wrote to Rosetta Stone. Q And did you send it to Mr. Thomas at Rosetta Stone? A Uh-huh. Q Is this the letter that you used to	1 2 3 4 5 6 6 7 8 9 10 11 12 13 14 15 16 16 16 16 17 16 17 16 17 16 17 16 17 16 17 16 17 16 17 16 17 16 17 16 17 16 17 16 17 17 17 17 17 17 17 17 17 17 17 17 17	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh. Q When you received this letter from Rosetta Stone, is that when you understood that the software that you purchased from the company in China was counterfeit? A Actually I we knew that before this letter. We knew that well, I didn't know it, but I guessed it when I called them when we tried to use it and it didn't work.	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter? (Exhibit No. 7 marked.) A It's a letter I wrote to Rosetta Stone. Q And did you send it to Mr. Thomas at Rosetta Stone? A Uh-huh. Q Is this the letter that you used to forward the software, which is Exhibit 5?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 16 17	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh. Q When you received this letter from Rosetta Stone, is that when you understood that the software that you purchased from the company in China was counterfeit? A Actually I we knew that before this letter. We knew that well, I didn't know it, but I guessed it when I called them when we tried to use it and it didn't work. Q This just confirmed your suspicion?	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter? (Exhibit No. 7 marked.) A It's a letter I wrote to Rosetta Stone. Q And did you send it to Mr. Thomas at Rosetta Stone? A Uh-huh. Q Is this the letter that you used to forward the software, which is Exhibit 5? A Yes.	1 2 3 4 5 6 6 7 7 8 8 9 10 11 12 13 14 15 16 16 17 17 18 18 18 18 18 18 18 18 18 18 18 18 18	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh. Q When you received this letter from Rosetta Stone, is that when you understood that the software that you purchased from the company in China was counterfeit? A Actually I we knew that before this letter. We knew that well, I didn't know it, but I guessed it when I called them when we tried to use it and it didn't work. Q This just confirmed your suspicion? A Yes.	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter? (Exhibit No. 7 marked.) A It's a letter I wrote to Rosetta Stone. Q And did you send it to Mr. Thomas at Rosetta Stone? A Uh-huh. Q Is this the letter that you used to forward the software, which is Exhibit 5? A Yes. Q And again, what was your purpose of	1 2 3 4 5 6 7 7 8 8 9 10 11 12 13 14 15 16 17 17 18 18 19 19 19 19 19 19 19 19 19 19 19 19 19	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh. Q When you received this letter from Rosetta Stone, is that when you understood that the software that you purchased from the company in China was counterfeit? A Actually I we knew that before this letter. We knew that well, I didn't know it, but I guessed it when I called them when we tried to use it and it didn't work. Q This just confirmed your suspicion? A Yes.	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	them all the stuff so they would know. MR. ETTINGER: Could I have a couple more exhibit labels, please? We're up to number seven. Q I'm handing the witness what's been marked as Exhibit 7. That is a one-page letter dated November 9, 2009, signed by Deborah Jeffries bearing Bates number RS008-000015. Could you please identify this letter? (Exhibit No. 7 marked.) A It's a letter I wrote to Rosetta Stone. Q And did you send it to Mr. Thomas at Rosetta Stone? A Uh-huh. Q Is this the letter that you used to forward the software, which is Exhibit 5? A Yes. Q And again, what was your purpose of sending this to Rosetta Stone?	1 2 3 4 5 6 7 7 8 8 9 10 11 12 13 14 15 16 17 17 18 18 19 19 19 19 19 19 19 19 19 19 19 19 19	yours or your mother's? A Both. Q Does she live with you? A She lives in a cottage on the property, yeah. Q And so did you actually receive this letter? A Uh-huh. Q When you received this letter from Rosetta Stone, is that when you understood that the software that you purchased from the company in China was counterfeit? A Actually I we knew that before this letter. We knew that well, I didn't know it, but I guessed it when I called them when we tried to use it and it didn't work. Q This just confirmed your suspicion? A Yes. Q What, if anything, did you do with this letter?	37

	38	40
1	send to American Express to get credit.	1 Stone software to you?
2	Q Did she ultimately get credit from	2 A No.
3	American Express?	3 Q Ms. Jeffries, did you try to send the
4	A Yes.	4 software back to softer4world?
5	Q Was the full purchase amount refunded	5 A No.
6	to her?	6 Q So once you determined that it was
7	A Yes.	7 counterfeit via through Rosetta Stone, that
8	Q Let me show you what's been marked as	8 was the end of your efforts with this except to
9	Exhibit 9.	9 get your money back?
10	Claude, this is a PayPal receipt that	10 A Uh-huh, yes.
11	was in the package received from the witness this	11 Q Did you ultimately purchase Rosetta
12	morning. It's got handwriting on it. Are you	12 Stone software?
13	with me?	13 A Yes.
14	(Exhibit No. 9 marked.)	14 Q And through what source did you buy it?
15	MR. STERN: Is that it?	15 A Rosetta Stone.com.
16	MR. ETTINGER: Yeah. That's it.	16 Q So you went on-line and bought it
17	Q Let me hand you what's been marked	17 directly from the company?
18	Exhibit 9. Take a look at that for a moment.	18 A Yes.
19	A Got it.	19 Q Do you recall approximately how much
20	Q Could you tell us what Exhibit 9 is?	20 you paid for it?
21	A This is a receipt that my mom printed	21 A No, but it was a Christmas special
22	out when we bought it, the product.	22 thing you had.
	39	41
1	O Do you see where it says "seller	1 O And you bought it in 2009?
1 2	Q Do you see where it says "seller information"?	1 Q And you bought it in 2009? 2 A Uh-huh.
1 .		2 A Uh-huh.
2	information"?	2 A Uh-huh.
3	information"? A Yes.	2 A Uh-huh. 3 Q And did you, in fact, give the software
3	information"? A Yes. Q The right-hand side. Could you tell	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son?
2 3 4 5	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes.
2 3 4 5 6	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account?	 2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts
2 3 4 5 6 7 8 9	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes.	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it?
2 3 4 5 6 7 8	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail?	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes.
2 3 4 5 6 7 8 9 10	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail? A It's an e-mail it's a system that	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes. 11 MR. STERN: Objection. Foundation.
2 3 4 5 6 7 8 9 10 11 12	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail? A It's an e-mail it's a system that you can use for e-mail.	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes. 11 MR. STERN: Objection. Foundation. 12 A Yes.
2 3 4 5 6 7 8 9 10 11 12 13	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail? A It's an e-mail it's a system that you can use for e-mail. Q Do you know who sponsors that?	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes. 11 MR. STERN: Objection. Foundation. 12 A Yes. 13 Q MR. ETTINGER: How do you know that?
2 3 4 5 6 7 8 9 10 11 12 13 14	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail? A It's an e-mail it's a system that you can use for e-mail. Q Do you know who sponsors that? A Google.	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes. 11 MR. STERN: Objection. Foundation. 12 A Yes. 13 Q MR. ETTINGER: How do you know that? 14 A Because I as a mother, I ask him.
2 3 4 4 5 6 7 8 9 10 11 12 13 14 15	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail? A It's an e-mail it's a system that you can use for e-mail. Q Do you know who sponsors that? A Google. MR. STERN: Objection. Foundation.	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes. 11 MR. STERN: Objection. Foundation. 12 A Yes. 13 Q MR. ETTINGER: How do you know that? 14 A Because I as a mother, I ask him. 15 And in fact yesterday he answered or he
2 3 4 5 6 7 7 8 9 10 11 12 13 14 15 16	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail? A It's an e-mail it's a system that you can use for e-mail. Q Do you know who sponsors that? A Google. MR. STERN: Objection. Foundation. Q MR. ETTINGER: Did you ever try to	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes. 11 MR. STERN: Objection. Foundation. 12 A Yes. 13 Q MR. ETTINGER: How do you know that? 14 A Because I as a mother, I ask him. 15 And in fact yesterday he answered or he 16 answered the phone, he called, and then answered
2 3 3 4 4 5 6 6 7 7 8 8 9 10 11 12 13 14 15 16 17 7	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail? A It's an e-mail it's a system that you can use for e-mail. Q Do you know who sponsors that? A Google. MR. STERN: Objection. Foundation. Q MR. ETTINGER: Did you ever try to communicate with the seller through the e-mail	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes. 11 MR. STERN: Objection. Foundation. 12 A Yes. 13 Q MR. ETTINGER: How do you know that? 14 A Because I as a mother, I ask him. 15 And in fact yesterday he answered or he 16 answered the phone, he called, and then answered 17 me in Spanish.
2 3 4 4 5 6 6 7 8 8 9 10 11 12 13 14 15 16 17 18	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail? A It's an e-mail it's a system that you can use for e-mail. Q Do you know who sponsors that? A Google. MR. STERN: Objection. Foundation. Q MR. ETTINGER: Did you ever try to communicate with the seller through the e-mail account, the e-mail address that appears on	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes. 11 MR. STERN: Objection. Foundation. 12 A Yes. 13 Q MR. ETTINGER: How do you know that? 14 A Because I as a mother, I ask him. 15 And in fact yesterday he answered or he 16 answered the phone, he called, and then answered 17 me in Spanish. 18 Q So we're having some success with the
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail? A It's an e-mail it's a system that you can use for e-mail. Q Do you know who sponsors that? A Google. MR. STERN: Objection. Foundation. Q MR. ETTINGER: Did you ever try to communicate with the seller through the e-mail account, the e-mail address that appears on Exhibit 9?	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes. 11 MR. STERN: Objection. Foundation. 12 A Yes. 13 Q MR. ETTINGER: How do you know that? 14 A Because I as a mother, I ask him. 15 And in fact yesterday he answered or he 16 answered the phone, he called, and then answered 17 me in Spanish. 18 Q So we're having some success with the 19 software?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail? A It's an e-mail it's a system that you can use for e-mail. Q Do you know who sponsors that? A Google. MR. STERN: Objection. Foundation. Q MR. ETTINGER: Did you ever try to communicate with the seller through the e-mail account, the e-mail address that appears on Exhibit 9? A No.	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes. 11 MR. STERN: Objection. Foundation. 12 A Yes. 13 Q MR. ETTINGER: How do you know that? 14 A Because I as a mother, I ask him. 15 And in fact yesterday he answered or he 16 answered the phone, he called, and then answered 17 me in Spanish. 18 Q So we're having some success with the 19 software? 20 A Yes.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	information"? A Yes. Q The right-hand side. Could you tell us, what does it say there for the e-mail account? A LINZHIYUE02 at gmail.com. Q Do you know what gmail is? A Yes. Q What is gmail? A It's an e-mail it's a system that you can use for e-mail. Q Do you know who sponsors that? A Google. MR. STERN: Objection. Foundation. Q MR. ETTINGER: Did you ever try to communicate with the seller through the e-mail account, the e-mail address that appears on Exhibit 9?	2 A Uh-huh. 3 Q And did you, in fact, give the software 4 to your son? 5 A Yes. 6 Q Does he like the product? 7 A Yes. 8 Q Has he been successful in his efforts 9 to learn some Spanish with it? 10 A Yes. 11 MR. STERN: Objection. Foundation. 12 A Yes. 13 Q MR. ETTINGER: How do you know that? 14 A Because I as a mother, I ask him. 15 And in fact yesterday he answered or he 16 answered the phone, he called, and then answered 17 me in Spanish. 18 Q So we're having some success with the 19 software?

_		_		
	42			44
1	to reconnect to your microphone?	1	Q Was it last week?	
2	MR. ETTINGER: Thank you.	2	A No. It was maybe a month ago.	
3	THE VIDEOGRAPHER: We're still on the	$\frac{1}{3}$	Q And then when did you speak to him	
4	record. I am getting a little Blackberry	4	this morning, before the deposition?	
5	type interference. It's not bad, but it's	5	A Yes.	
6	coming through just once in a while.	6	Q How long did you speak to him before	
7	MR. ETTINGER: Can we go off the record	7	the deposition?	
8	for a moment.	8	A About five minutes.	
9	THE VIDEOGRAPHER: Sure. We're going off	9	Q And before so that was the second	
10	the record. The time is 9:48. We're off	10	time?	
11	the record.	11	A No, that was the third time.	
12	(Break in proceedings.)	12	Q That was the third time. I'm sorry.	
13	THE VIDEOGRAPHER: Stand by. All systems	13	There was a time in the middle.	
14	go. We are going back on the record. The	14	A Uh-huh.	
15	time is 9:53. We're on the record.	15	Q Do you recall when that took place?	
16	MR. ETTINGER: No further questions at	16	A Sometime in the I'm trying	
17	this time.	17	Q It's all right.	
18	EXAMINATION	18	A I don't know, a couple of weeks ago.	
19	BY MR. STERN:	19	Q That's fine. So over the last month	
20	Q Ms. Jeffries, my name is Claude Stern.	20	you've spoken to him three times?	
21	We've been going a little bit I don't know how	21	A Correct.	
22	long we've been going, about 45 minutes. Do you	22	Q Is he the only person from the law firm	
	43			45
1	need a break?	1	representing Rosetta Stone you've spoken to?	
2	A No, I'm fine.	2	A Yes.	
3	Q I represent Google. A couple of things	3	Q What did you speak to him about?	
4	to start. You and I have never met before today.	4	A Well, the first time he called me as	
5	Right?	5	,	
6	A No.	6	stuff that we've already gone through, and he	
7	Q And we've never spoken today?	7	F	
8	A No.		proceedings and asked if I would sign write	
9	Q Is it accurate to say that you've never	9	out what had happened and send it to him, and I	
10	spoken to anybody from Google?	10	said sure.	
11	A About this, yeah.	11	Q Did you do that?	
12	Q And you've never spoken to anybody with	12	A No, I didn't do that.	
- 1	my law firm?	13	Q Maybe I misunderstood. So he asked you	
14	A No.		to fill out make a statement about what	
15	Q Have you spoken to Mr. Ettinger before		happened and send it to him and you said you	
	today?		would?	
17	A Yes.	17	A Exactly. And I said I would. And I	
18	Q How many times did you speak to him?	18	didn't because he called later and said he wanted	
19	A Let's see, three.	19	to do a deposition, like we're here right now.	
20	Q Do you recall when the first time you	$\frac{20}{21}$	And asked if I was available to do that, and I	
21	spoke to Mr. Ettinger was?	21	said sure.	
		122	O Did he agk you shout the feets that you	
22	A No specific date, no.	22	Q Did he ask you about the facts that you	

_	·	_		
	46			48
1	testified about this morning, about how you	1	Q MR. STERN: You can answer the	
	bought software, from whom you bought it, and	ı	question.	
3	sort of the story of what you testified to this	3	A What I'm thinking is I don't	
4	morning?	· ·	necessarily think news is reliable. It's just	
5	A He confirmed that the information		interesting. That's what I	
6	that I had sent him.	6	Q I don't mean do you consider that the	
7	Q Did you send him any documents?	7	news is reliable. I mean did you find Google,	
8	A No.	8		
9	Q So prior to today, you didn't provide	9	you click on the news, it provides you news?	
10	Mr. Ettinger any documents; is that right?	10	A Yeah.	
11	A No. Wasn't I sent him. I sent to	11	Q And I take it you use it also to	
12	Q To Google to Rosetta Stone?	12		
13	A To Rosetta Stone, yeah.	13	A Yes, I do.	
14	Q I take it that Mr. Ettinger didn't ask	14	Q Is there any search engine that you use	
15	you to send any documents to Rosetta Stone. You	15	more than Google?	
16	did that beforehand?	16	A No.	
17	A Yes.	17	Q So you're acquainted	
18	Q You know who my client is, who Google	18	A My computer defaults to that.	
19	is?	19	Q Is that right?	
20	A Yes.	20	A Yeah.	
21	Q Are you acquainted with the Google	21	Q Did you set that?	
22	search engine?	22	A Actually our IT people did.	
	47			49
1	A Yes.	1	Q The business that you're in, you're	
2	Q Do you use it frequently?	2	a golf course. Do you have a website?	
3	A Yes.	3	A Yes.	
4	Q How many times a day first of all,	4	Q Do you know is your website	
5	do you use it every day?	5	identifiable on Google?	
6	A Yes.	6	A I have no idea.	
7	Q How many times a day do you think you	7	Q You never looked up your website to see	
8	use it?	ı	if you could find it on Google?	
9	A I always read the news.	9	A No.	
10	Q And you use Google as the means of	10	Q Do you know if you've ever gotten	
	S		what do you call them customers, I guess, people	
12	A Uh-huh.		who play at the golf course. What do you call	
13	Q You type CNN or something to the search	13		
1	bar?	14	A Golfers.	
15	A No, I just type Google and then I	15	Q Golfers. How about that. Do you know	
16	shadow that little thing up at the top that says	ı	if golfers have ever come to your golf location	
17	"news."	17	2 2	
18	Q Do you find it a reliable source for	18	A No, I don't know.	
1	news?	19	Q Do you know if anybody's ever even	
20	MR. ETTINGER: Objection. Go ahead.		taken a look at your website?	
21	THE VIDEOGRAPHER: Mr. Ettinger, can you	21	A You mean did I do it can I prove	
22	put your mic on?	22	it? No. But I'm sure they have.	

		1		
	50			52
1	Q But have people reported back to you	1	buying?	
2	that they've looked at your website?	2	A It's very helpful, yeah.	
3	A Yeah.	3	Q And you have found it very helpful in	
4	Q Do you know if anybody's ever looked at	4	the past?	
5	your website on Google?	5	A Uh-huh.	
6	A No, I don't know.	6	Q And you still use it today?	
1 7	Q Have you ever used Google to buy	7	A Yes.	
8	product other than this particular occasion?	8	Q Even though you had this incident where	
9	A You mean to find product, not to buy	9	you obtained this product from this company over	
10	product, no.		the Internet, you still use Google today?	
11	Q I think that's a better question. Have	111	A Sure.	
	you ever used the Google search engine to	12	Q Let's talk about the product that we're	
13	identify a company from whom you could buy	1	talking about. I want to make sure that I	
1	product?		understand your testimony. You have the exhibits	
15	A I use the Google search engine not to		in front of you.	
16	identify the company, it's to find a product, and	16	A Uh-huh.	
17	then it just takes me to the company, yeah.	17	Q What was identified as Exhibit 1, I	
18	Q So you've used in the past you've	1	just want to make sure we're clear about this.	
19	used the Google search engine to find products?		Exhibit 1 is not a representation of the website	
20	A Yes.		that you saw when you typed in the words "Rosetta	
21	Q Have you used it to find services?		Stone." Correct?	
22	A No, I don't think so.	22	MR. ETTINGER: Objection as to form,	
	Ti Tvo, Tuont tiinik so.		With ETTH VOLICE Conjection as to form,	
	51			53
1		1	Counsel You might want to read your	53
1 2	Q What sort of products have you used the	1 2	Counsel. You might want to read your	53
2	Q What sort of products have you used the Google search engine to find?	2	question back.	53
2 3	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I	2 3	question back. Q What was identified as Exhibit 1 is not	53
2 3 4	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember.	2 3 4	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of	53
2 3 4 5	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one	2 3 4 5	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in	53
2 3 4 5 6	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion?	2 3 4 5 6	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct.	53
2 3 4 5	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I	2 3 4 5 6 7	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what	53
2 3 4 5 6 7 8	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop and	2 3 4 5 6 7 8	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general	53
2 3 4 5 6 7 8 9	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop andceiling tile, and I went on-line to kind of see	2 3 4 5 6 7 8 9	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked.	53
2 3 4 5 6 7 8 9 10	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop andceiling tile, and I went on-line to kind of see what was out there.	2 3 4 5 6 7 8 9	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of	53
2 3 4 5 6 7 8 9 10 11	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop and -ceiling tile, and I went on-line to kind of see what was out there. Q Did you type in "ceiling tile"?	2 3 4 5 6 7 8 9 10 11	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of what you saw?	53
2 3 4 5 6 7 8 9 10 11 12	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop and -ceiling tile, and I went on-line to kind of see what was out there. Q Did you type in "ceiling tile"? A Yeah.	2 3 4 5 6 7 8 9 10 11 12	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of what you saw? A No.	53
2 3 4 5 6 7 8 9 10 11 12 13	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop and -ceiling tile, and I went on-line to kind of see what was out there. Q Did you type in "ceiling tile"? A Yeah. Q At the time you typed in ceiling tile,	2 3 4 5 6 7 8 9 10 11 12 13	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of what you saw? A No. Q If I asked you to reconstruct exactly	53
2 3 4 4 5 6 6 7 8 9 10 11 12 13 14	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop andceiling tile, and I went on-line to kind of see what was out there. Q Did you type in "ceiling tile"? A Yeah. Q At the time you typed in ceiling tile, you didn't know much about what specific sort of	2 3 4 5 6 7 8 9 10 11 12 13 14	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of what you saw? A No. Q If I asked you to reconstruct exactly what you saw on that particular image that you	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop andceiling tile, and I went on-line to kind of see what was out there. Q Did you type in "ceiling tile"? A Yeah. Q At the time you typed in ceiling tile, you didn't know much about what specific sort of ceiling tile you wanted.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of what you saw? A No. Q If I asked you to reconstruct exactly what you saw on that particular image that you saw when you typed in Rosetta Stone, you	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop andceiling tile, and I went on-line to kind of see what was out there. Q Did you type in "ceiling tile"? A Yeah. Q At the time you typed in ceiling tile, you didn't know much about what specific sort of ceiling tile you wanted. A Correct.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of what you saw? A No. Q If I asked you to reconstruct exactly what you saw on that particular image that you saw when you typed in Rosetta Stone, you couldn't?	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop andceiling tile, and I went on-line to kind of see what was out there. Q Did you type in "ceiling tile"? A Yeah. Q At the time you typed in ceiling tile, you didn't know much about what specific sort of ceiling tile you wanted. A Correct. Q So you wanted to get some information	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of what you saw? A No. Q If I asked you to reconstruct exactly what you saw on that particular image that you saw when you typed in Rosetta Stone, you couldn't? A Exactly? Not a chance.	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop andceiling tile, and I went on-line to kind of see what was out there. Q Did you type in "ceiling tile"? A Yeah. Q At the time you typed in ceiling tile, you didn't know much about what specific sort of ceiling tile you wanted. A Correct. Q So you wanted to get some information about that?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of what you saw? A No. Q If I asked you to reconstruct exactly what you saw on that particular image that you saw when you typed in Rosetta Stone, you couldn't? A Exactly? Not a chance. Q If I asked you to tell me the what	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop andceiling tile, and I went on-line to kind of see what was out there. Q Did you type in "ceiling tile"? A Yeah. Q At the time you typed in ceiling tile, you didn't know much about what specific sort of ceiling tile you wanted. A Correct. Q So you wanted to get some information about that? A Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of what you saw? A No. Q If I asked you to reconstruct exactly what you saw on that particular image that you saw when you typed in Rosetta Stone, you couldn't? A Exactly? Not a chance. Q If I asked you to tell me the what the link looked like on the right side, namely	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop andceiling tile, and I went on-line to kind of see what was out there. Q Did you type in "ceiling tile"? A Yeah. Q At the time you typed in ceiling tile, you didn't know much about what specific sort of ceiling tile you wanted. A Correct. Q So you wanted to get some information about that? A Yes. Q Would you agree with me that Google is	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of what you saw? A No. Q If I asked you to reconstruct exactly what you saw on that particular image that you saw when you typed in Rosetta Stone, you couldn't? A Exactly? Not a chance. Q If I asked you to tell me the what the link looked like on the right side, namely the specific words that were on the link, could	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q What sort of products have you used the Google search engine to find? A Jeez, you know, I'm really sorry. I don't remember. Q That's all right. Was it more than one occasion? A Yeah, okay. I've got an example. I was looking for some tile for our proshop andceiling tile, and I went on-line to kind of see what was out there. Q Did you type in "ceiling tile"? A Yeah. Q At the time you typed in ceiling tile, you didn't know much about what specific sort of ceiling tile you wanted. A Correct. Q So you wanted to get some information about that? A Yes. Q Would you agree with me that Google is	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	question back. Q What was identified as Exhibit 1 is not a representation of the website I'm sorry, of the search results that you saw when you typed in the words, "Rosetta Stone." Correct. A Okay, now I'm a little lost of what the question is. This was kind of the general format, the way it looked. Q But this isn't the precise image of what you saw? A No. Q If I asked you to reconstruct exactly what you saw on that particular image that you saw when you typed in Rosetta Stone, you couldn't? A Exactly? Not a chance. Q If I asked you to tell me the what the link looked like on the right side, namely	53

_	· · · · · · · · · · · · · · · · · · ·	_		
	54			56
1	Q Do you know where it said Rosetta	1	yeah.	
2	Stone?	2	Q So this looks like the image was made	
3	A It was on this side of the page. Is	3	on October 11.	
4	that what you're talking about?	4	A Uh-huh.	
5	Q So you see on the right side of the	5	Q Is that what your understanding is, as	
6	page there are various different entries.	6	well?	
7	A Uh-huh.	7	A Yeah.	
8	Q And some are blue hyperlinks. Do you	8	Q And judging from the documents that	
9	see what I'm saying?		you've put into the that you testified about	
10	A Uh-huh.		this morning, would you look at Exhibit 9	
11	Q They're blue in color. They're		briefly?	
12	underlined. And beneath them there is text in	12	THE VIDEOGRAPHER: I want to let you know	
13	black.	13	we're about ten minutes away from changing	
14	A Okay.	14	the first tape.	
15	Q And beneath that there is text in	15	A Okay got it.	
	green.	16	Q If you look at Exhibit 9, you will	
17	A Got it.	17	agree with me that Exhibit 9 seems to indicate	
18	Q In the case of the advertisement that		that there is a PayPal transaction on or about	
19				
	Rosetta Stone were? Were they in blue? Were they	20	A Yes.	
	in black? Were they in green?	21		
$\begin{vmatrix} 21\\22\end{vmatrix}$	A I wouldn't have known.	22	Q Do you see that on the top right? A Yes.	
122	A I wouldn't have known.		A 165.	
	55			57
1	O. W. Lee v. Hard	١,	O Is it was a standard for that E Is it is	
	Q You have no idea?		Q Is it your understanding that Exhibit 2	
2	A No.		was made by your mom about two days before the	
3	Q With respect to the site that you went		actual transaction took place?	
4	to and I apologize. I've got a bunch of	4	A Yes.	
3	paperwork in front of me. I want to make sure	5	Q Now Exhibit 2 I'm sorry. Again, this	
I _	that I've got everything right. Could you take a		is the first time I'm seeing this today. I'm	
7	look at Exhibit 2?		looking at this cardboard box. And the cardboard	
8	A Uh-huh.		box I don't see on the cardboard box I'm	
9	Q Do you have that in front of you?		not trying to be argumentative, I just don't see	
10	A Yes, I do.		it. I don't see anything that shows that it was	
11	Q Ms. Jeffries, Exhibit 2, this is a			
	document that I believe you said either you or		you put to William Thomas on top of the box, is	
13	your mother made a copy of?		that covering the	
14	A My mom.	14	A Probably. Let me look at it.	
15	Q Do you recall the date that she made a	15	Q Don't take it off. I want to make sure	
	copy of this?		that	
17	A Well, it was between the day that	17	A No. You know what, where is that	
18	1 3	18	other thing, that mailing label?	
19	Q So I'm looking at the bottom I have	19	Q Hold on. I can direct you to it. There	
20	* * * * * * * * * * * * * * * * * * * *		was a mailing label	
21	but it looks like	21	A Six, six.	
22	A There it is, 10/11, October 11th,	22	Q Exhibit 6.	
		l		

	58	6	60
1	A It was underneath this thing, this	1 that this when I say "this," I mean Exhibit 2,	
2	plastic stuff.	2 is a facsimile, I mean a copy, of the precise	
3	Q So is it still there right now?	3 website that your mother identified as being the	
4	A No, no, here it is. You took it out	4 location that she wanted to get the product from?	
5	and put it in the box.	5 A Yes.	
6	Q I see. That's fine. I got it. So if I	6 Q Are you in a position to testify that	
7	understand then, so you took off the original	7 this is the website that you decided to buy the	
8	mailing label off of this	8 product from?	
9	A No, I didn't take it off. Well, I	9 A Yes.	
10	guess you could say it was in that plastic you	10 Q There is no doubt in your mind?	
11		11 A No.	
12	Q It's the insert.	12 Q Now, the product that we're looking at	
13	A Yeah, thanks.	13 on top of page Exhibit 2 has a price of \$178.	
14	Q So you took the plastic shipping label	14 A I know.	
15	out of the insert and put it in the box and sent	15 Q And I'm trying to figure out, was there	
1	it to Rosetta Stone?	16 another product that was referenced on this	
17	A Correct.	17 website that showed a product being sold for	
18	Q And it's your testimony that Exhibit 6	18 \$158?	
19		19 A No.	
20	box when you received it; is that right?	20 Q The check that you the PayPal	
21	A Uh-huh.	21 expense that you made was for \$158. Correct?	
22	Q I'm sorry. Is that correct?	22 A Correct.	
	·		_
	59		
	57		51
1			51
	A Yes. I'm sorry.	1 Q So my question is, if this if what	51
2	A Yes. I'm sorry. Q That's all right. And I'm just trying	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product	51
3	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the	51
2 3 4	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158?	51
3	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation.	51
2 3 4 5	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something.	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less	51
2 3 4 5 6	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer,	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178.	51
2 3 4 5 6 7	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the	551
2 3 4 5 6 7 8 9	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer,	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order	551
2 3 4 5 6 7 8	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes.	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website.	551
2 3 4 5 6 7 8 9 10 11	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes. Q It doesn't say any other company name	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website. 11 Q So do you have a copy of that?	551
2 3 4 5 6 7 8 9 10 11 12	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes. Q It doesn't say any other company name on it other than that; is that correct?	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website. 11 Q So do you have a copy of that? 12 A This was the confirming thingy.	1
2 3 4 5 6 7 8 9 10 11 12 13	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes. Q It doesn't say any other company name on it other than that; is that correct? A That's right.	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website. 11 Q So do you have a copy of that? 12 A This was the confirming thingy. 13 Q You are talking about now exhibit	1
2 3 4 5 6 7 8 9 10 11 12 13 14	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes. Q It doesn't say any other company name on it other than that; is that correct? A That's right. Q Taking your take a look at Exhibit 2	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website. 11 Q So do you have a copy of that? 12 A This was the confirming thingy. 13 Q You are talking about now exhibit 14 just so we're clear.	1
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes. Q It doesn't say any other company name on it other than that; is that correct? A That's right. Q Taking your take a look at Exhibit 2 again. That's the	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website. 11 Q So do you have a copy of that? 12 A This was the confirming thingy. 13 Q You are talking about now exhibit 14 just so we're clear. 15 A Nine.	1
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes. Q It doesn't say any other company name on it other than that; is that correct? A That's right. Q Taking your take a look at Exhibit 2 again. That's the A Okay.	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website. 11 Q So do you have a copy of that? 12 A This was the confirming thingy. 13 Q You are talking about now exhibit 14 just so we're clear. 15 A Nine. 16 Q Hold on. Exhibit 9.	551
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes. Q It doesn't say any other company name on it other than that; is that correct? A That's right. Q Taking your take a look at Exhibit 2 again. That's the A Okay. Q Got it?	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website. 11 Q So do you have a copy of that? 12 A This was the confirming thingy. 13 Q You are talking about now exhibit 14 just so we're clear. 15 A Nine. 16 Q Hold on. Exhibit 9. 17 A Right.	551
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes. Q It doesn't say any other company name on it other than that; is that correct? A That's right. Q Taking your take a look at Exhibit 2 again. That's the A Okay. Q Got it? A Yeah.	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website. 11 Q So do you have a copy of that? 12 A This was the confirming thingy. 13 Q You are talking about now exhibit 14 just so we're clear. 15 A Nine. 16 Q Hold on. Exhibit 9. 17 A Right. 18 Q Exhibit 9 is not an image of what was	551
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes. Q It doesn't say any other company name on it other than that; is that correct? A That's right. Q Taking your take a look at Exhibit 2 again. That's the A Okay. Q Got it? A Yeah. Q Exhibit 2. You said this is you	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website. 11 Q So do you have a copy of that? 12 A This was the confirming thingy. 13 Q You are talking about now exhibit 14 just so we're clear. 15 A Nine. 16 Q Hold on. Exhibit 9. 17 A Right. 18 Q Exhibit 9 is not an image of what was 19 in the website. Correct?	551
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes. Q It doesn't say any other company name on it other than that; is that correct? A That's right. Q Taking your take a look at Exhibit 2 again. That's the A Okay. Q Got it? A Yeah. Q Exhibit 2. You said this is you said your mom made a copy of this.	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website. 11 Q So do you have a copy of that? 12 A This was the confirming thingy. 13 Q You are talking about now exhibit 14 just so we're clear. 15 A Nine. 16 Q Hold on. Exhibit 9. 17 A Right. 18 Q Exhibit 9 is not an image of what was 19 in the website. Correct? 20 A No. That's the thing they send when	551
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A Yes. I'm sorry. Q That's all right. And I'm just trying to look on that shipping label, you'll see am I correct my copy is very poor. It looks like it says, company Shanghai A Something. Q something ping compute or computer, and then there is a stamp over it. Is that what yours looks like, as well? A Yes. Q It doesn't say any other company name on it other than that; is that correct? A That's right. Q Taking your take a look at Exhibit 2 again. That's the A Okay. Q Got it? A Yeah. Q Exhibit 2. You said this is you said your mom made a copy of this.	1 Q So my question is, if this if what 2 I'm looking at in Exhibit 2 shows a product 3 that's being sold at \$178, at what point in the 4 transaction did you see a charge for \$158? 5 A Not until we got this confirmation. 6 No. Not until I placed the order and it was less 7 than the 178. 8 Q I'm sorry. So when you say placed the 9 order 10 A On the website. 11 Q So do you have a copy of that? 12 A This was the confirming thingy. 13 Q You are talking about now exhibit 14 just so we're clear. 15 A Nine. 16 Q Hold on. Exhibit 9. 17 A Right. 18 Q Exhibit 9 is not an image of what was 19 in the website. Correct?	551

1			
	62		64
1	specific question. You didn't take withdraw	1 A No.	
	that. Exhibit 2 is a picture made by you or your	2 Q I want to take you if you take a	
	mother?	3 look at look at the very bottom of the page.	
4	MR. ETTINGER: Asked and answered.	4 A Uh-huh.	
5	A Mine.	5 Q I'm looking at Exhibit 2.	
6	Q MR. STERN: Your mom?	6 A Okay.	
7	A My mom.	7 MR. ETTINGER: You're on the first page?	
8	Q SO your mother didn't take a picture of	8 MR. STERN: The first page of Exhibit 2.	
	the actual web image that reflected the cart or	9 Q Do you see the last, the very last	
	invoice that she made out to buy the product; is	10 sentence, it says, "Think about all of the ways	
	that right?	11 you've tried to learn a language: classes at	
12	A That's right.	12 school, tapes and cassettes, even software that	
13	Q So and who between you and your	13 uses your native language as a base for your next	
1	mother was the person who actually entered the	14 one. What do they all have in common" space,	
	form in the website to buy the product?	15 "translation and memorization." Do you see that?	
16	A I did.	16 A Uh-huh.	
17	Q And used your mother's credit card	17 Q Do you notice I know that you have	
1	number?	18 an undergraduate degree from Stanford.	
19	A I did.	19 A Not exactly.	
20	Q And when you did that, what you didn't	20 Q I'm sorry, was it	
1	enter was \$178. You entered \$158.	21 A No. From Oregon.	
22	A I didn't enter anything. I just	22 Q From Oregon? Was it the masters from	
	63		
	95		65
1		1 Stanford?	65
1 2	clicked and it put in the amount.	1 Stanford? 2 A Yes.	65
2	clicked and it put in the amount. Q Did a receipt, an electronic receipt	2 A Yes.	65
2	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased?	2 A Yes. 3 Q I'm sorry. I apologize. You've got a	65
2 3	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that	65
2 3 4 5	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer.	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they	65
2 3 4 5	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation	65
2 3 4 5 6	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember.	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted	65
2 3 4 5 6 7 8	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question?	65
2 3 4 5 6 7 8	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember.	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection.	65
2 3 4 5 6 7 8 9	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No.	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes.	65
2 3 4 5 6 7 8 9 10	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No. Q Now, can you tell me what	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes. 11 Q You can answer.	65
2 3 4 5 6 7 8 9 10 11 12	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No. Q Now, can you tell me what investigation, if any, you made of this	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes. 11 Q You can answer.	65
2 3 4 5 6 7 8 9 10 11 12 13	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No. Q Now, can you tell me what investigation, if any, you made of this particular website, that's the one reflected in	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes. 11 Q You can answer. 12 A Yes. It's not written very well, is 13 it.	65
2 3 4 5 6 7 8 9 10 11 12 13 14	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No. Q Now, can you tell me what investigation, if any, you made of this	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes. 11 Q You can answer. 12 A Yes. It's not written very well, is 13 it. 14 Q If you look at the next page where it	65
2 3 4 5 6 7 8 9 10 11 12 13 14	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No. Q Now, can you tell me what investigation, if any, you made of this particular website, that's the one reflected in Exhibit 2, before you decided to purchase product	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes. 11 Q You can answer. 12 A Yes. It's not written very well, is 13 it.	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No. Q Now, can you tell me what investigation, if any, you made of this particular website, that's the one reflected in Exhibit 2, before you decided to purchase product from it?	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes. 11 Q You can answer. 12 A Yes. It's not written very well, is 13 it. 14 Q If you look at the next page where it 15 says that paragraph that starts, "That might	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No. Q Now, can you tell me what investigation, if any, you made of this particular website, that's the one reflected in Exhibit 2, before you decided to purchase product from it? A I didn't.	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes. 11 Q You can answer. 12 A Yes. It's not written very well, is 13 it. 14 Q If you look at the next page where it 15 says that paragraph that starts, "That might 16 work." Do you see that? It says, "That might	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No. Q Now, can you tell me what investigation, if any, you made of this particular website, that's the one reflected in Exhibit 2, before you decided to purchase product from it? A I didn't. Q Did you read in detail the contents of	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes. 11 Q You can answer. 12 A Yes. It's not written very well, is 13 it. 14 Q If you look at the next page where it 15 says that paragraph that starts, "That might 16 work." Do you see that? It says, "That might 17 work for a few words." 18 A I see it.	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No. Q Now, can you tell me what investigation, if any, you made of this particular website, that's the one reflected in Exhibit 2, before you decided to purchase product from it? A I didn't. Q Did you read in detail the contents of the website? A I did.	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes. 11 Q You can answer. 12 A Yes. It's not written very well, is 13 it. 14 Q If you look at the next page where it 15 says that paragraph that starts, "That might 16 work." Do you see that? It says, "That might 17 work for a few words." 18 A I see it. 19 Q "But what happens when you get to a	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No. Q Now, can you tell me what investigation, if any, you made of this particular website, that's the one reflected in Exhibit 2, before you decided to purchase product from it? A I didn't. Q Did you read in detail the contents of the website? A I did. Q Did you notice that when you read the	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes. 11 Q You can answer. 12 A Yes. It's not written very well, is 13 it. 14 Q If you look at the next page where it 15 says that paragraph that starts, "That might 16 work." Do you see that? It says, "That might 17 work for a few words." 18 A I see it. 19 Q "But what happens when you get to a 20 sentence or phrase," and then there is no	65
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	clicked and it put in the amount. Q Did a receipt, an electronic receipt pop up to show you what you had just purchased? A Yeah. I mean Q I'm talking about on the computer. You're on the computer. You click the button A I don't remember. Q But whatever image did or didn't come up, you didn't make a picture of it? A No. Q Now, can you tell me what investigation, if any, you made of this particular website, that's the one reflected in Exhibit 2, before you decided to purchase product from it? A I didn't. Q Did you read in detail the contents of the website? A I did.	2 A Yes. 3 Q I'm sorry. I apologize. You've got a 4 graduate degree. Would you agree with me that 5 that last sentence where it says, "What do they 6 all have in common" with the space, "translation 7 and memorization" is an improperly formatted 8 question? 9 MR. ETTINGER: Objection. 10 THE VIDEOGRAPHER: We're five minutes. 11 Q You can answer. 12 A Yes. It's not written very well, is 13 it. 14 Q If you look at the next page where it 15 says that paragraph that starts, "That might 16 work." Do you see that? It says, "That might 17 work for a few words." 18 A I see it. 19 Q "But what happens when you get to a 20 sentence or phrase," and then there is no	65

_	<u> </u>	
	66	68
1	A No.	1 product for \$158?
2	Q But in all events, I take it that when	2 A That's correct.
3	you were interested in buying this product, you	3 Q Was the fact that let me ask you
4	were looking for a present for your son at a good	4 this: Were you at all concerned that you were
5	price. Correct?	5 looking at a location on the Internet that was
6	A Yes.	6 selling a product that was a third to a quarter
7	Q Other than going to Staples and	7 of the price that was being offered elsewhere?
8	comparing the price of these three levels of	8 MR. ETTINGER: Objection as to form.
9	Spanish, did you go anywhere else to compare	9 A No.
1	price?	10 Q MR. STERN: You just thought it was a
11	A Well, I didn't go to Staples to	11 good discount?
12	compare the price. I went to Staples thinking	12 A I thought it was a great discount.
13	that they would match the price.	13 Q You thought it was a great discount.
14	Q Oh. It shows you how infrequently I go	14 Did you do any price comparison of the Spanish
15	to Staples.	15 Latin American level one, two and three on the
16	A Yeah.	16 Internet? Not with Staples, but just going on
17	Q So Staples has a program where if you	17 the Internet to see what other locations were
18	show them a particular price, they'll match it?	18 selling Rosetta Stone product for?
19	A Yes.	19 A No, I didn't.
20	Q So what you did is, you went to	20 Q Did you compare withdraw that.
21	Staples, bringing them a copy of Exhibit 2	When you typed in Rosetta Stone, did
22	A Yes.	22 you notice that the first search on the top level
	67	69
	Ç,	
1	Q and said, match this. Right?	1 of the listings on the left was the actual
2	A Yes.	2 Rosetta Stone.com site?
3	Q And they said, we won't match it.	3 A I didn't do the search.
4	A They said that they don't match	4 Q Your mom did.
5	things that are on the Internet.	5 A Uh-huh.
6	Q I see.	6 Q I see. Let me see if I got this
7	A It had to be someplace in town.	7 straight. And I apologize if I've confused this.
8	Q And did you notice how much Staples was	8 So what happened is your mom did the search and
	charging for the same Spanish Latin America level	9 then she called you and had you replicate the
1	one, two and three set?	10 search, and then you simply went through the
11	A No. I did know that they didn't have	11 mechanics of ordering the product?
	it in stock.	12 A Yeah.
13		1.12 (A. D.) J
	Q Have you seen, in other locations, that	Q Did you talk with your mom about any
	same set would sell anywhere from between 450 and	14 other sites that may have appeared on the search
15	same set would sell anywhere from between 450 and \$600?	14 other sites that may have appeared on the search 15 result page?
15 16	same set would sell anywhere from between 450 and \$600? A Yes.	 14 other sites that may have appeared on the search 15 result page? 16 A Probably. I don't remember.
15 16 17	same set would sell anywhere from between 450 and \$600? A Yes. Q And you understood that at the time	 14 other sites that may have appeared on the search 15 result page? 16 A Probably. I don't remember. 17 Q Did your mother tell you what it was
15 16 17 18	same set would sell anywhere from between 450 and \$600? A Yes. Q And you understood that at the time that you purchased the set for \$158?	 14 other sites that may have appeared on the search 15 result page? 16 A Probably. I don't remember. 17 Q Did your mother tell you what it was 18 about this site on the right-hand side that
15 16 17 18 19	same set would sell anywhere from between 450 and \$600? A Yes. Q And you understood that at the time that you purchased the set for \$158? A Say that again?	14 other sites that may have appeared on the search 15 result page? 16 A Probably. I don't remember. 17 Q Did your mother tell you what it was 18 about this site on the right-hand side that 19 attracted her to why she wanted to buy the
15 16 17 18 19 20	same set would sell anywhere from between 450 and \$600? A Yes. Q And you understood that at the time that you purchased the set for \$158? A Say that again? Q You understood that other locations	14 other sites that may have appeared on the search 15 result page? 16 A Probably. I don't remember. 17 Q Did your mother tell you what it was 18 about this site on the right-hand side that 19 attracted her to why she wanted to buy the 20 product from there?
15 16 17 18 19 20 21	same set would sell anywhere from between 450 and \$600? A Yes. Q And you understood that at the time that you purchased the set for \$158? A Say that again? Q You understood that other locations were selling Rosetta Stone for between 450 and	14 other sites that may have appeared on the search 15 result page? 16 A Probably. I don't remember. 17 Q Did your mother tell you what it was 18 about this site on the right-hand side that 19 attracted her to why she wanted to buy the 20 product from there? 21 A The price.
15 16 17 18 19 20 21	same set would sell anywhere from between 450 and \$600? A Yes. Q And you understood that at the time that you purchased the set for \$158? A Say that again? Q You understood that other locations	14 other sites that may have appeared on the search 15 result page? 16 A Probably. I don't remember. 17 Q Did your mother tell you what it was 18 about this site on the right-hand side that 19 attracted her to why she wanted to buy the 20 product from there?

_		_		
	79			72
9 10 11	A My mom looked at for pricing. Q I see. Do you know did she tell you whether or not she had actually gone on to the actual Rosetta Stone.com site, as well? A I don't recall. Q Let me ask you, had you based on the information that we've just gone through, the various punctuation mistakes in this particular website, had you noticed those when your mom had asked you to buy the product, would you have spoken to your mom about whether you thought it was a good idea to buy the product from this site? MR. ETTINGER: Objection. A No, I wouldn't have. I mean say that again. Q MR. STERN: Sure. The question is, if you had noticed the punctuation problems, would that have raised a flag with you about whether or not this site was real or not?	3 4 5 6 7 8 9 10	now more aware of counterfeit stuff, no. Q MR. STERN: I'll take that. A Huh-huh. Q That's fine. You said, if I understand you correctly, the only version of this product I'm sorry, the only CD of this product that you've played is the audio component CD. A One of them. Q And you put it in your car and it didn't work? A Correct. Q And that's it? A Yes. Q And you shipped it off to Rosetta Stone	
			and they told you that the product was counterfeit?	
21 22	A No. Q Basically the key thing was the price?	21 22	A Yes.	
1	7		O Did than tall you that the product	73
1 2 3 4	A What is? Q The key reason for going to this site and buying A Was the price, yes.	3 4	Q Did they tell you that the product wouldn't work? A I didn't ask them. Q And they didn't tell you one way or the	
5 6 7 8	Q was the price. Prior to your purchasing this product, had you ever bought a counterfeit product at all? A No.	5 6 7 8	A Huh-huh. Q You said that your mom got made whole	
9 10 11	Q Of any type?A No.Q And prior to let me ask you this:	9 10 11	money.	
14	As you sit here today, are you have you become acquainted with the problem in the software world with counterfeit software product?	13 14	did you or your mother complain about this incident to Google? A No.	
15 16 17	MR. ETTINGER: Objection. A Say that question again. Q MR. STERN: Sure.	17	Bureau? A No.	
20	A Because of this did I am I now familiar with Q No, not because of this. After this	18 19 20	A No. U.S. Post Office.Q I was about to get there. It sounds	
21	incident, has anything made you more familiar	21	like you did send a message to the U.S. Post	

	74 76
1 them? 2 A No, when I mailed it. I said	1 Q And you understand that the 2 advertisements don't belong to the newspaper,
3 before I packaged it I said, "Look, here is the	3 that they're simply the medium by which the
4 situation. Here is this. Is there something I	4 advertisements are being provided?
5 should do before I send it back to Rosetta	5 MR. STERN: Objection.
6 Stone?" The guy shrugged his shoulders and said	6 A Yes, I understand that.
7 no.	7 Q MR. STERN: When you see an
8 Q The language that's I'm sorry, the	8 advertisement in a newspaper, you don't believe
9 handwriting that's on Exhibit 9, is that yours or	9 that the newspaper is necessarily endorsing,
10 is that your mom's?	10 sponsoring or is affiliated with the
11 A That's my mom's.	11 advertisement. Right?
12 Q Did was it your mother who got the	MR. ETTINGER: Objection.
13 refund from American Express or was it you?	13 A Not always, no.
14 A Yes.	14 Q MR. STERN: And do you watch
15 Q Your mom?	15 television?
16 A It's my mother's card, yes.	16 A Sure.
17 Q Did American Express tell her why they	17 Q You've seen advertisements on
18 were giving her the refund?	18 television, as well. Correct?
19 A Yeah. I think well, they gave her	19 A Yes.
20 the refund when they got the letter from a	Q You know that advertisements that you
21 copy of the letter from Rosetta Stone saying that	21 see on television are the result of advertisers
22 it had been returned and it was counterfeit.	22 who buy media space on television?
	<u> </u>
	75
1 Q I see. So basically your mother gave	75 1 A Yes. 77
1 Q I see. So basically your mother gave 2 them the Rosetta Stone letter and then because of	
	1 A Yes.
2 them the Rosetta Stone letter and then because of	1 A Yes. 2 Q Media time. Correct?
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right?
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that.
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 11 Q And you've seen advertising in 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that. 11 Q When you have gone to Google and you
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 11 Q And you've seen advertising in 12 newspapers. Right? 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that. 11 Q When you have gone to Google and you 12 see all these when you do a search on Google,
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 11 Q And you've seen advertising in 12 newspapers. Right? 13 A Yes. 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that. 11 Q When you have gone to Google and you 12 see all these when you do a search on Google, 13 suddenly all these search results come up. You
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 11 Q And you've seen advertising in 12 newspapers. Right? 13 A Yes. 14 Q You've seen you ever see classified 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that. 11 Q When you have gone to Google and you 12 see all these when you do a search on Google, 13 suddenly all these search results come up. You 14 understand that the search results aren't created
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 11 Q And you've seen advertising in 12 newspapers. Right? 13 A Yes. 14 Q You've seen you ever see classified 15 ads in the newspaper? 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that. 11 Q When you have gone to Google and you 12 see all these when you do a search on Google, 13 suddenly all these search results come up. You 14 understand that the search results aren't created 15 by Google. Correct?
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 11 Q And you've seen advertising in 12 newspapers. Right? 13 A Yes. 14 Q You've seen you ever see classified 15 ads in the newspaper? 16 A Yes. 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that. 11 Q When you have gone to Google and you 12 see all these when you do a search on Google, 13 suddenly all these search results come up. You 14 understand that the search results aren't created 15 by Google. Correct? 16 MR. ETTINGER: Objection.
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 11 Q And you've seen advertising in 12 newspapers. Right? 13 A Yes. 14 Q You've seen you ever see classified 15 ads in the newspaper? 16 A Yes. 17 Q You understand that even though a 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that. 11 Q When you have gone to Google and you 12 see all these when you do a search on Google, 13 suddenly all these search results come up. You 14 understand that the search results aren't created 15 by Google. Correct? 16 MR. ETTINGER: Objection. 17 A I have no idea how that works.
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 11 Q And you've seen advertising in 12 newspapers. Right? 13 A Yes. 14 Q You've seen you ever see classified 15 ads in the newspaper? 16 A Yes. 17 Q You understand that even though a 18 newspaper may have classified ads or other 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that. 11 Q When you have gone to Google and you 12 see all these when you do a search on Google, 13 suddenly all these search results come up. You 14 understand that the search results aren't created 15 by Google. Correct? 16 MR. ETTINGER: Objection. 17 A I have no idea how that works. 18 Q MR. STERN: I see.
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 11 Q And you've seen advertising in 12 newspapers. Right? 13 A Yes. 14 Q You've seen you ever see classified 15 ads in the newspaper? 16 A Yes. 17 Q You understand that even though a 18 newspaper may have classified ads or other 19 advertising, those advertisements are placed by 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that. 11 Q When you have gone to Google and you 12 see all these when you do a search on Google, 13 suddenly all these search results come up. You 14 understand that the search results aren't created 15 by Google. Correct? 16 MR. ETTINGER: Objection. 17 A I have no idea how that works. 18 Q MR. STERN: I see. 19 A I mean, none.
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 11 Q And you've seen advertising in 12 newspapers. Right? 13 A Yes. 14 Q You've seen you ever see classified 15 ads in the newspaper? 16 A Yes. 17 Q You understand that even though a 18 newspaper may have classified ads or other 19 advertising, those advertisements are placed by 20 people who are advertising their products or 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that. 11 Q When you have gone to Google and you 12 see all these when you do a search on Google, 13 suddenly all these search results come up. You 14 understand that the search results aren't created 15 by Google. Correct? 16 MR. ETTINGER: Objection. 17 A I have no idea how that works. 18 Q MR. STERN: I see. 19 A I mean, none. 20 Q So when you do a search when you've
 2 them the Rosetta Stone letter and then because of 3 that, they gave her the refund? 4 A Correct. 5 Q Does your golf course do any form of 6 advertising? 7 A Other than on our own website, no. 8 Q You're aware of the fact that 9 newspapers do advertising in them. Correct? 10 A Yes. 11 Q And you've seen advertising in 12 newspapers. Right? 13 A Yes. 14 Q You've seen you ever see classified 15 ads in the newspaper? 16 A Yes. 17 Q You understand that even though a 18 newspaper may have classified ads or other 19 advertising, those advertisements are placed by 20 people who are advertising their products or 	1 A Yes. 2 Q Media time. Correct? 3 A Uh-huh. 4 Q And you understand that even though, 5 for example, you might see a particular 6 advertisement on NBC, that that doesn't mean that 7 NBC is sponsoring, endorsing, or otherwise 8 affiliated with a company that's offering that 9 particular product or service. Right? 10 A I understand that. 11 Q When you have gone to Google and you 12 see all these when you do a search on Google, 13 suddenly all these search results come up. You 14 understand that the search results aren't created 15 by Google. Correct? 16 MR. ETTINGER: Objection. 17 A I have no idea how that works. 18 Q MR. STERN: I see. 19 A I mean, none. 20 Q So when you do a search when you've

	78		80
1	Q It is a miracle. It is a miracle. But	1 think you mentioned that when you saw that the	
	you have no view one way or another how all that	2 product came from Shanghai, you, quote, figured	
	is done or who is developing those materials or	3 you had a problem, closed quote.	
	the links?	4 A I thought I had a problem.	
5	A Don't have a clue.	5 Q Is that because	
6	Q I think you testified, and I'm not sure	6 A It wasn't the Shanghai part. It was	
7	about this, but I think you testified that I	7 the dress and shoes.	
	think Mr. Ettinger asked you if you understood	8 Q The dress and shoes. If you look at	
	what a sponsored ad was or a sponsored link was,	9 the top of the receipt on Exhibit 6, you notice	
	and I think you testified that before all this	10 the Chinese characters at the very top of it?	
	you didn't know what one was. Right?	11 A I had no idea what language that was.	
12	A I had you know, no. That word up	12 Q And when you were seeking some sort of	
13	there, no. In fact no, I had no idea.	13 refund, you didn't contact Google of course.	
14	Q And that is to say, even though you've	14 Right?	
15	done web searches before, have you ever noticed	15 A No.	
	that phrase "sponsored links"?	16 Q You didn't think that Google had sold	
17	A On	17 you Rosetta Stone. Right?	
18	Q On Google?	18 MR. ETTINGER: Objection.	
19	A Sure.	19 A No.	
20	Q You didn't know what that meant?	20 MR. STERN: I'm done. Thank you very	
21	A No. I can tell you what I guessed it	21 much.	
22	meant. I thought you Google sponsored those.	MR. ETTINGER: Just a couple of follow up.	
	79		81
			81
1 2	Q Google sponsored those?	1 I want to make sure that the record is	81
2	Q Google sponsored those?A Uh-huh.	1 I want to make sure that the record is 2 clear.	81
2 3	Q Google sponsored those?A Uh-huh.Q Since all this has developed, have you	 I want to make sure that the record is clear. EXAMINATION 	81
2 3 4	 Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored 	 I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: 	81
2 3 4 5	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means?	 I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you 	81
2 3 4 5 6	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds.	1 I want to make sure that the record is 2 clear. 3 EXAMINATION 4 BY MR. ETTINGER: 5 Q Can I get you to put in front of you 6 Exhibit 2, and I believe it's the PayPal receipt,	81
2 3 4 5 6 7	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine?	81
2 3 4 5 6 7	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds.	1 I want to make sure that the record is 2 clear. 3 EXAMINATION 4 BY MR. ETTINGER: 5 Q Can I get you to put in front of you 6 Exhibit 2, and I believe it's the PayPal receipt,	81
2 3 4 5 6 7 8	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly.	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October	81
2 3 4 5 6 7 8 9	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October 10 11, 2009, your mother printed out what is Exhibit	81
2 3 4 5 6 7 8 9	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this development with this CD product?	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October	81
2 3 4 5 6 7 8 9 10 11	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this development with this CD product? A I became aware of it, yeah. Did	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October 10 11, 2009, your mother printed out what is Exhibit 11 2 from the Internet after doing a Google search.	81
2 3 4 5 6 7 8 9 10 11 12 13	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this development with this CD product? A I became aware of it, yeah. Did somebody tell me? No. You just kind of start to	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October 10 11, 2009, your mother printed out what is Exhibit 11 2 from the Internet after doing a Google search. 12 Correct?	81
2 3 4 5 6 7 8 9 10 11 12 13	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this development with this CD product? A I became aware of it, yeah. Did somebody tell me? No. You just kind of start to put two and two together kind of thing.	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October 10 11, 2009, your mother printed out what is Exhibit 11 2 from the Internet after doing a Google search. 12 Correct? 13 A Yes. 14 Q And gave you a copy of that?	81
2 3 4 5 6 7 8 9 10 11 12 13 14	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this development with this CD product? A I became aware of it, yeah. Did somebody tell me? No. You just kind of start to put two and two together kind of thing.	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October 10 11, 2009, your mother printed out what is Exhibit 11 2 from the Internet after doing a Google search. Correct? A Yes. A Yes. A We took that copy with us when we	81
2 3 4 5 6 7 8 9 10 11 12 13 14	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this development with this CD product? A I became aware of it, yeah. Did somebody tell me? No. You just kind of start to put two and two together kind of thing. Q And you put two and two together after	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October 10 11, 2009, your mother printed out what is Exhibit 11 2 from the Internet after doing a Google search. 12 Correct? 13 A Yes. 14 Q And gave you a copy of that?	81
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this development with this CD product? A I became aware of it, yeah. Did somebody tell me? No. You just kind of start to put two and two together kind of thing. Q And you put two and two together after this incident with Rosetta Stone?	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October 11, 2009, your mother printed out what is Exhibit 2 from the Internet after doing a Google search. Correct? A Yes. A Yes. A We took that copy with us when we went to Staples, yes.	81
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this development with this CD product? A I became aware of it, yeah. Did somebody tell me? No. You just kind of start to put two and two together kind of thing. Q And you put two and two together after this incident with Rosetta Stone? A Yeah.	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October In 11, 2009, your mother printed out what is Exhibit from the Internet after doing a Google search. Correct? A Yes. A Yes. A We took that copy with us when we went to Staples, yes. And two days later, on October 13,	81
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this development with this CD product? A I became aware of it, yeah. Did somebody tell me? No. You just kind of start to put two and two together kind of thing. Q And you put two and two together after this incident with Rosetta Stone? A Yeah. Q Is that right? A Yeah. As a matter of fact, I don't	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October In 11, 2009, your mother printed out what is Exhibit Correct? A Yes. A Yes. A Yes. A We took that copy with us when we went to Staples, yes. A Q And two days later, on October 13, A 2009, you placed your order with the	81
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this development with this CD product? A I became aware of it, yeah. Did somebody tell me? No. You just kind of start to put two and two together kind of thing. Q And you put two and two together after this incident with Rosetta Stone? A Yeah. Q Is that right?	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October 11, 2009, your mother printed out what is Exhibit 12 from the Internet after doing a Google search. Correct? A Yes. A Yes. A We took that copy with us when we went to Staples, yes. And two days later, on October 13, 2009, you placed your order with the softer4world.com?	81
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q Google sponsored those? A Uh-huh. Q Since all this has developed, have you gotten a better understanding of what sponsored links means? A I think it's like the classifieds. Q In other words, they're advertisers that are placing those; is that right? A Exactly. Q And you learned that after this development with this CD product? A I became aware of it, yeah. Did somebody tell me? No. You just kind of start to put two and two together kind of thing. Q And you put two and two together after this incident with Rosetta Stone? A Yeah. Q Is that right? A Yeah. As a matter of fact, I don't even pay attention to this stuff on the right	I want to make sure that the record is clear. EXAMINATION BY MR. ETTINGER: Q Can I get you to put in front of you Exhibit 2, and I believe it's the PayPal receipt, which is the exhibit that we have. Is it nine? A Yeah. Q So just so the record is clear, October 11, 2009, your mother printed out what is Exhibit 2 from the Internet after doing a Google search. Correct? A Yes. A Yes. A We took that copy with us when we went to Staples, yes. Q And two days later, on October 13, Roughly Staples, you placed your order with the softer4world.com? A Yes.	81

	82		84
1 2	A Yes. Q And you thought at the time you	2	ACKNOWLEDGMENT OF DEPONENT
3	placed your order, you thought you were buying it for \$178, but when it came up in your cart it was	3	I, DEBORAH PARK JEFFRIES, do hereby acknowledge that I
5	only 158; is that right?		have read and examined the foregoing pages of
6	A Yes.	5	testimony, and the same is a true, correct and complete
7 8	MR. ETTINGER: No further questions. THE VIDEOGRAPHER: This is the end? This	0 7	transcription of the testimony given by me and any changes or corrections, if any, appear in the attached
9	concludes the deposition of Ms. Jeffries.	8	errata sheet signed by me.
10	We're off the record. The time is 10:28.	9	
11 12	We're off the record. (DEPOSITION ADJOURNED AT 10:28 A.M.)	10 11	
13	(DEFOSITION ADJOURNED AT 10.26 A.W)	12	
14		13	
15		14 15	
16 17		16	
18		17	
19		18 19	
20 21		20	
22			
		21	DATE DEBORAH PARK JEFFRIES
	83		85
1	CERTIFICATE OF COURT REPORTER		Capital Reporting Company
2	I, Rosemary Tanzer, a Registered Professional		1821 Jefferson Place, Northwest 3rd Floor
3 4	Reporter and a Certified Shorthand Reporter for Oregon and Washington Certified Court Reporter, hereby certify		Washington, D.C. 20036
5	that said witness personally appeared before me at the	5	
I _	time and place set forth in the caption hereof; that at	6	ERRATASHEET
8	said time and place I reported in stenotype all testimony adduced and other oral proceedings had in the	7 8	Case Name: Rosetta Stone vs. Google, Inc. Witness Name: Deborah Pak Jeffries
9	foregoing matter; that thereafter my notes were	9	
	transcribed through computer-aided transcription, under	10	Page No. Line No. Change/Reason for Change
	my direction; and that the foregoing pages constitute a	11	
12	full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole	12 13	
1	thereof.	14	
15	Witness my hand at Portland, Oregon, this 15th day	15	
1	of March, 2010.	16	
17 18		17 18	
19		19	
20	Rosemary Tanzer	20	
21	OREGON CSR NO. 94-0299	21	Signatura Data
22		44	Signature Date

Mar 18 10 03:36p

Rosetta Stone Ltd. v. Google Inc. Case No. 1:09-CV-00736 (E.D. Va.)

5413451202

Deposition of Deborah Jeffries March 9, 2010

ERRATA SHEET

Page/Line	Correction
Page 11, line 7	change "huh-uh" to "no"
Page 19, line 16	change "1" to "2"
Page 21, line 19	change "a legal" to "illegal"
Page 48, line 20	change "Wasn't I sent him" to "I did not send any to him."
Page 64, line 9	change "178" to "\$178"
Page 65, line 11	change "SO" to "So"
Page 69, line 1	change "it." to "it?"

March 18, 2010

RITA PORTER 3/10/10

1

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA ALEXANDRIA DIVISION

ROSETTA STONE LTD., :

Plaintiff, :

vs. : Case No. 1:09-CV-00736

GOOGLE INC., : (GBL/TCB)

Defendant. :

Overland Park, Kansas Wednesday, March 10, 2010

VIDEOTAPED DEPOSITION OF RITA KAY PORTER,

a witness, taken on behalf of the Plaintiff,

pursuant to Notice, on the 10th day of March,

2010, at Overland Park Marriott, 10800 Metcalf

Avenue, Overland Park, Kansas, before Myles A.

Megee for Capital Reporting Company, a Registered

Professional Reporter, Certified in Kansas and

Missouri.

	- J
	2
1 APPEARANCES	1 PROCEEDINGS
1 APPEARANCES 2 On behalf of the Plaintiff	THE VIDEOGRAPHER: This is the
3 MR. MITCHELL S. ETTINGER	3 videotaped deposition of Rita Porter in Case
4 SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP	4 No. 1:09-CV-00736, in parentheses GBL/TCB, end
, ,	
6 Washington, DC 20005.	6 We're now going on the record at 10:24 a.m. 7 Will counsel please state their
8 On behalf of the Defendant	8 appearances for the record.
	**
, , , , , , , , , , , , , , , , , , , ,	,
10 QUINN, EMANUEL, URQUHART, OLIVER & HEDGES LLP	I -
11 555 Twin Dolphin Drive, Suite 560	` ` ` ` ` ` ` ` ` ` ` ` ` ` ` ` ` ` `
12 Redwood Shores, California 94065.	12 Emanuel on behalf of Google.
13	13 THE VIDEOGRAPHER: Thank you.
14 Also present:	Will the court reporter please
15 MS. LISA J. HARGIS, CLVS	15 swear in the witness. 16 RITA KAY PORTER.
16 MR. DAVE PERDARIS, Videographer	
17	17 a witness, being first duly sworn, testified under 18 oath as follows:
18	19 EXAMINATION
19	20 BY MR. ETTINGER:
20	21 Q. Please state your full name.
21	
22	A. Rita Kay Porter.Q. Have you been deposed before, ma'am?
23	24 A. Yes.
24	25 Q. Okay. So you know there's certain
25	2. Okay. So you know meres cerami
	3 5
1 INDEX	3
1 INDEX 2 WITNESS: PAGE:	
	1 ground rules we have to follow here?
2 WITNESS: PAGE:	1 ground rules we have to follow here?2 A. Yes.
2 WITNESS: PAGE: 3 RITA KAY PORTER	 ground rules we have to follow here? A. Yes. Q. All right. Let me just go over them
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4	 ground rules we have to follow here? A. Yes. Q. All right. Let me just go over them briefly this morning. Everything that's being
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42	 ground rules we have to follow here? A. Yes. Q. All right. Let me just go over them briefly this morning. Everything that's being said in this room today is being recorded verbatim
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83	 ground rules we have to follow here? A. Yes. Q. All right. Let me just go over them briefly this morning. Everything that's being said in this room today is being recorded verbatim by the court reporter sitting next to you, as well
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*:	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that?
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through 14 before you begin an answer and the same for
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24 13 Deposition Exhibit 5 29	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24 13 Deposition Exhibit 5 29 14 Deposition Exhibit 6 33 15 Deposition Exhibit 7 38 16 Deposition Exhibit 8 39	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through 14 before you begin an answer and the same for
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24 13 Deposition Exhibit 5 29 14 Deposition Exhibit 6 33 15 Deposition Exhibit 7 38 16 Deposition Exhibit 8 39 17 Deposition Exhibit 9 73	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through 14 before you begin an answer and the same for 15 Mr. Stern, that will make the record a little 16 cleaner; okay? 17 A. Okay.
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24 13 Deposition Exhibit 5 29 14 Deposition Exhibit 6 33 15 Deposition Exhibit 7 38 16 Deposition Exhibit 8 39 17 Deposition Exhibit 9 73	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through 14 before you begin an answer and the same for 15 Mr. Stern, that will make the record a little 16 cleaner; okay? 17 A. Okay. 18 Q. From time to time, you may hear counsel
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24 13 Deposition Exhibit 5 29 14 Deposition Exhibit 6 33 15 Deposition Exhibit 7 38 16 Deposition Exhibit 8 39 17 Deposition Exhibit 9 73	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through 14 before you begin an answer and the same for 15 Mr. Stern, that will make the record a little 16 cleaner; okay? 17 A. Okay.
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24 13 Deposition Exhibit 5 29 14 Deposition Exhibit 6 33 15 Deposition Exhibit 7 38 16 Deposition Exhibit 8 39 17 Deposition Exhibit 9 73	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through 14 before you begin an answer and the same for 15 Mr. Stern, that will make the record a little 16 cleaner; okay? 17 A. Okay. 18 Q. From time to time, you may hear counsel 19 for Google or myself interject an objection to a 20 question that's been asked. Those objections are
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24 13 Deposition Exhibit 5 29 14 Deposition Exhibit 6 33 15 Deposition Exhibit 7 38 16 Deposition Exhibit 8 39 17 Deposition Exhibit 9 73 18 19 20 21	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through 14 before you begin an answer and the same for 15 Mr. Stern, that will make the record a little 16 cleaner; okay? 17 A. Okay. 18 Q. From time to time, you may hear counsel 19 for Google or myself interject an objection to a 20 question that's been asked. Those objections are 21 for the record to be considered by the Court at a
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24 13 Deposition Exhibit 5 29 14 Deposition Exhibit 6 33 15 Deposition Exhibit 7 38 16 Deposition Exhibit 8 39 17 Deposition Exhibit 9 73 18 19 20 21 22 (*Exhibits attached to transcript)	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through 14 before you begin an answer and the same for 15 Mr. Stern, that will make the record a little 16 cleaner; okay? 17 A. Okay. 18 Q. From time to time, you may hear counsel 19 for Google or myself interject an objection to a 20 question that's been asked. Those objections are 21 for the record to be considered by the Court at a 22 later time, so allow the counsel to make the
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24 13 Deposition Exhibit 5 29 14 Deposition Exhibit 6 33 15 Deposition Exhibit 7 38 16 Deposition Exhibit 8 39 17 Deposition Exhibit 9 73 18 19 20 21 22 (*Exhibits attached to transcript) 23	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through 14 before you begin an answer and the same for 15 Mr. Stern, that will make the record a little 16 cleaner; okay? 17 A. Okay. 18 Q. From time to time, you may hear counsel 19 for Google or myself interject an objection to a 20 question that's been asked. Those objections are 21 for the record to be considered by the Court at a 22 later time, so allow the counsel to make the 23 objection, and if you can answer the question as
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24 13 Deposition Exhibit 5 29 14 Deposition Exhibit 6 33 15 Deposition Exhibit 7 38 16 Deposition Exhibit 8 39 17 Deposition Exhibit 9 73 18 19 20 21 22 (*Exhibits attached to transcript) 23 24	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through 14 before you begin an answer and the same for 15 Mr. Stern, that will make the record a little 16 cleaner; okay? 17 A. Okay. 18 Q. From time to time, you may hear counsel 19 for Google or myself interject an objection to a 20 question that's been asked. Those objections are 21 for the record to be considered by the Court at a 22 later time, so allow the counsel to make the 23 objection, and if you can answer the question as 24 it's posed to you, please do so.
2 WITNESS: PAGE: 3 RITA KAY PORTER 4 Examination by Mr. Ettinger 4 5 Examination by Mr. Stern 42 6 Reexamination by Mr. Ettinger 83 7 8 EXHIBITS*: 9 Deposition Exhibit 1 15 10 Deposition Exhibit 2 16 11 Deposition Exhibit 3 18 12 Deposition Exhibit 4 24 13 Deposition Exhibit 5 29 14 Deposition Exhibit 6 33 15 Deposition Exhibit 7 38 16 Deposition Exhibit 8 39 17 Deposition Exhibit 9 73 18 19 20 21 22 (*Exhibits attached to transcript) 23	1 ground rules we have to follow here? 2 A. Yes. 3 Q. All right. Let me just go over them 4 briefly this morning. Everything that's being 5 said in this room today is being recorded verbatim 6 by the court reporter sitting next to you, as well 7 as being recorded on the videotape, but in order 8 to help the court reporter, we need to make sure 9 that all of our answers are audible. Can you 10 agree to do that? 11 A. Yes. 12 Q. Secondly, if you would permit me to 13 answer ask my questions all the way through 14 before you begin an answer and the same for 15 Mr. Stern, that will make the record a little 16 cleaner; okay? 17 A. Okay. 18 Q. From time to time, you may hear counsel 19 for Google or myself interject an objection to a 20 question that's been asked. Those objections are 21 for the record to be considered by the Court at a 22 later time, so allow the counsel to make the 23 objection, and if you can answer the question as

		٠-		
	6			8
1	Q. All right. If you don't understand a	1	officer, ma'am?	
	uestion that's asked, just let me know and I'll	2	A. Twenty 25 years as a police officer,	
1	ephrase it.	3	two years as a reserve officer.	
4	A. Okay.	4	Q. And you indicated that you achieved the	
5	Q. All right. Finally, you are a guest	5	rank of major; is that correct?	
	ere today, you're not a captive prisoner, and if	6	A. That's correct.	
	ou need a break for any reason, you just let us	7	Q. And where does that fit in the	
	now and we'll accommodate you; okay?	8	hierarchy of the Overland Park Police Department?	
9	A. All right.	9	A. Starting at the top, there's the chief	
10	Q. All right. Ma'am, could you state your	10	of police, then there's the deputy chief of	
11 a	ddress.	11	police, then the major position.	
12	A. 10801 West 99th Street, Overland Park,	12	Q. You understand that this case involves	
13 K	Kansas 66214.	13	a civil lawsuit between Rosetta Stone and Google,	
14	Q. And how long have you lived at that	14	Inc.; is that right?	
15 a	ddress?	15	A. That's correct.	
16	A. 21 years.	16	Q. All right. And you've agreed to	
17	Q. And are you married?	17	provide testimony in this matter without requiring	
18	A. Yes.	18	a subpoena; isn't that true?	
19	Q. What is your husband's name?	19	A. That's true.	
20	A. David Vaughn Porter.	20	Q. Did anyone promise you anything in	
21	Q. And would you kindly state how young	21	return for your testimony today?	
1 1	ou are for the record.	22	A. No, they did not.	
23	A. I'm 59.	23	Q. Have you ever had the desire to learn a	
24	Q. What is the highest level of education	24 25	foreign language? A. Yes.	
25 tl	hat you've completed?	23	A. 165.	
	7			9
	7			9
1	A. Some master's some master's classes.	1	Q. Okay. When did that come about?	9
2	A. Some master's some master's classes.Q. Okay. Where did you receive your	2	A. In high school. I took Spanish for	9
2 3 u	A. Some master's some master's classes. Q. Okay. Where did you receive your ndergraduate degree from?	3	A. In high school. I took Spanish for four years.	9
2 3 u 4	A. Some master's some master's classes. Q. Okay. Where did you receive your ndergraduate degree from? A. Mid-America Nazarene University.	2 3 4	A. In high school. I took Spanish for four years.Q. Did you become fluent?	9
2 3 u 4 5	 A. Some master's some master's classes. Q. Okay. Where did you receive your ndergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? 	2 3 4 5	A. In high school. I took Spanish for four years.Q. Did you become fluent?A. Not very. Pretty good, but not fluent.	9
2 3 u 4 5 6	 A. Some master's some master's classes. Q. Okay. Where did you receive your ndergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. 	2 3 4 5 6	 A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has 	9
2 3 u 4 5 6 7	 A. Some master's some master's classes. Q. Okay. Where did you receive your ndergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some 	2 3 4 5 6 7	 A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been 	9
2 3 u 4 5 6 7 8 n	A. Some master's some master's classes. Q. Okay. Where did you receive your indergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some master's courses. Where did you do that?	2 3 4 5 6 7 8	 A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? 	9
2 3 u 4 5 6 7	A. Some master's some master's classes. Q. Okay. Where did you receive your indergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some master's courses. Where did you do that? A. University of Kansas.	2 3 4 5 6 7	 A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. 	9
2 3 u 4 5 6 7 8 n 9	A. Some master's some master's classes. Q. Okay. Where did you receive your indergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some master's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you	2 3 4 5 6 7 8 9	 A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? 	9
2 3 u 4 5 6 7 8 n 9	A. Some master's some master's classes. Q. Okay. Where did you receive your indergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some master's courses. Where did you do that? A. University of Kansas.	2 3 4 5 6 7 8 9	 A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? 	9
2 3 u 4 5 6 7 8 n 9 10 11 p	A. Some master's some master's classes. Q. Okay. Where did you receive your ndergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some naster's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you ursued towards your master's degree?	2 3 4 5 6 7 8 9 10	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work	9
2 3 u 4 5 6 7 8 n 9 10 11 p 12 13	A. Some master's some master's classes. Q. Okay. Where did you receive your ndergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some naster's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you sursued towards your master's degree? A. I believe 13 or so.	2 3 4 5 6 7 8 9 10 11 12	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work offered a class, so I took his Spanish class, and	9
2 3 u 4 5 6 7 8 n 9 10 11 p 12 13	A. Some master's some master's classes. Q. Okay. Where did you receive your ndergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some naster's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you nursued towards your master's degree? A. I believe 13 or so. Q. And is that for an MBA or some other	2 3 4 5 6 7 8 9 10 11 12 13	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work offered a class, so I took his Spanish class, and then later we had another at the they had	9
2 3 u 4 5 6 7 8 n 9 10 11 p 12 13 14 d 15	A. Some master's some master's classes. Q. Okay. Where did you receive your indergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some master's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you uursued towards your master's degree? A. I believe 13 or so. Q. And is that for an MBA or some other regree? A. For an MBA. It's an MPA, master's in sublic administration.	2 3 4 5 6 7 8 9 10 11 12 13 14	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work offered a class, so I took his Spanish class, and then later we had another at the they had somebody come in and teach, and so I started	9
2 3 u 4 5 6 7 8 n 9 10 11 p 12 13 14 d 15	A. Some master's some master's classes. Q. Okay. Where did you receive your indergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some inaster's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you insued towards your master's degree? A. I believe 13 or so. Q. And is that for an MBA or some other integree? A. For an MBA. It's an MPA, master's in	2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work offered a class, so I took his Spanish class, and then later we had another at the they had somebody come in and teach, and so I started taking those classes for Spanish.	9
2 3 u 4 5 6 7 8 m 9 10 11 p 12 13 14 d 15 16 p	A. Some master's some master's classes. Q. Okay. Where did you receive your indergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some master's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you uursued towards your master's degree? A. I believe 13 or so. Q. And is that for an MBA or some other regree? A. For an MBA. It's an MPA, master's in sublic administration.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work offered a class, so I took his Spanish class, and then later we had another at the they had somebody come in and teach, and so I started taking those classes for Spanish. Q. And were you able to achieve fluency in	9
2 3 u 4 5 6 7 8 n 9 10 11 p 12 13 14 d 15 16 p 17	A. Some master's some master's classes. Q. Okay. Where did you receive your ndergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some naster's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you cursued towards your master's degree? A. I believe 13 or so. Q. And is that for an MBA or some other degree? A. For an MBA. It's an MPA, master's in sublic administration. Q. Are you currently employed?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work offered a class, so I took his Spanish class, and then later we had another at the they had somebody come in and teach, and so I started taking those classes for Spanish. Q. And were you able to achieve fluency in Spanish through these other efforts?	9
2 3 u 4 5 6 7 8 n 9 10 11 p 12 13 14 d 15 16 p 17 18 19 20	A. Some master's some master's classes. Q. Okay. Where did you receive your ndergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some naster's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you sursued towards your master's degree? A. I believe 13 or so. Q. And is that for an MBA or some other egree? A. For an MBA. It's an MPA, master's in sublic administration. Q. Are you currently employed? A. No. I'm retired. Q. Okay. And when did you retire? A. January 28th, 2010.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work offered a class, so I took his Spanish class, and then later we had another at the they had somebody come in and teach, and so I started taking those classes for Spanish. Q. And were you able to achieve fluency in Spanish through these other efforts? A. No. Q. Most recently, did you attempt to gain fluency or improve your proficiency with Spanish?	9
2 3 u 4 5 6 7 8 n 9 10 11 p 12 13 14 d 15 16 p 17 18 19 20 21	A. Some master's some master's classes. Q. Okay. Where did you receive your ndergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some naster's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you sursued towards your master's degree? A. I believe 13 or so. Q. And is that for an MBA or some other egree? A. For an MBA. It's an MPA, master's in sublic administration. Q. Are you currently employed? A. No. I'm retired. Q. Okay. And when did you retire? A. January 28th, 2010. Q. And what was your profession before	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work offered a class, so I took his Spanish class, and then later we had another at the they had somebody come in and teach, and so I started taking those classes for Spanish. Q. And were you able to achieve fluency in Spanish through these other efforts? A. No. Q. Most recently, did you attempt to gain fluency or improve your proficiency with Spanish? A. Yes, I did.	9
2 3 u 4 5 6 7 8 n 9 10 11 p 12 13 14 d 15 16 p 17 18 19 20 21 22 rd	A. Some master's some master's classes. Q. Okay. Where did you receive your indergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some master's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you cursued towards your master's degree? A. I believe 13 or so. Q. And is that for an MBA or some other degree? A. For an MBA. It's an MPA, master's in mublic administration. Q. Are you currently employed? A. No. I'm retired. Q. Okay. And when did you retire? A. January 28th, 2010. Q. And what was your profession before estirement?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work offered a class, so I took his Spanish class, and then later we had another at the they had somebody come in and teach, and so I started taking those classes for Spanish. Q. And were you able to achieve fluency in Spanish through these other efforts? A. No. Q. Most recently, did you attempt to gain fluency or improve your proficiency with Spanish? A. Yes, I did. Q. Okay. When was that?	9
2 3 u 4 5 6 7 8 m 9 10 11 p 12 13 14 d 15 16 p 17 18 19 20 21 22 rd 23	A. Some master's some master's classes. Q. Okay. Where did you receive your indergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some master's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you cursued towards your master's degree? A. I believe 13 or so. Q. And is that for an MBA or some other degree? A. For an MBA. It's an MPA, master's in mublic administration. Q. Are you currently employed? A. No. I'm retired. Q. Okay. And when did you retire? A. January 28th, 2010. Q. And what was your profession before etirement? A. I was a police major with the City of	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work offered a class, so I took his Spanish class, and then later we had another at the they had somebody come in and teach, and so I started taking those classes for Spanish. Q. And were you able to achieve fluency in Spanish through these other efforts? A. No. Q. Most recently, did you attempt to gain fluency or improve your proficiency with Spanish? A. Yes, I did. Q. Okay. When was that? A. Last year.	9
2 3 u 4 5 6 7 8 m 9 10 11 p 12 13 14 d 15 16 p 17 18 19 20 21 22 rd 23	A. Some master's some master's classes. Q. Okay. Where did you receive your indergraduate degree from? A. Mid-America Nazarene University. Q. Okay. And what was your major? A. Management and human resources. Q. You indicated that you've taken some master's courses. Where did you do that? A. University of Kansas. Q. Do you recall how many hours you cursued towards your master's degree? A. I believe 13 or so. Q. And is that for an MBA or some other degree? A. For an MBA. It's an MPA, master's in mublic administration. Q. Are you currently employed? A. No. I'm retired. Q. Okay. And when did you retire? A. January 28th, 2010. Q. And what was your profession before estirement?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. In high school. I took Spanish for four years. Q. Did you become fluent? A. Not very. Pretty good, but not fluent. Q. During your adult life, have you has that desire to learn a foreign language ever been rekindled? A. Yes. Q. And when was that? A. Several times. One of the guys at work offered a class, so I took his Spanish class, and then later we had another at the they had somebody come in and teach, and so I started taking those classes for Spanish. Q. And were you able to achieve fluency in Spanish through these other efforts? A. No. Q. Most recently, did you attempt to gain fluency or improve your proficiency with Spanish? A. Yes, I did. Q. Okay. When was that?	9

10 12 1 words A. Well, I want to for personal level, but 2 also my son is in Spain. He's studying over there Q. And you indicated that this research 3 for the semester, and so we plan to take a trip was done on foot, by going to the store and 4 over there, and I thought if I could brush up on reading about Rosetta Stone? 5 my Spanish, I might be able to speak some Spanish A. Yes. 6 to folks and just enjoy it. 6 Did you actually see the Rosetta Stone Q. Ms. Porter, when did you first learn of 7 product in any of the stores that you were in? 8 A. I saw the book or the cover. They the company Rosetta Stone? A. I would have to say several years ago didn't really have the software inside. They only 10 when they started advertising on television. had the cover part. So I looked at that. So is that where you first learned of 11 When you say "the cover part," what do 12 you mean? 12 Rosetta Stone, through TV ads? 13 A. Probably. 13 The package that it came in, the box. 14 14 And what color was the box? Q. And what do you understand Rosetta 15 Stone sells? 15 Yellow. 16 16 Was it a distinctive color to you? A. They sell language software, and it's O. something where you use audio and you have 17 Oh, very. 18 visuals, and it just looked like a really good 18 So when did you determine that you wanted to purchase Rosetta Stone? Do you recall 19 19 program. You mentioned earlier that you recently 20 the approximate time frame? 21 wanted to brush up and become more proficient in 21 A. Probably the first part of November. 22 Spanish. 22 And you indicated that you went online 23 A. Yes. 23 to make that purchase; is that right? 24 24 Did you conduct any research to A. That's correct. 25 determine what product or products were available 25 Could you please describe for us what 11 13 1 to you to assist you in that nature? 1 you did when -- literally, when you went on the 2 A. Yes, I did. 2 Internet to try to purchase Rosetta Stone. 3 And when did you conduct that research? A. Okay. Well, I opened Google, and the 4 I started back in October. 4 first thing I saw was the top, the sponsored link And this is October of 2009? 5 5 that said "RosettaStone.com," so I went in there That's correct. 6 and I started looking at all their products and 6 7 And how did you conduct the research? found they had two different kinds of Spanish. Well, to start with, I started going to One is a Castilian Spanish, spoken in Spain, and 9 bookstores to see what was available there, and the other is the Mexican Spanish. I determined I 10 the more I thought about it, the more I wanted wanted the Castilian Spanish just because I 11 Rosetta Stone. So I went online, I checked thought, since I'm going to Spain, why not. And I 12 Google, and did some online research through 12 started researching that, determined I really 13 Google. wanted Levels 1 through 5, but probably could only 14 14 afford Levels 1 through 3. Q. Okay. 15 I like Google. They're a great search 15 So I started looking for Levels 1 A. 16 engine. 16 through 3, and -- just doing Google searches, 17 When you conducted this initial seeing who else might sell it. And, of course, 18 research through the bookstores, what factors led 18 Borders, Barnes & Noble, those types of people 19 you to conclude that you wanted to purchase sell it. And then there were some other links on 20 Rosetta Stone? the right-hand side, and one of them -- I clicked 21 A. Just looking at the different things 21 on that link -- it was \$142, which is a much 22 that were available. There was no one else that cheaper price. So I'm a bargain shopper, and I 22 23 appeared to have the same product they did where 23 thought, That sounds really good. 24 they have the actual computer where you can plug 24 Q. So let's go back just for a second. 25 When you went on Google, is that your default 25 in, you can listen, you can speak, you can see the

	· · · · · · · · · · · · · · · · · · ·			
	14			16
1	search engine?	1	Q. Okay. And what is the date of the	
2	A. Yes.	ı	transaction?	
3	Q. All right. So whenever you do searches	3	A. 11/15/2009.	
4	on the Internet, you use Google?	4	Q. And does that refresh your recollection	
5	A. Yes.	5	that you did this on November 15, 2009?	
6	Q. And do you recall what you actually	6	A. Yes, it does.	
7	typed into the search engine when you were looking	7	Q. You can put that down for just a	
8	for the Rosetta Stone software?	8	moment.	
9	A. "Rosetta Stone Spanish."	9	(Deposition Exhibit No. 2 was	
10	Q. And that was your search terms those	10	marked for identification.)	
11	were your search terms?	11	Q. (By Mr. Ettinger) Let me show you what	
12	A. Uh-huh.	ı	I've marked as Exhibit 2.	
13	Q. Did you do this Internet shopping in	13	MR. STERN: I'm sorry. Could	
14	one session where you went onto RosettaStone.com		you could you repeat the question and answer	
1	as you described and ultimately clicked on a link	ı	the question and the answer the last two,	
	for \$142, or did this occur over time?	ı	please.	
17	A. This occurred over time. Just about	17	(The record was read by the	
18 19	every night I was on just looking for for good prices.	19	reporter as requested.) Q. (By Mr. Ettinger) Let me show you what	
20	O. Bear with me one second.	ı	I've marked as Exhibit 2, just get you to take a	
21	Okay. When you typed in "Rosetta	21	look at that for a second. This is a three-page	
	Stone Spanish" at the time that you actually went	22	document which I will represent to you is a screen	
1	forward to make your purchase, okay, do you recall	ı	shot of a "Rosetta Stone Spanish" search	
	where the link appeared on the page that you	24	A. Uh-huh.	
25	actually clicked on to take you to the \$142 price?	25	Q that was done on 11/16/2009.	
1				
	15			17
1			A Okav	17
1 2	A. Yes. It was on the right-hand side of	1 2	A. Okay. O. And Lask you, can you, from looking at	17
2	A. Yes. It was on the right-hand side of the page.	1 2 3	Q. And I ask you, can you, from looking at	17
	A. Yes. It was on the right-hand side of the page.Q. And do you recall the name of the	2	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went	17
2 3	A. Yes. It was on the right-hand side of the page.	2 3 4	Q. And I ask you, can you, from looking at	17
2 3 4	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link?	2 3 4	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it	17
2 3 4 5	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall.	2 3 4 5	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall?	17
2 3 4 5	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall?	2 3 4 5	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating).	17
2 3 4 5 6 7	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure.	2 3 4 5 6 7 8 9	 Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, 	17
2 3 4 5 6 7 8 9 10	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l.	2 3 4 5 6 7 8 9	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says.	17
2 3 4 5 6 7 8 9 10	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was	2 3 4 5 6 7 8 9 10	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language	17
2 3 4 5 6 7 8 9 10 11 12	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.)	2 3 4 5 6 7 8 9 10 11 12	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale,	17
2 3 4 5 6 7 8 9 10 11 12 13	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show	2 3 4 5 6 7 8 9 10 11 12 13	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now,	17
2 3 4 5 6 7 8 9 10 11 12 13 14	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show you what I've marked as Exhibit 1 this is a	2 3 4 5 6 7 8 9 10 11 12 13 14	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now, www.Gainsoftmall.com/Rosetta Stone, Colorado."	17
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show you what I've marked as Exhibit 1 this is a two-page document bearing Bates Nos. RS-008-000030	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now, www.Gainsoftmall.com/Rosetta Stone, Colorado." Q. You indicated that the link that you	17
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show you what I've marked as Exhibit 1 this is a two-page document bearing Bates Nos. RS-008-000030 to '31 and ask you to just take a look at that	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now, www.Gainsoftmall.com/Rosetta Stone, Colorado." Q. You indicated that the link that you clicked on on November 15, 2009, appeared in the	17
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show you what I've marked as Exhibit 1 this is a two-page document bearing Bates Nos. RS-008-000030 to '31 and ask you to just take a look at that for a moment.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now, www.Gainsoftmall.com/Rosetta Stone, Colorado." Q. You indicated that the link that you clicked on on November 15, 2009, appeared in the right-hand side of your screen. Do you recall	17
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show you what I've marked as Exhibit 1 this is a two-page document bearing Bates Nos. RS-008-000030 to '31 and ask you to just take a look at that for a moment. A. (Indicating.)	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now, www.Gainsoftmall.com/Rosetta Stone, Colorado." Q. You indicated that the link that you clicked on on November 15, 2009, appeared in the right-hand side of your screen. Do you recall exactly where it appeared on November 15?	17
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show you what I've marked as Exhibit 1 this is a two-page document bearing Bates Nos. RS-008-000030 to '31 and ask you to just take a look at that for a moment. A. (Indicating.) Q. Do you recognize this document?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now, www.Gainsoftmall.com/Rosetta Stone, Colorado." Q. You indicated that the link that you clicked on on November 15, 2009, appeared in the right-hand side of your screen. Do you recall exactly where it appeared on November 15? A. I would no I would say it's on	17
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show you what I've marked as Exhibit 1 this is a two-page document bearing Bates Nos. RS-008-000030 to '31 and ask you to just take a look at that for a moment. A. (Indicating.) Q. Do you recognize this document? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now, www.Gainsoftmall.com/Rosetta Stone, Colorado." Q. You indicated that the link that you clicked on on November 15, 2009, appeared in the right-hand side of your screen. Do you recall exactly where it appeared on November 15? A. I would no I would say it's on the right-hand side, but I don't know if it was in	17
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show you what I've marked as Exhibit 1 this is a two-page document bearing Bates Nos. RS-008-000030 to '31 and ask you to just take a look at that for a moment. A. (Indicating.) Q. Do you recognize this document? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now, www.Gainsoftmall.com/Rosetta Stone, Colorado." Q. You indicated that the link that you clicked on on November 15, 2009, appeared in the right-hand side of your screen. Do you recall exactly where it appeared on November 15? A. I would no I would say it's on the right-hand side, but I don't know if it was in Spot No. 1 or 2, but it was 1 or 2.	17
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show you what I've marked as Exhibit 1 this is a two-page document bearing Bates Nos. RS-008-000030 to '31 and ask you to just take a look at that for a moment. A. (Indicating.) Q. Do you recognize this document? A. Yes. Q. Okay. Could you tell us what it is? A. I had made a purchase from Gainsoftmall	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now, www.Gainsoftmall.com/Rosetta Stone, Colorado." Q. You indicated that the link that you clicked on on November 15, 2009, appeared in the right-hand side of your screen. Do you recall exactly where it appeared on November 15? A. I would no I would say it's on the right-hand side, but I don't know if it was in	17
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show you what I've marked as Exhibit 1 this is a two-page document bearing Bates Nos. RS-008-000030 to '31 and ask you to just take a look at that for a moment. A. (Indicating.) Q. Do you recognize this document? A. Yes. Q. Okay. Could you tell us what it is? A. I had made a purchase from Gainsoftmall	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now, www.Gainsoftmall.com/Rosetta Stone, Colorado." Q. You indicated that the link that you clicked on on November 15, 2009, appeared in the right-hand side of your screen. Do you recall exactly where it appeared on November 15? A. I would no I would say it's on the right-hand side, but I don't know if it was in Spot No. 1 or 2, but it was 1 or 2. Q. All right. Thank you. You can turn	17
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. Yes. It was on the right-hand side of the page. Q. And do you recall the name of the company that was associated with that link? A. Gainsoftmall. Q. Gainsoftmall? A. Uh-huh. Would you like for me to spell that? Q. Sure. A. G-a-i-n-s-o-f-t-m-a-l-l. (Deposition Exhibit No. 1 was marked for identification.) Q. (By Mr. Ettinger) First, let me show you what I've marked as Exhibit 1 this is a two-page document bearing Bates Nos. RS-008-000030 to '31 and ask you to just take a look at that for a moment. A. (Indicating.) Q. Do you recognize this document? A. Yes. Q. Okay. Could you tell us what it is? A. I had made a purchase from Gainsoftmall and this was a purchase through PayPal, and it	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Q. And I ask you, can you, from looking at this, identify the link that you saw when you went onto the Internet on 11/15/2009 and clicked on it to take you to Gainsoftmall? A. Yes. It's this how do I do this? Q. Just hold it up and point to it. A. This one right here (indicating). Q. And could you for the record, please, read into the record what that says. A. Yes. It says, "\$142 Get Language Software, Level 1, 2, 3 with audio, now on sale, 74 percent off, free and fast shipping, buy now, www.Gainsoftmall.com/Rosetta Stone, Colorado." Q. You indicated that the link that you clicked on on November 15, 2009, appeared in the right-hand side of your screen. Do you recall exactly where it appeared on November 15? A. I would no I would say it's on the right-hand side, but I don't know if it was in Spot No. 1 or 2, but it was 1 or 2. Q. All right. Thank you. You can turn that over just a moment.	17

		·		
	18			20
1	Q. (By Mr. Ettinger) Let me show you what	1	A. Yes.	
2	I've marked as Exhibit 3. And I'll represent to	2	Q. And do you recall whether, in fact, it	
3	you that this is the landing page from the	1	had retail prices crossed through with the offered	
4	click on that link that you just identified in	4	purchase price?	
5	Exhibit 2 on the day after you purchased your	5	A. Yes.	
6	software, 11/16/2009.	6	Q. Okay. It appears as it does in	
7	MR. ETTINGER: That's	7	Exhibit 3?	
8	3 (indicating).	8	A. Yes.	
9	Q. (By Mr. Ettinger) And, ma'am, can you	9	Q. Had you ever purchased a product from	
10	tell us whether or not this is the very similar	10	Gainsoftmall before November 15, 2009?	
11	or the same landing page that you saw when you	11	A. No, I have not.	
12	clicked on the link?	12	Q. Ms. Porter, at the bottom of the second	
13	MR. STERN: Objection.	13	page of Exhibit 3, there is a what appears to	
14	A. Yes.	14	31	
15	MR. STERN: Foundation.	1	you see that?	
16	THE WITNESS: Sorry.	16	A. Yes.	
17	MR. STERN: That's all right. As	17	Q. Did you click on that, by any chance?	
18	counsel mentioned to you, I'm making formal	18	A. No.	
19	objections to the form of the question that's	19	Q. Do you remember clicking on any of	
20	being asked, but if you understand the question,	$\begin{vmatrix} 20 \\ 21 \end{vmatrix}$	those hyperlinks that appear at the bottom of the page, "Home," "Contact Us," "Shipping," "Privacy,"	
21 22	you may answer. THE WITNESS: Okay.	21 22	or "Site Map"?	
23	A. And, yes, it does appear to be similar	23	A. I believe I clicked on "Home" and got	
24	to or the one that I did click on.	24	the same pages basically, the same information,	
25	Q. (By Mr. Ettinger) Okay. And what	25	and then the "Shipping" I looked at to see, you	
	Q. (O) III. Dianger) Only. The III.	Ľ	and the supplied i content and see, you	
		1		
	19			21
1	about this Exhibit 3 looks familiar to you?	1	know, how it was going to be shipped or if there	21
1 2			know, how it was going to be shipped or if there was going to be a shipping charge.	21
	about this Exhibit 3 looks familiar to you?			21
2	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3,	2	was going to be a shipping charge.	21
2 3	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with	2 3	was going to be a shipping charge. Q. And what when you clicked on	21
2 3 4	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion."	2 3 4 5	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I	21
2 3 4 5 6 7	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right	2 3 4 5 6 7	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise.	21
2 3 4 5 6 7 8	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page?	2 3 4 5 6 7 8	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order	21
2 3 4 5 6 7 8 9	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct.	2 3 4 5 6 7 8 9	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com?	21
2 3 4 5 6 7 8 9 10	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And	2 3 4 5 6 7 8 9	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did.	21
2 3 4 5 6 7 8 9 10 11	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then	2 3 4 5 6 7 8 9 10	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your	21
2 3 4 5 6 7 8 9 10 11 12	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry.	2 3 4 5 6 7 8 9 10 11 12	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with	21
2 3 4 5 6 7 8 9 10 11 12 13	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is	2 3 4 5 6 7 8 9 10 11 12 13	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your	21
2 3 4 5 6 7 8 9 10 11 12 13 14	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is that correct?	2 3 4 5 6 7 8 9 10 11 12 13	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your search on Google for "Rosetta Stone Spanish"?	21
2 3 4 5 6 7 8 9 10 11 12 13 14 15	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is that correct? Q. No. What else what else in this	2 3 4 5 6 7 8 9 10 11 12 13 14 15	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your search on Google for "Rosetta Stone Spanish"? A. Yes, it was.	21
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is that correct? Q. No. What else what else in this document	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your search on Google for "Rosetta Stone Spanish"? A. Yes, it was. Q. And what did you, in fact, order?	21
2 3 4 5 6 7 8 9 10 11 12 13 14 15	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is that correct? Q. No. What else what else in this document A. Okay. The "100 percent satisfaction	2 3 4 5 6 7 8 9 10 11 12 13 14 15	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your search on Google for "Rosetta Stone Spanish"? A. Yes, it was. Q. And what did you, in fact, order? A. I ordered Rosetta Stone Version 3,	21
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is that correct? Q. No. What else what else in this document A. Okay. The "100 percent satisfaction guaranteed," the "30-day Money Back," the "Free	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your search on Google for "Rosetta Stone Spanish"? A. Yes, it was. Q. And what did you, in fact, order?	21
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is that correct? Q. No. What else what else in this document A. Okay. The "100 percent satisfaction	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your search on Google for "Rosetta Stone Spanish"? A. Yes, it was. Q. And what did you, in fact, order? A. I ordered Rosetta Stone Version 3, Spanish, parentheses, Spain, end of parentheses,	21
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is that correct? Q. No. What else what else in this document A. Okay. The "100 percent satisfaction guaranteed," the "30-day Money Back," the "Free Shipping."	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your search on Google for "Rosetta Stone Spanish"? A. Yes, it was. Q. And what did you, in fact, order? A. I ordered Rosetta Stone Version 3, Spanish, parentheses, Spain, end of parentheses, Level 1, 2, and 3 set with audio companion for	21
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is that correct? Q. No. What else what else in this document A. Okay. The "100 percent satisfaction guaranteed," the "30-day Money Back," the "Free Shipping." Q. All of those things appeared on the web	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your search on Google for "Rosetta Stone Spanish"? A. Yes, it was. Q. And what did you, in fact, order? A. I ordered Rosetta Stone Version 3, Spanish, parentheses, Spain, end of parentheses, Level 1, 2, and 3 set with audio companion for \$142.	21
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is that correct? Q. No. What else what else in this document A. Okay. The "100 percent satisfaction guaranteed," the "30-day Money Back," the "Free Shipping." Q. All of those things appeared on the web site that you looked at?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your search on Google for "Rosetta Stone Spanish"? A. Yes, it was. Q. And what did you, in fact, order? A. I ordered Rosetta Stone Version 3, Spanish, parentheses, Spain, end of parentheses, Level 1, 2, and 3 set with audio companion for \$142. Q. Now, you indicated that you had done a	21
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is that correct? Q. No. What else what else in this document A. Okay. The "100 percent satisfaction guaranteed," the "30-day Money Back," the "Free Shipping." Q. All of those things appeared on the web site that you looked at? A. Yes. Q. And did the web site that you the landing page that you went to on November 15th,	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your search on Google for "Rosetta Stone Spanish"? A. Yes, it was. Q. And what did you, in fact, order? A. I ordered Rosetta Stone Version 3, Spanish, parentheses, Spain, end of parentheses, Level 1, 2, and 3 set with audio companion for \$142. Q. Now, you indicated that you had done a little research about Rosetta Stone, so I take it you understood at the time that you made this purchase you understood that other companies were	21
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	about this Exhibit 3 looks familiar to you? A. On page 2, "Rosetta Stone Version 3, Spanish (Latin America), Level 1, 2, 3 Set with Audio Companion." Q. You're talking about the A. The last one, the Spain. Q. So the last one appearing on the right on the second page? A. That's correct. Q. All right. And A. And then Q. Go ahead. I'm sorry. A. You said what else appealed to me; is that correct? Q. No. What else what else in this document A. Okay. The "100 percent satisfaction guaranteed," the "30-day Money Back," the "Free Shipping." Q. All of those things appeared on the web site that you looked at? A. Yes. Q. And did the web site that you the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	was going to be a shipping charge. Q. And what when you clicked on "Shipping," what did the site tell you? A. It was a free shipping. I don't really recall more about it, but I was satisfied that I was going to get my merchandise. Q. Okay. Did you actually place an order with Gainsoftmall.com? A. Yes, I did. Q. All right. And when you placed your order, was it through your with Gainsoftmall.com, was it in connection with your search on Google for "Rosetta Stone Spanish"? A. Yes, it was. Q. And what did you, in fact, order? A. I ordered Rosetta Stone Version 3, Spanish, parentheses, Spain, end of parentheses, Level 1, 2, and 3 set with audio companion for \$142. Q. Now, you indicated that you had done a little research about Rosetta Stone, so I take it you understood at the time that you made this	21

		Ť		
	22			24
1	isn't that right?	1	Q. Let me show you what's been marked as	
2	A. That's correct.	ı	Exhibit 4.	
3	Q. Did the lower purchase price offered	3	(Deposition Exhibit No. 4 was	
4	through Gainsoftmall lead you to conclude that the		marked for identification.)	
5	product that you were ordering was not genuine	5	Q. (By Mr. Ettinger) You can put that one	
6	Rosetta Stone software?	ı	down.	
7	A. Was not genuine? No. It was it	7	This is a two-page three-page	
8	appeared to be absolutely genuine.	8	document, RS-008-000027 through '29. And if I	
9	Q. So when you placed the order, is it	9	could get you to look at the second page, which is	
10	fair to say that you believed you were purchasing	10	numbered 28 at the bottom. Do you see that?	
11	genuine Rosetta Stone software?	11	A. Number 28, yes.	
12	A. Yes, I did.	12	Q. Okay. So we're just on the same page	
13	Q. Have you ever heard the term	13	here. Can you tell us whether or not that the	
14	"counterfeit software"?	14		
15	A. Not "counterfeit."	15	the confirmation you received from Gainsoftmall?	
16	Q. Is in the term in the police	16	A. Yes.	
17	vernacular, is there a term for	17	Q. Do you know what the reference to	
18	A. Bootlegged.	18	"Order Number: 3" means?	
19	Q. Bootlegged. So what does that term	19	A. No. Other than the fact it's probably	
20	"bootlegged software" mean to you?	20	the third order they received for it. I don't	
21	A. Means that it's not authentic.	21	know.	
22	Q. Is it illegal to sell bootlegged	22	Q. Do you recall whether the web site	
23	software?	23	indicated how many copies of the software it had	
24	A. Yes.	24	available for purchase?	
25	MR. STERN: Objection. Objection.	25	A. Yes. It was something like 700 and	
		H		
	23			25
		1	come I think	25
1 2	Legal foundation.	ı	some, I think.	25
2	Legal foundation. Q. (By Mr. Ettinger) From your experience	2	Q. And you saw that on the web site	25
3	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's	2 3	Q. And you saw that on the web site itself?	25
2 3 4	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas?	2 3 4	Q. And you saw that on the web site itself? A. Yes.	25
2 3 4 5	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal.	2 3 4 5	Q. And you saw that on the web site itself?A. Yes.Q. Now, if you look at the date ordered	25
2 3 4 5 6	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order	2 3 4 5 6	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on	25
2 3 4 5 6 7	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase	2 3 4 5 6 7	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see	25
2 3 4 5 6 7 8	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software?	2 3 4 5 6 7 8	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that?	25
2 3 4 5 6 7 8 9	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No.	2 3 4 5 6 7 8 9	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what	25
2 3 4 5 6 7 8	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with	2 3 4 5 6 7 8	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking.	25
2 3 4 5 6 7 8 9 10	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is	2 3 4 5 6 7 8 9 10 11	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received	25
2 3 4 5 6 7 8 9 10	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with	2 3 4 5 6 7 8 9 10 11 12	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking.	25
2 3 4 5 6 7 8 9 10 11 12	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct.	2 3 4 5 6 7 8 9 10 11 12	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and	25
2 3 4 5 6 7 8 9 10 11 12 13	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct.	2 3 4 5 6 7 8 9 10 11 12 13	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and on what date?	25
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct. Q. All right. What is PayPal?	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and on what date? A. November 15th at 10:44 a.m.	25
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct. Q. All right. What is PayPal? A. Well, that's a good question. It's a it's a company, I guess, that takes your	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and on what date? A. November 15th at 10:44 a.m. Q. Okay. And do you see if you go down	25
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct. Q. All right. What is PayPal? A. Well, that's a good question. It's a it's a company, I guess, that takes your	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and on what date? A. November 15th at 10:44 a.m. Q. Okay. And do you see if you go down just a little ways on the page, it has a date	25
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct. Q. All right. What is PayPal? A. Well, that's a good question. It's a it's a company, I guess, that takes your money and gives it to the person that is selling	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and on what date? A. November 15th at 10:44 a.m. Q. Okay. And do you see if you go down just a little ways on the page, it has a date ordered.	25
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct. Q. All right. What is PayPal? A. Well, that's a good question. It's a it's a company, I guess, that takes your money and gives it to the person that is selling the goods.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and on what date? A. November 15th at 10:44 a.m. Q. Okay. And do you see if you go down just a little ways on the page, it has a date ordered. A. Monday, November 16th, 2009.	25
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct. Q. All right. What is PayPal? A. Well, that's a good question. It's a it's a company, I guess, that takes your money and gives it to the person that is selling the goods. Q. And did you use a credit card through	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and on what date? A. November 15th at 10:44 a.m. Q. Okay. And do you see if you go down just a little ways on the page, it has a date ordered. A. Monday, November 16th, 2009. Q. Okay. At the time you received this,	25
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct. Q. All right. What is PayPal? A. Well, that's a good question. It's a it's a company, I guess, that takes your money and gives it to the person that is selling the goods. Q. And did you use a credit card through PayPal to make the purchase?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and on what date? A. November 15th at 10:44 a.m. Q. Okay. And do you see if you go down just a little ways on the page, it has a date ordered. A. Monday, November 16th, 2009. Q. Okay. At the time you received this, did that give you any reason for concern that the	25
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct. Q. All right. What is PayPal? A. Well, that's a good question. It's a it's a company, I guess, that takes your money and gives it to the person that is selling the goods. Q. And did you use a credit card through PayPal to make the purchase? A. Yes, I did. My American Express card.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and on what date? A. November 15th at 10:44 a.m. Q. Okay. And do you see if you go down just a little ways on the page, it has a date ordered. A. Monday, November 16th, 2009. Q. Okay. At the time you received this, did that give you any reason for concern that the order date was one day after the date that you	25
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct. Q. All right. What is PayPal? A. Well, that's a good question. It's a it's a company, I guess, that takes your money and gives it to the person that is selling the goods. Q. And did you use a credit card through PayPal to make the purchase? A. Yes, I did. My American Express card. Q. Do you recall whether you received	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and on what date? A. November 15th at 10:44 a.m. Q. Okay. And do you see if you go down just a little ways on the page, it has a date ordered. A. Monday, November 16th, 2009. Q. Okay. At the time you received this, did that give you any reason for concern that the order date was one day after the date that you actually received the e-mail from them?	25
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Legal foundation. Q. (By Mr. Ettinger) From your experience as a police officer, do you know whether it's legal to sell bootlegged software in Kansas? A. It is not legal. Q. At the time that you placed your order with Gainsoftmall, did you intend to purchase bootlegged software? A. No. Q. Okay. You indicated you paid with your you paid for the order with PayPal; is that right? A. That's correct. Q. All right. What is PayPal? A. Well, that's a good question. It's a it's a company, I guess, that takes your money and gives it to the person that is selling the goods. Q. And did you use a credit card through PayPal to make the purchase? A. Yes, I did. My American Express card. Q. Do you recall whether you received confirmation from Gainsoftmall that your order had	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. And you saw that on the web site itself? A. Yes. Q. Now, if you look at the date ordered that appears a little bit below your name on the on that same page, page 28 do you see that? A. I'm sorry. I don't understand what you're asking. Q. Okay. The e-mail that you received from Gainsoftmall came in to you at what time and on what date? A. November 15th at 10:44 a.m. Q. Okay. And do you see if you go down just a little ways on the page, it has a date ordered. A. Monday, November 16th, 2009. Q. Okay. At the time you received this, did that give you any reason for concern that the order date was one day after the date that you actually received the e-mail from them? A. No. I probably didn't even read the e-mail. I just saw order confirmation No. 3 and	25

	26			28
1	Q. Okay. And does this confirmation	1	you even recognize the fact that the payment had	
2	reflect the purchase price that you paid, \$142?	2	gone to someone with a Chinese surname?	
3	A. Yes.	3	A. The Chinese surname, yes.	
4	Q. And it lists your home address	4	Q. Did you, in fact, receive product from	
5	accurately?	5	Gainsoftmall?	
6	A. Yes.	6	A. I did.	
7	Q. And the payment method accurately;	7	Q. Could you describe for us, please, what	
8	correct?	ı	you received.	
9	A. Yes.	9	A. It looked like a well, it was a	
10	Q. Now, could I get you to go back to	I	Rosetta Stone box. It looked like the way a cigar	
11 12	Exhibit 1 just for a moment. A. Exhibit 1?	11	box opened. It was complicated for me because I	
13	Q. Exhibit 1, which is the PayPal receipt.	13	expected it just to open up and slide out, but it opened differently than I thought it would. Is	
14	A. Okay.	14	that all you want me to say about that?	
15	Q. All right. You indicated that you	15	Q. Well, what color was the box?	
	actually received this PayPal receipt through your	16	A. It was yellow.	
17	e-mail; correct?	17	Q. And did it have any images on the box?	
18	A. That's correct.	18	A. Yes. It looked like a Rosetta Stone	
19	Q. All right. At the time you received	19	box that I had seen in Borders or Barnes & Noble.	
20	the PayPal receipt that included a reference to a	20	Q. From the from the outward appearance	
21	payment made to someone with a Chinese name	21	of the product that you received, could you	
22	A. Yes.	22	distinguish it in any way from the product that	
23	Q because and I say that because of	23	you had seen at Borders?	
24	the Chinese symbols.	24	A. No. It looked exactly the same.	
25	A. Uh-huh.	25	(Deposition Exhibit No. 5 was	
	27			29
1	Q. Do you recall seeing it at the time and	1	marked for identification.)	29
		2	Q. (By Mr. Ettinger) All right. Before	29
	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name?	2	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box	29
2 3 4	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022.	2 3 4	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh.	29
2 3 4 5	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that	2 3 4 5	 Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as 	29
2 3 4 5 6	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry.	2 3 4 5 6	 Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. 	29
2 3 4 5 6 7	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the	2 3 4 5 6 7	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes.	29
2 3 4 5 6 7 8	Q. Do you recall seeing it at the time and recognizing that your payment went to somesomeone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer.	2 3 4 5 6 7 8	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this	29
2 3 4 5 6 7 8 9	Q. Do you recall seeing it at the time and recognizing that your payment went to somesomeone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second.	2 3 4 5 6 7 8 9	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of	29
2 3 4 5 6 7 8 9 10	Q. Do you recall seeing it at the time and recognizing that your payment went to somesomeone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure.	2 3 4 5 6 7 8 9 10	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier.	29
2 3 4 5 6 7 8 9 10	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the	2 3 4 5 6 7 8 9 10 11	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on.	29
2 3 4 5 6 7 8 9 10 11 12	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter:	2 3 4 5 6 7 8 9 10 11 12	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.)	29
2 3 4 5 6 7 8 9 10 11 12 13	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter: QUESTION: "Do you recall seeing	2 3 4 5 6 7 8 9 10 11 12 13	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.) Q. (By Mr. Ettinger) So you have before	29
2 3 4 5 6 7 8 9 10 11 12 13 14	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter: QUESTION: "Do you recall seeing it at the time and recognizing that your payment	2 3 4 5 6 7 8 9 10 11 12 13	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.)	29
2 3 4 5 6 7 8 9 10 11 12 13 14	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter: QUESTION: "Do you recall seeing	2 3 4 5 6 7 8 9 10 11 12 13 14	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.) Q. (By Mr. Ettinger) So you have before you Exhibit 5; right?	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter: QUESTION: "Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name?")	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.) Q. (By Mr. Ettinger) So you have before you Exhibit 5; right? A. Yes.	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter: QUESTION: "Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name?") MR. STERN: I'm good. That's	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.) Q. (By Mr. Ettinger) So you have before you Exhibit 5; right? A. Yes. Q. Okay. Can you tell us what this is.	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter: QUESTION: "Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name?") MR. STERN: I'm good. That's fine.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.) Q. (By Mr. Ettinger) So you have before you Exhibit 5; right? A. Yes. Q. Okay. Can you tell us what this is. A. This is the I don't know what to	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter: QUESTION: "Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name?") MR. STERN: I'm good. That's fine. Q. (By Mr. Ettinger) Did the fact that	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.) Q. (By Mr. Ettinger) So you have before you Exhibit 5; right? A. Yes. Q. Okay. Can you tell us what this is. A. This is the I don't know what to call it the packing slip or whatever that was	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter: QUESTION: "Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name?") MR. STERN: I'm good. That's fine. Q. (By Mr. Ettinger) Did the fact that your payment the fact that your payment went to	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.) Q. (By Mr. Ettinger) So you have before you Exhibit 5; right? A. Yes. Q. Okay. Can you tell us what this is. A. This is the I don't know what to call it the packing slip or whatever that was on the outside of the box that came to my house from CHENPING. Q. Okay. And as far as the name and	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter: QUESTION: "Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name?") MR. STERN: I'm good. That's fine. Q. (By Mr. Ettinger) Did the fact that your payment the fact that your payment went to someone who had a Chinese name and a the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.) Q. (By Mr. Ettinger) So you have before you Exhibit 5; right? A. Yes. Q. Okay. Can you tell us what this is. A. This is the I don't know what to call it the packing slip or whatever that was on the outside of the box that came to my house from CHENPING.	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter: QUESTION: "Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name?") MR. STERN: I'm good. That's fine. Q. (By Mr. Ettinger) Did the fact that your payment the fact that your payment went to someone who had a Chinese name and a the "CHENPING022," did that give you any reason to be alarmed? A. No.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.) Q. (By Mr. Ettinger) So you have before you Exhibit 5; right? A. Yes. Q. Okay. Can you tell us what this is. A. This is the I don't know what to call it the packing slip or whatever that was on the outside of the box that came to my house from CHENPING. Q. Okay. And as far as the name and description of the contents, can you can you read that into the record. Appears in the lower	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Q. Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name? A. Yes. I thought, CHENPING022. Q. Did that MR. STERN: I'm sorry. I'm sorry. Can I get that back again, please, just the question and answer. MR. ETTINGER: Just one second. THE WITNESS: Sure. (The following was read by the reporter: QUESTION: "Do you recall seeing it at the time and recognizing that your payment went to some someone with a Chinese name?") MR. STERN: I'm good. That's fine. Q. (By Mr. Ettinger) Did the fact that your payment the fact that your payment went to someone who had a Chinese name and a the "CHENPING022," did that give you any reason to be alarmed?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. (By Mr. Ettinger) All right. Before we get into the contents of the box A. Uh-huh. Q let me show you what I've marked as Exhibit 5. A. Yes. MR. ETTINGER: And, Claude, this is the shipping label that I gave you a copy of earlier. MR. STERN: Okay. Hold on. (Discussion off the record.) Q. (By Mr. Ettinger) So you have before you Exhibit 5; right? A. Yes. Q. Okay. Can you tell us what this is. A. This is the I don't know what to call it the packing slip or whatever that was on the outside of the box that came to my house from CHENPING. Q. Okay. And as far as the name and description of the contents, can you can you	29

	30			32
1	Q. And when you when you saw this	1	A. Yes, it is. I do not have a copy of	
2	packing slip, did that give you any reason for	2	that.	
3	concern?	3	Q. Before you placed your disk into the	
4	A. It was a little bit. I asked my	4	computer, okay, from the outward appearance of the	
5	husband about it and he said that perhaps Rosetta	5	box and the fact that you had the software, did	
6	Stone had sold some some, you know, copies,	6	you believe you had genuine Rosetta Stone	
7	overstock, or something they didn't want, to	7	software?	
8	China, and he said, "Don't worry about it. It	8	A. Yes, I did.	
9	will probably be fine." So I went ahead and	9	Q. Did you actually try to load it onto	
10	installed it on my computer.	10	your computer?	
11	Q. All right. So when you opened up the	11	A. Yes.	
12	box, could you tell us what was in the contents	12	Q. And what happened when you did that?	
13	what the contents consisted of. Excuse me.	13	A. It didn't work as I thought it would.	
14	A. You know, I haven't looked at it for	14	As I recall, I couldn't get it to load, and so I	
15	three or four months, but there was some software	15	asked my computer-savvy son to help me and he	
16	in there. There was a headset with a microphone.	16	couldn't get it to load right. There was no	
17	That's all I remember. We do have that in	17	authorization code with it, as I recall.	
18	property at the Overland Park Police Department.	18	Q. Did the software have any	
19	Q. And I'll get to that in just a moment.	19	functionality?	
20	A. Okay.	20	A. I don't think so.	
21	Q. The software, was it on CD-ROMs?	21	Q. You weren't able to get the programs to	
22	A. Yes.	1	run at all?	
23	Q. All right. And how many CDs, if you	23	A. No.	
24	recall, were in the box?	24	Q. What did you do when you could not get	
25	A. I don't know.	25	the program to run?	
	31			33
1	Q. Do you recall whether there was an	1	A. I called Rosetta Stone.	33
1 2		1 2	A. I called Rosetta Stone.Q. Okay. You didn't follow	33
	Q. Do you recall whether there was an	ı		33
2	Q. Do you recall whether there was an instruction manual?	2	Q. Okay. You didn't follow	33
2 3 4	Q. Do you recall whether there was an instruction manual?A. I didn't see an instruction manual.	2 3	Q. Okay. You didn't follow A. I said, "It doesn't work."	33
2 3 4	Q. Do you recall whether there was an instruction manual?A. I didn't see an instruction manual.Q. You indicated that the package that you	2 3 4	Q. Okay. You didn't followA. I said, "It doesn't work."Q. Okay. And why did you call Rosetta	33
2 3 4 5	 Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at 	2 3 4 5	Q. Okay. You didn't followA. I said, "It doesn't work."Q. Okay. And why did you call RosettaStone?	33
2 3 4 5 6	 Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have 	2 3 4 5 6 7	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? 	33
2 3 4 5 6 7	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to?	2 3 4 5 6 7 8 9	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe 	33
2 3 4 5 6 7 8	 Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. 	2 3 4 5 6 7 8 9	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like 	33
2 3 4 5 6 7 8 9 10	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to	2 3 4 5 6 7 8 9 10	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and 	33
2 3 4 5 6 7 8 9 10 11 12	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try?	2 3 4 5 6 7 8 9 10 11 12	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. 	33
2 3 4 5 6 7 8 9 10 11 12 13	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you 	33
2 3 4 5 6 7 8 9 10 11 12 13 14	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes. There was one other thing in the	2 3 4 5 6 7 8 9 10 11 12 13 14	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you spoke with when you contacted Rosetta Stone? 	33
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes. There was one other thing in the box it was a little piece of paper, as I	2 3 4 5 6 7 8 9 10 11 12 13 14 15	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you spoke with when you contacted Rosetta Stone? A. I do not. 	33
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes. There was one other thing in the box it was a little piece of paper, as I recall that said, "If you have problems, don't	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you spoke with when you contacted Rosetta Stone? A. I do not. Q. Do you recall when you contacted 	33
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes. There was one other thing in the box it was a little piece of paper, as I recall that said, "If you have problems, don't call Rosetta Stone" or something like that. It	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you spoke with when you contacted Rosetta Stone? A. I do not. Q. Do you recall when you contacted Rosetta Stone? 	33
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes. There was one other thing in the box it was a little piece of paper, as I recall that said, "If you have problems, don't call Rosetta Stone" or something like that. It was some weird, cryptic note.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you spoke with when you contacted Rosetta Stone? A. I do not. Q. Do you recall when you contacted Rosetta Stone? A. No, I don't remember. 	33
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes. There was one other thing in the box it was a little piece of paper, as I recall that said, "If you have problems, don't call Rosetta Stone" or something like that. It was some weird, cryptic note. Q. Did it give you a number or person to	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you spoke with when you contacted Rosetta Stone? A. I do not. Q. Do you recall when you contacted Rosetta Stone? A. No, I don't remember. Q. Ultimately, did you complete an 	33
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes. There was one other thing in the box it was a little piece of paper, as I recall that said, "If you have problems, don't call Rosetta Stone" or something like that. It was some weird, cryptic note. Q. Did it give you a number or person to contact instead of Rosetta Stone?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you spoke with when you contacted Rosetta Stone? A. I do not. Q. Do you recall when you contacted Rosetta Stone? A. No, I don't remember. Q. Ultimately, did you complete an antipiracy report on the Rosetta Stone web site? 	33
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes. There was one other thing in the box it was a little piece of paper, as I recall that said, "If you have problems, don't call Rosetta Stone" or something like that. It was some weird, cryptic note. Q. Did it give you a number or person to contact instead of Rosetta Stone? A. No. I just don't remember enough about	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you spoke with when you contacted Rosetta Stone? A. I do not. Q. Do you recall when you contacted Rosetta Stone? A. No, I don't remember. Q. Ultimately, did you complete an antipiracy report on the Rosetta Stone web site? A. Yes, I did. 	33
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes. There was one other thing in the box it was a little piece of paper, as I recall that said, "If you have problems, don't call Rosetta Stone" or something like that. It was some weird, cryptic note. Q. Did it give you a number or person to contact instead of Rosetta Stone? A. No. I just don't remember enough about it, but it was something weird about it and I	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you spoke with when you contacted Rosetta Stone? A. I do not. Q. Do you recall when you contacted Rosetta Stone? A. No, I don't remember. Q. Ultimately, did you complete an antipiracy report on the Rosetta Stone web site? A. Yes, I did. (Deposition Exhibit No. 6 was 	33
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes. There was one other thing in the box it was a little piece of paper, as I recall that said, "If you have problems, don't call Rosetta Stone" or something like that. It was some weird, cryptic note. Q. Did it give you a number or person to contact instead of Rosetta Stone? A. No. I just don't remember enough about it, but it was something weird about it and I don't remember.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you spoke with when you contacted Rosetta Stone? A. I do not. Q. Do you recall when you contacted Rosetta Stone? A. No, I don't remember. Q. Ultimately, did you complete an antipiracy report on the Rosetta Stone web site? A. Yes, I did. (Deposition Exhibit No. 6 was 	33
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Q. Do you recall whether there was an instruction manual? A. I didn't see an instruction manual. Q. You indicated that the package that you received from Gainsoftmall.com is in property at the police department? A. Yes. Q. And is that something that you have control over to retrieve if you wanted to? A. Most likely. Q. And so if we were to ask you to retrieve that, would you be willing to try? A. Yes. There was one other thing in the box it was a little piece of paper, as I recall that said, "If you have problems, don't call Rosetta Stone" or something like that. It was some weird, cryptic note. Q. Did it give you a number or person to contact instead of Rosetta Stone? A. No. I just don't remember enough about it, but it was something weird about it and I	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Okay. You didn't follow A. I said, "It doesn't work." Q. Okay. And why did you call Rosetta Stone? A. Because it was a Rosetta Stone product. Q. And what did you do to determine who at Rosetta Stone to contact? A. I got on their web site, and I believe there's a customer help button or something like that, so I got their customer service number and called. Q. All right. And do you recall who you spoke with when you contacted Rosetta Stone? A. I do not. Q. Do you recall when you contacted Rosetta Stone? A. No, I don't remember. Q. Ultimately, did you complete an antipiracy report on the Rosetta Stone web site? A. Yes, I did. (Deposition Exhibit No. 6 was marked for identification.) Q. (By Mr. Ettinger) All right. Let me 	33

		$\overline{}$		
	34			36
1	you can confirm that this exhibit contains the	1	Rosetta Stone advise you to do?	
	information that you provided to Rosetta Stone	2	A. Well, they told me that I needed the	
3	through their web site. Take your time looking at	3	update, so I called them again for an update, and	
4	it. This is a	4	then I was told that those they were not	
5	A. Okay.	5	this person that I purchased it from was not an	
6	Q document bearing Bates Nos.	6	authorized reseller of Rosetta Stone products.	
7	RS-008-000018 through '21.	7	Q. And, therefore, you were not able to	
8	A. Okay.	8	access the updates?	
9	Q. Okay. So my question to you is, on	9	A. That's correct.	
10		10	Q. All right.	
11		11	MR. STERN: I'm sorry. Just for	
12	A. Uh-huh.	12	clarification, you said "so I called them." Is	
13	Q does it reflect information you	13	the "them" Rosetta Stone?	
14	provided to Rosetta Stone through the their	14	THE WITNESS: Yes.	
15		15	MR. STERN: Okay.	
16	A. Yes, it does.	16	THE WITNESS: For the update?	
17	Q. All right. And, Ms. Porter, does this	17	MR. STERN: Yes.	
18		18	THE WITNESS: Yes.	
19	entered the data into the Rosetta Stone web site?	19	Q. (By Mr. Ettinger) Had you ever before	
20	A. Yes.	20	purchased software on the Internet that turned out	
21	Q. And when was that?	21	to be bootlegged?	
22	A. 11/24 of '09.	22	A. No.	
23	Q. And do you know who Michael Hill is?	23	Q. What, if anything, did you do to recoup	
24	A. Yes. He's an investigator with the	24	the money that you had paid to Gainsoftmall?	
25	legal department of Rosetta Stone, I believe.	25	A. First of all, I contacted PayPal	
	25	1		
	35	1		37
	35			37
1	Q. Did you speak to Mr. Hill directly?	1	because it was guaranteed, and they said, "Oops.	37
2	Q. Did you speak to Mr. Hill directly?A. Yes, I did.	2	Sorry. We don't guarantee the product. We just	37
3	Q. Did you speak to Mr. Hill directly?A. Yes, I did.Q. Okay. And what was the nature of your	2 3	Sorry. We don't guarantee the product. We just guarantee that you get it," basically.	37
2 3 4	Q. Did you speak to Mr. Hill directly?A. Yes, I did.Q. Okay. And what was the nature of your conversation with Mr. Hill?	2 3 4	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it."	37
2 3 4 5	 Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the 	2 3 4 5	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out	37
2 3 4 5 6	 Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he 	2 3 4 5 6	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American	37
2 3 4 5 6 7	 Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had 	2 3 4 5 6 7	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express.	37
2 3 4 5 6 7 8	 Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something 	2 3 4 5 6 7 8	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they	37
2 3 4 5 6 7 8 9	 Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that 	2 3 4 5 6 7 8 9	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able	37
2 3 4 5 6 7 8 9	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a	2 3 4 5 6 7 8 9 10	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded.	37
2 3 4 5 6 7 8 9 10 11	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta	2 3 4 5 6 7 8 9 10	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall	37
2 3 4 5 6 7 8 9 10 11 12	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software.	2 3 4 5 6 7 8 9 10 11 12	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the	37
2 3 4 5 6 7 8 9 10 11 12 13	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything	2 3 4 5 6 7 8 9 10 11 12 13	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased?	37
2 3 4 5 6 7 8 9 10 11 12 13 14	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular?	2 3 4 5 6 7 8 9 10 11 12 13 14	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did.	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular? A. No, he did not.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did. Q. And did you reach out to the	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular? A. No, he did not. Q. Did you follow up on your conversation	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did. Q. And did you reach out to the Gainsoftmall after you spoke to Rosetta Stone or	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular? A. No, he did not. Q. Did you follow up on your conversation with Mr. Hill?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did. Q. And did you reach out to the Gainsoftmall after you spoke to Rosetta Stone or before?	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular? A. No, he did not. Q. Did you follow up on your conversation with Mr. Hill? A. I followed up with my department,	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did. Q. And did you reach out to the Gainsoftmall after you spoke to Rosetta Stone or before? A. After.	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular? A. No, he did not. Q. Did you follow up on your conversation with Mr. Hill? A. I followed up with my department, because as a police officer, I'm required to	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did. Q. And did you reach out to the Gainsoftmall after you spoke to Rosetta Stone or before? A. After. Q. And what did what did you do to try	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular? A. No, he did not. Q. Did you follow up on your conversation with Mr. Hill? A. I followed up with my department, because as a police officer, I'm required to report any time I'm involved in an investigation.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did. Q. And did you reach out to the Gainsoftmall after you spoke to Rosetta Stone or before? A. After. Q. And what did what did you do to try to contact Gainsoftmall?	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular? A. No, he did not. Q. Did you follow up on your conversation with Mr. Hill? A. I followed up with my department, because as a police officer, I'm required to report any time I'm involved in an investigation. So I contacted my bureau commander. I sent him an	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did. Q. And did you reach out to the Gainsoftmall after you spoke to Rosetta Stone or before? A. After. Q. And what did what did you do to try to contact Gainsoftmall? A. I sent them an e-mail and said, "Hey,	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular? A. No, he did not. Q. Did you follow up on your conversation with Mr. Hill? A. I followed up with my department, because as a police officer, I'm required to report any time I'm involved in an investigation. So I contacted my bureau commander. I sent him an e-mail and we filed a police report, but nothing	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did. Q. And did you reach out to the Gainsoftmall after you spoke to Rosetta Stone or before? A. After. Q. And what did what did you do to try to contact Gainsoftmall? A. I sent them an e-mail and said, "Hey, the product doesn't work and I'd like to get my	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular? A. No, he did not. Q. Did you follow up on your conversation with Mr. Hill? A. I followed up with my department, because as a police officer, I'm required to report any time I'm involved in an investigation. So I contacted my bureau commander. I sent him an e-mail and we filed a police report, but nothing further was done.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did. Q. And did you reach out to the Gainsoftmall after you spoke to Rosetta Stone or before? A. After. Q. And what did what did you do to try to contact Gainsoftmall? A. I sent them an e-mail and said, "Hey, the product doesn't work and I'd like to get my money back."	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular? A. No, he did not. Q. Did you follow up on your conversation with Mr. Hill? A. I followed up with my department, because as a police officer, I'm required to report any time I'm involved in an investigation. So I contacted my bureau commander. I sent him an e-mail and we filed a police report, but nothing further was done. Q. Okay. With respect to the software	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did. Q. And did you reach out to the Gainsoftmall after you spoke to Rosetta Stone or before? A. After. Q. And what did what did you do to try to contact Gainsoftmall? A. I sent them an e-mail and said, "Hey, the product doesn't work and I'd like to get my money back." And Gainsoftmall sent me back a	37
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Q. Did you speak to Mr. Hill directly? A. Yes, I did. Q. Okay. And what was the nature of your conversation with Mr. Hill? A. He called me and he asked about the Rosetta Stone product that I had purchased, and he said that there were some other people that had purchased this product, and he said something about some cases in Kansas and Missouri and that Lawrence Police Department was working on a student possibly selling some software, Rosetta Stone unauthorized software. Q. And did Mr. Hill ask you to do anything in particular? A. No, he did not. Q. Did you follow up on your conversation with Mr. Hill? A. I followed up with my department, because as a police officer, I'm required to report any time I'm involved in an investigation. So I contacted my bureau commander. I sent him an e-mail and we filed a police report, but nothing further was done.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Sorry. We don't guarantee the product. We just guarantee that you get it," basically. So I said, "Well, I got it." So they said, "Sorry. You're out your money." So he said to contact American Express. I called American Express and they did a ticket on it of some kind and they were able to get my money refunded. Q. Did you ever reach out to Gainsoftmall again to see whether or not they could correct the problem with the software that you had purchased? A. I did. Q. And did you reach out to the Gainsoftmall after you spoke to Rosetta Stone or before? A. After. Q. And what did what did you do to try to contact Gainsoftmall? A. I sent them an e-mail and said, "Hey, the product doesn't work and I'd like to get my money back."	37

	38			40
1	problem?" basically, and by that time then I	1	MR. ETTINGER: All right. Let me	
2	was notified that I got my money back, and I	2	see it just for a moment, then.	
3	thought, I'm not going to go further with it.	3	THE WITNESS: Sure.	
4	(Deposition Exhibit No. 7 was	4	MR. STERN: That's fine. I think	
5	marked for identification.)	5	it's the same. I just want to make sure	
6	Q. (By Mr. Ettinger) All right. Let me	6	THE WITNESS: Yes.	
7	show you what's been marked as Exhibit 7,	7	MR. STERN: it's one is it	
8	RS-008-037 through '039. It's a three-page	8	one exhibit?	
9	document.	9	MR. ETTINGER: Yes. It's all one	
10	A. Okay.	10	exhibit.	
11	Q. That's 7.	11	I'm missing the first page. It's	
12	And I just want you to focus on	12	okay.	
13	the first page of this exhibit, please.	13	THE WITNESS: Okay.	
14	A. Okay.	14	Q. (By Mr. Ettinger) Okay. So if you	
15	Q. Does this exhibit contain the e-mail	15	could tell us what that is.	
16	that you sent to Gainsoftmall seeking their	16	A. This is an Overland Park Police	
17	assistance in obtaining an authorization key for		Department police report, an incident or an	
18			investigation report.	
19	A. Yes, it did.	19	Q. Okay. And is this the report that was	
20	Q. All right. And does the top e-mail	20	generated as a result of your purchase from	
21	1 0 00	ı	Gainsoftmall?	
1	you got from them?	22	A. Yes, it is.	
23	A. Yes.	23	Q. And is the information that appears in	
24	Q. And is this the only communication you	ı	there accurate to the best of your knowledge and	
25	had with CHENPING022 or Gainsoftmall after	25	belief?	
	39			41
1	receiving the software in the mail?	1	A. Yes, it is. For the quotes that are on	
2	A. Yes.	2	page 2, that came from the actual e-mail that I	
3	Q. Let me show you what's been marked as		sent to my boss.	
4	Exhibit 8 and see if I can get you to tell us what	4	Q. And do you know what, if anything, the	
5	this is.	5	Overland Park police were able to do in response	
6	(Deposition Exhibit No. 8 was		to this incident report?	
7	marked for identification.)	7	A. On page 5, you will see a little	
8	Q. (By Mr. Ettinger) This is a document	8	follow-up done by one of our officers, Blaine	
9	entitled "Incident/Investigation Report,"	9	Bronson. He contacted Steve Verbanic of the	
10	December 24, 2009, and a additional supplement,	10	Lawrence Police Department, and in here is	
11	one-page supplement that is page 5.	11	mentioned Michael Hill once again.	
12	MR. ETTINGER: Counsel, do you	12	Q. All right. And do you know what, if	
13	13	13	anything, came of this investigation?	
14	MR. STERN: I should.	14	A. No, I do not.	
15	Q. (By Mr. Ettinger) Ms. Porter, if you	15	Q. Did the experience with Gainsoftmall	
16	3	16	chill your desire to purchase Rosetta Stone	
17	tell me what this is.	17	software?	
18	MR. STERN: I'm sorry. Could I	18	A. No.	
	just see the is that a five-page document?	19	Q. Did you, in fact, ultimately purchase	
20	MR. ETTINGER: Actually, it's a	ı	Rosetta Stone software from another source?	
21	THE WITNESS: Yes.	21	A. Yes.	
22	MR. ETTINGER: It's a four	22	Q. And what source was that?	
23	Four or five?	23	A. I don't know for sure. It was a gift	
24	THE WITNESS: It's four stapled,	24	,	
43	and 5 is the last the loose one.	123	Noble.	
		ı		

	1	
	42	44
1 Q. And do you know how much he paid for	1 A. Both.	
2 the Rosetta Stone software? Because it was a	2 Q. Okay. And do you typically use it to	
3 gift, you don't know?	3 find out information about products and services	
4 A. That's right. I don't ask.	4 or people or all sorts of other things?	
5 Q. All right. Have you used the software?	5 A. Yes.	
6 A. Yes.	6 Q. Is there any search engine that you use	
7 Q. And it functions as expected?	7 more than you use Google?	
8 A. Yes.	8 A. No.	
9 MR. ETTINGER: No further	9 Q. Have you ever tried any other search	
10 questions.	10 engine	
11 MR. STERN: How are you doing,	11 A. Yes.	
12 Ms. Porter? I just want to make sure that you're	12 Q like Yahoo!?	
13 not tired. I know we've had a lot of technology	13 A. Yahoo!	
14 thrown at you this morning, and I want to make	14 Q. And you prefer Google.	
15 sure you're okay.	15 A. Yes.	
16 THE WITNESS: I'm fine.	16 Q. Why is that?	
17 MR. STERN: Want to take	17 A. It's very simple to use. I like the	
18 THE WITNESS: Thank you.	18 little things they put above their search box.	
19 MR. STERN: a break? Are you	19 Sounds pretty silly, but I really enjoy that they	
20 okay?	20 change that and make it according to the seasons,	
21 THE WITNESS: No, I'm fine.	21 the Olympics, and things like that. But it's	
22 MR. STERN: Good. Great.	22 very, very simple to use. That's the main reason.	
23 EXAMINATION	23 Q. And except for this incident that is	
24 BY MR. STERN:	24 the subject of the lawsuit, have you ever used	
25 Q. My name is Claude Stern, and I'm proud	25 Google to obtain products or services?	
	43	45
1 to represent Google. I'm going to ask you some	1 A. Yes.	
2 follow-up questions, and if I ask anything that	2 Q. Can you give me some examples.	
3 you don't understand, tell me and I'll try to	3 A. Oh, my goodness.	
4 rephrase it; okay?	4 Q. First of all, let me ask: More than	
5 A. Okay.	5 once?	
6 Q. First of all, I'm glad to hear that you	6 A. Oh, yes.	
7 use Google.	7 Q. Okay.	
8 A. Yes.	8 A. Lots.	
9 Q. How long have you been using Google as	9 Q. Lots.	
10 a search engine?	10 A. I use a lot of Internet. I guess	
11 A. A long, long time.	11 probably most recently I was just searching for	
12 Q. And	12 something yesterday. I can't remember what it	
13 A. They're awesome.	13 was. But if there's a book that I want, I will	
14 Q. And I'm sorry. I missed the last.	14 and you're just talking about products and	
15 A. They're awesome.	15 services; right?	
16 Q. Yeah.	16 Q. Sure. Just for now.	
17 MR. ETTINGER: I think you heard	17 A. Okay. Products and services, usually	
18 that.	18 books. I go to Amazon quite a bit, but I usually	
MR. STERN: But maybe I didn't	19 find out through Google that they have the product	
20 hear it quite	20 that I'm looking for. But there have just been	
21 MR. ETTINGER: I object to your	21 numerous products. I don't even remember.	
22 hearing, but go ahead.	22 Q. And except for this incident involving	
23 Q. (By Mr. Stern) Do you use Google for	23 Gainsoftmall, have you always successfully	
24 your in your personal life or for your	24 acquired the product or service you were looking	
1.25 mm fracional life on fractal		
25 professional life or for both?	25 for?	

	<u> </u>	· /		
	46			48
1	A. Yes.	1	Q. Do you know if have you ever seen	
2	Q. Okay. Without any form of	2	Q. Do you know if have you ever seen that web site accessed through Google?	
3	disappointment toward Google or anybody else?	3	A. I don't I have not personally, no.	
4	A. That's correct.	4	Q. Okay. But you've seen the web site?	
5	Q. Okay. You mentioned that you were a	5	A. I've seen our web site.	
6	or am I correct in saying you were a police	6	Q. If I I've got the Internet hooked up	
7	officer or you are a police officer?	7	right now. If I were to type in "Overland Park,	
8	A. I'm a retired police officer.	8	Kansas, police force," do you think it's likely	
9	Q. You know, it's sort of I think	9	that that web site will come up?	
10	even when lawyers retire, they say that they are a	10	A. I would imagine.	
11	lawyer, so I assume you're really still a police	11	Q. Okay. And you would agree with me that	
- 1	officer at heart. Let me ask you, as a police		if that were the case that Google would be	
13	officer, have you ever been involved in what may	13	searching withdraw that you would agree with	
14	be characterized as cyber crime activity?	14	me that Google would be serving its essential	
15	A. No.	15	function of being able to call up web sites about	
16	Q. Okay. Have you ever heard of that	16	a particular subject?	
17	phrase, "cyber crime"?	17	A. Yes.	
18	A. Yes.	18	Q. All right. Now, on the I want to	
19	Q. You understand from your over 20 years	19	ask you some questions about this about the	
20	on the police force that since the development of	20	incident that you were involved in. First of all,	
21	the Internet, there is a phenomenon called cyber	21	you understand that Google offers and by the	
22	crime?	22	way, I'm going to apologize. Some of these	
23	A. Yes.	23	questions are dumb questions. I have to lay these	
24	Q. And you understand that there are	24	foundations out later on for the jury in this	
25	criminals and other people who use the Internet to	25	case; okay?	
	47			49
			A Understood	49
1 2	dupe people and commit fraud?	1 2	A. Understood. O. You understand that Google is a search	49
2	dupe people and commit fraud? A. Yes.	2	Q. You understand that Google is a search	49
3	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was	2 3	Q. You understand that Google is a search engine; correct?	49
2 3 4	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally	2 3 4	Q. You understand that Google is a search engine; correct?A. Yes.	49
2 3 4 5	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity?	2 3 4 5	Q. You understand that Google is a search engine; correct?A. Yes.Q. You understand that what as a search	49
2 3 4	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes.	2 3 4 5 6	 Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to 	49
2 3 4 5 6 7	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go	2 3 4 5 6 7	 Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of 	49
2 3 4 5 6 7	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police	2 3 4 5 6 7	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries?	49
2 3 4 5 6 7 8	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go	2 3 4 5 6 7 8	 Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. 	49
2 3 4 5 6 7 8 9	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25.	2 3 4 5 6 7 8 9 10	 Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are 	49
2 3 4 5 6 7 8 9	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it?	2 3 4 5 6 7 8 9	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're	49
2 3 4 5 6 7 8 9 10 11	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years.	2 3 4 5 6 7 8 9 10	 Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are 	49
2 3 4 5 6 7 8 9 10 11 12	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh.	2 3 4 5 6 7 8 9 10 11 12	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties?	49
2 3 4 5 6 7 8 9 10 11 12 13	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh. Q. Before that, were you in industry or in	2 3 4 5 6 7 8 9 10 11 12 13	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties? MR. ETTINGER: Objection.	49
2 3 4 5 6 7 8 9 10 11 12 13 14	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh. Q. Before that, were you in industry or in any sort of business?	2 3 4 5 6 7 8 9 10 11 12 13 14	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties? MR. ETTINGER: Objection. Q. (By Mr. Stern) Right?	49
2 3 4 5 6 7 8 9 10 11 12 13 14 15	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh. Q. Before that, were you in industry or in any sort of business? A. I was a secretary.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties? MR. ETTINGER: Objection. Q. (By Mr. Stern) Right? A. I don't know.	49
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh. Q. Before that, were you in industry or in any sort of business? A. I was a secretary. Q. Okay. Have you ever been involved in	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties? MR. ETTINGER: Objection. Q. (By Mr. Stern) Right? A. I don't know. Q. Oh, you don't know. Okay. Let's talk about the Rosetta Stone search that you did. With	49
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh. Q. Before that, were you in industry or in any sort of business? A. I was a secretary. Q. Okay. Have you ever been involved in the development of a web site or putting together	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties? MR. ETTINGER: Objection. Q. (By Mr. Stern) Right? A. I don't know. Q. Oh, you don't know. Okay. Let's talk about the Rosetta Stone search that you did. With 	49
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh. Q. Before that, were you in industry or in any sort of business? A. I was a secretary. Q. Okay. Have you ever been involved in the development of a web site or putting together a web site?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties? MR. ETTINGER: Objection. Q. (By Mr. Stern) Right? A. I don't know. Q. Oh, you don't know. Okay. Let's talk about the Rosetta Stone search that you did. With respect to the "Rosetta Stone Spanish" search that	49
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh. Q. Before that, were you in industry or in any sort of business? A. I was a secretary. Q. Okay. Have you ever been involved in the development of a web site or putting together a web site? A. No.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties? MR. ETTINGER: Objection. Q. (By Mr. Stern) Right? A. I don't know. Q. Oh, you don't know. Okay. Let's talk about the Rosetta Stone search that you did. With respect to the "Rosetta Stone Spanish" search that you did, when you got the results of that search,	49
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh. Q. Before that, were you in industry or in any sort of business? A. I was a secretary. Q. Okay. Have you ever been involved in the development of a web site or putting together a web site? A. No. Q. Does the Overland Park police force	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties? MR. ETTINGER: Objection. Q. (By Mr. Stern) Right? A. I don't know. Q. Oh, you don't know. Okay. Let's talk about the Rosetta Stone Spanish" search that you did, when you got the results of that search, I assume that the page that you saw had results	49
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh. Q. Before that, were you in industry or in any sort of business? A. I was a secretary. Q. Okay. Have you ever been involved in the development of a web site or putting together a web site? A. No. Q. Does the Overland Park police force have a web site?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties? MR. ETTINGER: Objection. Q. (By Mr. Stern) Right? A. I don't know. Q. Oh, you don't know. Okay. Let's talk about the Rosetta Stone search that you did. With respect to the "Rosetta Stone Spanish" search that you did, when you got the results of that search, I assume that the page that you saw had results both on a column on the left and some results on	49
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh. Q. Before that, were you in industry or in any sort of business? A. I was a secretary. Q. Okay. Have you ever been involved in the development of a web site or putting together a web site? A. No. Q. Does the Overland Park police force have a web site? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties? MR. ETTINGER: Objection. Q. (By Mr. Stern) Right? A. I don't know. Q. Oh, you don't know. Okay. Let's talk about the Rosetta Stone search that you did. With respect to the "Rosetta Stone Spanish" search that you did, when you got the results of that search, I assume that the page that you saw had results both on a column on the left and some results on the right.	49
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	dupe people and commit fraud? A. Yes. Q. The incident that happened here, was this the first time that you'd ever personally experienced some sort of cyber crime activity? A. Yes. Q. When you've I should probably go back. I understand that you've been on the police force for 22 years, was it? A. 25. Q. 25 years. A. Uh-huh. Q. Before that, were you in industry or in any sort of business? A. I was a secretary. Q. Okay. Have you ever been involved in the development of a web site or putting together a web site? A. No. Q. Does the Overland Park police force have a web site? A. Yes. Q. And I assume you've seen that web site	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Q. You understand that Google is a search engine; correct? A. Yes. Q. You understand that what as a search engine, that what they do is they serve up to people who are conducting queries the results of those sorts of search queries? A. Yes. Q. And that the search queries that are resulting aren't created by Google, but they're created by third parties? MR. ETTINGER: Objection. Q. (By Mr. Stern) Right? A. I don't know. Q. Oh, you don't know. Okay. Let's talk about the Rosetta Stone search that you did. With respect to the "Rosetta Stone Spanish" search that you did, when you got the results of that search, I assume that the page that you saw had results both on a column on the left and some results on the right. A. Right.	49

		Ť		
	50			52
1	A. I've seen it before, yes.	,	Exhibit 2, but you'll I have to do this for the	
2	Q. Okay. And you're acquainted with the		record. You'll agree with me that on Exhibit 2	
3	fact that the results on the right are called			
4	sponsored links?		sponsored links; correct?	
5	A. No, I'm not familiar with that.	5	A. Right. Those are the ones that are the	
6	Q. Okay. I think this morning when	ı	advertised	
7	Mr. Ettinger asked you a question, you referred	7	Q. Okay.	
8	to you referred to the advertisement on the	8	A that people paid for advertising.	
9	right side that you clicked on as a sponsored	9	Q. And you see on the right side where it	
10	link.		also says "Sponsored Links," and then there are	
11	A. Did I say that?	11	ones down	
12	Q. I think so.	12	A. Uh-huh.	
13	A. Okay. Well, we were talking about it	13	Q the side. Do you see that?	
14	earlier, so maybe at that time.	14	A. Uh-huh.	
15	Q. Okay. Let me ask you, at the time that	15	Q. I'm sorry. You have to answer yes.	
1		16	A. Yes. I'm sorry.	
17	A. Uh-huh.	17	Q. No, no. You're doing great. You're	
18	Q had you ever noticed that on the	18	just doing great.	
19	Google web page there is a designation for certain	19	MR. STERN: Or you could answer	
20	search results as being sponsored links?	20		
21	A. The top ones where they have in the	21	MR. ETTINGER: You don't have to	
22	blue	22	answer yes.	
23	Q. Exactly.	23	THE WITNESS: I have to be honest,	
24	A yes.	24	though	
25	Q. Okay. And is it your understanding	25	MR. STERN: That's right.	
	51			53
1			THE WITNESS: right?	53
	those top search results that are in the colored	1 2	THE WITNESS: right? O. (By Mr. Stern) In all events, you	53
2	those top search results that are in the colored field, did you have an understanding what those	2	Q. (By Mr. Stern) In all events, you	53
	those top search results that are in the colored field, did you have an understanding what those were?	2 3	Q. (By Mr. Stern) In all events, you understand that those those ads on the	53
3	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising.	2 3	Q. (By Mr. Stem) In all events, you understand that those those those ads on the right are also sponsored links?	53
2 3 4 5	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you	2 3 4	Q. (By Mr. Stern) In all events, you understand that those those ads on the	53
2 3 4 5	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising.	2 3 4 5	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising?	53
2 3 4 5 6	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that	2 3 4 5 6	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand	53
2 3 4 5 6 7	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger	2 3 4 5 6 7	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that?	53
2 3 4 5 6 7 8	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do.	2 3 4 5 6 7 8	Q. (By Mr. Stem) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that.	53
2 3 4 5 6 7 8 9	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the	2 3 4 5 6 7 8 9 10	Q. (By Mr. Stem) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you	53
2 3 4 5 6 7 8 9 10	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2?	2 3 4 5 6 7 8 9 10	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I	53
2 3 4 5 6 7 8 9 10	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2?	2 3 4 5 6 7 8 9 10 11	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there.	53
2 3 4 5 6 7 8 9 10 11 12	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah.	2 3 4 5 6 7 8 9 10 11 12	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay.	53
2 3 4 5 6 7 8 9 10 11 12 13	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah. A. Okay.	2 3 4 5 6 7 8 9 10 11 12 13	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay. A. Sorry. I'm not very computer	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah. A. Okay. Q. Now, your I think	2 3 4 5 6 7 8 9 10 11 12 13	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay. A. Sorry. I'm not very computer Q. No, no, no. That's perfectly okay.	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah. A. Okay. Q. Now, your I think A. "Sponsored links" right there. That's	2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay. A. Sorry. I'm not very computer Q. No, no, no. That's perfectly okay. A literate.	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah. A. Okay. Q. Now, your I think A. "Sponsored links" right there. That's why I said it.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay. A. Sorry. I'm not very computer Q. No, no, no. That's perfectly okay. A literate. Q. That's okay.	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah. A. Okay. Q. Now, your I think A. "Sponsored links" right there. That's why I said it. Q. Actually, is your can I see yours	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay. A. Sorry. I'm not very computer Q. No, no, no. That's perfectly okay. A literate. Q. That's okay. But in all events, when you	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah. A. Okay. Q. Now, your I think A. "Sponsored links" right there. That's why I said it. Q. Actually, is your can I see yours for a second?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay. A. Sorry. I'm not very computer Q. No, no, no. That's perfectly okay. A literate. Q. That's okay. But in all events, when you clicked on the web site that said "\$142 Get	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah. A. Okay. Q. Now, your I think A. "Sponsored links" right there. That's why I said it. Q. Actually, is your can I see yours for a second? A. Uh-huh.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay. A. Sorry. I'm not very computer Q. No, no, no. That's perfectly okay. A literate. Q. That's okay. But in all events, when you clicked on the web site that said "\$142 Get Language Software," you didn't think that Google was actually offering that product for sale? A. Google doesn't offer any of the	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah. A. Okay. Q. Now, your I think A. "Sponsored links" right there. That's why I said it. Q. Actually, is your can I see yours for a second? A. Uh-huh. Q. Okay. Yours is color. That's perfect	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay. A. Sorry. I'm not very computer Q. No, no, no. That's perfectly okay. A literate. Q. That's okay. But in all events, when you clicked on the web site that said "\$142 Get Language Software," you didn't think that Google was actually offering that product for sale?	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah. A. Okay. Q. Now, your I think A. "Sponsored links" right there. That's why I said it. Q. Actually, is your can I see yours for a second? A. Uh-huh. Q. Okay. Yours is color. That's perfect actually. I'm	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay. A. Sorry. I'm not very computer Q. No, no, no. That's perfectly okay. A literate. Q. That's okay. But in all events, when you clicked on the web site that said "\$142 Get Language Software," you didn't think that Google was actually offering that product for sale? A. Google doesn't offer any of the	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah. A. Okay. Q. Now, your I think A. "Sponsored links" right there. That's why I said it. Q. Actually, is your can I see yours for a second? A. Uh-huh. Q. Okay. Yours is color. That's perfect actually. I'm A. Okay.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay. A. Sorry. I'm not very computer Q. No, no, no. That's perfectly okay. A literate. Q. That's okay. But in all events, when you clicked on the web site that said "\$142 Get Language Software," you didn't think that Google was actually offering that product for sale? A. Google doesn't offer any of the products for sale.	53
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	those top search results that are in the colored field, did you have an understanding what those were? A. People pay for that. It's advertising. Q. Okay. And if you take a look at you have some exhibits in front of you that Mr. Ettinger A. I do. Q made. If you'd take a look at the right side. Actually, do you have Exhibit 2? A. 2? Q. Yeah. A. Okay. Q. Now, your I think A. "Sponsored links" right there. That's why I said it. Q. Actually, is your can I see yours for a second? A. Uh-huh. Q. Okay. Yours is color. That's perfect actually. I'm A. Okay. Q thrilled that your	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. (By Mr. Stern) In all events, you understand that those those those ads on the right are also sponsored links? A. Does that mean they pay advertising? Q. Yes. I'm asking. Did you understand that? A. I'm not sure that I knew that. Q. Okay. Is that something you A. I didn't know how they got there. I just assumed they were somehow put in there. Q. Okay. A. Sorry. I'm not very computer Q. No, no, no. That's perfectly okay. A literate. Q. That's okay. But in all events, when you clicked on the web site that said "\$142 Get Language Software," you didn't think that Google was actually offering that product for sale? A. Google doesn't offer any of the products for sale. Q. Good.	53

	, i
	54 56
1 When you went to buy the product,	1 Q is that right?
2 you didn't think that you were actually buying	2 And, am I correct, because I've
3 product from Google; right?	3 done some research in this field, that if you look
4 A. That's correct.	4 at Spanish Levels 1, 2, 3, that the price you saw
5 Q. Okay. And you	5 was somewhere between 450 and \$600?
6 A. Yeah.	6 A. Correct.
7 Q. You didn't think that any of the web	7 Q. All right. And then when you went
8 sites or ads that are identified on Exhibit 2 or	8 subsequently online
9 whatever you actually saw were actually endorsed	9 A. Uh-huh.
10 or sponsored or affiliated with Google; right?	10 Q you went to RosettaStone.com;
11 MR. ETTINGER: Objection as to	11 correct?
12 form.	12 A. When I went online, I went to the
13 Q. (By Mr. Stern) You can answer the	13 Google search and then I went to RosettaStone.com.
14 question.	14 Q. Correct. And when you went to the
15 A. (No response.)	15 RosettaStone.com, you saw the same product, but it
16 Q. Want me to ask you that	16 was also offered for, I'm guessing, between 450
17 A. Would you please ask it again.	17 and \$600?
18 Q. Sure. You didn't think that the web	18 A. Yes.
19 site that you clicked on was something that was	19 Q. All right. And although that you
20 sponsored by Google?	20 you wanted to buy Rosetta Stone and you thought it
21 A. I wouldn't think Google sponsored any	21 would be a quality product, you thought that was
22 of these, would they?	22 too rich for your pocketbook?
Q. Or endorsed any of them?	23 A. Yes.
A. I wouldn't know.	Q. Okay. And so what you wanted to do is
25 Q. Yeah. And or was affiliated with	25 you wanted to find something that was less
	55 57
1 any of them?	1 expensive, but delivered what you thought was the
2 A. I wouldn't know. I don't know how the	1 expensive, but delivered what you thought was the 2 quality of Rosetta Stone?
2 A. I wouldn't know. I don't know how the 3 information gets onto Google.	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone.
2 A. I wouldn't know. I don't know how the 3 information gets onto Google. 4 Q. Okay. When you bought the product, I	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta
2 A. I wouldn't know. I don't know how the 3 information gets onto Google. 4 Q. Okay. When you bought the product, I 5 take it that what you I think you answered	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for
2 A. I wouldn't know. I don't know how the 3 information gets onto Google. 4 Q. Okay. When you bought the product, I 5 take it that what you I think you answered 6 and I'm going to go through this chronology	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for it?
2 A. I wouldn't know. I don't know how the 3 information gets onto Google. 4 Q. Okay. When you bought the product, I 5 take it that what you I think you answered 6 and I'm going to go through this chronology 7 relatively quickly. If I understood you,	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for it? A. That's right.
2 A. I wouldn't know. I don't know how the 3 information gets onto Google. 4 Q. Okay. When you bought the product, I 5 take it that what you I think you answered 6 and I'm going to go through this chronology 7 relatively quickly. If I understood you, 8 Ms. Porter, the first thing you did is you went to	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for it? A. That's right. Q. Okay. And so, then, you went to this
2 A. I wouldn't know. I don't know how the 3 information gets onto Google. 4 Q. Okay. When you bought the product, I 5 take it that what you I think you answered 6 and I'm going to go through this chronology 7 relatively quickly. If I understood you,	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for it? A. That's right. Q. Okay. And so, then, you went to this Rosetta Stone withdraw that.
2 A. I wouldn't know. I don't know how the 3 information gets onto Google. 4 Q. Okay. When you bought the product, I 5 take it that what you I think you answered 6 and I'm going to go through this chronology 7 relatively quickly. If I understood you, 8 Ms. Porter, the first thing you did is you went to 9 bookstores and saw the Rosetta Stone product at	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for it? A. That's right. Q. Okay. And so, then, you went to this Rosetta Stone withdraw that. You did some let me ask you
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at 10 was it a Barnes & Noble?	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for it? A. That's right. Q. Okay. And so, then, you went to this Rosetta Stone withdraw that. You did some let me ask you
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for it? A. That's right. Q. Okay. And so, then, you went to this Rosetta Stone withdraw that. You did some let me ask you this: After you went to the RosettaStone.com site
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders Q. Or Borders?	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for it? A. That's right. Q. Okay. And so, then, you went to this Rosetta Stone withdraw that. You did some let me ask you this: After you went to the RosettaStone.com site and saw the price, I think Mr. Ettinger asked you
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders Q. Or Borders? A or somewhere.	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for it? A. That's right. Q. Okay. And so, then, you went to this Rosetta Stone withdraw that. You did some let me ask you this: After you went to the RosettaStone.com site and saw the price, I think Mr. Ettinger asked you whether you did some sort of shopping on the
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders Q. Or Borders? A or somewhere.	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for it? A. That's right. Q. Okay. And so, then, you went to this Rosetta Stone withdraw that. You did some let me ask you this: After you went to the RosettaStone.com site and saw the price, I think Mr. Ettinger asked you whether you did some sort of shopping on the Internet.
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders Q. Or Borders? A or somewhere. Q. Okay. I'm not sure exactly where.	 expensive, but delivered what you thought was the quality of Rosetta Stone? A. I wanted Rosetta Stone. Q. Right. I mean, you wanted Rosetta Stone; you just didn't want to pay that much for it? A. That's right. Q. Okay. And so, then, you went to this Rosetta Stone withdraw that. You did some let me ask you this: After you went to the RosettaStone.com site and saw the price, I think Mr. Ettinger asked you whether you did some sort of shopping on the Internet. A. Uh-huh.
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders Q. Or Borders? A or somewhere. Q. Okay. L'm not sure exactly where. Q. And, actually, before that, the first time you had even become acquainted with Rosetta Stone is through a television advertisement?	1 expensive, but delivered what you thought was the 2 quality of Rosetta Stone? 3 A. I wanted Rosetta Stone. 4 Q. Right. I mean, you wanted Rosetta 5 Stone; you just didn't want to pay that much for 6 it? 7 A. That's right. 8 Q. Okay. And so, then, you went to this 9 Rosetta Stone withdraw that. 10 You did some let me ask you 11 this: After you went to the RosettaStone.com site 12 and saw the price, I think Mr. Ettinger asked you 13 whether you did some sort of shopping on the 14 Internet. 15 A. Uh-huh. 16 Q. And it's the case that you did; is that 17 correct? 18 A. Yes.
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders Q. Or Borders? A or somewhere. Q. Okay. A. I'm not sure exactly where. Q. And, actually, before that, the first time you had even become acquainted with Rosetta Stone is through a television advertisement? A. Yes.	1 expensive, but delivered what you thought was the 2 quality of Rosetta Stone? 3 A. I wanted Rosetta Stone. 4 Q. Right. I mean, you wanted Rosetta 5 Stone; you just didn't want to pay that much for 6 it? 7 A. That's right. 8 Q. Okay. And so, then, you went to this 9 Rosetta Stone withdraw that. 10 You did some let me ask you 11 this: After you went to the RosettaStone.com site 12 and saw the price, I think Mr. Ettinger asked you 13 whether you did some sort of shopping on the 14 Internet. 15 A. Uh-huh. 16 Q. And it's the case that you did; is that 17 correct? 18 A. Yes. 19 Q. Do you know how many different sites
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders Q. Or Borders? A or somewhere. Q. Okay. A. I'm not sure exactly where. Q. And, actually, before that, the first time you had even become acquainted with Rosetta Stone is through a television advertisement? A. Yes. Q. Okay. It wasn't through the Internet?	1 expensive, but delivered what you thought was the 2 quality of Rosetta Stone? 3 A. I wanted Rosetta Stone. 4 Q. Right. I mean, you wanted Rosetta 5 Stone; you just didn't want to pay that much for 6 it? 7 A. That's right. 8 Q. Okay. And so, then, you went to this 9 Rosetta Stone withdraw that. 10 You did some let me ask you 11 this: After you went to the RosettaStone.com site 12 and saw the price, I think Mr. Ettinger asked you 13 whether you did some sort of shopping on the 14 Internet. 15 A. Uh-huh. 16 Q. And it's the case that you did; is that 17 correct? 18 A. Yes. 19 Q. Do you know how many different sites 20 you clicked on to do price comparison?
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders Q. Or Borders? A or somewhere. Q. Okay. A. I'm not sure exactly where. Q. And, actually, before that, the first time you had even become acquainted with Rosetta Stone is through a television advertisement? A. Yes. Q. Okay. It wasn't through the Internet? A. No.	1 expensive, but delivered what you thought was the 2 quality of Rosetta Stone? 3 A. I wanted Rosetta Stone. 4 Q. Right. I mean, you wanted Rosetta 5 Stone; you just didn't want to pay that much for 6 it? 7 A. That's right. 8 Q. Okay. And so, then, you went to this 9 Rosetta Stone withdraw that. 10 You did some let me ask you 11 this: After you went to the RosettaStone.com site 12 and saw the price, I think Mr. Ettinger asked you 13 whether you did some sort of shopping on the 14 Internet. 15 A. Uh-huh. 16 Q. And it's the case that you did; is that 17 correct? 18 A. Yes. 19 Q. Do you know how many different sites 20 you clicked on to do price comparison? 21 A. I don't know. I do know that I went to
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders Q. Or Borders? A or somewhere. Q. Okay. A. I'm not sure exactly where. Q. And, actually, before that, the first time you had even become acquainted with Rosetta Stone is through a television advertisement? A. Yes. Q. Okay. It wasn't through the Internet? A. No. Q. Okay. And, then, after you saw the	1 expensive, but delivered what you thought was the 2 quality of Rosetta Stone? 3 A. I wanted Rosetta Stone. 4 Q. Right. I mean, you wanted Rosetta 5 Stone; you just didn't want to pay that much for 6 it? 7 A. That's right. 8 Q. Okay. And so, then, you went to this 9 Rosetta Stone withdraw that. 10 You did some let me ask you 11 this: After you went to the RosettaStone.com site 12 and saw the price, I think Mr. Ettinger asked you 13 whether you did some sort of shopping on the 14 Internet. 15 A. Uh-huh. 16 Q. And it's the case that you did; is that 17 correct? 18 A. Yes. 19 Q. Do you know how many different sites 20 you clicked on to do price comparison? 21 A. I don't know. I do know that I went to 22 Amazon and checked their prices.
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders Q. Or Borders? A or somewhere. Q. Okay. A. I'm not sure exactly where. Q. And, actually, before that, the first time you had even become acquainted with Rosetta Stone is through a television advertisement? A. Yes. Q. Okay. It wasn't through the Internet? A. No. Q. Okay. And, then, after you saw the price of	1 expensive, but delivered what you thought was the 2 quality of Rosetta Stone? 3 A. I wanted Rosetta Stone. 4 Q. Right. I mean, you wanted Rosetta 5 Stone; you just didn't want to pay that much for 6 it? 7 A. That's right. 8 Q. Okay. And so, then, you went to this 9 Rosetta Stone withdraw that. 10 You did some let me ask you 11 this: After you went to the RosettaStone.com site 12 and saw the price, I think Mr. Ettinger asked you 13 whether you did some sort of shopping on the 14 Internet. 15 A. Uh-huh. 16 Q. And it's the case that you did; is that 17 correct? 18 A. Yes. 19 Q. Do you know how many different sites 20 you clicked on to do price comparison? 21 A. I don't know. I do know that I went to 22 Amazon and checked their prices. 23 Q. And they were probably
A. I wouldn't know. I don't know how the information gets onto Google. Q. Okay. When you bought the product, I take it that what you I think you answered and I'm going to go through this chronology relatively quickly. If I understood you, Ms. Porter, the first thing you did is you went to bookstores and saw the Rosetta Stone product at was it a Barnes & Noble? A. Barnes & Noble or Borders Q. Or Borders? A or somewhere. Q. Okay. A. I'm not sure exactly where. Q. And, actually, before that, the first time you had even become acquainted with Rosetta Stone is through a television advertisement? A. Yes. Q. Okay. It wasn't through the Internet? A. No. Q. Okay. And, then, after you saw the	1 expensive, but delivered what you thought was the 2 quality of Rosetta Stone? 3 A. I wanted Rosetta Stone. 4 Q. Right. I mean, you wanted Rosetta 5 Stone; you just didn't want to pay that much for 6 it? 7 A. That's right. 8 Q. Okay. And so, then, you went to this 9 Rosetta Stone withdraw that. 10 You did some let me ask you 11 this: After you went to the RosettaStone.com site 12 and saw the price, I think Mr. Ettinger asked you 13 whether you did some sort of shopping on the 14 Internet. 15 A. Uh-huh. 16 Q. And it's the case that you did; is that 17 correct? 18 A. Yes. 19 Q. Do you know how many different sites 20 you clicked on to do price comparison? 21 A. I don't know. I do know that I went to 22 Amazon and checked their prices.

	<u> </u>	ŕ		
	58			60
1	\$600 range?	1	bought the product on or about November 15th,	
2	A. I don't remember, but they were too	ı	2009	
3	expensive.	3	A. Uh-huh.	
4	Q. Okay. Prior to going to Gainsoftmall,	4	Q right?	
5	did you go to any other site other than Amazon or	5	Now, there's a by the way	
6	RosettaStone.com?	6	I'm sorry. I was sloppy about something. You	
7	A. Probably, but I couldn't tell you which	7	were kind enough to produce a whole bunch of	
8	ones.	8	documents today and provide them to Mr. Ettinger;	
9	Q. Okay. But is it the fact that	9	is that correct?	
10	Gainsoftmall was the cheapest of those sites that	10	A. Yes.	
11	you saw?	11	MR. STERN: What I'm going to ask	
12	A. Yes.	12	Mr. Ettinger to do is, can we have a stipulation	
13	Q. All right. So	13	about what those documents are so we can have them	
14	A. The \$142 grabbed me.	14	marked at some point as an exhibit that they were	
15	Q. Okay. That took my next question. I	15	produced?	
	was going to say I was going to ask you whether	16	MR. ETTINGER: A copy set of what	
17	the price was a driver, but it sounds like it	17	she provided as one exhibit?	
18	A. Absolutely.	18	MR. STERN: Exactly.	
19	Q. All right. And then you you went	19	MR. ETTINGER: I have no problem	
20	through the process of clicking on whatever the		with that. I just	
21	button was on the Gainsoftmall web site in order	21	MR. STERN: Great.	
22	to purchase the product; right?	22	MR. ETTINGER: want to make	
23	A. Yes.	23	sure that before you leave that we have an	
24	Q. Did you do any sort of due diligence or	24	agreement as to what was in that package.	
25	background check on Gainsoftmall?	25	MR. STERN: That's what I mean. I	
	59			61
1	A. I looked I did some, like, searches	1	want to make sure that we just have a	
	on Gainsoftmall to see if I saw anything on there	2	MR. ETTINGER: That's fine.	
3	and I didn't.	3	MR. STERN: stipulation about	
4	Q. Okay.	ı	that. That's good.	
5	A. So I figured no news is good news.	5	Q. (By Mr. Stern) Okay. And, then,	
6	Q. Do you recall seeing a particular web		you if I'm correct, you discovered that the	
7	site where there were various comments by users	7	product wasn't working and you contacted Rosetta	
8	indicating that they had brought fraudulent		Stone and they told you that the product was	
9	product from Gainsoftmall?		well, before I tell you what they when you	
10	A. No.	10		
11	Q. You didn't see that?	11	to Rosetta Stone; correct?	
12	A. Uh-uh.	12	A. Yes.	
13	Q. Let me ask you this: When you did	13	Q. And because you thought it was an	
14	whatever search it was for Gainsoftmall, do you	14	authentic product, you just thought, I'm going to	
15	recall, did you do a comprehensive search, or did	15	go to the publisher of the product?	
16	you just do sort of a casual search?	16	A. Uh-huh. They'll fix it for me.	
17	MR. ETTINGER: Objection.	17	Q. Take a look at, if you would, Exhibit 6	
18	A. I just did a	18	that's in front of you.	
19	MR. ETTINGER: Go ahead.	19	A. Exhibit 6. Okay.	
20	A. I did a casual search.	20	Q. Exhibit 6 is I think what Mr. Ettinger	
21	Q. (By Mr. Stern) Okay.	21	asked you about earlier; is that correct?	
22	A. Basically, I just put in Gainsoftmall	22	A. Yes.	
23	and did a search to see if there was anything	23	Q. And this is, if I'm correct, a copy of	
1 ~ 4				
24		24	the template that you filled out on the Rosetta	
25	there. Q. Okay. And, then, if I'm correct, you	24 25	the template that you filled out on the Rosetta Stone web site; right?	

				
	62			64
1	A. I don't know that I filled this out. I	l ,	Rosetta Stone?	
2	called. And up in the right-hand corner there	2	A. Yes.	
3	under "Customer Info," it says "Entered By: Karen	3	Q. Okay. And then it mentions "Spanish	
4	D'Rozario," so I'm thinking I probably just talked	4	(Latin America)." Do you see that?	
5	to someone who filled this out for me.	5	A. Yes.	
6	Q. Okay. That's actually exactly where I	6	Q. And that's accurate?	
7	was going because	7	A. Yes.	
8	A. Okay.	8	Q. And it says "Month of purchase:	
9	Q I thought, from looking at this,	9	November" and "Year of Purchase: 2009"	
10	that it wouldn't have been filled out by you,	10	A. Yes.	
11		11	Q do you see that?	
12	A. That's	12	And those are accurate as well?	
13	Q. Okay.	13	A. Yes.	
14	A correct.	14	Q. And, then, if you go down, it says	
15	Q. So let me ask you	15	"Details." Do you see that, that entry for	
16	MR. ETTINGER: Could we be clear,	16	A. "Issue Detail"?	
17	Counsel, as to which page she's looking at,	17	Q "Details"?	
18		18	No, no.	
19	together.	19	THE REPORTER: Say again?	
20	MR. STERN: Well, let me	20	Q. (By Mr. Stern) It says just "Details."	
21	let's	21	THE WITNESS: "Issue Detail"? and	
22	MR. ETTINGER: It might be simpler	22	then he says, "No. Just 'Details."	
23	to do it that way.	23	Q. (By Mr. Stern) Just "Details." And	
24	Q. (By Mr. Stern) Let's go to the first	24	it	
25	two pages. If you take a look at the first two	25	A. Okay.	
	pages, did you fill out the first two pages, if	1	Q says	65
	you recall?	2	A. Okay.	
3	A. I don't know.	3	Q "Our customer called in for	
4	Q. Okay. And, then, the last two pages,	4	assistance with the installation process."	
5	you're fairly certain that was not filled out by	5	A. Yes.	
	you?	6	Q. Do you see that?	
7		7	A. Uh-huh.	
8	Q. Okay. So focusing on the last two	8	Q. And that's accurate as well?	
9	pages, take a look at the the area that says	9	A. Yes.	
10	"Ticket Description." Do you see that? There's a	10	Q. That is to say, you called Rosetta	
11	line that says "Ticket Description" on page 3.	11	Stone about the installation process?	
12	A. How far down?	12	A. Yes.	
13	Q. Oh, I'm actually going to go line by	13	Q. And the next one says, "Is the customer	
14	, ,		happy?" and it says, "Happy."	
15	says "(913) 895-8303"?	15	A. I'm just a happy person, I guess.	
16	A. Yes.	16	Q. I think that's true. But the next	
17	Q. Is that your number?	17	sentence says, "Resolution: Unauthorized resell."	
18	A. It was my work number.	18	Did they tell you it was an unauthorized resell?	
19	Q. Okay. And then it says, quote, I need	19	A. Yes. They said, "Who did you purchase	
20		20	the product from?"	
21	A. Uh-huh.	21	And I said, "Gainsoftmall."	
22 23	Q. Do you see that? A. Uh-huh.	22	And they said, "That is not an authorized reseller of Rosetta Stone."	
23	A. Un-nun. Q. Is that something of the sort of	23 24	Q. This is a very important question I'm	
	substance you would have said to the person at	25	about to ask you well, all of them are	
	successive you would have build to the person at	آ [access to acid you wen, an of them are	

				
	66			68
1	important, but this one in particular: Did	1	Did you understand that Rosetta	
2	anybody at Rosetta Stone tell you that the product	2		
3	was counterfeit?	3	Rosetta Stone product, that it's their position	
4	A. No.	4	that that customer has no right to resell the	
5	Q. Okay. Let me ask you a question,	5	product to anybody else? Were you aware of that?	
6	Ms. Porter, and if these questions may be	6	A. No, I'm not aware of that.	
7	beyond your experience, and if they are, I	7	Q. Okay. Okay. But in all events, is it	
8	apologize. You use a computer; correct?	8	accurate to say that throughout the entire time	
9	A. Yes.	9	that you were working or have spoken to Rosetta	
10	Q. And on the computer there's probably	10	Stone, even till today, no one at Rosetta Stone	
11	all sorts of software, I'm for example,	11	told you that the product was counterfeit?	
12	Microsoft Word	12	A. No, they did not.	
13	A. Yes.	13	Q. Okay. They told you that the product	
14	Q or PowerPoint.	14	was not authorized for resale?	
15	A. Yes.	15	A. That's correct.	
16	Q. And have you ever take have you ever	16	MR. ETTINGER: Asked and answered.	
	taken a look at the terms or conditions by which	17	Q. (By Mr. Stern) Now, when you took the	
18	you use that those software programs?	18	product and loaded it in, do you recall, did it	
19	A. No.	19	ask for an authorization key?	
20	Q. All right. Have you ever have you	20	A. Yes, it did.	
21	ever purchased software other than this example?	21	Q. Okay. And am I correct that the	
22	A. My husband purchases all the software.	22	product that you bought didn't come with an	
23 24	Q. Okay. You mentioned that your son is does your son play video games?	23	authorization key? A. You are correct.	
25	A. Yes.	25	Q. And then when you contacted Rosetta	
23	A. 165.	23	Q. And then when you contacted Rosetta	
	67			69
1	O. Does he play computer games?	1	Stone, they told you they can't give you an	
1 2	Q. Does he play computer games?A. Yes well, computer games not		Stone, they told you they can't give you an authorization key because you have to get it from	
	Q. Does he play computer games?A. Yes well, computer games not unless you count, like, the PlayStation or the	2	Stone, they told you they can't give you an authorization key because you have to get it from the person you purchased it from; is that correct?	
2	A. Yes well, computer games not	2	authorization key because you have to get it from	
2 3	A. Yes well, computer games not unless you count, like, the PlayStation or the	2 3	authorization key because you have to get it from the person you purchased it from; is that correct?	
2 3 4	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii.	2 3 4 5	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right.	
2 3 4 5	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly.	2 3 4 5	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far	
2 3 4 5 6	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay.	2 3 4 5	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product.	
2 3 4 5 6 7	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer	2 3 4 5 6 7	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key?	
2 3 4 5 6 7 8	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son?	2 3 4 5 6 7 8 9	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product	
2 3 4 5 6 7 8 9 10	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just	2 3 4 5 6 7 8 9	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided	
2 3 4 5 6 7 8 9 10 11 12	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We	2 3 4 5 6 7 8 9 10 11 12	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that	
2 3 4 5 6 7 8 9 10 11 12 13	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"?	2 3 4 5 6 7 8 9 10 11 12 13	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right?	
2 3 4 5 6 7 8 9 10 11 12 13 14	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"? A. Uh-huh.	2 3 4 5 6 7 8 9 10 11 12 13 14	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right? A. I do have the authorization key for	
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"? A. Uh-huh. Q. Have you ever done that?	2 3 4 5 6 7 8 9 10 11 12 13 14 15	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right? A. I do have the authorization key for that product.	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"? A. Uh-huh. Q. Have you ever done that? A. I think he has.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right? A. I do have the authorization key for that product. Q. And once you had that authorization	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"? A. Uh-huh. Q. Have you ever done that? A. I think he has. Q. Okay. You understand that there is	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right? A. I do have the authorization key for that product. Q. And once you had that authorization key, you were capable of operating the product; is	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"? A. Uh-huh. Q. Have you ever done that? A. I think he has. Q. Okay. You understand that there is it your understanding that there's some software	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right? A. I do have the authorization key for that product. Q. And once you had that authorization key, you were capable of operating the product; is that right?	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"? A. Uh-huh. Q. Have you ever done that? A. I think he has. Q. Okay. You understand that there is it your understanding that there's some software that you can buy that you can resell, just like if	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right? A. I do have the authorization key for that product. Q. And once you had that authorization key, you were capable of operating the product; is that right? A. Yes.	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"? A. Uh-huh. Q. Have you ever done that? A. I think he has. Q. Okay. You understand that there is it your understanding that there's some software that you can buy that you can resell, just like if I bought a book, I can resell it to somebody?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right? A. I do have the authorization key for that product. Q. And once you had that authorization key, you were capable of operating the product; is that right? A. Yes. Q. Okay. Okay. And I'm delighted to hear	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"? A. Uh-huh. Q. Have you ever done that? A. I think he has. Q. Okay. You understand that there is it your understanding that there's some software that you can buy that you can resell, just like if I bought a book, I can resell it to somebody? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right? A. I do have the authorization key for that product. Q. And once you had that authorization key, you were capable of operating the product; is that right? A. Yes. Q. Okay. Okay. And I'm delighted to hear that you got your money back from American	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"? A. Uh-huh. Q. Have you ever done that? A. I think he has. Q. Okay. You understand that there is it your understanding that there's some software that you can buy that you can resell, just like if I bought a book, I can resell it to somebody? A. Yes. Q. Okay. Did you understand let me	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right? A. I do have the authorization key for that product. Q. And once you had that authorization key, you were capable of operating the product; is that right? A. Yes. Q. Okay. Okay. And I'm delighted to hear that you got your money back from American Express. The information I'm going to take	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"? A. Uh-huh. Q. Have you ever done that? A. I think he has. Q. Okay. You understand that there is it your understanding that there's some software that you can buy that you can resell, just like if I bought a book, I can resell it to somebody? A. Yes. Q. Okay. Did you understand let me I can lay some foundation for this. Rosetta Stone	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right? A. I do have the authorization key for that product. Q. And once you had that authorization key, you were capable of operating the product; is that right? A. Yes. Q. Okay. Okay. And I'm delighted to hear that you got your money back from American Express. The information I'm going to take a I want to ask you about Exhibit 8. The	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. Yes well, computer games not unless you count, like, the PlayStation or the Wii. Q. Exactly. A. Okay. Q. Okay. Have you ever bought computer games for your son? A. Yes. Q. Do you know if you or your son have ever resold the computer games, you know, just after a while said, "We're not interested. We want to sell them to somebody else"? A. Uh-huh. Q. Have you ever done that? A. I think he has. Q. Okay. You understand that there is it your understanding that there's some software that you can buy that you can resell, just like if I bought a book, I can resell it to somebody? A. Yes. Q. Okay. Did you understand let me	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	authorization key because you have to get it from the person you purchased it from; is that correct? A. Right. Q. All right. And I take it that as far as you know, Rosetta Stone never sent you or provided to you a copy of the authorization key? A. Not for that product. Q. Okay. When your when your husband subsequently bought you the Rosetta Stone product from Barnes & Noble, I assume that he was provided the authorization key for that product; is that right? A. I do have the authorization key for that product. Q. And once you had that authorization key, you were capable of operating the product; is that right? A. Yes. Q. Okay. Okay. And I'm delighted to hear that you got your money back from American Express. The information I'm going to take	

	70			72
1	that's on the bottom of page 2, going to page 3?	1	A. Apparently so.	
2	A. Is it accurate?	2	Q. I see. Okay.	
3	Q. Yes.	3	Do you know if they ultimately	
4	A. Yes.	4	apprehended the person?	
5	Q. So let me see if I got this straight.	5	A. I don't know.	
6	When you went to the Overland Park police and you	6	Q. Okay. But that in all events, the	
7	sent them an e-mail and then filled out the	7	information about that other person, that's	
8	report	8	located on the last page of Exhibit	
9	A. I'm sorry. Would you go back	9	A. Blaine Bronson.	
10	Q. Sure.	10	Q 8; is that correct?	
11	A from what you were saying.	11	A. Uh-huh.	
12	Q. I'm sorry. Is this incident/	12	Q. And is Mr. Bronson a police officer?	
1	investigation report from the Overland Park Police	13	A. Yes, he is.	
	Department?	14	Q. And is to the best of your	
15	A. Yes, it is.	ı	knowledge, was this information on the last page	
16	Q. Okay. And I thought you said something	16	of Exhibit 6 put into this investigation report by	
	about you sent them an e-mail. A. Yes. Since I was employed by Overland	18	Mr. Bronson? A. Yes.	
18	Park Police Department, I have to notify as an	19	Q. Okay.	
20		20	(Discussion off the record.)	
21	involved in an investigation.	21	Q. (By Mr. Stern) Okay. That's it for	
22	Q. I see.	22	the the incident report. I have to do a small	
23	MR. STERN: We have to take a	23	bit of housekeeping. You were kind enough to	
24		24		
25	THE WITNESS: All right.	25	MR. STERN: We have had several of	
	71			73
1	MR. STERN: Okay.	1	them marked as an exhibit and I want to just get	
2	THE VIDEOGRAPHER: We're going off		counsel to stipulate Exhibit 8 and Exhibit	
3	the record, ending Tape No. 1 at 11:23 a.m.	3	MR. ETTINGER: 5.	
4	(A recess was taken.)			
5	(A ICCCSS was takell.)	4	MR. STERN: 5 are copies of	
د ا	(Deposition Exhibit No. 9 was	ı		
6		ı	MR. STERN: 5 are copies of	
	(Deposition Exhibit No. 9 was	5	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this	
6	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2.	4 5 6	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you	
6 7	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking	4 5 6 7 8 9	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to	
6 7 8	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you.	4 5 6 7 8 9	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective	
6 7 8 9 10 11	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity	4 5 6 7 8 9 10	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly	
6 7 8 9 10 11 12	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that,	4 5 6 7 8 9 10 11 12	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if	
6 7 8 9 10 11 12 13	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general	4 5 6 7 8 9 10 11 12 13	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them	
6 7 8 9 10 11 12 13 14	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general vicinity who was buying this unauthorized software	4 5 6 7 8 9 10 11 12 13 14	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them with you this morning; all right?	
6 7 8 9 10 11 12 13 14 15	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general vicinity who was buying this unauthorized software from Gainsoftmall and reselling it here in the	4 5 6 7 8 9 10 11 12 13 14 15	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them with you this morning; all right? A. Okay.	
6 7 8 9 10 11 12 13 14 15 16	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general vicinity who was buying this unauthorized software from Gainsoftmall and reselling it here in the Kansas area?	4 5 6 7 8 9 10 11 12 13 14 15	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them with you this morning; all right? A. Okay. Q. And you can look at them as a group,	
6 7 8 9 10 11 12 13 14 15 16 17	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general vicinity who was buying this unauthorized software from Gainsoftmall and reselling it here in the Kansas area? A. I don't know if it was Gainsoftmall or	4 5 6 7 8 9 10 11 12 13 14 15 16 17	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them with you this morning; all right? A. Okay. Q. And you can look at them as a group, and let me know when you're done.	
6 7 8 9 10 11 12 13 14 15 16 17 18	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general vicinity who was buying this unauthorized software from Gainsoftmall and reselling it here in the Kansas area? A. I don't know if it was Gainsoftmall or not, but he had purchased some unauthorized	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them with you this morning; all right? A. Okay. Q. And you can look at them as a group, and let me know when you're done. A. Yes.	
6 7 8 9 10 11 12 13 14 15 16 17 18	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general vicinity who was buying this unauthorized software from Gainsoftmall and reselling it here in the Kansas area? A. I don't know if it was Gainsoftmall or not, but he had purchased some unauthorized copies.	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them with you this morning; all right? A. Okay. Q. And you can look at them as a group, and let me know when you're done. A. Yes. Q. Okay. So those are marked as	
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general vicinity who was buying this unauthorized software from Gainsoftmall and reselling it here in the Kansas area? A. I don't know if it was Gainsoftmall or not, but he had purchased some unauthorized copies. Q. I see. And he was reselling it here?	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them with you this morning; all right? A. Okay. Q. And you can look at them as a group, and let me know when you're done. A. Yes. Q. Okay. So those are marked as Exhibit 9. So can you confirm that, in fact, the	
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general vicinity who was buying this unauthorized software from Gainsoftmall and reselling it here in the Kansas area? A. I don't know if it was Gainsoftmall or not, but he had purchased some unauthorized copies. Q. I see. And he was reselling it here? A. Yes. And that was per Mike Hill.	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them with you this morning; all right? A. Okay. Q. And you can look at them as a group, and let me know when you're done. A. Yes. Q. Okay. So those are marked as Exhibit 9. So can you confirm that, in fact, the documents that comprise Exhibit 9 were, in fact,	
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general vicinity who was buying this unauthorized software from Gainsoftmall and reselling it here in the Kansas area? A. I don't know if it was Gainsoftmall or not, but he had purchased some unauthorized copies. Q. I see. And he was reselling it here? A. Yes. And that was per Mike Hill. Q. I see. And that the investigation	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them with you this morning; all right? A. Okay. Q. And you can look at them as a group, and let me know when you're done. A. Yes. Q. Okay. So those are marked as Exhibit 9. So can you confirm that, in fact, the	
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general vicinity who was buying this unauthorized software from Gainsoftmall and reselling it here in the Kansas area? A. I don't know if it was Gainsoftmall or not, but he had purchased some unauthorized copies. Q. I see. And he was reselling it here? A. Yes. And that was per Mike Hill. Q. I see. And that the investigation	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them with you this morning; all right? A. Okay. Q. And you can look at them as a group, and let me know when you're done. A. Yes. Q. Okay. So those are marked as Exhibit 9. So can you confirm that, in fact, the documents that comprise Exhibit 9 were, in fact, documents that you brought with you this morning?	
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	(Deposition Exhibit No. 9 was marked for identification.) THE VIDEOGRAPHER: We are back on the record at 11:34 a.m., beginning Tape No. 2. Q. (By Mr. Stern) Let me finish asking you about Exhibit 8 that you have in front of you. Am I correct that you've learned in your capacity as a police officer or former police officer that, in fact, there was a person in this general vicinity who was buying this unauthorized software from Gainsoftmall and reselling it here in the Kansas area? A. I don't know if it was Gainsoftmall or not, but he had purchased some unauthorized copies. Q. I see. And he was reselling it here? A. Yes. And that was per Mike Hill. Q. I see. And that the investigation of that person was coincidental with the fact that	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	MR. STERN: 5 are copies of documents that were provided by Ms. Porter this morning; is that correct? MR. ETTINGER: Yes. Q. (By Mr. Stern) In addition, you provided some other documents, and we're going to make the additional documents a collective exhibit. What I'd like you to do is just briefly look at them on the record. Don't read them if you have to. Just confirm that you brought them with you this morning; all right? A. Okay. Q. And you can look at them as a group, and let me know when you're done. A. Yes. Q. Okay. So those are marked as Exhibit 9. So can you confirm that, in fact, the documents that comprise Exhibit 9 were, in fact, documents that you brought with you this morning? A. Yes.	

	74		76
1	possession?	1 A. Yes.	
2	A. Yes.	2 Q. That doesn't bother you, does it?	
3	Q. And you either had received those	3 A. I hate ads, but I guess that's the way	
4	documents or generated those documents with	4 they make money.	
5	respect to this matter?	5 Q. Okay. And you understand that oh,	
6	A. Yes.	6 when you said you hate ads, you mean it takes up	
7	Q. Thank you very much.	7 space and clutters the view of the newspaper?	
8	Okay. Let me ask you a question,	8 A. Yes.	
9	Ms. Porter. You said that you first saw Rosetta	9 Q. I see. Okay.	
10	Stone on television	You understand that even though a	
11	A. Yes.	11 newspaper might have certain advertising in it,	
12	Q is that right?	12 let's say in the first part of the newspaper, that	
13	Was it a network advertisement or	13 that doesn't mean that the newspaper is either	
14	a cable advertisement, if you remember?	14 endorsing, sponsoring, or is affiliated with the	
15	A. I have cable	15 ad that's being provided?	
16	Q. So it	16 A. Correct.	
17	A so	17 MR. ETTINGER: Objection.	
18	Q could have been either.	18 Q. (By Mr. Stern) I'm sorry?	
19	A. It could have been either.	19 A. Correct.	
20	Q. Okay. I'm going to ask you a bunch of	Q. By the same token, when you've seen	
21	dumb questions, and I hope you don't mind. You	21 classified ads, you understand that all sorts of	
22	understand that cable or network television sells	22 members of the public or companies in the private	
23	advertising space to people to advertise on?	23 sector can place ads as part of a classified ad;	
24	A. Yes.	24 correct?	
25	Q. And you understand that the advertisers	25 A. Yes.	
	75		
			77
			77
1	place their adds on that television space and	1 Q. And that might be in one of your local	77
2	place their adds on that television space and time; correct?	2 newspapers; right?	77
3	place their adds on that television space and time; correct? A. Yes.	2 newspapers; right?3 A. Yes.	77
2 3 4	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though,	 2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 	77
2 3 4 5	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on	 2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 	77
2 3 4 5 6	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or	 2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 	77
2 3 4 5 6 7	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product	 2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 	77
2 3 4 5 6 7 8	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised?	 2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 	77
2 3 4 5 6 7 8 9	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection.	 2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 	77
2 3 4 5 6 7 8 9 10	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer.	 2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 	77
2 3 4 5 6 7 8 9 10	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes.	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've	77
2 3 4 5 6 7 8 9 10 11 12	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a	77
2 3 4 5 6 7 8 9 10 11 12 13	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers?	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot.	77
2 3 4 5 6 7 8 9 10 11 12 13 14	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers? A. Yes.	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot. 14 A. Yes.	77
2 3 4 5 6 7 8 9 10 11 12 13 14 15	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers? A. Yes. Q. You're acquainted with the fact that	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot. 14 A. Yes. 15 Q. By the way, do you think you use it	77
2 3 4 5 6 7 8 9 10 11 12 13 14 15	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers? A. Yes. Q. You're acquainted with the fact that newspapers sell advertising space?	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot. 14 A. Yes. 15 Q. By the way, do you think you use it 16 every day?	77
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers? A. Yes. Q. You're acquainted with the fact that newspapers sell advertising space? A. Yes.	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot. 14 A. Yes. 15 Q. By the way, do you think you use it 16 every day? 17 A. Yes.	77
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers? A. Yes. Q. You're acquainted with the fact that newspapers sell advertising space? A. Yes. Q. And they can either sell in the in	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot. 14 A. Yes. 15 Q. By the way, do you think you use it 16 every day? 17 A. Yes. 18 Q. I certainly do, but you use it every	77
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers? A. Yes. Q. You're acquainted with the fact that newspapers sell advertising space? A. Yes. Q. And they can either sell in the in the actual pages of the newspaper or they sell it	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot. 14 A. Yes. 15 Q. By the way, do you think you use it 16 every day? 17 A. Yes. 18 Q. I certainly do, but you use it every 19 day?	77
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers? A. Yes. Q. You're acquainted with the fact that newspapers sell advertising space? A. Yes. Q. And they can either sell in the in the actual pages of the newspaper?	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot. 14 A. Yes. 15 Q. By the way, do you think you use it 16 every day? 17 A. Yes. 18 Q. I certainly do, but you use it every 19 day? 20 A. Yes.	77
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers? A. Yes. Q. You're acquainted with the fact that newspapers sell advertising space? A. Yes. Q. And they can either sell in the in the actual pages of the newspaper or they sell it in the classified ad section of the newspaper? A. Yes.	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot. 14 A. Yes. 15 Q. By the way, do you think you use it 16 every day? 17 A. Yes. 18 Q. I certainly do, but you use it every 19 day? 20 A. Yes. 21 Q. Okay. When you see the when you	77
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers? A. Yes. Q. You're acquainted with the fact that newspapers sell advertising space? A. Yes. Q. And they can either sell in the in the actual pages of the newspaper or they sell it in the classified ad section of the newspaper? A. Yes. Q. You're acquainted with that.	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot. 14 A. Yes. 15 Q. By the way, do you think you use it 16 every day? 17 A. Yes. 18 Q. I certainly do, but you use it every 19 day? 20 A. Yes. 21 Q. Okay. When you see the when you 22 conduct searches on Google and you see the results	77
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers? A. Yes. Q. You're acquainted with the fact that newspapers sell advertising space? A. Yes. Q. And they can either sell in the in the actual pages of the newspaper or they sell it in the classified ad section of the newspaper? A. Yes. Q. You're acquainted with that. You understand that newspapers,	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot. 14 A. Yes. 15 Q. By the way, do you think you use it 16 every day? 17 A. Yes. 18 Q. I certainly do, but you use it every 19 day? 20 A. Yes. 21 Q. Okay. When you see the when you 22 conduct searches on Google and you see the results 23 from the searches with advertisements on the	77
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	place their adds on that television space and time; correct? A. Yes. Q. And you understand that even though, for example, you might see an advertisement on NBC, that doesn't mean that NBC is endorsing or sponsoring or is affiliated with the product that's being advertised? MR. ETTINGER: Objection. Q. (By Mr. Stern) You can answer. A. Yes. Q. Okay. And do you have a you're also acquainted with advertising in local newspapers? A. Yes. Q. You're acquainted with the fact that newspapers sell advertising space? A. Yes. Q. And they can either sell in the in the actual pages of the newspaper or they sell it in the classified ad section of the newspaper? A. Yes. Q. You're acquainted with that. You understand that newspapers, like television, makes money off of allowing	2 newspapers; right? 3 A. Yes. 4 Q. And you understand that just because an 5 ad is in the newspaper doesn't mean that the 6 newspaper is endorsing or sponsoring or is 7 affiliated with one of those ads? 8 MR. ETTINGER: Objection. 9 A. Yes. 10 Q. (By Mr. Stern) When you have used 11 I'm not going to ask you how many times you've 12 used Google, because my guess is you've used it a 13 whole lot. 14 A. Yes. 15 Q. By the way, do you think you use it 16 every day? 17 A. Yes. 18 Q. I certainly do, but you use it every 19 day? 20 A. Yes. 21 Q. Okay. When you see the when you 22 conduct searches on Google and you see the results	77

_		-		
	78			80
1	advertisements are sort of like the classifieds.	1	collecting them for a particular reason?	
	Namely, they're just ads that are being placed	2	A. I was saving them, yes.	
3	there by various different people; correct?	3	Q. Okay. And why were you saving them?	
4	MR. ETTINGER: Objection.	4	A. In case anything ever came of it.	
5	A. I don't really know about that. Would	5	Q. Okay. I see.	
6	you rephrase the question.	6	A. I save a lot of stuff.	
7	Q. (By Mr. Stern) Sure. In when you	7	Q. Okay. Did you put them in a file?	
8	look at the classified ads	8	A. Yes.	
9	A. Uh-huh.	9	Q. And the documents that you produced	
10	Q in a newspaper, you understand that	10	this morning, are they from that file?	
11	those ads are not being authored by the newspaper	11	A. Yes, from my saved file.	
12	to sell property owned by the newspaper; they're	12	Q. Okay. Do you recall the first time	
13	being sold by third parties	13	that you spoke to Mr. Ettinger?	
14	A. Okay.	14	A. Do you mean the date?	
15	Q correct?	15	Q. Yeah. Actually, I'm not really looking	
16	A. Uh-huh.	16	for a specific date. Was it in the last month?	
17	Q. Do you understand?	17	A. Probably.	
18	A. Yes.	18	Q. Okay. And do you recall between then	
19	Q. By the same token, when you go to	19	and now how many times you've spoken to him?	
20	Google and you conduct some sort of search,	20	A. Once when he originally called and then	
21	1	21	3	
22	ads show up as a result, either on the sponsored	22	Q. Okay. And do you recall when he	
23	3 1 2 7 3	23	originally called what he told you?	
24		24	A. He said that Rosetta Stone was filing a	
25	are developed by third parties, not by Google?	25	suit against Google for allowing them to post	
	79			81
1	A. Yes.	1	counterfeit software, or something to that effect,	
2	MR. ETTINGER: Objection.		on their web site.	
3	Q. (By Mr. Stern) Okay. And in that	3	Q. That's how he described the suit to	
4	sense, would you agree that in a way those ads are		you?	
5	sort of like the classified ads in the newspaper?	5	A. That's just a general idea of what he	
6	MR. ETTINGER: Objection.	6	said.	
7	A. I wouldn't have thought of them that	7	Q. Okay.	
8	way, no.	8	A. I wouldn't say he described it or used	
9	Q. (By Mr. Stern) Okay. But you see them	9	those words, but that was what I got from the	
10	as being offered by third parties	10	conversation.	
11	A. Yes.	11	Q. That's fine. And did he tell you why	
12	Q correct?	12	he was calling you?	
13	Okay. Another question: As I	13	A. Other than the fact that I had made the	
14	looked through all these documents that you	14	report.	
15		15	Q. Oh. Did he tell you that he had got	
16	from a web site of rkp546@aol.com, and I assume	16	your name from Google I mean from withdraw	
17	that that's your e-mail address.	17	that.	
18	A. That's correct.	18	Did he tell you that he got your	
19	Q. And I see that they were sent to to	19	name from Rosetta Stone?	
20	you they were sent to you on December 28th,	20	A. I don't know where he got my name.	
21	2009.	21	Q. Okay.	
22	A. Yes.	22	A. Could have been from Michael Michael	
23	Q. I'm guessing here, but is the reason	23	Hill or I don't know.	
24	that you were sending these former e-mails that	24	Q. Did you did Mr. Ettinger tell you	
25	you had copies of to yourself was that you were	25	how many other people he was speaking to other	

1				
	82			84
1	than yourself?	1	possession of the Overland Park Overland Park	
2	A. No.		Police Department?	
3	Q. Okay. During this initial call, how	3	A. Yes, it is.	
4	long was the call? Do you recall?	4	Q. All right. And have they agreed to	
5	A. Oh, I would say it was probably not	5	release that?	
6	more than 10, 15 minutes.	6	A. Yes, they have.	
7	Q. Okay. And during that conversation,	7	Q. And are you going to assist us in	
8	did you relay to him much of the information you	8	getting that today?	
9	provided this morning to us?	9	A. Yes, I will.	
10	A. Uh-huh, basically.	10	Q. Thank you.	
11	Q. Okay.	11	MR. STERN: Thank you very much.	
12	A. Just that I had purchased the software	12	THE WITNESS: You're welcome.	
13	and it turned out to be an unauthorized reseller.	13		
		ı	THE VIDEOGRAPHER: We're going off	
14	Q. Did Mr. Ettinger ask you if you were	14	the record at 11:46 a.m., concluding the	
15	going to be testifying at trial in this case?	15	deposition of Rita Porter.	
16	A. Say it again.	16		
17	Q. Did Mr. Ettinger ask you if you would	17		
18	be willing to testify at trial in this case?	18		
19	A. Probably. I don't remember exactly.	19		
20	Q. Okay. Do you	20		
21	A. But he did ask me if I would be	21		
22	1 ,	22		
23	meant it would go to trial.	23		
24	Q. Okay. Do you know, has Mr. Ettinger or	24		
25	anyone else from Rosetta Stone asked you whether	25		
1	you are willing to fly out to Virginia for trial?	ı	ACKNOWLEDGEMENT OF DEPONENT	85
2	 No, they haven't asked. 			
3		2		
	Q. Okay.	3		
4	Let me just look over the	3 4	I, RITA KAY PORTER, do hereby acknowledge I	
		3 4 5	have read and examined the foregoing pages of	
4	Let me just look over the	3 4 5		
4 5	Let me just look over the documents really quickly. I think we're done.	3 4 5	have read and examined the foregoing pages of	
4 5 6 7	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last	3 4 5 6 7	have read and examined the foregoing pages of testimony, and the same is a true, correct, and	
4 5 6 7	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time	3 4 5 6 7 8	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by	
4 5 6 7 8	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct?	3 4 5 6 7 8	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear	
4 5 6 7 8 9	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions	3 4 5 6 7 8 9	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear	
4 5 6 7 8 9 10	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions	3 4 5 6 7 8 9	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear	
4 5 6 7 8 9 10 11	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame	3 4 5 6 7 8 9 10	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear	
4 5 6 7 8 9 10 11 12	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place?	3 4 5 6 7 8 9 10 11 12	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear	
4 5 6 7 8 9 10 11 12 13	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further	3 4 5 6 7 8 9 10 11 12 13	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear	
4 5 6 7 8 9 10 11 12 13 14	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further	3 4 5 6 7 8 9 10 11 12 13 14	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear	
4 5 6 7 8 9 10 11 12 13 14 15	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further questions. Thank you very much.	3 4 5 6 7 8 9 10 11 12 13 14 15	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear	
4 5 6 7 8 9 10 11 12 13 14 15 16 17	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further questions. Thank you very much. THE WITNESS: Okay.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear	
4 5 6 7 8 9 10 11 12 13 14 15 16 17	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further questions. Thank you very much. THE WITNESS: Okay. REEXAMINATION BY MR. ETTINGER:	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear in the attached errata sheet signed by me.	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further questions. Thank you very much. THE WITNESS: Okay. REEXAMINATION BY MR. ETTINGER: Q. Just before we break, during the break	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear in the attached errata sheet signed by me.	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further questions. Thank you very much. THE WITNESS: Okay. REEXAMINATION BY MR. ETTINGER: Q. Just before we break, during the break when the tape was being changed, did you have a	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear in the attached errata sheet signed by me.	
4 4 5 6 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further questions. Thank you very much. THE WITNESS: Okay. REEXAMINATION BY MR. ETTINGER: Q. Just before we break, during the break when the tape was being changed, did you have a chance to contact the police department to	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear in the attached errata sheet signed by me.	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further questions. Thank you very much. THE WITNESS: Okay. REEXAMINATION BY MR. ETTINGER: Q. Just before we break, during the break when the tape was being changed, did you have a chance to contact the police department to determine the physical location of the software	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear in the attached errata sheet signed by me.	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further questions. Thank you very much. THE WITNESS: Okay. REEXAMINATION BY MR. ETTINGER: Q. Just before we break, during the break when the tape was being changed, did you have a chance to contact the police department to determine the physical location of the software you purchased from Gainsoftmall?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear in the attached errata sheet signed by me.	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further questions. Thank you very much. THE WITNESS: Okay. REEXAMINATION BY MR. ETTINGER: Q. Just before we break, during the break when the tape was being changed, did you have a chance to contact the police department to determine the physical location of the software you purchased from Gainsoftmall? A. Yes, I did.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear in the attached errata sheet signed by me.	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Let me just look over the documents really quickly. I think we're done. Oh. Just one a couple of last questions: When all this happened, at no time have you contacted Google; correct? A. No. Q. At no time in any of the discussions you've had with any of these people did you blame Google for any of these things that took place? A. That's correct. MR. STERN: I have no further questions. Thank you very much. THE WITNESS: Okay. REEXAMINATION BY MR. ETTINGER: Q. Just before we break, during the break when the tape was being changed, did you have a chance to contact the police department to determine the physical location of the software you purchased from Gainsoftmall?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	have read and examined the foregoing pages of testimony, and the same is a true, correct, and complete transcription of the testimony given by me, and any changes or corrections, if any, appear in the attached errata sheet signed by me.	

Rita Kay Porter - 3/10/10 Rosetta Stone, Ltd. vs. Google, Inc.

	Pag	e 86
1	RE: Rosetta Stone, Ltd. vs. Google, Inc.	
2		
3	I certify that I have read my testimony and	
4	request that NO changes be made.	
5		
6	\underline{v} I certify that I have read my testimony and	
7	request that the above changes be made.	
. 8		
9		
10	ω : ω	
1	Rita Kay Porter	
12	Rita Kay Porter	
13		
. 14		
15	Subscribed and sworn to before me	
16	this day of, 20	
17		
18		
19		
20	Notary Public	
21	State of	
2.2	County of	
23	My commission expires	
24		
25	MAM	

DIANA THOMAS 3/12/10

FOR THE EASTERN DISTRICT OF

ALEXANDRIA DIVISION

-----:

ROSETTA STONE, LTD., :

Plaintiff, :

vs. : Case No.

: 1:09-CV-00736

GOOGLE, INC., : (GBL/TCB)

Defendants.

-----:

Newburgh, New York

Friday, March 12, 2010

Deposition of:

DIANA STANLEY THOMAS

called for oral examination by counsel for

Plaintiff, pursuant to Notice, held at the

Courtyard Marriott at Newburgh Stewart Airport,

located at 4 Governor Drive, Newburgh, New York,

before Roberta-Anne Schmitt, of Capital Reporting

Company, a Notary Public in and for the State of

New York, beginning at 2:05 p.m., when were present

on behalf of the respective parties:

1

	, , , , , , , , , , , , , , , , , , ,		J	
	2			4
١.	0.1.1.16.671.1.166	Ι.	DR O GEED IVOS	
1	On behalf of Plaintiff:		PROCEEDINGS	
2	MITCHELL ETTINGER, ESQUIRE	2	THE VIDEOGRAPHER: We are about to begin.	
3	Skadden Arps Slate Meagher & Flom, LLP	$\begin{vmatrix} 3 \\ 4 \end{vmatrix}$	1	
4	1440 New York Avenue, N.W.	$\frac{1}{5}$	deposition of Diana Stanley Thomas taken in the matter of Rosetta Stone, Limited,	
5	Washington, D.C. 20005-2111 (202) 371-7126	$\frac{1}{6}$	versus	
7	mitchell.ettinger@skadden.com	7		
8	mitchen.ettinger@skadden.com	8	Google, Inc. in the United States District Court for the Eastern District of Virginia,	
9	On behalf of Defendants:	0	Alexandria Division, Number 1:09-CV-00736	
10	JONATHAN B. OBLAK, ESQUIRE	10	(GBL/TCB).	
11	Quinn, Emanuel, Urquhart, Oliver & Hedges, LLP	111	This deposition is being held at the	
12	51 Madison Avenue	112		
13	22nd Floor	13	Newburgh, New York, on Friday, March 12,	
14	New York, NY 10010	14	<u> </u>	
15	(212) 849-7000	15	My name is Sallean Brown from Capital	
16	jonoblak@quinnemanuel.com	16	1	
17	Johoo lak@quimemanaen.com	17	specialist. The court reporter is Roberta	
1	ALSO PRESENT:	18		
1	JOHN THOMAS	19	Reporting Company.	
1	SALLEAN BROWNE, VIDEOGRAPHER	20		
21	or Esseria visita viria, visita orienta rest	21	MR. ETTINGER: Mitchell Ettinger from	
22		22		
	3			5
1	INDEX	1	MR. OBLAK: Jonathan Oblak of Quinn Emanuel	
2	TO TESTIMONY	2	• •	
3	WITNESS BY PAGE	3	THE VIDEOGRAPHER: Would the court reporte	r
4	DIANA STANLEY THOMAS MR. ETTINGER	4	P	
_	5 MR ODLAN 25	5	,	
5	MR. OBLAK 35 MR. ETTINGER 82	6	DIANA STANLEY THOMAS,	
6 7	MR. ETTINGER 82	7	8	
8	TO EXHIBITS		sworn, was examined and testified as follows:	
9	EXHIBIT DESCRIPTION *PAGE		EXAMINATION BY COUNSEL FOR	
10	Stanley Thomas 1 Screen shots of internet 14	1	PLAINTIFF DV MD ETTINGED.	
11	pages, four pages	111	BY MR. ETTINGER:	
12	Stanley Thomas 2 Screen shots of internet 17	12	Q Please state your full name.	
13	pages, seven pages	13	3	
14	Stanley Thomas 3 Email, one page 18	14		
15	Same, monas 5 Eman, one page 10	15		
16	(*Exhibits attached to transcript)	16	Q So you know there are certain ground rules we have to follow here?	
17	(Exhibits attached to transcript)	18	A Yes.	
18		19		
19			Q The first important ground rule is that the stenographer is taking down every word that is	
20		$\frac{120}{21}$	said, so to help her out and make sure the record	
21			is clean, I ask that you allow counsel, both	
22		122	is cicaii, i ask mat you anow counsei, bom	

	
	6
1 myself and Mr. Oblak, to ask the questions	1 education you've achieved?
2 completely before you begin your answer.	2 A Six years college; two associate's.
3 A Okay.	3 Q You have two associate's degrees?
4 Q And we will certainly allow you to	4 A Yes.
5 complete your answer before we ask any further	5 Q Can you tell me where you obtained those
6 questions.	6 degrees?
7 A Okay, sure.	7 A Ulster County Community College.
8 Q All of your answers today must be	8 Q What are the degrees in?
9 audible. Even though you're being recorded on	9 A Associate's in paramedic and associate's
10 videotape, it's not enough just to nod your head.	10 in RN.
11 We ask that you say yes or no instead of uh-huh.	11 Q Are you currently employed?
12 A Okay.	12 A Yes.
13 Q Okay is a good answer.	13 Q Where are you employed?
14 A Great.	14 A Mobile Life Support Services, Newburgh,
15 Q From time to time, you may hear counsel	15 New York.
16 interpose an objection to a question. Those	16 Q What do you do for Mobile Life?
17 objections are for the record and to be dealt with	17 A I'm a paramedic.
18 by the Court at a later time. It doesn't really	18 Q How long have you been a paramedic?
19 concern you.	19 A Five years.
20 Please allow counsel to make their	20 Q I understand that you work nights; is
21 objections, and then if you can answer the	21 that correct?
22 question as asked, go ahead and answer it; okay?	22 A Yes.
1 A Understood.	1 Q So we owe you a special thanks for
2 Q If you do not understand a question that	2 coming here this afternoon after your shift
3 I ask you please, just tell me and I'll rephrase	3 yesterday.
4 it.	4 Do you understand that this is a civil
5 A Okay.	5 case between Rosetta Stone and Google?
6 Q Finally, you are our guest here today.	6 A Yes.
7 You're not captive. If you need a break at any	7 Q And you've agreed to provide testimony
8 point in time, just ask counsel for the break and	8 in this case without being subpoenaed to attend;
9 we'll accommodate you.	9 correct?
0 A Okay. Thank you.	10 A Yes.
Q Could you please state your home	11 Q Are you being compensated in any way for
12 residence?	12 your appearance today?
13 A 12 Smith Road, Cornwall, New York,	13 A No.
4 12518.	14 Q Has anyone promised you anything for
15 Q How long have you lived there?	15 your testimony here today?
16 A Two years.	16 A No.
If Q And may I ask how young you are?	17 Q Did there come a point in time when you
18 A Forty-four.	18 decided that you wanted to purchase Rosetta Stone
19 Q All right. You can say no, but I'll	19 software?
20 probably ask again.	20 A When I was taking a Spanish class in
21 A I'm 44.	21 August, September.
22 Q All right. What's the highest level of	22 Q So you were taking
22 V An right. What's the highest level of	22 Q 50 you were taking

	10		12
1	A Of 2009.	1 Q When you say "how many," you're talking	
2	Q Okay.	2 about how many levels you bought?	
3	A Sorry about that.	3 A Correct.	
4	Q It's okay. So you were taking Spanish	4 Q When you used your Google search tool to	
5	in 2009 in community college?	5 find the Rosetta Stone software, do you recall	
6	A Yes.	6 what query you put or terms you used to attempt to	
7	Q And had you actually started the class?	7 find the software?	
8	A Yes.	8 MR. OBLAK: Objection to the form.	
9	Q After you started the class, did you	9 A Um, Rosetta Stone.	
10	determine you wanted to purchase Rosetta Stone	10 Q And why did you type in the words	
11	software?	11 "Rosetta Stone"?	
12	A Yes.	12 A Because that's what I was looking for.	
13	Q How did you know about Rosetta Stone?	13 Q And did you press enter after you typed	
14	A Advertisements; friends of mine have it;	14 in Rosetta Stone?	
15	my husband's boss has it. They said it was a	15 A Yes.	
16	great program.	16 Q Could you describe for us what you saw	
17	Q In going to purchase Rosetta Stone	17 on the search result page that came up?	
18	software, did you go to the store or did you try	18 A Well, there was a whole bunch of	
19	to buy it on the internet or how did you	19 advertisements. Like, it said "Rosetta Stone"	
20	A No. I did a search online on Google.	20 with a line underneath it, and then if you look	
21	Q Do you use Google for your search engine	21 off to the right, you know, "Rosetta Stone cheap,"	
22	typically?	22 blah blah. I don't know.	
	11		13
1	A Yes.	1 Q And did you click on different links	
2	Q And why is that?	2 that appeared on that landing page?	
3	A It's the most popular one out there.	3 A I did.	
4	Q Do you recall when you used Google to	4 Q What did you learn when you clicked on	
5	search for Rosetta Stone software?	, , ,	
6		5 these different links?	
1 0			
7		6 A Everybody has a different price, so I	
	A Early September. Q Of '09?	6 A Everybody has a different price, so I 7 was looking for the cheapest one.	
7	A Early September.Q Of '09?A Of '09; correct.	6 A Everybody has a different price, so I 7 was looking for the cheapest one.	
7 8 9	A Early September. Q Of '09? A Of '09; correct.	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to	
7 8 9	A Early September.Q Of '09?A Of '09; correct.Q At the time you began your search on	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to 9 be the day you did the search?	
7 8 9 10	A Early September. Q Of '09? A Of '09; correct. Q At the time you began your search on Google for Rosetta Stone software, did you have an	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to 9 be the day you did the search? 10 A I believe it was around \$90 for Spanish	
7 8 9 10 11	A Early September. Q Of '09? A Of '09; correct. Q At the time you began your search on Google for Rosetta Stone software, did you have an understanding of how much the software cost?	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to 9 be the day you did the search? 10 A I believe it was around \$90 for Spanish 11 1, and that's the one that I was looking for. I	
7 8 9 10 11 12 13	A Early September. Q Of '09? A Of '09; correct. Q At the time you began your search on Google for Rosetta Stone software, did you have an understanding of how much the software cost? A Yes. Q How did you arrive at that	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to 9 be the day you did the search? 10 A I believe it was around \$90 for Spanish 11 1, and that's the one that I was looking for. I 12 didn't want to buy the whole set.	
7 8 9 10 11 12 13	A Early September. Q Of '09? A Of '09; correct. Q At the time you began your search on Google for Rosetta Stone software, did you have an understanding of how much the software cost? A Yes. Q How did you arrive at that understanding? A TV; everybody else telling me.	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to 9 be the day you did the search? 10 A I believe it was around \$90 for Spanish 11 1, and that's the one that I was looking for. I 12 didn't want to buy the whole set. 13 Q And do you recall who offered Span	
7 8 9 10 11 12 13 14	A Early September. Q Of '09? A Of '09; correct. Q At the time you began your search on Google for Rosetta Stone software, did you have an understanding of how much the software cost? A Yes. Q How did you arrive at that understanding?	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to 9 be the day you did the search? 10 A I believe it was around \$90 for Spanish 11 1, and that's the one that I was looking for. I 12 didn't want to buy the whole set. 13 Q And do you recall who offered Span 14 Rosetta Stone Spanish 1 for approximately \$90?	
7 8 9 10 11 12 13 14 15 16	A Early September. Q Of '09? A Of '09; correct. Q At the time you began your search on Google for Rosetta Stone software, did you have an understanding of how much the software cost? A Yes. Q How did you arrive at that understanding? A TV; everybody else telling me. Q And what did you understand the software purchase price to be?	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to 9 be the day you did the search? 10 A I believe it was around \$90 for Spanish 11 1, and that's the one that I was looking for. I 12 didn't want to buy the whole set. 13 Q And do you recall who offered Span 14 Rosetta Stone Spanish 1 for approximately \$90? 15 A Are you asking for a name? 16 Q Yes. If you recall who was offering it 17 at that price.	
7 8 9 10 11 12 13 14 15 16	A Early September. Q Of '09? A Of '09; correct. Q At the time you began your search on Google for Rosetta Stone software, did you have an understanding of how much the software cost? A Yes. Q How did you arrive at that understanding? A TV; everybody else telling me. Q And what did you understand the software purchase price to be? A Expensive.	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to 9 be the day you did the search? 10 A I believe it was around \$90 for Spanish 11 1, and that's the one that I was looking for. I 12 didn't want to buy the whole set. 13 Q And do you recall who offered Span 14 Rosetta Stone Spanish 1 for approximately \$90? 15 A Are you asking for a name? 16 Q Yes. If you recall who was offering it 17 at that price. 18 A Like the Sourceplaza?	
7 8 9 10 11 12 13 14 15 16 17	A Early September. Q Of '09? A Of '09; correct. Q At the time you began your search on Google for Rosetta Stone software, did you have an understanding of how much the software cost? A Yes. Q How did you arrive at that understanding? A TV; everybody else telling me. Q And what did you understand the software purchase price to be? A Expensive. Q Do you remember the range?	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to 9 be the day you did the search? 10 A I believe it was around \$90 for Spanish 11 1, and that's the one that I was looking for. I 12 didn't want to buy the whole set. 13 Q And do you recall who offered Span 14 Rosetta Stone Spanish 1 for approximately \$90? 15 A Are you asking for a name? 16 Q Yes. If you recall who was offering it 17 at that price.	
7 8 9 10 11 12 13 14 15 16 17 18 19 20	A Early September. Q Of '09? A Of '09; correct. Q At the time you began your search on Google for Rosetta Stone software, did you have an understanding of how much the software cost? A Yes. Q How did you arrive at that understanding? A TV; everybody else telling me. Q And what did you understand the software purchase price to be? A Expensive. Q Do you remember the range? A For the entire program? Five, six	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to 9 be the day you did the search? 10 A I believe it was around \$90 for Spanish 11 1, and that's the one that I was looking for. I 12 didn't want to buy the whole set. 13 Q And do you recall who offered Span 14 Rosetta Stone Spanish 1 for approximately \$90? 15 A Are you asking for a name? 16 Q Yes. If you recall who was offering it 17 at that price. 18 A Like the Sourceplaza?	
7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A Early September. Q Of '09? A Of '09; correct. Q At the time you began your search on Google for Rosetta Stone software, did you have an understanding of how much the software cost? A Yes. Q How did you arrive at that understanding? A TV; everybody else telling me. Q And what did you understand the software purchase price to be? A Expensive. Q Do you remember the range?	6 A Everybody has a different price, so I 7 was looking for the cheapest one. 8 Q What do you recall the cheapest price to 9 be the day you did the search? 10 A I believe it was around \$90 for Spanish 11 1, and that's the one that I was looking for. I 12 didn't want to buy the whole set. 13 Q And do you recall who offered Span 14 Rosetta Stone Spanish 1 for approximately \$90? 15 A Are you asking for a name? 16 Q Yes. If you recall who was offering it 17 at that price. 18 A Like the Sourceplaza? 19 Q If that was the name.	

_			<u> </u>	
	14			16
1	A I'm sorry.	1	A It was up there. It was more toward the	
2	Q I'm just asking you if you recall who	ı	top than to the bottom of the page, but I don't	
3	was offering it at that price.		remember the exact location.	
4	A There were a lot of people. Different	4	Q And you said it was one of the sponsored	
5	prices and stuff. I don't remember the exact one		links. Do you understand what a "sponsored link"	
6	for \$90.		is?	
7	Q Did you click on a link to purchase the	7	A I thought that they were linked directly	
8	software?	8	to Rosetta Stone or to whoever you're looking for,	
9	A Yes.	9	but I guess they're not I'm finding out now.	
10	Q Okay. Where did the link appear on the	10	Q When you clicked on the link and saw the	
11	search results page that you clicked on that	11	landing page, right, you clicked on the link for	
12	ultimately lead to your purchase?	12	Rosetta Stone software and you went to a landing	
13	A Do you mean either in the middle, on the	13	page, what did you see on that landing page?	
14	right or the left?	14	A Rosetta Stone, the box.	
15	Q Literally where on the page did it	15	Q And do you recall the color of the box?	
16	appear?	16	A It was yellow. Looks just like the	
17	A On the right (Indicating).	17	Rosetta Stone boxes.	
18	Q Let me show you what I'm going to mark	18	Q Do you remember anything else about the	
19	as Stanley Thomas 1.		landing page that you saw?	
20	(At which time, Stanley Thomas Exhibit	20	A No.	
21	1, Screen shots of internet pages,	21	Q When you clicked on the link, what, if	
22	consisting of four pages, was marked	22	anything, did you believe about the affiliation	
	15			17
1	for identification by counsel.)	1	between the company that was offering the software	
2	Q This is a four-paged document that I'll		that you saw and Rosetta Stone?	
3	represent to you is basically a search that was	3	MR. OBLAK: Object to form.	
4	done for Rosetta Stone Spanish on September	4	A I thought that they were people that	
5	excuse me, on October 16th 2009, and this is	5	worked with Rosetta Stone.	
6	obviously after the point in time you said you	6	Q Let me show you what I've marked as	
7	purchased it. But I'm asking you just to take a	7	Stanley Thomas Exhibit 2.	
8	look at Exhibit 1, and if you could tell us where	8	(At which time, Stanley Thomas Exhibit	
9	on the page the link appeared that you clicked on?	9	2, Screen shots of internet pages,	
10	A Off to the right over here on sponsored	10	consisting of seven pages, was marked	
1	links (Indicating).	11	for identification by counsel.)	
12	Q Could you hold that up for the camera	12	Q This is a seven-paged document. I'll	
13	1 3 1	ı	represent to you it is a printout of a landing	
14	A Sure (Indicating).	14	page for Sourceplaza dot com from October 16th	
15	Q Point to it.	15	2009, again, after the date of your purchase. But	
16	A This side (Indicating).	ı	my question to you is, does this landing page for	
17	Q Do you recall whether the link that you	17	Sourceplaza dot com, resemble, in any respect, the	
18	clicked on appeared in the first, second or third	18	one that you saw when you purchased Rosetta Stone	
19	position on the list?	19	software?	
20	A I don't.	20	A Yes.	
21	Q Do you remember how high up on the list	21	Q And in what way or ways is it similar to	
22	· · · · · · · · · · · · · · · · · · ·	22	what you cam?	
22	it was?	22	what you saw?	

_			<u> </u>	
	1	3		20
1 2 3 4 5 6 7 8 9 10 11 12 13 14	A Well, it has the price on the right and then it has the Rosetta Stone box, which I thought was the original Rosetta Stone stuff (Indicating). Q And, in fact, as you sit here today, do you remember what purchase price you paid for the		the box. Q At the time you sent this e-mail? A Correct. Q So you ordered your software from Sourceplaza dot com on the very same day that you did your initial search on Google? A Yes. MR. OBLAK: Objection to form. MR. ETTINGER: Let me try to rephrase it. BY MR. ETTINGER: Q Did you have one or more sessions with the Google search Rosetta Stone before you purchased the software? A Oh, I searched a couple; quite a few.	
15 16 17 18	(At which time, Stanley Thomas Exhibit	15 16 17 18	Q Different sites? A Yes. Q But when you made the purchase, was it on the same day as you began the search effort?	
19 20 21 22	Stanley Thomas Exhibit 3. It's a one-paged e-mail	19 20 21 22	A Yes. Q And you indicated that you bought from	
	1	9		21
11 12 13 14 15 16 17 18 19 20 21	A (Witness complied with request.) Yes, yes. That's my e-mail. Q Do you recognize this e-mail? A Yes, I do. Q You said this is your e-mail? A Correct. Q Is that your e-mail address, "flymenu" at Gmail dot com? A "Fly4menu," yes. Q To whom were you sending this e-mail? A Paymenteasy2009. Q And this e-mail reflects that you're requesting a return of the purchase price of \$139? A Correct. Q Does this email refresh your recollection that you paid \$139? A Correct. After taxes and, yup with my phone number. Q Okay.	3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A My ATM bank card. Q Okay. A Which came straight out of my checking account. Q At the time that you purchased the Rosetta Stone software through Sourceplaza dot com, did you believe you were buying genuine Rosetta Stone software? A Yes. Q Do you know what counterfeit software is or bootleg software? A Yeah. Q What does that mean to you? A "Bootleg" means that they've either	
19 20	A Correct. After taxes and, yup with my phone number. Q Okay.	19 20 21	A Yeah. Q What does that mean to you?	

		_		$\overline{}$
	22			24
1 illegally	under a fictitious name, and	1	1 Q Did the package have a customs form with	
2 "counter	feit" means it's not the real stuff.	2	2 it?	
3 Q V	When you made your purchase from	3	3 A No.	
4 Sourcepl	aza dot com of Rosetta Stone software, did	4	4 Q Did the outside of the package indicate	
	nd to buy either counterfeit or bootleg	5	5 what the contents were?	
6 software	?	6		
7 A N	No.	7	7 Q And did you save, by any chance, the	
8 Q I	Did you, in fact, receive software from	8	r 8	
9 Sourcepl	aza?	9		
10 A I	did.	10	0 out because I called Rosetta Stone and then I	
11 Q C	Could you describe for us what you	11	, , , ,	
12 received	?	12		
	received this box (Indicating), which	13	3 couldn't help me so I threw it out.	
	llow box, showing Rosetta Stone.	14	· · · · · · · · · · · · · · · · · · ·	
	Could you hold that up?	15	5 onto your computer?	
	Iold it up?	16		
	Please hold it up.	17	7 Q And were you successful in loading it?	
	ou're referring now to Exhibit 2?	18		
	es, sure.	19	,	
,	Please describe it for the record.	20	, , , ,	
	Okay. It was in a brown box and then	21		
22 this box,	which shows Rosetta Stone with all the -	22	2 kind of gunk on them, like glue or something. So	
	23			25
	23			25
	thought was real, decals and everything		1 I tried to load it in anyway because I know some	25
2 on it, and	thought was real, decals and everything d that was what was in the box, but	2	2 CDs can get that so I thought it was kind of	25
2 on it, and 3 Q V	thought was real, decals and everything d that was what was in the box, but When you received the package, did it	2 3	2 CDs can get that so I thought it was kind of3 funny. So I loaded it in and it didn't do	25
2 on it, and 3 Q V 4 come in	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you	2 3 4	2 CDs can get that so I thought it was kind of3 funny. So I loaded it in and it didn't do4 anything at all. Just nothing.	25
2 on it, and 3 Q V 4 come in 5 remember	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er?	2 3	 2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er?	2 3 4 5 6	 2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? t came in the regular mail.	2 3 4 5 6 7	 2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er?	2 3 4 5 6 7 8	 2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from?	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? It came in the regular mail. From the outside of the packaging, could what country the software originated	2 3 4 5 6 7 8 9	 2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 9 A It had all my 	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? teame in the regular mail. From the outside of the packaging, could what country the software originated	2 3 4 5 6 7 8 9	 2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 9 A It had all my 0 I reordered directly through Rosetta 	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In 11 Chinese.	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? It came in the regular mail. From the outside of the packaging, could what country the software originated	2 3 4 5 6 7 8 9 10	2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 9 A It had all my 1 reordered directly through Rosetta 1 Stone afterward once I found out they were	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In 11 Chinese. 12 them.	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? It came in the regular mail. From the outside of the packaging, could what country the software originated I looked to me either Japanese or I don't know the difference between	2 3 4 5 6 7 8 9 10 11 12	2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 9 A It had all my 1 reordered directly through Rosetta 1 Stone afterward once I found out they were 2 counterfeit.	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In 11 Chinese. 12 them. 13 Q V	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? It came in the regular mail. From the outside of the packaging, could what country the software originated I looked to me either Japanese or I don't know the difference between	2 3 4 5 6 7 8 9 10 11 12 13	 2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at all? 9 A It had all my 0 I reordered directly through Rosetta 1 Stone afterward once I found out they were 2 counterfeit. 3 So it had a headset with a microphone 	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In 11 Chinese. 12 them. 13 Q V 14 box that	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? It came in the regular mail. From the outside of the packaging, could what country the software originated I looked to me either Japanese or I don't know the difference between What did you see on the outside of the lead you to that conclusion?	2 3 4 5 6 7 8 9 10 11 12 13 14	2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 9 A It had all my 1 reordered directly through Rosetta 1 Stone afterward once I found out they were 2 counterfeit. 3 So it had a headset with a microphone 4 attached to it, and then it had the Spanish 1,	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In 11 Chinese. 12 them. 13 Q V 14 box that 15 A In	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? teame in the regular mail. From the outside of the packaging, could what country the software originated tooked to me either Japanese or I don't know the difference between What did you see on the outside of the lead you to that conclusion? Thought was in either Japanese writing, but	2 3 4 5 6 7 8 9 10 11 12 13 14 15	2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 9 A It had all my 0 I reordered directly through Rosetta 1 Stone afterward once I found out they were 2 counterfeit. 3 So it had a headset with a microphone 4 attached to it, and then it had the Spanish 1, 5 which I thought were all the proper CDs, but	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In 11 Chinese. 12 them. 13 Q V 14 box that 15 A In 16 there wa	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? teame in the regular mail. From the outside of the packaging, could what country the software originated tolooked to me either Japanese or I don't know the difference between What did you see on the outside of the lead you to that conclusion? te was in either Japanese writing, but is no return address either. It just had	2 3 4 5 6 7 8 9 10 11 12 13 14 15	2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 9 A It had all my 1 reordered directly through Rosetta 1 Stone afterward once I found out they were 2 counterfeit. 3 So it had a headset with a microphone 4 attached to it, and then it had the Spanish 1, 5 which I thought were all the proper CDs, but 6 apparently not, in them.	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In 11 Chinese. 12 them. 13 Q V 14 box that 15 A In 16 there wa 17 my name	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? came in the regular mail. from the outside of the packaging, could what country the software originated t looked to me either Japanese or I don't know the difference between What did you see on the outside of the lead you to that conclusion? t was in either Japanese writing, but s no return address either. It just had e, address, and then it had something in	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 9 A It had all my 1 reordered directly through Rosetta 1 Stone afterward once I found out they were 2 counterfeit. 3 So it had a headset with a microphone 4 attached to it, and then it had the Spanish 1, 5 which I thought were all the proper CDs, but 6 apparently not, in them. 7 Q Approximately how many CDs came with	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In 11 Chinese. 12 them. 13 Q V 14 box that 15 A In 16 there wa 17 my name 18 Chinese	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? came in the regular mail. from the outside of the packaging, could what country the software originated t looked to me either Japanese or I don't know the difference between What did you see on the outside of the lead you to that conclusion? t was in either Japanese writing, but s no return address either. It just had a address, and then it had something in writing, and I can't remember exactly what	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at all? 9 A It had all my 1 reordered directly through Rosetta 1 Stone afterward once I found out they were 2 counterfeit. 3 So it had a headset with a microphone 4 attached to it, and then it had the Spanish 1, 5 which I thought were all the proper CDs, but 6 apparently not, in them. 7 Q Approximately how many CDs came with 8 your package?	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In 11 Chinese. 12 them. 13 Q V 14 box that 15 A In 16 there wa 17 my name 18 Chinese 19 it meant.	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? teame in the regular mail. From the outside of the packaging, could what country the software originated tooked to me either Japanese or I don't know the difference between What did you see on the outside of the lead you to that conclusion? to was in either Japanese writing, but is no return address either. It just had be, address, and then it had something in writing, and I can't remember exactly what Because I did look it up online to see	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 9 A It had all my 0 I reordered directly through Rosetta 1 Stone afterward once I found out they were 2 counterfeit. 3 So it had a headset with a microphone 4 attached to it, and then it had the Spanish 1, 5 which I thought were all the proper CDs, but 6 apparently not, in them. 7 Q Approximately how many CDs came with 8 your package? 9 A I want to say four to eight, I don't	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In 11 Chinese. 12 them. 13 Q V 14 box that 15 A In 16 there wa 17 my name 18 Chinese 19 it meant. 20 what tha	thought was real, decals and everything d that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? teame in the regular mail. From the outside of the packaging, could what country the software originated tooked to me either Japanese or I don't know the difference between What did you see on the outside of the lead you to that conclusion? te was in either Japanese writing, but as no return address either. It just had a paddress, and then it had something in writing, and I can't remember exactly what Because I did look it up online to see to meant, but I don't remember. Because I	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 9 A It had all my 0 I reordered directly through Rosetta 1 Stone afterward once I found out they were 2 counterfeit. 3 So it had a headset with a microphone 4 attached to it, and then it had the Spanish 1, 5 which I thought were all the proper CDs, but 6 apparently not, in them. 7 Q Approximately how many CDs came with 8 your package? 9 A I want to say four to eight, I don't 10 remember.	25
2 on it, and 3 Q V 4 come in 5 remember 6 A In 7 Q F 8 you tell v 9 from? 10 A In 11 Chinese. 12 them. 13 Q V 14 box that 15 A In 16 there wa 17 my name 18 Chinese 19 it meant. 20 what tha	I thought was real, decals and everything I that was what was in the box, but When you received the package, did it the mail, UPS, Federal Express; do you er? I came in the regular mail. From the outside of the packaging, could what country the software originated I looked to me either Japanese or I don't know the difference between What did you see on the outside of the lead you to that conclusion? I was in either Japanese writing, but so no return address either. It just had en address, and then it had something in writing, and I can't remember exactly what Because I did look it up online to see to meant, but I don't remember. Because I ag to locate the company so I could get my	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	2 CDs can get that so I thought it was kind of 3 funny. So I loaded it in and it didn't do 4 anything at all. Just nothing. 5 Q Do you remember what the contents of the 6 package consisted of? And what I mean by that is 7 how many CDs, what they said on their packaging at 8 all? 9 A It had all my 0 I reordered directly through Rosetta 1 Stone afterward once I found out they were 2 counterfeit. 3 So it had a headset with a microphone 4 attached to it, and then it had the Spanish 1, 5 which I thought were all the proper CDs, but 6 apparently not, in them. 7 Q Approximately how many CDs came with 8 your package? 9 A I want to say four to eight, I don't 10 remember.	25

	26	5	28
1	A No.	1 A That they told me that they weren't real	
2	Q Did the package contain a user's guide?	2 CDs.	
3	A No.	3 Q That the software that you purchased was	
4	Q Did the package contain any information	4 not genuine Rosetta Stone software?	
5	regarding the installation of the software?	5 A Correct.	
6	A I don't believe so.	6 MR. OBLAK: Objection to the form.	
7	Q When you were unable to load the	7 Q And at that point in time you said you	
8	software on your computer, what did you do?	8 also spoke to someone in close proximity to	
9	A I believe the next day is when I called	9 someone in the Rosetta Stone legal department?	
10	Rosetta Stone.	10 A Yes.	
11	Q And why did you call Rosetta Stone?	11 Q Do you remember the individual's name's?	
12	A Well, I wanted to see what they could	12 A I don't.	
13	do, if it wasyou know, how to really load this	13 Q Does the name Jason Calhoun ring a bell?	
	in, and that's when I found out that it wasn't the	14 A Jason, yes.	
	right stuff and that it was all counterfeit.	15 Q What did Jason tell you?	
16	Q And who at Rosetta Stone did you reach	16 A Well, he worked with me for a couple of	
	out to?	17 days and he said, Well, see if you can try to get	
18	A I talked to a couple of different	18 them to work; get a hold of the company through	
19	representatives, and then I talked to after a	19 PayPal and see if they'll give you your money back	
20	couple of days, because I made a couple of	20 to return them, and if that doesn't work, call me	
21	different phone calls to Rosetta Stone, and then I	21 back.	
1	talked to their legal department after sometime.	22 So I called PayPal. They were not	
22	tarked to their regar department after sometime.	36 Featier Fayr at. They were not	
	27	7	29
1	27 I don't remember.		29
1 2	I don't remember.	1 helpful.	29
	I don't remember. Q When you reached out to Rosetta Stone,	1 helpful.2 And the reason PayPal said they couldn't	29
2	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta	 helpful. And the reason PayPal said they couldn't help me was because I didn't use a PayPal account 	29
2 3	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help	 helpful. And the reason PayPal said they couldn't help me was because I didn't use a PayPal account and it came directly out of my checking account, 	29
2 3 4	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta	 helpful. And the reason PayPal said they couldn't help me was because I didn't use a PayPal account and it came directly out of my checking account, so they were like, Sorry. 	29
2 3 4 5	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes.	 helpful. And the reason PayPal said they couldn't help me was because I didn't use a PayPal account and it came directly out of my checking account, so they were like, Sorry. Q Were you ever refunded the purchase 	29
2 3 4 5 6	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still	 helpful. And the reason PayPal said they couldn't help me was because I didn't use a PayPal account and it came directly out of my checking account, so they were like, Sorry. Q Were you ever refunded the purchase 	29
2 3 4 5 6 7 8	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone	 1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 	29
2 3 4 5 6 7 8 9	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software?	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may	29
2 3 4 5 6 7 8 9 10	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset.	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs	29
2 3 4 5 6 7 8 9 10	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset. Q What did Rosetta Stone tell you when you	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs 11 to work, is that what you said?	29
2 3 4 5 6 7 8 9 10 11 12	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset. Q What did Rosetta Stone tell you when you contacted them?	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs 11 to work, is that what you said? 12 A Correct.	29
2 3 4 5 6 7 8 9 10 11 12 13	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset. Q What did Rosetta Stone tell you when you contacted them? A Um, you know, at first they tried to	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs 11 to work, is that what you said? 12 A Correct. 13 Q Did you tell him that you already tried	29
2 3 4 5 6 7 8 9 10 11 12 13 14	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset. Q What did Rosetta Stone tell you when you contacted them? A Um, you know, at first they tried to figure out, you know, how we could make them work,	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs 11 to work, is that what you said? 12 A Correct. 13 Q Did you tell him that you already tried 14 that	29
2 3 4 5 6 7 8 9 10 11 12 13 14	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset. Q What did Rosetta Stone tell you when you contacted them? A Um, you know, at first they tried to figure out, you know, how we could make them work, and they were going about what was in the box and	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs 11 to work, is that what you said? 12 A Correct. 13 Q Did you tell him that you already tried 14 that 15 A Yeah.	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset. Q What did Rosetta Stone tell you when you contacted them? A Um, you know, at first they tried to figure out, you know, how we could make them work, and they were going about what was in the box and then they realized you know, they asked me	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs 11 to work, is that what you said? 12 A Correct. 13 Q Did you tell him that you already tried 14 that 15 A Yeah. 16 Q and had spoken to the customer care	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset. Q What did Rosetta Stone tell you when you contacted them? A Um, you know, at first they tried to figure out, you know, how we could make them work, and they were going about what was in the box and then they realized you know, they asked me where I ordered it from and I told them that. And	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs 11 to work, is that what you said? 12 A Correct. 13 Q Did you tell him that you already tried 14 that 15 A Yeah. 16 Q and had spoken to the customer care 17 people?	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset. Q What did Rosetta Stone tell you when you contacted them? A Um, you know, at first they tried to figure out, you know, how we could make them work, and they were going about what was in the box and then they realized you know, they asked me where I ordered it from and I told them that. And I believe at that point they told me they weren't	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs 11 to work, is that what you said? 12 A Correct. 13 Q Did you tell him that you already tried 14 that 15 A Yeah. 16 Q and had spoken to the customer care 17 people? 18 A Yes.	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset. Q What did Rosetta Stone tell you when you contacted them? A Um, you know, at first they tried to figure out, you know, how we could make them work, and they were going about what was in the box and then they realized you know, they asked me where I ordered it from and I told them that. And I believe at that point they told me they weren't there but they actually tried to help me	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs 11 to work, is that what you said? 12 A Correct. 13 Q Did you tell him that you already tried 14 that 15 A Yeah. 16 Q and had spoken to the customer care 17 people? 18 A Yes. 19 Q You indicated that you ultimately	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset. Q What did Rosetta Stone tell you when you contacted them? A Um, you know, at first they tried to figure out, you know, how we could make them work, and they were going about what was in the box and then they realized you know, they asked me where I ordered it from and I told them that. And I believe at that point they told me they weren't there but they actually tried to help me anyway.	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs 11 to work, is that what you said? 12 A Correct. 13 Q Did you tell him that you already tried 14 that 15 A Yeah. 16 Q and had spoken to the customer care 17 people? 18 A Yes. 19 Q You indicated that you ultimately 20 purchased Rosetta Stone software for your use; is	29
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	I don't remember. Q When you reached out to Rosetta Stone, did you do that because you believed that Rosetta Stone, the company, was going to be able to help you with the software you had purchased? A Yes. Q At that point in time did you still believe you had bought genuine Rosetta Stone software? A No. I was pretty upset. Q What did Rosetta Stone tell you when you contacted them? A Um, you know, at first they tried to figure out, you know, how we could make them work, and they were going about what was in the box and then they realized you know, they asked me where I ordered it from and I told them that. And I believe at that point they told me they weren't there but they actually tried to help me	1 helpful. 2 And the reason PayPal said they couldn't 3 help me was because I didn't use a PayPal account 4 and it came directly out of my checking account, 5 so they were like, Sorry. 6 Q Were you ever refunded the purchase 7 price that you paid to Sourceplaza dot com? 8 A No. 9 Q You indicated that you thought Jason may 10 have advised you to see if you could get the CDs 11 to work, is that what you said? 12 A Correct. 13 Q Did you tell him that you already tried 14 that 15 A Yeah. 16 Q and had spoken to the customer care 17 people? 18 A Yes. 19 Q You indicated that you ultimately	29

	<u> </u>		<u> </u>	
		30		32
1	Q From whom did you purchase it?	- 1 ,	cent, free shipping, accept PayPal, buy now, and	
2	A Rosetta Stone.		that's from learn more language dot com slash	
$\frac{1}{3}$	Q How did you get to Rosetta Stone to buy		Rosetta Stone.	
4	that?			
5	A I called them.	1 5		
6	Q So you just telephoned their 800 number?	1 -	It says \$119 get Rosetta Stone Rosetta on sale.	
7	A Yes.		Learn foreign language with Rosetta, award winning	
8	Q And ordered it directly through them?		S software, ship free.	
9	A Correct.			
10	Q Did you get what you ordered?	1 1	that you read, the one that says \$118, get Rosetta	
11	A I did.			
12	Q Is it functioning properly?		that site offers genuine Rosetta Stone software?	
13	A Yes.	13		
14	Q Do you recall how much you paid for your	- 1		
	order?	15		
16	A 250 for Spanish 1; somewhere in that		o not?	
1	vicinity.	17	(· · · · · · · · · · · · · · · · · · ·	
18	MR. ETTINGER: May I just take a break for		I assumed before that they did.	
19	one minute.	19	,	
20	THE VIDEOGRAPHER: The time is 2:30 P.M.,		flags to you at this time?	
21	we're going off the record.	21	<u>*</u>	
22	(At which time, a brief recess was	22	learned my lesson.	
		31		33
1	taken.)		Q How about the one below it, that's for	
2	THE VIDEOGRAPHER: The time is 2:40 P.M.	- 1	2 \$119, get Rosetta Stone, do you have any	
$\frac{2}{3}$	and we are back on the record.		understanding of whether or not that site sells	
$\frac{3}{4}$	BY MR. ETTINGER			
5				
		- 1		
6	Google query, okay, for the terms "Rosetta Stone,"	6	8 8	
'	and I wanted to ask you to look at the search			
8	results page. And this was done just before you	8		
	walked in the room today.	10	1 8 (8)	
10	A Okay.	10		
11	Q I wanted you to take a look at this	11	1 & 7	
12	page, and the first thing I wanted you to do is	12	<u>C</u>	
1	tell me, if you can, where the link that you saw	13		
1 1 /	appeared on the page as you see this search	14	THE VIDEOGRAPHER: The time is 2:43 P.M.	
14			1 00.4 1	
15	result, okay? Just physically, where yours	15		
15 16	result, okay? Just physically, where yours appeared.	15 16	(At which time, a discussion was held	
15 16 17	result, okay? Just physically, where yours appeared. A Oh, on the right side under the	15 16 17	(At which time, a discussion was held off the record.)	
15 16 17 18	result, okay? Just physically, where yours appeared. A Oh, on the right side under the sponsored links.	15 16 17 18	(At which time, a discussion was held off the record.) THE VIDEOGRAPHER: The time is 2:44 P.M.	
15 16 17 18 19	result, okay? Just physically, where yours appeared. A Oh, on the right side under the sponsored links. Q Could you read for us, please, the top	15 16 17 18 19	(At which time, a discussion was held off the record.) THE VIDEOGRAPHER: The time is 2:44 P.M. and we are back on the record.	
15 16 17 18 19 20	result, okay? Just physically, where yours appeared. A Oh, on the right side under the sponsored links. Q Could you read for us, please, the top sponsored link?	15 16 17 18 19 20	(At which time, a discussion was held off the record.) THE VIDEOGRAPHER: The time is 2:44 P.M. and we are back on the record. BY MR. ETTINGER	
15 16 17 18 19 20 21	result, okay? Just physically, where yours appeared. A Oh, on the right side under the sponsored links. Q Could you read for us, please, the top sponsored link? A (Witness Reading from Document)	15 16 17 18 19 20 21	(At which time, a discussion was held off the record.) THE VIDEOGRAPHER: The time is 2:44 P.M. and we are back on the record. BY MR. ETTINGER Q Okay. So now I've clicked on the second	
15 16 17 18 19 20 21	result, okay? Just physically, where yours appeared. A Oh, on the right side under the sponsored links. Q Could you read for us, please, the top sponsored link?	15 16 17 18 19 20 21	(At which time, a discussion was held off the record.) THE VIDEOGRAPHER: The time is 2:44 P.M. and we are back on the record. BY MR. ETTINGER	

_				
	34			36
1	A Okay.	1	Mr. Ettinger that you use Google. My question for	
2	Q Just take a look at that. What do you	2	you is, is Google your primary search engine that	
3	see?	3	you use?	
4	A Different languages for Rosetta Stone	4	A It is.	
5	with the boxes from Rosetta Stone.	5	Q What kinds of things do you use it for?	
6	Q And do you see the Rosetta Stone	6	A I look up a lot of information for	
7	trademark appear on that screen?	7	schooling; if I'm going to buy something else; I	
8	MR. OBLAK: Objection to form.	8	search for eBay things; I buy books through	
9	A Yes.	9	Amazon, and I'll just punch in Amazon dot com.	
10	Q Is there anything about this website	10	Q As far as shopping, how often do you use	
11	that tells you it's genuine or not genuine Rosetta	11	5 11 5	
12	Stone software that's being offered?	12	A For books? Quite a bit.	
13	MR. OBLAK: Objection to form.	13	Q Okay. When you use Google to search for	
14	A No.		books, what kinds of things are you looking for?	
15	Q Can you tell from looking at the landing	15	A What kind of books?	
16	page from this link whether or not this company is	16	Q Well, are you looking for physical	
17	offering genuine Rosetta Stone software?		location to go and buy the book, are you looking	
18	MR. OBLAK: Objection to form.	1	for	
19	A No.	19	A No. I'm just looking to buy the book	
20	MR. ETTINGER: Again, I'm just going to ask	1	from online.	
21	that the videographer record this.	21	Q Are you looking to do price comparison?	
22	(At which time, there was a brief pause	22	A Yes.	
	35			37
1	in the proceedings.)	1	Q Do you also use Google to shop for, say,	
2	MR. ETTINGER: John, you should see this	2	electronic goods?	
3	because it is changing.	3	A No.	
4	Okay. No further questions. I will leave	4	Q Okay.	
5	this out.	5	A No.	
6	MR. OBLAK: Thank you.	6	Q What other types of things do you use or	
7	MR. ETTINGER: Before you start, do you	7		
8	want me to go back and see if I can get	8	A Well, I used it for the Rosetta Stone,	
9	that page for you?	9	but any other electronic stuff? Mainly just	
10	MR. OBLAK: Yes, why don't you go back. Go	10	literature.	
11	back if you can.	11	Q Okay. And do you use Google in	
12	EXAMINATION	12	connection with your work at all?	
13	BY MR. OBLAK	13	A No.	
14	Q Good afternoon. Do you go by Ms.	14	Q When you said that you use it	
15	Stanley Thomas or Ms. Thomas, what do you prefer?	15	A I'm sorry. In connection with my work	
16	A Mrs. Stanley Thomas.	16	looking things up you mean?	
17	Q Mrs. Stanley Thomas, thank you for your	17	Q Yes.	
18	,	18	A Yes.	
19	before we started, my name is Jonathan Oblak. I'm	19	Q Okay.	
20	a lawyer. I work on behalf of Google, Inc.	20	A For like medical terminology and	
21	First, can you tell me, I think you	21	different things like that.	
122		1 ~~		
122	mentioned in your testimony during questions from	22	Q And do you find Google useful in that	

_			<u> </u>	
	38			40
1	respect?	1	Q Did you	
2	A Yeah.	2	If you look at the exhibit marked as	
3	Q Do you use any other search engines?	3	Exhibit 1.	
4	A No.	4	A (Witness complied with request.)	
5	Q How long have you been using Google as	5	Okay.	
6	your primary search engine?	6	Q Do you see at the top on the left the	
7	A A long time. I don't know.	7	first listing is Rosetta Stone, there's a little	
8	Q Okay. And do you understand that Google	8	R, and then Spanish?	
9	has advertisements?	9	A Correct.	
10	A I guess so.	10	Q And under that is www dot Rosetta Stone	
11	Q Well, have you ever, in connection with	11	dot com?	
12	shopping, have you ever purchased anything from	12	A Yes.	
13	Google?	13	Q Do you recall whether you clicked on a	
14	A Specifically from Google itself?	ı	link for Rosetta Stone dot com when you were	
15	Q Yes.		searching?	
16	A No.	16	A I don't remember.	
17	Q You've used Google, though, to find	17	I'm sorry.	
18	places where you can purchase things?	18	Q Go ahead.	
19	A Correct.	19	A Did you mean whether I clicked on it to	
20	Q And have you ever thought that Google,	20	compare the price?	
	itself, sells products?	21	Q Have you ever do you know if you ever	
22	A I never thought of it, no.	ı	clicked on Rosetta Stone dot com?	
	The first thought of it, no.		cheked on resetta stone dot com.	
	39			41
1	Q Okay. You also mentioned, I think, that	1	A Yes.	
2	you use	2	Q Did you do it the day you were shopping	
3	Do you use Google to find things on	3	for the software?	
4	eBay, is that what you were saying?	4	A I probably did.	
5	A I just type in eBay.	5	Q Do you know if you did it any occasion	
6	Q Do you regularly shop at eBay?	6	before that?	
7	A Not very often. Depends on what I'm	7	A No.	
8	looking for.	8	Q On the day that you were shopping for	
9	Q Aside from your purchase of the Rosetta		software from Rosetta Stone, do you recall seeing	
10	Stone software that you've been testifying about,		the price for the product at the Rosetta Stone dot	
	have you ever had any other experience purchasing		com website?	
	something over the internet where the product was	12	A Yes.	
13	not what you expected it to be?	13	Q And what was the price that you saw?	
14	A No.	14	A Somewhere between four to 700; depends	
15	Q You testified that you, that the day		on how much you're buying.	
16	that you purchased the Rosetta Stone software I	16	Q Okay. Focusing again on Exhibit 1, do	
17	believe you checked a number of sites		you see below that there's a link for Amazon dot	
18	A Correct.	18	com?	
19	Q is that correct?	19	A Correct.	
20	Did you visit the Rosetta Stone dot com	20	Q Do you recall whether you clicked on a	
1	website?	21	link for Amazon and looked for the Rosetta Stone	
22	A Probably.	22	software at Amazon?	
~~		~~	222	

			_
	42		44
1	A I might have.	1 appearance to the actual Rosetta Stone software	
2	Q Do you	2 A Yes.	
3	A I checked a bunch of different sites	3 Q that you received?	
4	before I bought it, so I know I did check on eBay.	4 A Yes.	
5	I'm not sure if I checked Amazon.	5 Q And you also testified that there were	
6	Q Do you recall how many sites you checked	6 certain items that you did not find in the box	
7	before you purchased?	7 that you received, such as the owner's manual.	
8	A I don't.	8 Were there other items that were not in	
9	Q And when you were clicking on the	9 the box you received from Sourceplaza that were in	
10	different sites, what was it that you were looking	10 the box you received from Rosetta Stone?	
11	for in looking at the different sites?	11 A Well, I didn't get a packing receipt.	
12	A For the Spanish 1 at the lowest price I	12 Q Do you recall anything else?	
13	could get it for. I mean, I was on there for	13 A That wasn't in there?	
14	quite awhile, a couple of hours.	14 Q It wasn't in the box that you received,	
15	Q You were looking for the software for a	15 it was in the box you later received directly from	
16	couple of hours?	16 Rosetta Stone.	
17	A Correct.	17 MR. ETTINGER: Objection, asked and	
18	Q And was your primary goal to find it at	18 answered.	
19	the lowest price?	19 A The everything that I said. I mean,	
20	A Yes.	20 it was you know, you had the box and you opened	
21	Q And did you come to the conclusion that	21 it up and you had the headset and you had the CDs.	
22	there were many different outlets that were	22 I thought that was all that was there, but no	
	43		45
1			45
1 2	selling the software at different prices?	1 packing slip and no return address.	45
1 2 3	selling the software at different prices? MR. ETTINGER: Objection.	 packing slip and no return address. Q Okay. With respect to the package you 	45
2	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to	 packing slip and no return address. Q Okay. With respect to the package you received from Sourceplaza, it's your testimony 	45
2 3	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone.	 1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 	45
2 3 4	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why	 packing slip and no return address. Q Okay. With respect to the package you received from Sourceplaza, it's your testimony that the CDs that came with it were damaged? A Yes. They are they were. 	45
2 3 4 5	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone.	 packing slip and no return address. Q Okay. With respect to the package you received from Sourceplaza, it's your testimony that the CDs that came with it were damaged? A Yes. They are they were. 	45
2 3 4 5 6	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so	 packing slip and no return address. Q Okay. With respect to the package you received from Sourceplaza, it's your testimony that the CDs that came with it were damaged? A Yes. They are they were. Q Was there damage beyond the material? I 	45
2 3 4 5 6 7	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices	 packing slip and no return address. Q Okay. With respect to the package you received from Sourceplaza, it's your testimony that the CDs that came with it were damaged? A Yes. They are they were. Q Was there damage beyond the material? I think you described it perhaps as glue or some 	45
2 3 4 5 6 7 8	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No.	 packing slip and no return address. Q Okay. With respect to the package you received from Sourceplaza, it's your testimony that the CDs that came with it were damaged? A Yes. They are they were. Q Was there damage beyond the material? I think you described it perhaps as glue or some kind of glue. 	45
2 3 4 5 6 7 8 9 10	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it. Q Were you concerned at all in making your	 packing slip and no return address. Q Okay. With respect to the package you received from Sourceplaza, it's your testimony that the CDs that came with it were damaged? A Yes. They are they were. Q Was there damage beyond the material? I think you described it perhaps as glue or some kind of glue. A There was some kind of glue on there. 	45
2 3 4 5 6 7 8 9 10	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it.	1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 5 A Yes. They are they were. 6 Q Was there damage beyond the material? I 7 think you described it perhaps as glue or some 8 kind of glue. 9 A There was some kind of glue on there. 10 Q Was there some kind of damage beyond	45
2 3 4 5 6 7 8 9 10	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it. Q Were you concerned at all in making your purchase that the price you were paying was at such a significant discount from what Rosetta	1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 5 A Yes. They are they were. 6 Q Was there damage beyond the material? I 7 think you described it perhaps as glue or some 8 kind of glue. 9 A There was some kind of glue on there. 10 Q Was there some kind of damage beyond 11 that? 12 A Other than not working? 13 Q Well, let's talk about the physical, the	45
2 3 4 5 6 7 8 9 10 11 12 13 14	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it. Q Were you concerned at all in making your purchase that the price you were paying was at such a significant discount from what Rosetta Stone dot com was selling it at?	1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 5 A Yes. They are they were. 6 Q Was there damage beyond the material? I 7 think you described it perhaps as glue or some 8 kind of glue. 9 A There was some kind of glue on there. 10 Q Was there some kind of damage beyond 11 that? 12 A Other than not working? 13 Q Well, let's talk about the physical, the 14 physical appearance of the product.	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it. Q Were you concerned at all in making your purchase that the price you were paying was at such a significant discount from what Rosetta Stone dot com was selling it at? A No. Never questioned it.	1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 5 A Yes. They are they were. 6 Q Was there damage beyond the material? I 7 think you described it perhaps as glue or some 8 kind of glue. 9 A There was some kind of glue on there. 10 Q Was there some kind of damage beyond 11 that? 12 A Other than not working? 13 Q Well, let's talk about the physical, the 14 physical appearance of the product. 15 A No.	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it. Q Were you concerned at all in making your purchase that the price you were paying was at such a significant discount from what Rosetta Stone dot com was selling it at? A No. Never questioned it. Q Now, you testified that you received a	1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 5 A Yes. They are they were. 6 Q Was there damage beyond the material? I 7 think you described it perhaps as glue or some 8 kind of glue. 9 A There was some kind of glue on there. 10 Q Was there some kind of damage beyond 11 that? 12 A Other than not working? 13 Q Well, let's talk about the physical, the 14 physical appearance of the product. 15 A No. 16 Q Did you ever, when you loaded it into	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it. Q Were you concerned at all in making your purchase that the price you were paying was at such a significant discount from what Rosetta Stone dot com was selling it at? A No. Never questioned it. Q Now, you testified that you received a box that included within in it a yellow box that	1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 5 A Yes. They are they were. 6 Q Was there damage beyond the material? I 7 think you described it perhaps as glue or some 8 kind of glue. 9 A There was some kind of glue on there. 10 Q Was there some kind of damage beyond 11 that? 12 A Other than not working? 13 Q Well, let's talk about the physical, the 14 physical appearance of the product. 15 A No. 16 Q Did you ever, when you loaded it into 17 your computer, did anything happen at all?	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it. Q Were you concerned at all in making your purchase that the price you were paying was at such a significant discount from what Rosetta Stone dot com was selling it at? A No. Never questioned it. Q Now, you testified that you received a box that included within in it a yellow box that had Rosetta Stone material in it?	1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 5 A Yes. They are they were. 6 Q Was there damage beyond the material? I 7 think you described it perhaps as glue or some 8 kind of glue. 9 A There was some kind of glue on there. 10 Q Was there some kind of damage beyond 11 that? 12 A Other than not working? 13 Q Well, let's talk about the physical, the 14 physical appearance of the product. 15 A No. 16 Q Did you ever, when you loaded it into 17 your computer, did anything happen at all? 18 A No.	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it. Q Were you concerned at all in making your purchase that the price you were paying was at such a significant discount from what Rosetta Stone dot com was selling it at? A No. Never questioned it. Q Now, you testified that you received a box that included within in it a yellow box that had Rosetta Stone material in it? A Correct.	1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 5 A Yes. They are they were. 6 Q Was there damage beyond the material? I 7 think you described it perhaps as glue or some 8 kind of glue. 9 A There was some kind of glue on there. 10 Q Was there some kind of damage beyond 11 that? 12 A Other than not working? 13 Q Well, let's talk about the physical, the 14 physical appearance of the product. 15 A No. 16 Q Did you ever, when you loaded it into 17 your computer, did anything happen at all? 18 A No. 19 Q When you called Rosetta Stone after you	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it. Q Were you concerned at all in making your purchase that the price you were paying was at such a significant discount from what Rosetta Stone dot com was selling it at? A No. Never questioned it. Q Now, you testified that you received a box that included within in it a yellow box that had Rosetta Stone material in it? A Correct. Q And I believe it was your testimony	1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 5 A Yes. They are they were. 6 Q Was there damage beyond the material? I 7 think you described it perhaps as glue or some 8 kind of glue. 9 A There was some kind of glue on there. 10 Q Was there some kind of damage beyond 11 that? 12 A Other than not working? 13 Q Well, let's talk about the physical, the 14 physical appearance of the product. 15 A No. 16 Q Did you ever, when you loaded it into 17 your computer, did anything happen at all? 18 A No. 19 Q When you called Rosetta Stone after you 20 tried to load it, did either Mr. Jason Calhoun or	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it. Q Were you concerned at all in making your purchase that the price you were paying was at such a significant discount from what Rosetta Stone dot com was selling it at? A No. Never questioned it. Q Now, you testified that you received a box that included within in it a yellow box that had Rosetta Stone material in it? A Correct. Q And I believe it was your testimony and if not, please correct me that the material	1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 5 A Yes. They are they were. 6 Q Was there damage beyond the material? I 7 think you described it perhaps as glue or some 8 kind of glue. 9 A There was some kind of glue on there. 10 Q Was there some kind of damage beyond 11 that? 12 A Other than not working? 13 Q Well, let's talk about the physical, the 14 physical appearance of the product. 15 A No. 16 Q Did you ever, when you loaded it into 17 your computer, did anything happen at all? 18 A No. 19 Q When you called Rosetta Stone after you 20 tried to load it, did either Mr. Jason Calhoun or 21 anyone else ask you to send them the CDs and	45
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	selling the software at different prices? MR. ETTINGER: Objection. A But I thought they were all linked to Rosetta Stone. Q Okay. Did you have a belief as to why Rosetta Stone would be offering its product at so many different prices A No. Q at so many different websites? A Never questioned it. Q Were you concerned at all in making your purchase that the price you were paying was at such a significant discount from what Rosetta Stone dot com was selling it at? A No. Never questioned it. Q Now, you testified that you received a box that included within in it a yellow box that had Rosetta Stone material in it? A Correct. Q And I believe it was your testimony	1 packing slip and no return address. 2 Q Okay. With respect to the package you 3 received from Sourceplaza, it's your testimony 4 that the CDs that came with it were damaged? 5 A Yes. They are they were. 6 Q Was there damage beyond the material? I 7 think you described it perhaps as glue or some 8 kind of glue. 9 A There was some kind of glue on there. 10 Q Was there some kind of damage beyond 11 that? 12 A Other than not working? 13 Q Well, let's talk about the physical, the 14 physical appearance of the product. 15 A No. 16 Q Did you ever, when you loaded it into 17 your computer, did anything happen at all? 18 A No. 19 Q When you called Rosetta Stone after you 20 tried to load it, did either Mr. Jason Calhoun or	45

_				
	2	6		48
1	A They were going to do huge investigation		America, who is my checking account. They said	
2	on it and then he said, We may have you mail them		they couldn't help me.	
3	back.	3	I called PayPal. E-mailed them this e-	
4	Q Okay.	4	mail that's here, and nobody seemed to be able to	
5	A But then they said, There was really	5		
6	nothing we could do.	6	And Bank of America said because it's	
7	Q Okay. So they did not follow up with	1 7	already been that the money had already been	
8	you and ask you to mail the product back to	8	taken out that they could get it back.	
9	Rosetta Stone?	9	Q Now, when you were doing this, doing the	
10	A At the last conversation that I had with	10		
11		11		
12		12	MR. OBLAK: Withdrawn.	
13	Q Okay. And did, in your conversation	13	Q When you were doing the research, had	
14		14	you heard of Sourceplaza before?	
15	purchased counterfeit or pirated software?	15	A No.	
16	A He said it was pirated.	16	Q And did you do any research to determine	
17	Q Did he indicate how he knew it was	17	whether Sourceplaza was an authorized reseller of	
18		18	•	
19	A There was a lot of discussions, so, you	19	A No. I just made the assumption that	
20	know, with all his questions that he asked me, you	20		
21	know, no return address, it was in Japanese or	21	Rosetta Stone, which I think a lot of people do.	
22	Chinese, whichever one it was, I don't remember.	22	Q Have you known anyone else that	
		7		49
١.				
- 1	And that he said that if they were the proper		purchased Rosetta Stone software that they	
	Rosetta Stone and the real thing, that they	- 1	believed was counterfeit or pirated?	
3	wouldn't be damaged the way that they were.	3	A I don't.	
4	Q Is there anything else that Mr. Calhoun	4	Q Have you talked with anyone else about	
5	discussed with you as to why he believed that the	5		
6	software you purchased was counterfeit?	6	1	
7	A I don't recall.	7	A Have I spoke to people? Yeah. Yes.	
8	Q Okay. Did he discuss with you whether	8 9	Q And	
1 1	or not Sourceplaza was an entity that sold the	- 1 _	A Told them to buy directly from Rosetta	
	Rosetta Stone software?	- 1	Stone.	
11	A I don't remember.	11	Q Prior to this experience, where you made	
12	Q And it's your testimony that after you		the purchase from Sourceplaza, had you spoken with	
	had these discussions with Rosetta Stone, you	113	anyone else about purchasing Rosetta Stone	
14		1 1 4		
	y y		software over the internet?	
15	A Yes.	15	A I don't believe so.	
16	A Yes.Q Did you keep any copy of any of the	15 16	A I don't believe so.Q And had you heard of anyone else that's	
16 17	A Yes. Q Did you keep any copy of any of the material that you received from Sourceplaza?	15 16 17	A I don't believe so. Q And had you heard of anyone else that's purchased Rosetta Stone software that turned out	
16 17 18	A Yes. Q Did you keep any copy of any of the material that you received from Sourceplaza? A No.	15 16 17 18	A I don't believe so. Q And had you heard of anyone else that's purchased Rosetta Stone software that turned out to be counterfeit or pirated?	
16 17 18 19	 A Yes. Q Did you keep any copy of any of the material that you received from Sourceplaza? A No. Q Did you attempt to get a refund from 	15 16 17 18 19	A I don't believe so. Q And had you heard of anyone else that's purchased Rosetta Stone software that turned out to be counterfeit or pirated? A No.	
16 17 18 19 20	A Yes. Q Did you keep any copy of any of the material that you received from Sourceplaza? A No. Q Did you attempt to get a refund from your purchase through your bank, through your	15 16 17 18 19 20	A I don't believe so. Q And had you heard of anyone else that's purchased Rosetta Stone software that turned out to be counterfeit or pirated? A No. Q Had you heard of people selling	
16 17 18 19 20 21	A Yes. Q Did you keep any copy of any of the material that you received from Sourceplaza? A No. Q Did you attempt to get a refund from your purchase through your bank, through your debit card?	15 16 17 18 19 20 21	A I don't believe so. Q And had you heard of anyone else that's purchased Rosetta Stone software that turned out to be counterfeit or pirated? A No. Q Had you heard of people selling counterfeit or pirated software over the internet	
16 17 18 19 20	A Yes. Q Did you keep any copy of any of the material that you received from Sourceplaza? A No. Q Did you attempt to get a refund from your purchase through your bank, through your	15 16 17 18 19 20 21	A I don't believe so. Q And had you heard of anyone else that's purchased Rosetta Stone software that turned out to be counterfeit or pirated? A No. Q Had you heard of people selling	

	50			52
1	A No.	1	paymenteasy2009.	
2	Q Do you know whether in doing your search	2	Q That's aside from the initial e-mail you	
3	for Rosetta Stone software you typed in any	3	received confirming the purchase?	
4	queries other than Rosetta Stone?	4	A Correct.	
5	A No, I did not.	5	Q Did you save that e-mail?	
6	Q Mr. Ettinger marked as Exhibit 3 an e-	6	A I did not.	
7	mail between you and paymenteasy2009 at Gmail dot	7	Q Do you know how long after your purchase	
8	com. What was your understanding of	8	you received that e-mail?	
9	paymenteasy2009 at Gmail dot com? Whose e-mail	9	A Probably a day after I purchased it.	
10	address did you believe that to be?	10	Q Was there anything in that e-mail to	
11	A I believed it to be either, one, the	11	suggest that it had come from somewhere based in	
12	website that I had purchased it from, but then I	12	China or Japan?	
13	also believed it to maybe be PayPal. I wasn't	13	A No.	
14	sure.	14	Q When you received the package of Rosetta	
15	Q Did you receive any e-mail confirmation	15	Stone product and saw characters on the outside	
16	regarding your purchase?	16	that you thought might be either Chinese or	
17	A Just yeah. Just from the	17	Japanese, were you concerned, at that point in	
18	paymenteasy. That's how I ended up getting their	18	time, that you may not have purchased authorized	
19	e-mail address.	19	Rosetta Stone software?	
20	Q That was going to be my next question,	20	A I was like, Well, this is kind of funny.	
21	1 3	21	Q Why did you think that?	
22	Did you have any other communications	22	A It wasn't in English.	
	51			53
1	with paymenteasy2009?		Q Did you expect it to be in English?	
2	* *	2	A I did.	
$\frac{1}{3}$	they were not they were pretty vulgar so I	$\frac{1}{3}$	Q Did you have an understanding of where	
$\frac{1}{4}$	didn't think you needed to see those.	$\begin{bmatrix} 3 \\ 4 \end{bmatrix}$	Rosetta Stone was based?	
5	Q Did you receive any response to Exhibit	5	A A little bit. Not	
6		6	Q Did you believe they were based in the	
7	A No response to any of them.		U.S.?	
8	Q You received other e-mails from	8	A Yes.	
	paymenteasy2009?	9	Q And that's why you thought it was funny	
10	^ ·		that the characters outside	
11		11	A Correct. But I've never received	
1	four times.	1	anything counterfeit either. So I was like, Okay.	
13		13	Q Now, with respect to the research that	
14	•		you did into the Rosetta Stone software, did you	
15		15	only do research on the internet or did you look	
16		1	in stores at well?	
	misunderstood.	17	MR. ETTINGER: Objection as to time.	
18		18	A I just looked on the internet. I didn't	
	language that was in there.		have time to look in the store.	
	~ ~	1		
20	Q You're referring to the e-mails you sent	20	Q Did you ever make a complaint to Google	
20 21		20 21	1	
	to paymenteasy2009?	1	regarding the purchase that you made from	

		<u> </u>	
	54		56
19 20	illegally over the internet? MR. ETTINGER: Asked and answered. A I guess. Q You understood, before the purchase of the software from Sourceplaza, that people were out there selling things illegally over the	1 and it was nothing. 2 Q Did you try to start up more than one CD 3 from the set that you got from Sourceplaza? 4 A Yes. 5 Q How many CDs did you try? 6 A I tried them all. 7 Q Did any of them start at all? 8 A No. 9 Q You didn't get any message at all? 10 A No. 11 Q Did all of them have some form of damage 12 on them that you described? 13 A I don't believe all of them did. I know 14 a couple of them did. 15 Like I said before, I don't remember how 16 many CDs were in there, but I do remember, like, 17 two or three of them having some kind of gunk on 18 them. 19 Q The box that you received from 20 Sourceplaza dot com, was it shrinkwrapped in 21 plastic?	
22	do that.	22 A No.	
	55		57
1 2 3 4 5 6 7 8 9 10 11 12 13 144 15 166 177 18 19 20 21 22	Q Can you describe what you did to try and get the software to work on your computer? A I put it in my computer. Q And how A The regular Rosetta Stone just starts up. Q Sure. A Which, when you put it into the CD drive, that's what normally happens, they just start up. So I put it into the CD drive, it didn't start up, so I went over to Start, went into my C	1 Q Were any of the CDs shrinkwrapped at 2 all? 3 A No. 4 Q Was anything in the package 5 shrinkwrapped? 6 A No. 7 Q What about the Rosetta Stone software 8 that you received from the store after you ordered 9 it online, was any of that material shrinkwrapped? 10 A The real Rosetta Stone? 11 Q Yes. 12 A I think so. 13 Q The outside of the box? 14 A The outside of the box, no. Because it 15 comes in a brown box and then the Rosetta Stone 16 box. 17 Q Sure. 18 A The real Rosetta Stone box had I'm 19 not sure if it's shrinkwrap, but I think it's got 20 the little pilly (sic) things in there. 21 Q The box that you received from Rosetta 22 Stone, did it have some sort of seal?	

l				
	58			60
1	A It had "Rosetta Stone" on the outside of	1	Q And they worked when you put them in the	
2	it.	2	computer?	
3	Q The yellow box with the software in it,	3	A Correct.	
4	was there a seal	4	Q We talked a little bit about your	
5	A Yeah. It looked exactly like this in	5	conversation with Mr. Calhoun.	
6	that picture (Indicating).	6	I'm correct that you spoke to more than	
7	Q To get to the disc there was some sort	7	Mr. Calhoun at Rosetta Stone?	
8	of seal you had to break?	8	A Yeah. I spoke to another	
9	A I don't remember.	9	representative. I don't remember who it was.	
10	Q What about the discs themselves, did	10	Q Okay. And were your conversations, was	
11	they come shrinkwrapped?	11	it	
12	A No.	12	MR. OBLAK: Withdrawn.	
13	Q Were they in a sleeve?	13	Q Was it with a man or a woman; do you	
14	A They're like in a, like, sleeve thing	14	· ·	
15	that you open up, and they're each separated.	15	A Oh, I don't know.	
16	Q All right.	16	Q And	
17	A Which the other one was as well, so	17	A It was September. I can't even remember	
18	Q Do you recall one way or the other	18	yesterday some days.	
19	I'm not clear on this, so I'm sorry if I'm asking	19	Q Sure. Were those conversations	
20		20	concerning your efforts trying to get the software	
21	Do you recall one way or the other	21	to work?	
22	whether any of the materials in the Rosetta Stone	22	A Yes.	
	59			
		1		61
1	box that you got from the company was	$\Big _{1}$	O Did you have conversations with anyone	61
_	box that you got from the company was shrinkwrapped in plastic?	1 2	Q Did you have conversations with anyone at Rosetta Stone, besides Mr. Calhoun regarding	61
2	shrinkwrapped in plastic?	2	at Rosetta Stone, besides Mr. Calhoun, regarding	61
_	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and	Ι.	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit?	61
2 3 4	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered.	2 3 4	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me	61
2 3 4 5	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the	2 3 4 5	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal	61
2 3 4	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone.	2 3 4	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department.	61
2 3 4 5 6 7	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't	2 3 4 5 6 7	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep	61
2 3 4 5 6 7 8	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they	2 3 4 5 6 7 8	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased	61
2 3 4 5 6 7 8 9	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there.	2 3 4 5 6 7 8 9	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software?	61
2 3 4 5 6 7 8 9	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It	2 3 4 5 6 7 8 9 10	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection.	61
2 3 4 5 6 7 8 9 10	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It looked exactly like the other one that I had, only	2 3 4 5 6 7 8 9	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection. A I don't I don't know what you're	61
2 3 4 5 6 7 8 9 10 11 12	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It looked exactly like the other one that I had, only it had the Rosetta Stone return address and the	2 3 4 5 6 7 8 9 10 11	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection. A I don't I don't know what you're asking.	61
2 3 4 5 6 7 8 9 10 11 12 13	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It looked exactly like the other one that I had, only it had the Rosetta Stone return address and the form that they give you for receipt showing that	2 3 4 5 6 7 8 9 10 11 12	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection. A I don't I don't know what you're asking. Q Sure.	61
2 3 4 5 6 7 8 9 10 11 12 13 14	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It looked exactly like the other one that I had, only it had the Rosetta Stone return address and the form that they give you for receipt showing that you paid for it, where the first one that I had	2 3 4 5 6 7 8 9 10 11 12 13	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection. A I don't I don't know what you're asking.	61
2 3 4 5 6 7 8 9 10 11 12 13 14	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It looked exactly like the other one that I had, only it had the Rosetta Stone return address and the form that they give you for receipt showing that you paid for it, where the first one that I had bought didn't.	2 3 4 5 6 7 8 9 10 11 12 13 14	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection. A I don't I don't know what you're asking. Q Sure. So you spoke to a customer service rep	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It looked exactly like the other one that I had, only it had the Rosetta Stone return address and the form that they give you for receipt showing that you paid for it, where the first one that I had bought didn't.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection. A I don't I don't know what you're asking. Q Sure. So you spoke to a customer service rep to first to try to get your software to work;	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It looked exactly like the other one that I had, only it had the Rosetta Stone return address and the form that they give you for receipt showing that you paid for it, where the first one that I had bought didn't. Q Okay. So the only difference that you	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection. A I don't I don't know what you're asking. Q Sure. So you spoke to a customer service rep to first to try to get your software to work; correct?	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It looked exactly like the other one that I had, only it had the Rosetta Stone return address and the form that they give you for receipt showing that you paid for it, where the first one that I had bought didn't. Q Okay. So the only difference that you observed between the two sets was that some of the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection. A I don't I don't know what you're asking. Q Sure. So you spoke to a customer service rep to first to try to get your software to work; correct? A Correct. Q After it didn't work, why did the	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It looked exactly like the other one that I had, only it had the Rosetta Stone return address and the form that they give you for receipt showing that you paid for it, where the first one that I had bought didn't. Q Okay. So the only difference that you observed between the two sets was that some of the documentation wasn't there in the first set that	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection. A I don't I don't know what you're asking. Q Sure. So you spoke to a customer service rep to first to try to get your software to work; correct? A Correct. Q After it didn't work, why did the customer service rep direct you to Mr. Calhoun?	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It looked exactly like the other one that I had, only it had the Rosetta Stone return address and the form that they give you for receipt showing that you paid for it, where the first one that I had bought didn't. Q Okay. So the only difference that you observed between the two sets was that some of the documentation wasn't there in the first set that you received?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection. A I don't I don't know what you're asking. Q Sure. So you spoke to a customer service rep to first to try to get your software to work; correct? A Correct. Q After it didn't work, why did the customer service rep direct you to Mr. Calhoun? A Oh. Because then they asked me	61
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	shrinkwrapped in plastic? MR. ETTINGER: Objection as to form and asked and answered. A Which one, from the Q From the real Rosetta Stone. A From the real Rosetta Stone? I don't remember if it was shrinkwrapped. I remember they had the little pilly stuff in there. I don't believe it was shrinkwrapped. It looked exactly like the other one that I had, only it had the Rosetta Stone return address and the form that they give you for receipt showing that you paid for it, where the first one that I had bought didn't. Q Okay. So the only difference that you observed between the two sets was that some of the documentation wasn't there in the first set that you received? A Correct.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	at Rosetta Stone, besides Mr. Calhoun, regarding the potential that this software was counterfeit? A Just the customer service rep who put me into Jason Calhoun because he was the legal department. Q Okay. And did the customer service rep indicate to you why they believed you purchased counterfeit software? MR. ETTINGER: Objection. A I don't I don't know what you're asking. Q Sure. So you spoke to a customer service rep to first to try to get your software to work; correct? A Correct. Q After it didn't work, why did the customer service rep direct you to Mr. Calhoun?	61

		_	
	62		64
1	And I told them that there was stuff on	1	A That would be the search engine I would
2	it, and they said, Well, we'll put you into the	2	_
3	legal department because they should be working,	3	Q The search engine or the search term?
4	so	4	A The search term, I'm sorry.
5	Q And was it just those two individuals	5	Q Okay. And then you clicked on the right
6	that you spoke with, the customer service	6	side?
7	representative and Mr. Calhoun?	7	A Yes.
8	A As far as I remember.	8	Q Have you ever used the classified
9	Q In the shopping that you've done using	9	section of the newspaper?
10	Google as a search engine, have you clicked on the	10	A (No verbal/audible response.)
11	advertisements that appear on the right side	11	Q Have you ever shopped for something,
12	during those shopping experiences, other than with	12	looked in the classifieds for something?
13	respect to the Rosetta Stone software we've	13	A Yeah.
14	already talked about?	14	Q Have you ever placed a classified
15	A Sure, yes.	15	advertisement?
16	, , ,	16	A Have I ever placed one? No.
17	8	17	Q But you've used a classified
18	-	18	S
19	Q Was it your understanding that the	19	A Not online.
20	6 11	20	Q I'm talking about in the newspaper now.
21	section were advertisements?	21	A Yes.
22	MR. ETTINGER: Objection.	22	Q And is it your understanding that the
	63		65
1	A No. I've boughten (sic)		advertisements that are placed in the classified
2	I've bought tickets to fly and used the		section are placed by someone other than the
3	sponsored link.		newspaper?
4	Q Sure. And when you clicked on those	4	A Yes.
5	links, where did it take you?	5	Q Someone else writes the ad
6	A To the website where you can purchase	6	A Correct. But they get reviewed first.
7	whatever you're purchasing.	7	Q Sure. But do you know, does the
8	Q Was the link that you clicked on an	8	newspaper go and confirm that everything
9	advertisement for tickets to go to where it was	9	A Oh, I don't know.
10	you were looking to go?	10	Q that's being offered in the
11	, 1	11	classified section is legitimate?
	puts you where you're going. You go onto a screen	12	,
	where, you know, you put where you want to fly out		assumption, yes.
114	of, where you want to fly into, city, state.	14	1
1	O Dight Dut late stiels with this	115	ad in the classified section, the newspaper
15	` &		
15 16	example of searching for airline tickets.	16	confirms whether what's being offered for sale is
15 16 17	example of searching for airline tickets. A Okay.	16 17	confirms whether what's being offered for sale is legitimate?
15 16 17 18	example of searching for airline tickets. A Okay. Q What was it that you put into the search	16 17 18	confirms whether what's being offered for sale is legitimate? A I would assume so, yes.
15 16 17 18 19	example of searching for airline tickets. A Okay. Q What was it that you put into the search query? Your destination? An airline? What were	16 17 18 19	confirms whether what's being offered for sale is legitimate? A I would assume so, yes. Q But you've never placed a classified ad
15 16 17 18 19 20	example of searching for airline tickets. A Okay. Q What was it that you put into the search query? Your destination? An airline? What were you looking for?	16 17 18 19 20	confirms whether what's being offered for sale is legitimate? A I would assume so, yes. Q But you've never placed a classified ad in the newspaper yourself?
15 16 17 18 19	example of searching for airline tickets. A Okay. Q What was it that you put into the search query? Your destination? An airline? What were you looking for? A Cheap airline tickets.	16 17 18 19	confirms whether what's being offered for sale is legitimate? A I would assume so, yes. Q But you've never placed a classified ad

	66			68
1	advertisements, you've seen advertisements,		Q Amazon is not, itself, a publisher of	
2	generally, in the newspaper; correct?	2	books; correct?	
3	A Correct.	3	A No.	
4	Q Is it your understanding that someone	4	Q Is Amazon an example of a site that	
5	pays the newspaper to place those advertisements	5	you'll go to purchase books, even though they're	
6	in the paper?	6	not the ones manufacturing the books?	
7	A Yes.	7	A Correct. Because I can get used books.	
8	Q And the person's placing that	8	Q And are there other sites that you go to	
9	advertisement, they're the ones that write what	9		
10	appears in the paper; correction?	10		
11	MR. ETTINGER: Objection.	11	A EBay.	
12	A Okay.	12	Q So you continue to shop for products at	
13	Q Is that your understanding?	13	eBay?	
14	A Yes.	14	A Correct.	
15	Q Do you believe that the newspaper goes	15	Q EBay themselves doesn't manufacture the	
16		16	products that you purchase?	
17		17	A No. But at least they back it up.	
18	A I thought they had to.	18	Q Am I correct, though	
19	Q And why do you think that?	19	MR. OBLAK: Withdrawn.	
20	A To make sure they're not selling	20	Q When you say eBay "backs" it up, what do	
21	anything that's not real.	21	you mean?	
22	Q Do you still use Google as your search	22	A If I buy from eBay and there's something	
	67			69
		l		09
1	engine?	1	wrong with it, I can send it back. I've never had	09
1 2	engine? A Yes.		wrong with it, I can send it back. I've never had an invalid e-mail address, either from Amazon dot	09
	-	2		09
2	A Yes.	2	an invalid e-mail address, either from Amazon dot	09
3	A Yes. Q Do you still use it to shop?	2 3 4	an invalid e-mail address, either from Amazon dot com or from eBay.	09
2 3 4	A Yes.Q Do you still use it to shop?A Yes.	2 3 4 5	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta	09
2 3 4 5	A Yes.Q Do you still use it to shop?A Yes.Q You testified in response to one of Mr.	2 3 4 5 6	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I	09
2 3 4 5 6	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes.	2 3 4 5 6	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying	09
2 3 4 5 6 7	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson."	2 3 4 5 6 7	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google?	09
2 3 4 5 6 7 8	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes.	2 3 4 5 6 7 8	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered.	09
2 3 4 5 6 7 8 9	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that?	2 3 4 5 6 7 8 9	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought	09
2 3 4 5 6 7 8 9	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that? A Because basically now I only go to the	2 3 4 5 6 7 8 9 10	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought	09
2 3 4 5 6 7 8 9 10 11 12	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that? A Because basically now I only go to the direct website. I'll put in	2 3 4 5 6 7 8 9 10 11	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought anything directly from Google? MR. ETTINGER: Asked and answered. A No.	09
2 3 4 5 6 7 8 9 10 11 12	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that? A Because basically now I only go to the direct website. I'll put in For example, if I put in Rosetta Stone because I want another language, I'm going to go	2 3 4 5 6 7 8 9 10 11 12	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought anything directly from Google? MR. ETTINGER: Asked and answered. A No. Q If we could look at Exhibit 1 again.	09
2 3 4 5 6 7 8 9 10 11 12 13	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that? A Because basically now I only go to the direct website. I'll put in For example, if I put in Rosetta Stone because I want another language, I'm going to go	2 3 4 5 6 7 8 9 10 11 12 13	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought anything directly from Google? MR. ETTINGER: Asked and answered. A No. Q If we could look at Exhibit 1 again. A (Witness complied with request.)	09
2 3 4 5 6 7 8 9 10 11 12 13 14	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that? A Because basically now I only go to the direct website. I'll put in For example, if I put in Rosetta Stone because I want another language, I'm going to go directly to Rosetta Stone.	2 3 4 5 6 7 8 9 10 11 12 13 14	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought anything directly from Google? MR. ETTINGER: Asked and answered. A No. Q If we could look at Exhibit 1 again. A (Witness complied with request.) Q What appears on Exhibit 1 is not the	09
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that? A Because basically now I only go to the direct website. I'll put in For example, if I put in Rosetta Stone because I want another language, I'm going to go directly to Rosetta Stone. Q Right.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought anything directly from Google? MR. ETTINGER: Asked and answered. A No. Q If we could look at Exhibit 1 again. A (Witness complied with request.) Q What appears on Exhibit 1 is not the	09
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that? A Because basically now I only go to the direct website. I'll put in For example, if I put in Rosetta Stone because I want another language, I'm going to go directly to Rosetta Stone. Q Right. A If I put in Amazon because I'm looking for a book, I'm going directing directly to Amazon	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought anything directly from Google? MR. ETTINGER: Asked and answered. A No. Q If we could look at Exhibit 1 again. A (Witness complied with request.) Q What appears on Exhibit 1 is not the exact screen results that you saw when you did	09
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that? A Because basically now I only go to the direct website. I'll put in For example, if I put in Rosetta Stone because I want another language, I'm going to go directly to Rosetta Stone. Q Right. A If I put in Amazon because I'm looking for a book, I'm going directing directly to Amazon	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought anything directly from Google? MR. ETTINGER: Asked and answered. A No. Q If we could look at Exhibit 1 again. A (Witness complied with request.) Q What appears on Exhibit 1 is not the exact screen results that you saw when you did	09
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that? A Because basically now I only go to the direct website. I'll put in For example, if I put in Rosetta Stone because I want another language, I'm going to go directly to Rosetta Stone. Q Right. A If I put in Amazon because I'm looking for a book, I'm going directing directly to Amazon dot com. Q In the shopping that you do now through	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought anything directly from Google? MR. ETTINGER: Asked and answered. A No. Q If we could look at Exhibit 1 again. A (Witness complied with request.) Q What appears on Exhibit 1 is not the exact screen results that you saw when you did your search for Rosetta Stone software.	09
2 3 3 4 4 5 6 7 8 8 9 10 11 12 13 14 15 16 17 18 19	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that? A Because basically now I only go to the direct website. I'll put in For example, if I put in Rosetta Stone because I want another language, I'm going to go directly to Rosetta Stone. Q Right. A If I put in Amazon because I'm looking for a book, I'm going directing directly to Amazon dot com. Q In the shopping that you do now through	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought anything directly from Google? MR. ETTINGER: Asked and answered. A No. Q If we could look at Exhibit 1 again. A (Witness complied with request.) Q What appears on Exhibit 1 is not the exact screen results that you saw when you did your search for Rosetta Stone software. A I guess	09
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A Yes. Q Do you still use it to shop? A Yes. Q You testified in response to one of Mr. Ettinger's questions, you said something about learning your lesson. "I learned my lesson." A Yes. Q What did you mean by that? A Because basically now I only go to the direct website. I'll put in For example, if I put in Rosetta Stone because I want another language, I'm going to go directly to Rosetta Stone. Q Right. A If I put in Amazon because I'm looking for a book, I'm going directing directly to Amazon dot com. Q In the shopping that you do now through the internet, is it your testimony you only buy	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	an invalid e-mail address, either from Amazon dot com or from eBay. Q When you were purchasing the Rosetta Stone software from Sourceplaza dot com, am I correct that you did not believe you were buying it directly from Google? MR. ETTINGER: Asked and answered. A Yeah. No. Q And it's your testimony you never bought anything directly from Google? MR. ETTINGER: Asked and answered. A No. Q If we could look at Exhibit 1 again. A (Witness complied with request.) Q What appears on Exhibit 1 is not the exact screen results that you saw when you did your search for Rosetta Stone software. A I guess Q Right. A not. I don't know. That was back in	

_				
		70		72
77 88 99 100 111 122 133 144 155 166 177 188 199 200 211	I believe Mr. Ettinger's representation on the record is this was from October of 2009. A Right. Q And that would have been at least a month after you bought the software. A Correct. Q But using this to orient ourselves to what a search result looks like, is it your testimony that you believe that all of the links you saw on the right side were somehow connected to Rosetta Stone? A I did. Q Okay. What about above, the top three listings there, Rosetta Stone dot com, Amazon dot com and eBay dot com. Do you see those? A Uh-huh. Q You understood at the time that Amazon dot com was something separate from Rosetta Stone? MR. ETTINGER: Objection.	1 1 1 1 1 1 1 1 1 2 2	the Rosetta Stone, but I thought it was the real Rosetta Stone. Q Sure. I understand. It's your testimony that in shopping, in looking at the sites that appeared on the right, you believed you were seeing outlets that were selling real Rosetta Stone? A Correct. Q And you believed that they had been	12
22	A Yeah, correct.	2	2 authorized by Rosetta Stone to sell that software?	
		71		73
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q Similarly you understood that eBay dot com was not a site that was the same as Rosetta Stone? A Correct. Q You understood that Amazon and eBay were both places that sold the Rosetta Stone software? MR. ETTINGER: Objection. A Correct. Q Do you recall A But they're I made I don't know. Forget it. Never mind. Q Was it your belief that they were authorized to sell the Rosetta Stone software? A Yes. Q You understood they were separate from Rosetta Stone, but it was your belief they had permission to sell the Rosetta Stone software?	1 1 1 1 1 1 1 1 2	Q And you believed that they had authorization from Rosetta Stone to sell that software? A Yeah. Q And did you also believe that they were a separate retail online seller, who, like eBay and Amazon, are separate from Rosetta Stone, the company?	
16 17 18 19 20 21	authorized to sell the Rosetta Stone software? A Yes. Q You understood they were separate from Rosetta Stone, but it was your belief they had permission to sell the Rosetta Stone software?	1 1 1	6 A Yeah. 7 Q And did you also believe that they were 8 a separate retail online seller, who, like eBay 9 and Amazon, are separate from Rosetta Stone, the 0 company? 1 A I guess so.	

			·	
		74		76
1	a second?		1 A Couple of weeks ago maybe; maybe longer.	
2	MR. OBLAK: Sure.		2 Q What's your best estimate?	
3	THE VIDEOGRAPHER: The time is 3:19 P.M.		3 A Maybe a month.	
4	and we are off the record.		4 Q And how many times have you spoken with	
5	(At which time, a brief recess was held		5 Mr. Ettinger?	
6	and Mr. Thomas left the deposition		6 A Maybe three or four.	
7	area.)		7 Q And do you recall the first time you	
8	THE VIDEOGRAPHER: We're back on the		8 heard from him what you discussed with him?	
9	record. The time is 3:21 P.M. and we are		9 A Yes.	
10	back on the record.		10 Q Just generally, what was your	
11	BY MR. OBLAK		11 conversation about?	
12	Q Mrs. Stanley Thomas, is it your		12 A It was regarding the CDs that I had	
13	testimony that you did not buy, originally try and		13 gotten and said that there was something going on	
14	purchase the product from Rosetta Stone dot com		14 with some kind of lawsuit with Google and the	
15	because the price that was offered there was more		15 search engines and, you know, did I purchase from	
16	than you wanted to pay?		16 somebody else and I said yes and asked me what	
17	A Yes.		17 happened and.	
18	Q And that's why you clicked on a number		18 Q And is Mr. Ettinger the only attorney	
19	of other sites, to see if you could find another		19 you've spoken with on behalf of Rosetta Stone?	
20	outlet that sold it for less?		20 A Yes. Other than Jason.	
21	A Correct.		21 Q Sure.	
22	Q And while it was your belief that		22 A I didn't know if he was an attorney or	
		75		77
1	Sourceplaza was selling real Rosetta Stone		1 not.	
	software, when you went to that website, you knew			
3			2 Q Understood. And those conversations	
3 4	you were not at the Rosetta Stone dot com website; correct?			
	you were not at the Rosetta Stone dot com website;		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct.	
4	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered.		 Q Understood. And those conversations with Mr. Calhoun were back in September? A Correct. Q And am I correct that you did not speak 	
4 5	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes.		 Q Understood. And those conversations with Mr. Calhoun were back in September? A Correct. Q And am I correct that you did not speak with anyone from Rosetta Stone between September 	
4 5	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes.		 Q Understood. And those conversations with Mr. Calhoun were back in September? A Correct. Q And am I correct that you did not speak with anyone from Rosetta Stone between September and when Mr. Ettinger contacted you? 	
4 5 6 7 8	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you?	
4 5 6 7 8 9	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right.	
4 5 6 7 8 9	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two	
4 5 6 7 8 9 10	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta Stone or some of the other outlets?		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two 10 other times I gather?	
4 5 6 7 8 9 10 11	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta Stone or some of the other outlets? MR. ETTINGER: Asked and answered.		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two 10 other times I gather? 11 A Somewhere around that, yes.	
4 5 6 7 8 9 10 11 12 13	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta Stone or some of the other outlets? MR. ETTINGER: Asked and answered. A Correct.		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two 10 other times I gather? 11 A Somewhere around that, yes. 12 Q And what were those conversations about?	
4 5 6 7 8 9 10 11 12 13 14	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta Stone or some of the other outlets? MR. ETTINGER: Asked and answered. A Correct. Q Do you recall some of the other price ranges that you saw when you were searching for it?		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two 10 other times I gather? 11 A Somewhere around that, yes. 12 Q And what were those conversations about? 13 A Um, if I could find the CDs; if I didn't 14 throw them out; do I have an e-mail; how much did 15 I pay for it; what happened; what did they look	
4 5 6 7 8 9 10 11 12 13 14	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta Stone or some of the other outlets? MR. ETTINGER: Asked and answered. A Correct. Q Do you recall some of the other price ranges that you saw when you were searching for it? A I don't.		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two 10 other times I gather? 11 A Somewhere around that, yes. 12 Q And what were those conversations about? 13 A Um, if I could find the CDs; if I didn't 14 throw them out; do I have an e-mail; how much did 15 I pay for it; what happened; what did they look 16 like; do I have the original box.	
4 5 6 7 8 9 10 11 12 13 14 15 16 17	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta Stone or some of the other outlets? MR. ETTINGER: Asked and answered. A Correct. Q Do you recall some of the other price ranges that you saw when you were searching for it? A I don't. Q And at the time were you only searching		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two 10 other times I gather? 11 A Somewhere around that, yes. 12 Q And what were those conversations about? 13 A Um, if I could find the CDs; if I didn't 14 throw them out; do I have an e-mail; how much did 15 I pay for it; what happened; what did they look 16 like; do I have the original box. 17 Q Right. And everything that you had in	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta Stone or some of the other outlets? MR. ETTINGER: Asked and answered. A Correct. Q Do you recall some of the other price ranges that you saw when you were searching for it? A I don't. Q And at the time were you only searching for a Level 1?		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two 10 other times I gather? 11 A Somewhere around that, yes. 12 Q And what were those conversations about? 13 A Um, if I could find the CDs; if I didn't 14 throw them out; do I have an e-mail; how much did 15 I pay for it; what happened; what did they look 16 like; do I have the original box. 17 Q Right. And everything that you had in 18 connection with this purchase you provided to Mr.	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta Stone or some of the other outlets? MR. ETTINGER: Asked and answered. A Correct. Q Do you recall some of the other price ranges that you saw when you were searching for it? A I don't. Q And at the time were you only searching for a Level 1? A Yes.		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two 10 other times I gather? 11 A Somewhere around that, yes. 12 Q And what were those conversations about? 13 A Um, if I could find the CDs; if I didn't 14 throw them out; do I have an e-mail; how much did 15 I pay for it; what happened; what did they look 16 like; do I have the original box. 17 Q Right. And everything that you had in 18 connection with this purchase you provided to Mr. 19 Ettinger?	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta Stone or some of the other outlets? MR. ETTINGER: Asked and answered. A Correct. Q Do you recall some of the other price ranges that you saw when you were searching for it? A I don't. Q And at the time were you only searching for a Level 1? A Yes. Q Can you tell me when you first heard		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two 10 other times I gather? 11 A Somewhere around that, yes. 12 Q And what were those conversations about? 13 A Um, if I could find the CDs; if I didn't 14 throw them out; do I have an e-mail; how much did 15 I pay for it; what happened; what did they look 16 like; do I have the original box. 17 Q Right. And everything that you had in 18 connection with this purchase you provided to Mr. 19 Ettinger? 20 A Other than the original	
4 4 5 6 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta Stone or some of the other outlets? MR. ETTINGER: Asked and answered. A Correct. Q Do you recall some of the other price ranges that you saw when you were searching for it? A I don't. Q And at the time were you only searching for a Level 1? A Yes. Q Can you tell me when you first heard from Mr. Ettinger, or someone from his law firm,		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two 10 other times I gather? 11 A Somewhere around that, yes. 12 Q And what were those conversations about? 13 A Um, if I could find the CDs; if I didn't 14 throw them out; do I have an e-mail; how much did 15 I pay for it; what happened; what did they look 16 like; do I have the original box. 17 Q Right. And everything that you had in 18 connection with this purchase you provided to Mr. 19 Ettinger? 20 A Other than the original 21 What do you mean?	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	you were not at the Rosetta Stone dot com website; correct? MR. ETTINGER: Asked and answered. A Um, yes. Q And the primary factor in you going and ultimately purchasing from Sourceplaza was the lower price that you had seen either from Rosetta Stone or some of the other outlets? MR. ETTINGER: Asked and answered. A Correct. Q Do you recall some of the other price ranges that you saw when you were searching for it? A I don't. Q And at the time were you only searching for a Level 1? A Yes. Q Can you tell me when you first heard from Mr. Ettinger, or someone from his law firm,		2 Q Understood. And those conversations 3 with Mr. Calhoun were back in September? 4 A Correct. 5 Q And am I correct that you did not speak 6 with anyone from Rosetta Stone between September 7 and when Mr. Ettinger contacted you? 8 A Right. 9 Q And you've spoken to Mr. Ettinger two 10 other times I gather? 11 A Somewhere around that, yes. 12 Q And what were those conversations about? 13 A Um, if I could find the CDs; if I didn't 14 throw them out; do I have an e-mail; how much did 15 I pay for it; what happened; what did they look 16 like; do I have the original box. 17 Q Right. And everything that you had in 18 connection with this purchase you provided to Mr. 19 Ettinger? 20 A Other than the original	

_			
		78	80
1	relating to the sale, the box		1 A No, I don't.
2	A Except for my two or three vulgar e-		2 Q So they could have been real Rosetta
3	mails, yeah.		3 Stone software that was simply broken?
4	Q And those were the e-mails to		4 A I guess.
5	paymenteasy that we talked about?		5 Q Like broken in the sense that the discs
6	A Correct.		6 were damaged and thus didn't work.
7	Q And in those e-mails I assume you were		A I guess, but Rosetta Stone would have
8	expressing your frustration with the purchase?		8 refunded them.
9	A Yes.	- 1	9 Q Well
10	Q Aside from the indication from Mr.	1	O A Or somebody would have refunded them.
11	Calhoun that he believed that the material was	1	
12	counterfeit that you'd received, is there anything	1	2 Rosetta Stone; correct?
13	else that made you believe that you'd received	- 1	A No. Because it didn't come from them.
14	counterfeit software?	1	4 Q Sure. However, Rosetta Stone indicated
15	A Other than getting the CDs that were	1	5 they might want you to send the material to them
16	damaged and wouldn't work?	1	6 and they never followed up to request it; correct?
17	Q Sure.	1	
18	A I think that's enough.	1	8 answered.
19	Q Do you know whether or not the CDs were	1	9 A They said if it went any further they
20	counterfeit as opposed to simply you got broken or	2	0 would contact me.
21	damaged CDs that didn't work?	2	1 Q And in any case, they didn't contact you
22	A I don't think I understand the question.	2	2 and ask you
		79	81
1	Q Sure. I understand Mr. Calhoun		1 MR. ETTINGER: Asked and answered.
1			
$\begin{bmatrix} 2 \\ 3 \end{bmatrix}$	indicated he believed they were counterfeit CDs? A Correct.		A I didn't hear anything until Mr. Ettinger called me, so I just assumed that nothing
4		- 1	4 was going to be done because they originally said
5	Q CDs that were illegally made. Is it also possible that you received		5 to me there was nothing they could do at that
6	from Sourceplaza CDs that were authorized copies		6 point, so I threw them out.
ı	of the Rosetta Stone but were simply damaged and		Q But you don't have any way of knowing,
8	broken and didn't work?		8 one way or the other, whether they were, in fact,
9	A Are you asking if I bought something		9 counterfeit versus CDs that simply didn't function
	else from Sourceplaza or if the original CDs that		0 when you put them in the computer?
1	I bought that I realized were counterfeit at the		
	time? Because I realized that were counterfeit	- 1	times.
1	after I got them and they didn't work and then I	- 1	3 A Not by looking at them, no.
1	couldn't get a refund from Rosetta Stone because	- 1	4 Q When you went to the Sourceplaza
1	they didn't come directly from Rosetta Stone and I	- 1	5 website, how much time did you spend on that
	couldn't get a hold of the paymenteasy.		6 website?
17	Q Isn't it the case that you believed they	1	
1	were counterfeit is because they didn't work?	- 1	8 online searching because I needed them for school.
			series series series included included the series.
	-	- 1	9 O Were you reviewing the different sites
19	A Yes.	1	
19 20	A Yes. Q You have no way of knowing, one way or	1 2	0 that you were looking at or were you simply
19 20 21	A Yes. Q You have no way of knowing, one way or	1 2	0 that you were looking at or were you simply 1 looking for the best price?

	82	2	84
1	I didn't review it whether it was a	1 remember?	
2	legit site. I just made the assumption it was.	2 A Whatever color that is on there	
3	I really don't know how to check out if	3 (Indicating). It's blue. Whatever's on the box.	
4	a site is legit or not, to tell you the truth.	4 Q You're pointing to the exhibit?	
5	MR. OBLAK: I have nothing further. Thank	5 A Correct.	
6	you.	6 Q Did anyone at Rosetta Stone ever tell	
7	MR. ETTINGER: Just a couple of quick	7 you that Sourceplaza dot com had sold counterfeit	
8	follow-up and you're done.	8 software to other unsuspecting customers?	
9	THE WITNESS: Okay.	9 MR. OBLAK: Objection to form.	
10	FURTHER EXAMINATION	10 A After we figured out they were	
11	BY MR. ETTINGER	11 counterfeit they said that they had problems with	
12	Q In Mr. Oblak's questioning, he asked you	12 a company.	
13	whether you recalled going to Rosetta Stone dot	13 Q Did they refer to Sourceplaza dot com or	
14		14	
15	į	15 A They didn't refer exactly to	
16	A Correct.	16 Sourceplaza, but they did say that there were	
17	Q You answered "probably."	17 problems with counterfeit.	
18	As you sit here today, do you know	18 Q Did anyone from Rosetta Stone tell you	
19	whether you went on that website?	19 whether they had contacted Google and asked them	
20	A I did. Sorry.	20 to take down the Sourceplaza dot com website prior	
21	Q That's fine. I just want to be clear on	21 to your purchase?	
22	the record.	22 A No, they did not.	
	83	3	85
1	A Sorry.		
		1 1 O So you don't know one way or another?	
1 2		1 Q So you don't know one way or another? 2 A Ldon't	
2	Q I want you to take a quick look at	2 A I don't.	
3	Q I want you to take a quick look at Exhibit 1 in front of you.	2 A I don't. 3 MR. ETTINGER: No further questions.	
3 4	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh.	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay.	
3	 Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says 	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M.	
3 4 5 6	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh.	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the	
3 4 5	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct.	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition.	
3 4 5 6 7 8	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. 8 (Whereupon at 3:31 P.M., the deposition	
3 4 5 6 7 8 9	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. 8 (Whereupon at 3:31 P.M., the deposition	
3 4 5 6 7 8 9 10	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the Rosetta Stone mark with an "R" or whether they	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. 8 (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.)	
3 4 5 6 7 8 9 10	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. 8 (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.)	
3 4 5 6 7 8 9 10 11 12	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the Rosetta Stone mark with an "R" or whether they just said Rosetta Stone?	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. 8 (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.) 10 11	
3 4 5 6 7 8 9 10 11 12	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the Rosetta Stone mark with an "R" or whether they just said Rosetta Stone? A Actually, I believe that they did have	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. 8 (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.) 10 11 12	
3 4 5 6 7 8 9 10 11 12 13 14	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the Rosetta Stone mark with an "R" or whether they just said Rosetta Stone? A Actually, I believe that they did have the "R" on them. They looked like the real thing.	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. 8 (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.) 10 11 12 13	
3 4 5 6 7 8 9 10 11 12 13 14	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the Rosetta Stone mark with an "R" or whether they just said Rosetta Stone? A Actually, I believe that they did have the "R" on them. They looked like the real thing. Q As you sit here today, do you remember whether the registration "R" appeared on this?	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. 8 (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.) 10 11 12 13 14	
3 4 5 6 7 8 9 10 11 12 13 14 15	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the Rosetta Stone mark with an "R" or whether they just said Rosetta Stone? A Actually, I believe that they did have the "R" on them. They looked like the real thing. Q As you sit here today, do you remember whether the registration "R" appeared on this? A I don't remember, exactly.	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.) 10 11 12 13 14 15	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the Rosetta Stone mark with an "R" or whether they just said Rosetta Stone? A Actually, I believe that they did have the "R" on them. They looked like the real thing. Q As you sit here today, do you remember whether the registration "R" appeared on this? A I don't remember, exactly.	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. 8 (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.) 10 11 12 13 14 15 16	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the Rosetta Stone mark with an "R" or whether they just said Rosetta Stone? A Actually, I believe that they did have the "R" on them. They looked like the real thing. Q As you sit here today, do you remember whether the registration "R" appeared on this? A I don't remember, exactly. Q Do you recall whether or not the disc	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.) 10 11 12 13 14 15 16 17	
3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the Rosetta Stone mark with an "R" or whether they just said Rosetta Stone? A Actually, I believe that they did have the "R" on them. They looked like the real thing. Q As you sit here today, do you remember whether the registration "R" appeared on this? A I don't remember, exactly. Q Do you recall whether or not the disc had a picture of the Rosetta Stone?	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.) 10 11 12 13 14 15 16 17 18	
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the Rosetta Stone mark with an "R" or whether they just said Rosetta Stone? A Actually, I believe that they did have the "R" on them. They looked like the real thing. Q As you sit here today, do you remember whether the registration "R" appeared on this? A I don't remember, exactly. Q Do you recall whether or not the disc had a picture of the Rosetta Stone? A It did.	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.) 10 11 12 13 14 15 16 17 18 19	
3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q I want you to take a quick look at Exhibit 1 in front of you. A Uh-huh. Q The very first link that appears says Rosetta Stone with an "R" then the word Spanish. A Correct. Q Do you recall when you got the discs from Sourceplaza whether any of the discs had the Rosetta Stone mark with an "R" or whether they just said Rosetta Stone? A Actually, I believe that they did have the "R" on them. They looked like the real thing. Q As you sit here today, do you remember whether the registration "R" appeared on this? A I don't remember, exactly. Q Do you recall whether or not the disc had a picture of the Rosetta Stone? A It did. Q You do remember that?	2 A I don't. 3 MR. ETTINGER: No further questions. 4 THE WITNESS: Okay. 5 THE VIDEOGRAPHER: The time is 3:31 P.M. 6 on March 12, 2010, and this completes the 7 videotaped deposition. (Whereupon at 3:31 P.M., the deposition 9 of Diana Stanley Thomas was concluded.) 10 11 12 13 14 15 16 17 18 19 20	

	86	5
7 8 9 10 11 12 13 14	the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in stenotype and thereafter reduced to typewriting under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the	1 MITCHELL S. ETTINGER, ESQUIRE 2 Skadden, Arps, Slate, Meagher & Flom, LLP 3 1440 New York Avenue, N.W. 4 Washington DC 20005 5 6 IN RE: ROSETTA STONE vs. GOOGLE, INC. 7 8 Dear Mr. Ettinger: 9 Enclosed please find your copy of the deposition 10 of DIANA STANLEY THOMAS, along with the original 11 signature page. As agreed, you will be responsible 12 for contacting the witness regarding signature. 13 Within 30 days of MARCH 15, 2010, please forward 14 errata sheet and original signed signature page to 15 counsel for DEFENDANT, MR. OBLAK, Esq. 16 If you have any questions, please do not hesitate 17 to call. Thank you. 18 19 Yours, 20 Roberta-Anne D. Schmitt 21 Reporter, Notary
1	July 23, 2010	22 cc: Mr. Oblak, Esq.
	87	7
1	ACKNOWLEDGEMENT OF DEPONEN	
5 6 7 8 9 10 11 12 13	I, DIANA STANLEY THOMAS, do hereby acknowledge I have read and examined the foregoing pages of testimony, and the same is a true, correct and complete transcription of the testimony given by me, and any changes or corrections, if any, appear in the attached errata sheet signed by me. DIANA STANLEY THOMAS Date	1 Capital Reporting Company 2 1821 Jefferson Place, N.W. 3 Third Floor 4 Washington, D.C. 20036 5 (202) 857-3376 6 E R R A T A S H E E T 7 Case Name: ROSETTA STONE vs. GOOGLE, INC. 8 Witness Name: DIANA STANLEY THOMAS 9 Deposition Date: 3/12/2010 10 Page No. Line No. Change/Reason for Change 11 12 13 14 15 16 17 18 19 20