EXHIBIT G

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
------------------------------x
I/P ENGINE, INC.,

        Plaintiff,

  v.   C.A. No. 2:11-cv-512-RAJ

AOL, INC., GOOGLE, INC.,
IAC SEARCH & MEDIA, INC.,
TARGET CORP., and GANNETT CO.,
INC.,

        Defendants.
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(PORTION OF TRANSCRIPT DESIGNATED CONFIDENTIAL

SOURCE CODE)

Videotaped Deposition of OPHIR FRIEDER, Ph.D.

Washington, D.C.

Thursday, September 6, 2012

8:48 a.m.

Job No.: 416030

Pages: 1 - 313

Reported by: Amy E. Sikora, RPR, CRR, CSR-NY, CLR

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1   A.   You want an example?

2   Q.   Sure.

3   A.   Well, if -- basically, people,

4   whenever they -- if they saw that at a certain

5   time of the day people were interested or -- in

6   going to the zoo, all these people decided for --

7   they voted for Jaguar because those users always

8   are voting for the zoo, then you would know that

9   they were looking at the animals. Chances are

10   they're not looking at the football team.

11   Q.   Well, if -- if the filtering is

12   being done based on -- irrespective of whether

13   the person who's doing the search is -- is

14   looking for cats or football, then couldn't that

15   result in the person who it is really looking for

16   cats getting results based on football?

17   A.   Say that again. You used too many

18   interruptions.

19   Q.   If filtering is being done based on

20   users of -- of similar interests or needs in the

21   manner that you say, then couldn't that result in

22   the user who is interested in cats getting search

23   results about football?

24   MR. JACOBS: Objection as to form.

25   A.   You're -- the answer to your

1   question is yes, it could. But the point of the

2   matter is that the collaborative input or -- or

3   content input or any input is not a guarantee to

4   get you the right answer.

5   You're trying to improve results.

6   Search accuracy is not perfect. And you're bound

7   to get, unfortunately, some poor results or maybe

8   fortunately, otherwise I wouldn't be employed.

9   Q.   What is the -- the collaborative

10   feedback data in Google AdWords?

11   A.   What is it?

12   MR. JACOBS: Objection as to form.

13   Calls for a legal conclusion.

14   Q.   What is the collaborative feedback

15   data in AdWords?

16   THE WITNESS: Can I answer that?

17   A.   The clicks. The clicks are the

18   collaborative feedback data.

19   Q.   And are the clicks the feedback data

20   as well?

21   A.   I thought you asked me for the

22   feedback data?

23   Q.   Are the -- I just said collaborative

24   feedback data in my prior question.

25   Would the clicks also be feedback

1   data?

2   MR. JACOBS: Objection as to form.

3   A.   The feedback data are the

4   collaborative information. The clicks -- the

5   clicks are the collaborative information, yeah.

6   Q.   Okay. Do you understand all the

7   asserted patents to require collaborative

8   feedback data?

9   A.   I believe so. But if you the showed

10   me -- but the problem is, I need to see the exact

11   wording of the patent, actually, the claims. But

12   yes, generally.

13   Q.   What is quality score?

14   A.   What is quality score in what

15   context.

16   Q.   At Google.

17   A.   That didn't answer. Google uses

18   quality score in things that I've seen and

19   they -- in multiple different ways.

20   Q.   What -- what are the multiple

21   different ways that Google uses quality score?

22   A.   It refer -- Google uses quality

23   score both for people from the outside and people

24   on the inside and at different times and

25   different things and different contexts.

1   Q.   Would you agree that "quality score"

2   is an imprecise term?

3   A.   I would agree that "quality score"

4   is a heavily misused, and therefore it's used in

5   many different ways.

6   Q.   So do you think it's imprecise?

7   MR. JACOBS: Objection as to form.

8   A.   It depends. If you're asking me do

9   I think that the quality score -- if the word

10   "quality score" is poorly defined. I think it

11   would -- given a context, it has a definition.

12   But just the generality of it has -- there are

13   many different definitions.

14   Q.   Which definition do you use in your

15   report?

16   A.   Could you show me the report and

17   where I'm using it?

18   Q.   Do you -- do you think you use it in

19   one way or in many ways in your report?

20   MR. JACOBS: Objection as to form.

21   A.   If you show me where -- I don't

22   remember every wording I use in the report.

23   Q.   I'm just asking generally. Do

24   you --

25   A.   When I refer to quality score in

1   content-based filter is?

2   A.   Yes.

3   Q.   What is it?

4   A.   A filter based on content.

5   Q.   And what is -- what is content in

6   that context?

7   MR. JACOBS: Objection as to form.

8   A.   Content? Content is, for example,

9   the content of a document. The words in a

10   document, for example.

11   Q.   What is the content data in AdWords

12   that -- that you are relying on for the opinion

13   of infringement in this case?

14   MR. JACOBS: Objection as to form.

22   Q.   And how does AdWords -- and is it

23   your contention that -- that AdWords filters

24   on -- let me start over again.

25   Is it your contention that AdWords

Veritext, LLC
(973) 410-4040

1 filters ads on the basis of the words in the

2 creative?

3   A.   It is my contention that AdWords

4 filters ads on the basis of the collaborative and

5 the content basis, yes.

6   Q.   Okay. Well, what is the content

7 basis?

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25   Q.   Okay.   In your opening report, do

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1   Q.   Okay. You don't recall?

2   A.   I had a whole lot of information in

3 the -- in the appendices.

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1   when were you retained in this case?

2   A.   Will you take an approximate?

3   Q.   Sure. Of course.

4   A.   It was -- I was contacted in the

5   summer, not this summer, a year ago, I believe.

6   Q.   And --

7   A.   No, I know. Using the summer, yes,

8   I know it was the summer of a year ago.

9   Q.   ████████████████████████████

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19   Q.   Was it more -- was it more than a

20   month?

21   A.   I would say a month. Three weeks.

22   When I was learning things. I didn't have to --

23   go ahead.

24   Q.   But you didn't have to what?

25   A.   I wasn't -- this isn't my day job.

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9   Q.   Okay. Just to --

10   A.   If you want it clean, you can ask it

11 again. I'll give it to you again.

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1   MR. JACOBS: Objection as to form.

2

1 opening or your updated report?

2   A.   I didn't go through each and every

3 one of them, but I've seen some of them. I

4 didn't list every one of them that I -- that

5 looked to me like they were comparison.

6   Q.   Right. That's not my question.

7   My -- my question is whether you're

8 aware of any that you relied on in forming your

9 opinion that are not identified in one of your

10 two reports?

11   MR. JACOBS: Objection as to form.

12   A.   I noticed -- I looked and saw a

13 whole variety of them. I listed some that were

14 blatantly obvious, and I listed them, as those

15 are the easiest ones to explain. I saw those --

16 many that I thought actually were, but I

17 didn't -- I didn't rely on them because the

18 ones -- I only needed one that I needed to rely

19 on.

20   There's a difference between knowing

21 that they exist and knowing -- and believing that

22 they are there, as opposed to needing a

23 particular.

24   In my report, I needed to prove that

25 there are those that deal with content and

1 collaborative combination for the filtering.

2 That's what I did. I produced at least several

3 of them to show that.

4   Q.   Okay. But my question is a

5 different one and I'm just wondering. Are there

6 any that you're aware of that you did not

7 include?

8   A.   Are there any that I believe exist?

9 Yes, I believe that there are those -- I didn't

10 list all of them there, that's correct.

11   Q.   Okay. And -- but is there any way

12 you could figure out which ones you didn't list?

13   A.   I didn't have the -- the luxury of a

14 massive amount of time. So what I did was, I

15 listed enough for there. I spotted. I did not

16 go and list, oh, this one's good, this one's

17 good, this one's bad, that one's bad.

18 ██   ████████████████████████████████████

██

██

21   A.   I thought or I knew?

22   Q.   You knew.

23   A.   I knew only definitely after I had

24 the confirmation of it by the testimony of people

25 that I read or heard.

1   Q.   Did you know after Mr. Furrow's

2 deposition?

3   A.   Did I know after Mr. Furrow's

4 definition (sic)? I knew -- I believed I knew,

5 but he was -- he thought he knew. You know,

6 the -- he didn't come out and say, this is

7 exactly it, right. So he implied, so I wanted to

8 hear additional confirmation to see that there's

9 others that had the same belief.

10   Oh, good. Oh, that's ideal. Can we

11 have a break for two seconds?

12   MR. JACOBS: Why don't we break for

13 lunch. Is this a good time?

14   MR. PERLSON: Yes.

15   THE WITNESS: You want to break for

16 lunch or you want to -- I'll go on if the --

17   THE REPORTER: Off the record?

18   MR. JACOBS: Off the record, please.

19   THE VIDEOGRAPHER: We are off the

20 record at 11:59.

21   (Luncheon recess: 12:01 p.m.)

22

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1   A F T E R N O O N   S E S S I O N

2   (1:09 p.m.)

3   OPHIR FRIEDER, Ph.D.,

4   having been previously sworn, resumed the

5   stand and testified further as follows: ticket

6   tech we are back on the record at 1:07.

7   EXAMINATION (Cont'd.) BY COUNSEL FOR DEFENDANTS:

8   BY MR. PERLSON:

9   Q.   Dr. Frieder, the -- is -- is it your

10   opinion that the collaborative feedback data

11   in -- is all clicks collected by -- let me start

12   over again.

13   Is it your opinion that the

14   collaborative feedback data is all the logged

15   clicks or some portion of them?

16   MR. JACOBS: Objection as to form.

17   A.   I didn't understand the context

18   you're looking for.

19   Q.   Well, you had earlier testified that

20   the collaborative feedback data in AdWords is --

21   are -- are the clicks; right?

22   A.   Correct.

23   Q.   And my question is, is the

24   collaborative feedback data all clicks or some

25   portion of clicks?

1   A.   The collaborative feedback data is

2 basically clicks. If you use only a subset of

3 that, you're still using collaborative feedback

4 data, all right. So the -- everything --

5 everything is a derivation of them, in the sense

6 a collaborative feedback data is also the

7 derivation of the -- that's derived from them.

8   Q.   Sure. But I guess my question is

9 just simply a more direct one. Is it, for the

10 purpose of your opinion of infringement, is the

11 collaborative feedback data all the clicks or

12 some portion of them?

13   A.   It's both. If you've got a ton of

14 feathers, right, so an individual feather is

15 still a feather. So the collaborative data is

16 the clicks, but obviously a subset of them is

17 also collaborative data, and obviously things

18 derived from it is collaborative data.

19   Q.   And your -- for the purposes of your

20 opinion, it wasn't important to distinguish

21 between whether collaborative feedback data were

22 all clicks or some portion of the clicks?

23   MR. JACOBS: Objection as to form.

24

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5   Q.   Well, if I'm looking at --

6   A.   Just one second. I should have done

7 that beforehand. Sorry.

18   A.   I don't understand the question.

19 The log contains feedback data.

20   Q.   Okay. But in order for it to be

21 collaborative feedback data, it needs to be data

22 regarding other users of similar interest or

23 needs; right?

24   MR. JACOBS: Objection as to form.

25   A.   That I believe was the revised

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1 Markman definition. But if you give me the

2 exact -- the Markman rule, I'll concur. Or if

3 you tell me you're reading directly from the

4 Markman ruling, I'll concur it.

5   Q.   So the Court's construction provided

6 that collaborative feedback data is data from

7 system users with similar interests or needs

8 regarding what informons such users found to be

9 relevant.

10   How would I know which clicks

11 represent data from system users with similar

12 interests or needs regarding what informons such

13 users found to be relevant?

14   A.   I didn't mean to cut you off. So

15 that was your -- all right, sorry. So as we said

16 before, basically, there's the query, and we've

17 defined if they're asking for the same query,

18 they have similar interests or needs. So

19 therefore the query is recorded and therefore you

20 understand what was the -- what is a similar

21 interest or needs. Those that are interested in

22 Paris, are interested in Paris. Those are

23 similar interests or needs.

24   Q.   So let's say that if -- if I'm doing

25 a search for "Paris" on google.com, is -- is it

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1 your testimony that only the clicks from users

2 who had searched for "Paris" previously would be

3 the data from system users with similar interests

4 or needs regarding what informons such users

5 found to be relevant?

6

13   Q.   Well, I don't think that answers my

14 question.

15   MR. PERLSON: Can you read it back.

16   (Record read.)

17   MR. JACOBS: Objection as to form.

18 Misstates testimony.

19   A.   I'm completely lost.

20   Q.   Let me just restate the question.

21   Is it -- is it -- is it your

22 testimony that if I am doing a search for "Paris"

23 on google.com, that only the users -- let me

24 start over again.

25   Is it your testimony that if I enter

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1   the search query "Paris" at google.com, that the

2   collaborative feedback data would only be the

3   data collected from users' clicks who had entered

4   the search term "Paris"?

5   A.   No.

6   Q.   How could the collaborative feedback

7   data come from users who have entered a different

8   query?

9

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[REDACTED]

10   Q.   Well, you've -- you've said that --
11 that you know that a -- a similar interest or
12 need comes from the fact that the prior users
13 have entered the same query?
14   A.   Those are users with similar
15 interests or needs, correct.
16   Q.   Okay. And is it your testimony that
17 information derived from clicks by users who
18 entered entirely different queries is also
19 collaborative feedback data?
20   MR. JACOBS: Objection as to form.
21   A.   It is the -- I'm not using that data
22 per se. But, yes, it's -- there is collaborative
23 data Information. There is, yes.
24   Q.   Okay. So in your testimony, if I
25 have run a search for "Paris" that data from

1   clicks from users who did a search for "cars" is

2   also collaborative feedback data; correct?

3   A.   Some portions of it. It will derive

4   you collaborative feedback data, yes.

5   Q.   And how is it that a click from a

6   user who ran a search for "cars" be collaborative

7   feedback data in reference to someone who's

8   searching for "Paris"?

9   A.   Are you talking about the patent or

10 are you talking in generalities?

11   Q.   In the context of the patent?

12   A.   In a -- dealing with the claims?

13   Q.   Yeah.

14   A.   Well, we use -- in the claims, for

15 example, pertaining collaborative data, we're

16 talking about the data that's related to your --

17 to your particular query of interest that you're

18 involved in. That's the answer.

19   Q.   And so -- is there any -- if I'm

20 searching for "Paris" on google.com, is there any

21 data in Smart Ads that would not be collaborative

22 feedback data in relation to my query?

23   A. ███████████████████████████████████

███

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12   Q.   Okay. So it's your testimony that
13 collaborative data can include information that
14 does not relate to your interest or needs?
15   A.   It's the -- for the claims, I'm
16 using the ones that are interested that relates
17 to me. The collabor -- go ahead.
18   Q.   Yeah, I'm referring to the claim.
19   A.   I'm involved in the data that's
20 related to me. Related to the -- those of
21 interest or needs.

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[REDACTED]

17   Q.   Right. So if -- if there was

18 information that was obtained by -- if there was

19 click information that was obtained by users who

20 entered a different query, that would not be

21 collaborative feedback data in relation to my

22 query?

23   A.   There are --

24   MR. JACOBS: Objection as to form.

25 Misstates testimony.

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8   MR. JACOBS: Objection as to form.

9   A.   I don't have a complete rendering of

10 my report, but if you give it to me, I'll tell

11 you. But otherwise I can give you based on what

12 I can recollect only.

13   Q.   Yeah. What do you recall?

14 ■ ■ ■

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24   Q.   And do you know, is that reflected

25 in your opening report?

1   A.   I don't remember if it's reflected

2   in my opening report or not.

3   Q.   When did you review the Court's

4   order on the motion for reconsideration?

5   A.   When did I review?

6   Q.   Yeah.

7   A.   Very recently.

8   Q.   How long ago?

9   A.   A week and a half, give or take.

10   Q.   Did you review it -- do you know how

11   long after the order actually came out that you

12   reviewed it?

13   A.   I do not know, but I reviewed it

14   shortly after I returned. I was out of town for

15   about two and a half weeks.

16   Q.   Where were you?

17   A.   Oh, I was in Portland. I was on the

18   coast. It was beautiful out there.

19   Q.   Did you have access to email?

20   A.   I was on vacation. I was a --

21   hiking in the mountains. I was hiking in the

22   waterfalls. I was on the coast. I was not

23   dealing with anything other than recovering for

24   the start of this -- the new year for school.

25   Q.   Okay. So what were the dates of

1   that trip?

2   A.   I came back -- I left shortly after

3   the Furrows deposition. I don't remember the

4   exact date of that. And I came back literally

5   for the -- at two in the morning -- or one in the

6   morning before the start of school for me.

7   Q.   And what was what date?

8   A.   That was a Wednesday, the

9   20-something.

10   Q.   Okay. And while you were gone, did

11   you do any work in relation to this case?

12   A.   I might have thought a little about

13   it, but not much, no.

14   Q.   All right. Did you review any

15   materials?

16   A.   Materials?

17   Q.   Yeah.

18   A.   Maybe an hour's worth or two. But I

19   basically was enjoying the Oregon coast.

20   Q.   Okay. So I don't think you directly

21   answered the question as to whether you did have

22   access to email during that time?

23   A.   I have access to email everywhere

24   across the world. But on my iPhone I don't do

25   very much work, particularly not when I'm on

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1   vacation.

2   Q.   Okay. When did you say -- I know

3   you just said this, but I forget. When did you

4   say you got back?

5   A.   The Wednesday before the start --

6   the Tuesday -- well, I guess it was officially a

7   Wednesday, because I landed past midnight, before

8   the start of school.

9   Q.   When did school start?

10   A.   20-something. If you give me a

11   calendar, I can give you the specific.

12   Q.   Well, did school start before Labor

13   Day?

14   A.   Oh, yeah.

15   Q.   Did it start August 27th, that's a

16   Monday?

17   A.   It started -- well, I'm a chairman.

18   My first duties were before that, yes.

19   Q.   Okay. So you think you came --

20   A.   If you tell me what the Wednesday

21   before that is, I may be able to give you more

22   exact.

23   Q.   Well, the Wednesday before that is

24   August 22nd?

25   A.   That would be right.

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1   Q.   So that's -- that's when you think
2 you came back?
3   A.   At about one in the morning.
4   Q.   And you have not reviewed the
5 Court's reconsideration motion -- how long after
6 you came back on August 22nd was it before you
7 reviewed the Court's order on reconsideration?
8   A.   Well, it was -- besides the fact
9 bombarded from the things at the beginning of
10 exactly and orientation for grad students and
11 seating and everything else, I was also sick. So
12 it would probably be a week, give or take. I
13 had, you can imagine, a million things to do when
14 you're gone for two and a half weeks.
15   Q.   When did you start preparing your
16 supplemental or your updated infringement report?
17   A.   Depends how you define
18 "supplemental." I was -- as soon as I got back,
19 as soon as I got back, I was given a -- the
20 deposition transcripts that were provided to me.
21 One was Gary Holt. The other one's name starts
22 with a C. His name just slipped my mind. Cook,
23 maybe. Yeah. Slipped my mind. I cited it. And
24 I started reading those. And -- it was very
25 useful because I found a whole lot of additional

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1 reassurances.

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■ ███████████████████ And then it basically was Labor

7 Day weekend, which we went sailing. And then I

8 came back in here and we worked on the report.

9   Q.   Okay. So when did you first put pen

10 to paper on -- on your updated report?

11   A.   I assume you mean figuratively as

12 opposed to literally.

13   Q.   That's correct.

14   A.   Yeah. Basically, the -- I would say

15 the Tuesday.

16   Q.   What Tuesday?

17   A.   This Tuesday.

18   Q.   Okay.

19   A.   But my supplemental report basically

20 was just giving predominantly more examples from

21 these depositions. There was no new theories.

22 There was no new conjectures and therefore it

23 wasn't -- didn't take very long. Actually, I

24 know exactly it was the 4th because it's my

25 mother's birthday. So . . .

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1   Q.   Okay. And that was in fact the date

2   that your report was served; correct?

3   A.   Very, very late at night, yes.

4   Q.   How did the Court's order on

5   motion -- motion for reconsideration affect your

6   opinions?

7   A.   Honestly, it didn't change anything.

8   It was, from what I understood, in fact, from

9   what I -- what I knew, this was always the

10   definition that was perceived. And when I wrote

11   my initial report, I mean, I knew there was a

12   definition that was different. But the -- the

13   same situation. That was always how the case was

14   discussed, for the most part.

15   Q.   Okay. So all along you had assumed

16   that -- that -- that collaborative feedback

17   required data from users of similar interests or

18   needs?

19   A.   When I prepared my initial report, I

20   used strictly the definitions the Court asked --

21   sorry, the Court I don't want to say determined,

22   agreed or whatever legal words you want to use.

23   Basically stated that it was the terms. And when

24   the Court added that clause into it, I looked

25   over and I said, it doesn't change anything.

Page 143

1   Q.   Okay. You would agree that the

2 Court's prior construction of collaborative

3 feedback data is much broader than the

4 construction after reconsideration, wouldn't you?

5   MR. JACOBS: Objection as to form.

6   A.   I would agree that the Court's

7 construction did not have that phrase, yes, and

8 any limitation's obviously a constraint.

9   Q.   Okay. And so how did you account

10 for -- is it your testimony that -- that your

11 prior report accounted for the similar interests

12 or needs limitation?

13   A.   My prior report, everything that was

14 stated in there, would suffice, given that

15 constraint, yes.

16   Q.   You've -- do you ever use the words

17 "similar interests or needs" in your opening

18 report?

19   MR. JACOBS: Objection as to form.

20 The report speaks for itself.

21   A.   No, I didn't. I don't believe so.

22 You can look at the -- you can look at the

23 report. You obviously know the question better

24 than I do, since you have it in front of you.

25 But, no, I used the Court's definition exactly.

Page 190

1

21   Q.   Okay. This is a quote from a
22 marketing document?
23   A.   It's a quote from a document. I
24 wouldn't say that they are marketing documents.
25 These are documents that are produced for us.

1   Q.   Okay. And when -- when you say,

2   "for us," what do you mean?

3   A.   Sorry. When I mean "for us," it was

4   given to me by the lawyer for the plaintiff, and

5   apparently it was obtained through discovery.

6   Q.   Okay. You think that this document

7   was obtained through Google?

8   A.   I obtained it from the lawyers. I

9   do -- I don't know how the lawyers obtained it.

10 I was not part of that.

11

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1   Q.   And then it says -- and then it
2   says -- it goes on and it says, Add content data,
3   i.e., the relevance of your ad text, keyword, and
4   landing page.
5   Is -- are all of these things
6   content data?
7   A.   No.
8   Q.   Which -- what -- what is content
9   data?
10   A.   The -- the -- oh, content data or
11   collaborative data? Sorry, I didn't -- I didn't
12   hear what you said. My apologies.
13   Q.   Sure. Are all three of those things
14   content data?
15   A.   The ad text is definitely contact
16   data. The keyword, the keyword is the keyword,
17   and the landing page is the landing page.
18   Q.   Okay. So which of those three
19   things is content data?
20   A.   The ad text is what I'm using as
21   content data.
22   Q.   Okay. You agree that keyword is not
23   content data; correct?
24   A.   I thought I just said that.
25   Q.   Okay. And landing page is not

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[REDACTED]

12   A.   I'd have to look throughout each and

13 every one of them, but I definitely identify them

14 in the supplemental report.

15   Q.   Okay. But you don't identify any in

16 this report; correct?

17   A.   I don't believe but I don't know for

18 sure. I'd have to look through this entire

19 listing of things.

20   Q.   Okay. The -- but you clearly had

21 access to Exhibit 1 at the time because you cited

22 it in your report; right?

23   A.   I already stated that I'd seen the

24 source code before, before this report, yes.

25   Q.   Do you know what attribute templates

Page 209

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16   Q.   But you don't remember which ones

17   you were -- you had in mind?

18   A.   I had multiple of them in mind.

19   Q.   Okay.

20   A.   But I was not sure on the exact

21   details of them. Only based on my suspicion

22   based on my experience with search. So I did

23   not -- I was not as confident until I -- until I

24   saw the depositions.

25   Q.   Okay. And I guess what -- what I'm

1

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17   THE WITNESS: What were we looking

18   as before?

19   Q.   I've been focusing on the -- the

20   first few lines of page 7.

21   A.   Ah, thank you.

22   ████████████████████████████

██ ██████████████████████████ ████████████

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Page 212

[REDACTED]

12   (Frieder Exhibit No. 5, Exhibit 2 of

13   Frieder's updated report, marked for

14   identification as of this date.)

15   Q.   Okay. You have been handed what's

16 been marked as Frieder Exhibit 5. This is

17 Exhibit 2 to your updated report.

18   Does this document show what you've

19 added to the claim chart in your updated report?

20   A.   This document is the redlined

21 additions to the report. I believe that

22 Exhibit -- yes, to answer to your question is,

23 this is -- it does indicate what was added to

24 this report. To the original claim charts in

25 this supplement, yes.

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1   Q.   Okay. And -- so if -- if you could

2   turn to page 7 of your updated chart, please.

3   A.   Okay.

4   Q.   And you see that after the Alferness

5   deposition there's a cite to the Furrow

6   deposition?

7   A.   Yes, I do.

8   Q.   And then there's a parentheses

9   behind that and it says, for example.

10   A.   Ah, you know, yes. I see it.

11   Q.   What are those?

12

25   A.   Yes. But you basically said for

Page 214

1   exam -- ah. Sorry. I looked at the wrong for

2   example. If you go further down, there's --

3   there's only one in the for examples down.

19   Q.   Okay. And -- and so he explained

20   what those attribute templates were at his

21   deposition?

22   A.   Yes. To the best of his knowledge,

23   yes, he did.

Page 215

1 ████████████████████████████████

2 ██   ██   ████████████████

3   Q.   And -- but you didn't supplement

4 your report right away for that; right?

5   A.   There are two reasons I didn't

6 supplement my report right away.

7   Q.   Okay.

8   A.   The first reason is -- well, there's

9 three, actually. The first reason is I knew that

10 there was going to be additional deposition.

11 And, in fact, I knew there was going to be a

12 deposition of Gary Holt, which is clearly the one

13 I cared a lot about, because this is his. Sorry,

14 I should put it in the record. ████████████████

██ ██████████ ████████████████████████████████

██ ██

██ ████████████████   So one reason was that I knew this

18 was upcoming.

19   The second reason was that a -- I

20 didn't want to have three supplements, if there

21 was going to need to be three supplements. I

22 expected there to be at least another something

23 coming out of Gary Holt because I figured he

24 would know the best. So I did not want to have

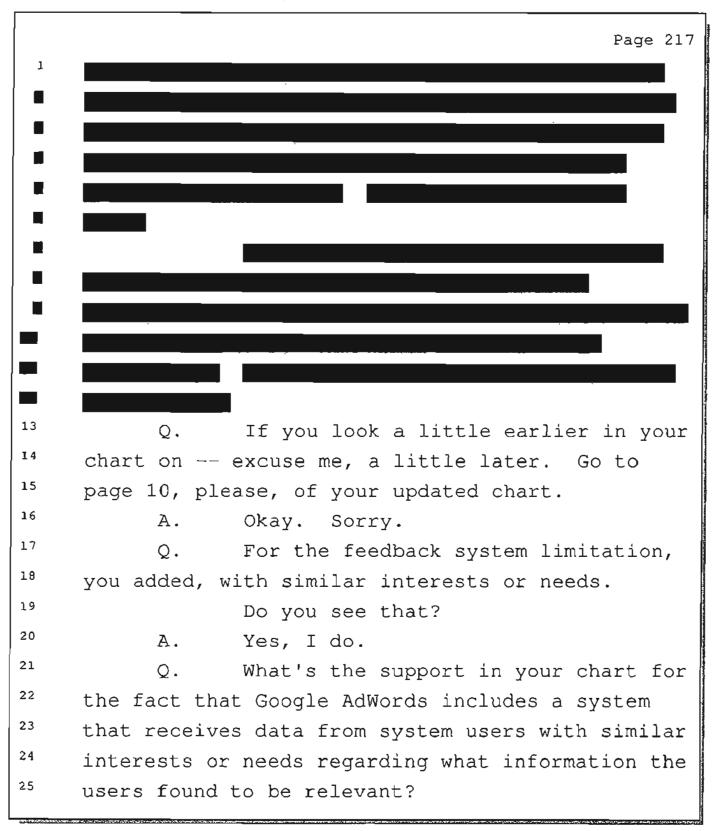25 yet an additional one. So I knew if that there

1   was going to be one additional, it would be

2   better than having two additional.

3   And three, right after I came back

4   from San Francisco, I headed out to Oregon,

5   within a matter of days, a few days. So I

6   basically was on the way to do it, and from what

7   I understood, I could wait till after Gary Holt's

8   deposition, that would be okay.

9   Q.   How did you understand that?

10   A.   I was told that they -- basically,

11 my reports were -- you could add additional

12 report. And, in fact, I knew that there was

13 additional reports being added momentarily

14 because I knew that on the 29th of August I was

15 going to be handed Dr. Ungar's dep -- report,

16 which turned out that I was wrong, it was

17 actually on the 30th, so I was wrong on that.

18 But I believed it was on the 29th. That's my --

19 my perception. Maybe I was wrong.

20   Q.   Didn't you think it would be

21 important to update your report before

22 Dr. Ungar's rebuttal report?

23

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```
13        Q.      If you look a little earlier in your

14   chart on -- excuse me, a little later.  Go to

15   page 10, please, of your updated chart.

16        A.      Okay.  Sorry.

17        Q.      For the feedback system limitation,

18   you added, with similar interests or needs.

19              Do you see that?

20        A.      Yes, I do.

21        Q.      What's the support in your chart for

22   the fact that Google AdWords includes a system

23   that receives data from system users with similar

24   interests or needs regarding what information the

25   users found to be relevant?
```

1   A.   Give me a second, please.

2   We rely on clicks and, as I stated

3   before, users that issue the same query have

4   similar needs.

5   Q.   Okay. Where -- where do you express

6   that theory in -- in this chart?

7   A.   The quality score is based on

8   several factors. These include keywords

9   clickthrough rate, which we already discussed.

10 Overall historical keyword performance with

11 Google. That's some example.

12   Q.   Well, do you ever explicitly say in

13 here that similar interests or needs are shown by

14 the fact that a user has issued the same query?

15   A.   The historical clickthrough rate,

16 CTR, the keyword and the matched ad on Google.

17 If the ad is appearing on a search network page,

18 it's CTR and that search network partner is also

19 considered.

20   Q.   So you think that discloses it?

21   A.   By allowing users to vote their

22 clicks, we have millions of people that are

23 helping us decide which ads are best for each

24 search query. Yeah, I do.

25   Q.   Okay. But that doesn't say exactly

Page 219

1   that -- what you just read does not say that

2   people have clicked on the same query before --

3   or people have issued the same query before have

4   similar interests or needs; right?

5   MR. JACOBS: Objection as to form.

6   A.   I -- I've been working in the search

7   industry for 20 plus years. I've dealt with a

8   diversity of search systems, both web search

9   oriented, as well as systems that are very

10   proprietary and very heavily used in various

11   locations.

12   It doesn't spell out exactly every

13   word that you use in your query to me -- your

14   question to me, sorry. But I understood fairly

15   clearly, based on what I read, that to me that

16   implied that, and therefore I supplemented the

17   comment with similar interests or needs because

18   that was what this implied to me.

19   I didn't have it in my original

20   report simply because I was using the words that

21   the Court gave. So when the Court gave different

22   words, I looked this, as I previously mentioned,

23   and I saw that this matched, and so I just added

24   it.

25   Q.   Okay. So that language you think

Page 220

1   implies this notion of similar -- users of

2   similar interests or needs?

3   A.   It does to me.

4   Q.   The -- if you could go back to

5   the --

6   THE WITNESS: Uh, oh. I just moved.

7   Am I still in your picture? Okay. I just moved

8   the chair. Sorry.

9   A.   Sorry.

10   Q.   If you can go back to Exhibit 2,

11   which is your -- your claim chart from your

12   original report.

13   A.   Exhibit 2. Okay.

14   Q.   On page 10 you state --

15   A.   Wait, wait, wait.

16   Q.   I'm sorry, go to page 10, please.

17   A.   Okay.

18   Q.   And this is in relation to the

19   feedback system element of claim 10. You

20   state --

21   A.   Wait, wait, wait. Let me see what

22   you're talking about. Okay. All right.

23   Q.   In the -- the paragraph on the

24   bottom of the page, you state, in the second

25   sentence, the CTR's collaborative feedback data.

Page 221

1   Do you see that?

2   A.   The clickthrough rate is

3 collaborative. Yes, I do?

4   Q.   Yeah. Is that still your contention

5 as to what the collaborative feedback data is?

6   A.   The collaborative feedback data is

7 derived from clicks and it is the -- the entire

8 chain of events.

9   By the way, clickthrough rate is a

10 summary of clicks, right. I mean, there's no

11 rate. It's a manipulation of the data collected

15 collaborative data is that, that basically it's a

16 derivation of the information on click, yes.

17   Q.   Well, that's not what you said here.

18 You said the CTR is collective feedback data. Do

19 you stand by that?

20   A.   I stand by the fact that it's -- I

21 quoted stuff from your documents.

25   Q.   Okay. But that's not what you said

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1   here, is it, sir?

2   A.   No. I said here the CTR is

3   collaborative feedback data.

4   Q.   And that's not what your current

5   contention is?

6   A.   CTR is collaborative feedback data

7   but that's not what I'm -- contention for the

8   claims. I'm claiming that the information -- █

█

█

█

12   Q.   But for purposes of AdWords, you're

13   not saying that the -- the CTR is collaborative

14   data?

15   A.   No. I" not saying the CTR. █

█

█

█

19   MR. PERLSON: Well, I move to strike

20   that last portion.

21

0beaaa35-c6e2-48aa-868f-ec578cf41c48

1