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Transcript of Alan Edwards

Date: January 31, 2024

Case: Duration Media, LLC -v- Rich Media Club, LLC (PTAB)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

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Conducted on January 31, 2024

1 (1 to 4)

<p>1 UNITED STATES PATENT AND TRADEMARK OFFICE 2 ----- 3 BEFORE THE PATENT TRIAL AND APPEAL BOARD 4 ----- 5 DURATION MEDIA, LLC, 6 Petitioner, 7 vs. 8 RICH MEDIA CLUB, LLC, 9 Patent Owner. 10 ----- 11 IPR2023-00953 12 US PATENT NO. 11,443,329 13 ----- 14 CONFIDENTIAL - ATTORNEYS' EYES ONLY 15 16 DEPOSITION OF ALAN EDWARDS 17 CONDUCTED VIRTUALLY 18 WEDNESDAY, JANUARY 31, 2024 19 20 4:03 a.m. 21 22 REPORTED BY: TANYA L. VERHOVEN-PAGE, CCR-B-1790 (GA), CSR-12254 (TX), LCR-991 (TN) 23 FILE NO. 523977</p>	<p>1 APPEARANCES OF COUNSEL 2 3 On behalf of the Petitioner: 4 DENTONS US, LLP 5 650 Castro Street 6 Suite 120-412 7 Mountain View, California 94041 8 (650) 798-0300 9 BY: KEVIN GREENLEAF, ESQ. 10 e-mail: kevin.greenleaf@dentons.com 11 (Via Zoom) 12 13 DENTONS US, LLP 14 101 JFK Parkway 15 Short Hills, New Jersey 07078-2708 16 (973) 912-7100 17 BY: JOEL N. BOCK, ESQ. 18 e-mail: joel.bock@dentons.com 19 (Via Zoom) 20 21 On behalf of the Patent Owner: 22 GLOBAL IP LAW GROUP 23 55 West Monroe Street 24 Suite 3400 25 Chicago, Illinois 60603 26 (312) 241-1500 27 BY: DAVID BERTEN, ESQ. 28 e-mail: dberten@giplg.com 29 (Via Zoom) 30 31 - - - 32</p>
<p>1 January 31, 2024 2 4:03 a.m. 3 4 Stenographic deposition of 5 ALAN EDWARDS, held in Taipei, 6 Taiwan before Tanya L. Verhoven-Page, 7 Certified Court Reporter (GA), Licensed Court 8 Reporter (TN) and Certified Shorthand 9 Reporter (TX). 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	<p>1 I N D E X 2 3 WITNESS: ALAN EDWARDS 4 5 Examination Page 6 BY MR. GREENLEAF 7 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>

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<div>6</div> <div>1 EXHIBITS INDEX:</div> <div>2 Previously marked Deposition Exhibit</div> <div>3 Description Page</div> <div>4</div> <div>5 Exhibit 1001 '329 patent 29</div> <div>6 Exhibit 2039 MRC Accredited Viewability Verification Disclosure 49</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div>	<div>8</div> <div>1 A 2002.</div> <div>2 Q And when was Rich Media Club's</div> <div>3 viewability test invented?</div> <div>4 A The viewability test, somewhere in around</div> <div>5 2008.</div> <div>6 Q Do you recall whether it was early 2008,</div> <div>7 mid 2008, late 2008?</div> <div>8 A Somewhere around -- not really, I don't</div> <div>9 recall exactly, but it was -- do you mean invented or</div> <div>10 first used?</div> <div>11 Q When you conceived of the invention.</div> <div>12 A Conceived of the invention?</div> <div>13 Q Yes.</div> <div>14 A I don't remember exactly. I remember</div> <div>15 there was -- and it also depends on what you think</div> <div>16 the invention is. I remember there was a phone call</div> <div>17 between me and Nikolai and I said, can we also</div> <div>18 determine if this ad is in view -- in the window,</div> <div>19 with geometry. But I don't recall exactly when that</div> <div>20 happened. Sometime in early 2008, I assume.</div> <div>21 Q Okay. Yeah, I believe --</div> <div>22 A I mean, it can be --</div>

<p>9</p> <p>1 Q Sorry. Go ahead.</p> <p>2 A Yeah, that's my recollection. It's a</p> <p>3 long time ago. So --</p> <p>4 Q Yes. Igor testified that it was, I</p> <p>5 think, around February. Is that -- is that</p> <p>6 consistent with your recollection, as well?</p> <p>7 A As far as like that first concept phone</p> <p>8 call? Like, when the first thing started to be</p> <p>9 talked about and worked on.</p> <p>10 Q Okay.</p> <p>11 A Yeah, that's about right. I mean, it</p> <p>12 took a little while to develop, but --</p> <p>13 Q I think Igor also said he had some</p> <p>14 prototypes in early 2008; is that your recollection</p> <p>15 as well?</p> <p>16 A Yeah, that sounds about right.</p> <p>17 Q Okay. What was RealVu's business prior</p> <p>18 to 2008?</p> <p>19 A We -- we were always involved with</p> <p>20 marketing -- marketing tools, on-line marketing</p> <p>21 tools. So at that time we had a system for selling</p> <p>22 products which was similar to eBay. It was kind of</p>	<p>11</p> <p>1 invention of the '329 patent to be?</p> <p>2 A The '329 patent combines the viewability</p> <p>3 test with an on-line auction. But if you're talking</p> <p>4 about viewability specifically, viewability entails</p> <p>5 understanding what's going on on the user side in the</p> <p>6 browser and gathering enough information to -- to</p> <p>7 determine that that ad was actually visible to the</p> <p>8 user, in the user's browser, and then being able to</p> <p>9 measure that in a report.</p> <p>10 Q What was your contribution to the</p> <p>11 invention in the '329 patent?</p> <p>12 A My contribution was the specific idea of</p> <p>13 using the geometry fired by the browser to actually</p> <p>14 determine if the ad space was in the viewable window.</p> <p>15 So that -- yeah, I mean, that basically is what</p> <p>16 happened.</p> <p>17 So what happens is -- just so you</p> <p>18 understand the -- prior to us arriving on the scene,</p> <p>19 ad impressions or exposures were measured on the</p> <p>20 server. And the server would interact with the</p> <p>21 database or the log file and say how many times these</p> <p>22 ads were called. But when you're living on the</p>
<p>10</p> <p>1 like an eBay combined with Craigslist idea. And the</p> <p>2 premise of that was it would help newspapers compete</p> <p>3 with the on-line classifieds. And it had an</p> <p>4 advertising model within it.</p> <p>5 So that's what we were working on at the</p> <p>6 time, but, you know, our focus had always been in</p> <p>7 digital tools for marketers.</p> <p>8 Q When did RealVu first use its viewability</p> <p>9 test?</p> <p>10 A Again, it's hard to pin the exact time,</p> <p>11 but somewhere around mid 2008.</p> <p>12 Q You mentioned earlier something about it</p> <p>13 depends on what you consider the invention of the</p> <p>14 '329 patent to be.</p> <p>15 What do you consider the invention of the</p> <p>16 '329 patent to be?</p> <p>17 A Well, I didn't say '329 patent. I don't</p> <p>18 remember saying that.</p> <p>19 Q Okay. Well, yeah, you did not say '329</p> <p>20 patent. I apologize.</p> <p>21 A Yeah.</p> <p>22 Q So -- but -- what do you consider the</p>	<p>12</p> <p>1 server, you have no visibility into what the user is</p> <p>2 doing on the user side, because that's your computer</p> <p>3 where you are. Right?</p> <p>4 So we had moved the counting to the</p> <p>5 computer. And once you get there, the world changes.</p> <p>6 You can see a lot more things because -- and we</p> <p>7 started to discover what the browser would fire. And</p> <p>8 at that point I realized that you could probably tell</p> <p>9 if this was in the window or not based on geometry,</p> <p>10 and that's -- that's -- that was my contribution.</p> <p>11 Q Okay. What do you mean by the viewable</p> <p>12 window?</p> <p>13 A The viewable window is the browser</p> <p>14 window. That's it.</p> <p>15 Q Okay. It's the currently viewable</p> <p>16 portion of the web page that's in the browser window,</p> <p>17 as opposed to the web page that is not viewable in</p> <p>18 the browser window, correct?</p> <p>19 A Yeah, I mean, unlike traditional --</p> <p>20 because -- from traditional media, a television is a</p> <p>21 television. Right? Whatever is on the screen is on</p> <p>22 the screen. Or a billboard is a billboard, whatever</p>

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<p>13</p> <p>1 is on the screen is on the screen -- or on the</p> <p>2 billboard. And we -- in newspapers there was an</p> <p>3 issue, they called it the fold, where somebody could</p> <p>4 fold the paper and actually not see what's</p> <p>5 underneath. That's why, with internet advertising,</p> <p>6 they call pages that are below the visible area below</p> <p>7 the fold. That's taken from the newspaper analogy.</p> <p>8 So when ads are delivered on a web page,</p> <p>9 there's -- the ones that are below the fold are not</p> <p>10 necessarily viewable, or not necessarily exposed to</p> <p>11 the viewer, but if you're counting at the server,</p> <p>12 then they're counted.</p> <p>13 Q You mentioned geometric viewability a few</p> <p>14 times in that.</p> <p>15 A Yes.</p> <p>16 Q What would non-geometric viewability be?</p> <p>17 A I know of one other possibility of -- I</p> <p>18 mean, if you can figure out a way to tell if</p> <p>19 something is on the screen without geometry, then</p> <p>20 that would be non-geometric viewability.</p> <p>21 Q I think you said you're aware of one</p> <p>22 such --</p>	<p>15</p> <p>1 I understand how everything works, but I don't</p> <p>2 actually write code.</p> <p>3 Q So in your declaration, you stated</p> <p>4 something about other so-called solutions did not</p> <p>5 work as reliably as RealVu's. Do you recall that?</p> <p>6 A Yes.</p> <p>7 Q And these so-called solutions, did they</p> <p>8 pre-date RealVu's viewability invention?</p> <p>9 A No.</p> <p>10 Q Have you ever heard of a company called</p> <p>11 Olenti?</p> <p>12 A Yes.</p> <p>13 Q What do you know about them?</p> <p>14 A I remember that -- what I know about them</p> <p>15 is they are a French company, and at some point</p> <p>16 around the same time they -- they created some</p> <p>17 on-line demo of something registering if it's in the</p> <p>18 window or not. That's what I recall.</p> <p>19 (Edwards Deposition Exhibit No. 1</p> <p>20 was marked for the record.)</p> <p>21 MR. GREENLEAF: Okay. I'm going to</p> <p>22 drop an exhibit into the Chat for your --</p>
<p>14</p> <p>1 A Well, something with -- I -- yeah, there</p> <p>2 is -- there is a way to do it with a pixel, I</p> <p>3 believe, and it was done before. I don't know, but</p> <p>4 it's -- not a pixel. Honestly, I can't really answer</p> <p>5 to it. I just know that there is a non-geometric</p> <p>6 method, and its efficacy is debatable. But I think</p> <p>7 that during -- I think it has been explored. I think</p> <p>8 a Google search will turn it up. But it's so long, I</p> <p>9 can't remember exactly how it works, but there's some</p> <p>10 other method.</p> <p>11 Q Okay. You're not a computer scientist,</p> <p>12 right?</p> <p>13 A I am not. I'm at the level where I</p> <p>14 understand how computers work. I understand how</p> <p>15 networking works. So on a high level, I understand</p> <p>16 systems and methods and sometimes I can figure out</p> <p>17 things that actual -- if you know programming you</p> <p>18 might miss, because I'm kind of seeing it at a very</p> <p>19 high -- higher level, I guess, you can say. Or, you</p> <p>20 know, like a child-like fascination level.</p> <p>21 But I know the basics of programming. In</p> <p>22 school I learned BASIC and Pascal and networking, so</p>	<p>16</p> <p>1 for you to take a look at. Give me a</p> <p>2 second.</p> <p>3 Same exhibit as yesterday, for</p> <p>4 David's edification, which I expect the</p> <p>5 same objection.</p> <p>6 THE WITNESS: In the Chat here?</p> <p>7 MR. GREENLEAF: Yeah. And we'll</p> <p>8 call this Exhibit 1 for Tanya's purposes.</p> <p>9 THE WITNESS: Okay.</p> <p>10 MR. GREENLEAF: It's a Himmel</p> <p>11 patent, U.S. Patent No. 6,317,782.</p> <p>12 THE WITNESS: Okay.</p> <p>13 MR. GREENLEAF: Let me know when</p> <p>14 you have it.</p> <p>15 THE WITNESS: Okay. I have it.</p> <p>16 MR. BERTEN: And while the witness</p> <p>17 is looking at it, I will make my</p> <p>18 objections for the record, the same ones</p> <p>19 that were made yesterday. This exhibit</p> <p>20 is not one of the references that was</p> <p>21 relied upon in the petition, and I'm not</p> <p>22 100 percent sure of the relevance of it,</p>

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<p style="text-align: right;">17</p> <p>1 but I will give you the same leeway I did</p> <p>2 yesterday, Kevin.</p> <p>3 MR. GREENLEAF: All right.</p> <p>4 BY MR. GREENLEAF:</p> <p>5 Q Alan, do you have the exhibit?</p> <p>6 A Yeah, I do.</p> <p>7 Q Okay. Have you seen this before?</p> <p>8 A I may -- I don't recall. I've seen so</p> <p>9 many thing -- I don't recall seeing this.</p> <p>10 Q But David hasn't shown it to you --</p> <p>11 A No, no.</p> <p>12 Q -- in preparation for this?</p> <p>13 A No, no.</p> <p>14 Q All right.</p> <p>15 MR. BERTEN: I'll impose a late</p> <p>16 objection that there was a question that</p> <p>17 might have called for attorney-client</p> <p>18 privileged information. But you have the</p> <p>19 answer.</p> <p>20 THE WITNESS: Yes. So -- okay.</p> <p>21 BY MR. GREENLEAF:</p> <p>22 Q All right. Let me share my screen. All</p>	<p style="text-align: right;">19</p> <p>1 A I'd be happy to talk about Himmel, but I</p> <p>2 don't feel comfortable without having time. I hope</p> <p>3 you understand. Because these patents are -- you</p> <p>4 know, at first glance they can seem like one thing,</p> <p>5 and then as you dig into it, it's something else. So</p> <p>6 it's really not -- it's not good practice.</p> <p>7 Q Okay. But you said you could answer a</p> <p>8 couple of questions, potentially. I understand it --</p> <p>9 A I don't remember saying that.</p> <p>10 Q Okay.</p> <p>11 A I'm sorry. I just don't remember saying</p> <p>12 that.</p> <p>13 Q That's fine. That's fine. I -- I'm</p> <p>14 expecting --</p> <p>15 A I would love to answer questions.</p> <p>16 Q Just let me ask the questions and you can</p> <p>17 answer them or not as you feel that --</p> <p>18 But you are familiar with Badros,</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 Q Have you read Badros?</p> <p>22 A Yes.</p>
<p style="text-align: right;">18</p> <p>1 right.</p> <p>2 Do you see this patent is titled Method</p> <p>3 and Apparatus for Detecting Actual Viewing of</p> <p>4 Electronic Advertisement and Transmitting the</p> <p>5 Detected Information?</p> <p>6 Do you see that?</p> <p>7 A Yes.</p> <p>8 Q Are you familiar with the Badros patent,</p> <p>9 Exhibit 1003?</p> <p>10 A Yeah, I'm familiar with the Badros</p> <p>11 patent.</p> <p>12 But let me interrupt here, because my</p> <p>13 experience with patent analysis -- and this is</p> <p>14 basically what I've been doing for years -- is you</p> <p>15 need time with the patent. You can't -- the way</p> <p>16 you're doing this now and just showing me this and</p> <p>17 trying to combine it with a patent I've already</p> <p>18 reviewed is not customary to how patent -- patent</p> <p>19 discussions are done.</p> <p>20 So -- so I would need time to review</p> <p>21 Himmel and prepare for this.</p> <p>22 Q Okay.</p>	<p style="text-align: right;">20</p> <p>1 Q And one of the arguments about Badros is</p> <p>2 that it's discussing served impressions as opposed to</p> <p>3 viewable impressions. Do you agree with that?</p> <p>4 A Yeah, I mean, it's not discussion -- it's</p> <p>5 not discussing viewable impressions, no. Viewable</p> <p>6 impressions weren't even around at this time.</p> <p>7 Q So I'm highlighting a portion of Badros,</p> <p>8 Column 15, Lines 3 to 8.</p> <p>9 Do you see that, Mr. Edwards?</p> <p>10 A Yes.</p> <p>11 Q And it says: The impression database may</p> <p>12 store a number of impressions of a particular</p> <p>13 document. The number of actual, e.g. verified,</p> <p>14 impressions may be distinguished from the number of</p> <p>15 times a document was output to client terminal.</p> <p>16 A Right, right.</p> <p>17 Q Also, the actual time which the document</p> <p>18 was visible on a monitor may be stored.</p> <p>19 Is it your opinion that that is</p> <p>20 discussing served impressions and not viewable</p> <p>21 impressions?</p> <p>22 A Yes, this is served impressions.</p>

<p style="text-align: right;">21</p> <p>1 Q Why?</p> <p>2 A Because, here's the thing. At this time,</p> <p>3 the concept was everything is measured at the server.</p> <p>4 Right? So if you look at -- if you look at, for</p> <p>5 example, there are -- how they talk about their</p> <p>6 modules -- it's Page 11, Paragraph 25 -- they say</p> <p>7 their modules are on the server. Right? And then --</p> <p>8 and then a certain module determines visibility, but</p> <p>9 that's also on the server. But if you're on the</p> <p>10 server, you can only determine what is on the server.</p> <p>11 You can't really tell for sure. Right?</p> <p>12 So at this time, these -- these words</p> <p>13 were used -- they would call impressions views. Even</p> <p>14 though they might -- you might not know for sure if</p> <p>15 they were views. And they would call things visible</p> <p>16 even though you're not sure if they're visible. So</p> <p>17 this is basically visible to the best of the ability</p> <p>18 that you can determine from the server.</p> <p>19 They were not -- they weren't -- they</p> <p>20 weren't on -- they weren't in the user's browser.</p> <p>21 They weren't there. So the way -- the way that we</p> <p>22 were determining if this ad was actually visible is</p>	<p style="text-align: right;">23</p> <p>1 BY MR. GREENLEAF:</p> <p>2 Q I'm going to upload another -- this is</p> <p>3 the Koeppel patent, U.S. Patent No. 7,567,916.</p> <p>4 A Uh-huh.</p> <p>5 MR. BERTEN: Same objections.</p> <p>6 THE WITNESS: Yeah, I mean what's</p> <p>7 going on? I'm just getting patents</p> <p>8 thrown at me.</p> <p>9 BY MR. GREENLEAF:</p> <p>10 Q Well, that's what happens in patent</p> <p>11 litigation.</p> <p>12 A Okay. But I'm just saying, if I had them</p> <p>13 before, then I would be prepared.</p> <p>14 Q Yeah, I understand. I understand.</p> <p>15 A I -- I thought --</p> <p>16 Q So -- so just quickly, Koeppel is -- was</p> <p>17 filed in 2000. It's Capital One.</p> <p>18 Have you seen this patent before?</p> <p>19 A It looks familiar. The name sounds</p> <p>20 familiar. Again, I've looked at so many over the</p> <p>21 years.</p> <p>22 Q It's titled System and Method for</p>
<p style="text-align: right;">22</p> <p>1 not technically possible; but through different</p> <p>2 methods you could say, oh, it's visible, you know,</p> <p>3 but it's not -- all right. Let me put it this way.</p> <p>4 The way the measurement is determined is</p> <p>5 to the best that's technologically available at the</p> <p>6 time. Right? So if -- if the best technological</p> <p>7 ability -- if you can say visible to the best of</p> <p>8 what's available, then you say visible. We brought</p> <p>9 it to another level, basically.</p> <p>10 Q Yeah. That's fine. Thank you.</p> <p>11 A Yeah.</p> <p>12 Q The -- what do you think Badros means</p> <p>13 when he says: The number of actual, e.g. verified,</p> <p>14 impressions may be distinguished from the number of</p> <p>15 times a document was output to client terminal?</p> <p>16 A Well, I don't know, because the patent</p> <p>17 doesn't tell you. It would be nice to know, wouldn't</p> <p>18 it? If it doesn't tell you.</p> <p>19 Q I think we know.</p> <p>20 A Well, okay, then tell me.</p> <p>21 (Edwards Deposition Exhibit No. 2</p> <p>22 was marked for the record.)</p>	<p style="text-align: right;">24</p> <p>1 Performing Web Based In-View Monitoring. Can you see</p> <p>2 that?</p> <p>3 A Uh-huh.</p> <p>4 Q What do you think it means by performing</p> <p>5 web based in-view monitoring?</p> <p>6 A I have no idea.</p> <p>7 Q Give me a second here.</p> <p>8 You testified earlier about whether --</p> <p>9 determining whether an advertisement is in the</p> <p>10 window. What did you mean by that?</p> <p>11 A Well, you asked me what the browser</p> <p>12 window was. So in the window means the browser</p> <p>13 window.</p> <p>14 To be clear, there's a computer monitor,</p> <p>15 which is your display. Right? And then there's the</p> <p>16 browser, which is the program that displays the web</p> <p>17 page. So the browser can be different sizes. It</p> <p>18 could cover the whole display or part of the display.</p> <p>19 So -- so you -- so you have to determine -- if you</p> <p>20 really want to tell if an ad would reach somebody,</p> <p>21 you have to determine that it's in the visible</p> <p>22 window, the primary window of the browser.</p>

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<p>25</p> <p>1 Q Are you familiar with Google Patents?</p> <p>2 A Google Patents? What do you mean?</p> <p>3 Q Yes. It's a website that Google provides</p> <p>4 for people --</p> <p>5 A Oh, yeah, yeah. The database of patents</p> <p>6 to look for patents?</p> <p>7 Q Yeah.</p> <p>8 A Yes, I am.</p> <p>9 Q So here I have this Koeppel patent up on</p> <p>10 Google Patents. It's the same U.S. patent number.</p> <p>11 So I'm just trying to be efficient here with</p> <p>12 everybody's time.</p> <p>13 And I have Figure 6B or -- sorry -- 9B of</p> <p>14 Koeppel up on the screen. And you were speaking</p> <p>15 about the display and the browser and I think</p> <p>16 potentially components of the web page. And it says</p> <p>17 in Koeppel, describing Figure 6B: As shown in</p> <p>18 Figure -- sorry -- 9B, portion 982 of component</p> <p>19 978 -- I'm sorry.</p> <p>20 As shown in Figure 9D, portion 982 of</p> <p>21 Component 978 is not viewable in Web page 978. User</p> <p>22 activities such as resizing windows and scrolling</p>	<p>27</p> <p>1 portions of patents like this, and</p> <p>2 without understanding depth and breadth</p> <p>3 of what the invention is, I -- I don't</p> <p>4 think the answer is credible. I wouldn't</p> <p>5 feel comfortable making that answer, with</p> <p>6 all due respect.</p> <p>7 BY MR. GREENLEAF:</p> <p>8 Q Okay. So here's another portion of</p> <p>9 Koeppel. It says: A disadvantage to this</p> <p>10 conventional process is that advertisement servers</p> <p>11 may be billed for banners that are never seen by a</p> <p>12 user browsing a rendered Web page that includes the</p> <p>13 banner.</p> <p>14 So it says that the banner may never be</p> <p>15 seen, and that's something that your solution solves,</p> <p>16 correct?</p> <p>17 A Yes.</p> <p>18 Q And then it goes on: This may occur when</p> <p>19 the banners are located in positions on a Web page</p> <p>20 that rarely get used by users, such as the bottom</p> <p>21 half of the web page. Users may leave a Web page</p> <p>22 without ever viewing the banner provided by an</p>
<p>26</p> <p>1 affect in the view portion of the Web page 976 and</p> <p>2 component 978. Accordingly, to determine what are</p> <p>3 the actual in-view portions of page 976 and component</p> <p>4 978, the client script executes known Web-based</p> <p>5 programming language commands to collect known</p> <p>6 current height, H, subscript browser, and width, W,</p> <p>7 subscript browser, of browser window 974.</p> <p>8 So does Koeppel teach a method of</p> <p>9 determining whether a component is the window as you</p> <p>10 described?</p> <p>11 A Not as I described from what I can see</p> <p>12 here. It's not enough information.</p> <p>13 MR. BERTEN: Also, give me a chance</p> <p>14 to make an objection.</p> <p>15 Same objection. Asking him</p> <p>16 questions about a document that the</p> <p>17 witness is seeing for the first time</p> <p>18 during this deposition.</p> <p>19 THE WITNESS: It also sounds like</p> <p>20 you're relating it to another diagram</p> <p>21 from another patent. But the thing to</p> <p>22 understand is that if you take small</p>	<p>28</p> <p>1 advertisement server, while the Web server serving</p> <p>2 the Web page may still charge the advertisement</p> <p>3 server for a banner being displayed on a rendered Web</p> <p>4 page.</p> <p>5 Again, that's the same problem that your</p> <p>6 invention is seeking to solve, correct?</p> <p>7 A Okay.</p> <p>8 Q Is that a yes?</p> <p>9 A Users may leave a web page without ever</p> <p>10 viewing the banner provided by an advertisement.</p> <p>11 Yes.</p> <p>12 Q And further on down the line, it says:</p> <p>13 Furthermore, although conventional on-line</p> <p>14 advertising techniques enable providers to advertise</p> <p>15 their products and services on third party Web sites,</p> <p>16 they lack the ability to efficiently perform detailed</p> <p>17 billing based on whether an advertisement was</p> <p>18 actually in-view when a Web site, including the</p> <p>19 advertisement, is rendered.</p> <p>20 Again, that's discussing the problem that</p> <p>21 your geometric viewability solution solves, correct?</p> <p>22 A Yeah, I mean, I guess this is a summary</p>

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<p style="text-align: right;">29</p> <p>1 or some background in a patent you're reading. But</p> <p>2 reading the background of a patent doesn't determine</p> <p>3 anything. It's just they're telling the story. We</p> <p>4 would have to know what -- go into depth of what</p> <p>5 they're doing. I mean, what's your point?</p> <p>6 Q I just wanted to get your basic</p> <p>7 understanding of what this patent is talking about.</p> <p>8 We're not going into it in-depth. We realize we</p> <p>9 don't have enough time to review it and you would</p> <p>10 need lots of time. You've made that clear. But I</p> <p>11 appreciate this sort of initial analysis of it.</p> <p>12 But just going back, the Koeppel patent</p> <p>13 is from -- you know, it was filed in 2000, correct?</p> <p>14 A Uh-huh.</p> <p>15 Q So this problem of ads being in view was</p> <p>16 known at least as early as 2000, correct?</p> <p>17 A I mean, if that's when this is filed.</p> <p>18 So -- yeah, it's been -- it's a problem that has been</p> <p>19 around. It's just there was no solution that came up</p> <p>20 that was actually viable and usable in the actual</p> <p>21 world. So, yeah, it was a problem.</p> <p>22 (Previously marked Exhibit No. 1001</p>	<p style="text-align: right;">31</p> <p>1 viewability technology to -- to call and render an</p> <p>2 advertisement, knowing that the predefined area is in</p> <p>3 view. So the measurement of the viewable impression</p> <p>4 is not included in this, but the technology is used</p> <p>5 for the purpose of displaying an ad.</p> <p>6 Q Okay. So when you said the measurement</p> <p>7 of the viewable impression is not included, you're</p> <p>8 referring to the fact that the claim did not require</p> <p>9 geometric viewability?</p> <p>10 A No, not at all. It requires geometric</p> <p>11 viewability to know if the ad is in view.</p> <p>12 Q Why is that?</p> <p>13 A To know if the space is in view. You</p> <p>14 netted the viewability technology to know if the</p> <p>15 predefined area is in a portion of the display.</p> <p>16 Q So the claim requires geometric</p> <p>17 viewability?</p> <p>18 A Yes, as per --</p> <p>19 Q Which limitation is that, that requires</p> <p>20 geometric viewability?</p> <p>21 A I don't know what you mean by limitation.</p> <p>22 But if you're defining a predefined area in a portion</p>
<p style="text-align: right;">30</p> <p>1 was identified for the record.)</p> <p>2 BY MR. GREENLEAF:</p> <p>3 Q Give me a second here. So we're going to</p> <p>4 look at Exhibit 1001, which is the '329 patent.</p> <p>5 How -- so you are familiar with Claim 1</p> <p>6 of the '329 patent, correct?</p> <p>7 A Yeah.</p> <p>8 Q How does Claim 1 of the '329 patent solve</p> <p>9 this viewability problem?</p> <p>10 A Thank you for cleaning it up there for</p> <p>11 me.</p> <p>12 Q I'm trying to make everything easy for</p> <p>13 us. Yeah, sorry. I think this is more readable. So</p> <p>14 hopefully this is better.</p> <p>15 A Okay. Okay. Can you scroll down, just</p> <p>16 so I can see the complete --</p> <p>17 Q Yeah. There's a period there, so that's</p> <p>18 the end of the claim.</p> <p>19 A That's the end of it?</p> <p>20 Q Yeah.</p> <p>21 A Yeah, so, I mean, this is -- it's cool.</p> <p>22 I love it. No, I mean, it uses the view of the</p>	<p style="text-align: right;">32</p> <p>1 of a web page, then you need geometric viewability.</p> <p>2 You need to know the dimensions of the page and the</p> <p>3 pixels on the page.</p> <p>4 Q So the very first limitation here --</p> <p>5 sorry for my patent speak, but that's --</p> <p>6 A Determining whether a predefined area of</p> <p>7 an ad content display play that is used to display an</p> <p>8 advertisement is in view. Yeah, you need geometry</p> <p>9 there.</p> <p>10 Q Okay.</p> <p>11 A A viewable impression is the ad is in</p> <p>12 view for one -- 50 percent of the ad or more is in</p> <p>13 view for one second. So that's that. That's a</p> <p>14 different thing. This uses the technology to</p> <p>15 determine when an ad should be delivered to that</p> <p>16 space.</p> <p>17 Q So the claim requires determining whether</p> <p>18 a predefined area of an ad content display page is in</p> <p>19 view. Is that different from determining whether an</p> <p>20 ad is in view?</p> <p>21 A Determining whether a predefined area of</p> <p>22 ad content display page. Well, the ad isn't</p>

<p style="text-align: right;">33</p> <p>1 delivered yet. The space is there.</p> <p>2 Q Okay. So it's different from</p> <p>3 determining --</p> <p>4 A So --</p> <p>5 Q Sorry. Go ahead.</p> <p>6 A Yeah. So there's points in the process.</p> <p>7 So you determine if the ad space is visible, you</p> <p>8 deliver the ad. Then you can continue to measure and</p> <p>9 if the ad is there more than one second, then you can</p> <p>10 measure a viewable impression or you continue to</p> <p>11 measure at that point. If that makes sense.</p> <p>12 Q So you said in this limitation of Claim 1</p> <p>13 the ad is not in the predefined area yet; is that</p> <p>14 correct?</p> <p>15 A Well, there could be another ad in there,</p> <p>16 if it's a second -- if it's a second ad. So, you</p> <p>17 know, there could be an ad in there that's being</p> <p>18 measured. But -- but the concept here is that, hey,</p> <p>19 we're not going to deliver an ad until we know this</p> <p>20 ad is -- this ad space is -- is viewable. We're not</p> <p>21 going to -- we're not going to do it otherwise.</p> <p>22 Q Yeah. So I -- go ahead.</p>	<p style="text-align: right;">35</p> <p>1 Q And if you need a break at any point, let</p> <p>2 me know. Let me -- let me just bring up the display</p> <p>3 one more time.</p> <p>4 You sounded exhausted there for a second?</p> <p>5 A It's -- I want to answer the questions,</p> <p>6 but I just -- it's just -- you understand.</p> <p>7 Q Yeah, it's not fun.</p> <p>8 A No, it's not. It's not fun.</p> <p>9 Q All right. You can see my screen again</p> <p>10 here with the claim?</p> <p>11 A Yeah.</p> <p>12 Q Where does the claim explain how the</p> <p>13 geometry is used to make the determination that an ad</p> <p>14 is in view?</p> <p>15 A Well, I would -- I would consider</p> <p>16 predefined area as geometry, I mean, on a basic</p> <p>17 level. So if you say a predefined area -- like if I</p> <p>18 say predefined area of your kitchen, what is it?</p> <p>19 It's 5-feet from, you know, from the door, and it's</p> <p>20 5-foot square, however I describe it. Once I</p> <p>21 describe a predefined area of, say, a basketball</p> <p>22 court, I have to get into geometry. So -- because</p>
<p style="text-align: right;">34</p> <p>1 A No. I mean, if the word is replacement,</p> <p>2 if there's a replacement advertisement, then</p> <p>3 obviously there's another ad in there originally,</p> <p>4 because it's replacing it.</p> <p>5 Q But you're measuring the space on the</p> <p>6 screen as opposed to the advertisement, correct?</p> <p>7 A Well, yes, until there's an ad in it,</p> <p>8 then you could use this to -- because if the space</p> <p>9 has an ad in it, then you're measuring the ad, and</p> <p>10 you can determine if the ad is in the space or not.</p> <p>11 Right? So this -- this doesn't exclude the</p> <p>12 possibility of measuring the ad. Because once the ad</p> <p>13 is delivered, then you know it's there and you can</p> <p>14 measure it. Does that make sense?</p> <p>15 Q I think so. But there's a distinction</p> <p>16 between the ad and a space?</p> <p>17 A Correct.</p> <p>18 Q And the claim requires measuring the</p> <p>19 space, which, you know --</p> <p>20 A Pre-defined area of an ad content display</p> <p>21 page that is used to display an advertisement in-view</p> <p>22 within the visible area.</p>	<p style="text-align: right;">36</p> <p>1 you can't predefine an are area without geometry, as</p> <p>2 far as I'm concerned.</p> <p>3 Visible area is a reference to geometry.</p> <p>4 What is the visible area? You need geometry.</p> <p>5 So I would say, on a basic level, any --</p> <p>6 any reference to predefined area, visible area, any</p> <p>7 area is inherently geometry.</p> <p>8 Q But the claim is not measuring the ad</p> <p>9 itself, correct?</p> <p>10 A It can measure the ad itself, if the ad</p> <p>11 is in the area. This is -- this is -- what you're</p> <p>12 touching on -- to get into it a little bit, what</p> <p>13 you're touching on is something that is -- has been</p> <p>14 discussed a lot during the guidelines discussions.</p> <p>15 And, you know, the ad space is considered a container</p> <p>16 and the ad itself, when it's delivered, is considered</p> <p>17 the ad. Right?</p> <p>18 So you have to -- do you measure the</p> <p>19 container? Do you measure the ad? So our technology</p> <p>20 can measure the container and it can also measure the</p> <p>21 ad because it knows when the ad is in the container.</p> <p>22 So, basically, what I'm saying here is that it's</p>

<p style="text-align: right;">37</p> <p>1 both.</p> <p>2 If -- if the ad space does not contain an</p> <p>3 ad, then it's the space; but once the ad is delivered</p> <p>4 and rendered in the space, then you start to measure</p> <p>5 the ad. Does that make sense? It's kind of</p> <p>6 like you're in a -- there's a car. Right? And the</p> <p>7 car is self-driving and there's nobody in it, and you</p> <p>8 can measure where the car is going. Then a driver</p> <p>9 gets in it and you're measuring the same, but you</p> <p>10 know the driver is in it, so now you're measuring the</p> <p>11 driver, too. In an analogy. Right?</p> <p>12 So because if you can measure where the</p> <p>13 car is going and you can measure if there's a guy in</p> <p>14 the car or not, then you're measuring the guy.</p> <p>15 Q Well, why was there so much discussion</p> <p>16 about measuring the ad space versus the advertisement</p> <p>17 itself?</p> <p>18 A Oh, because there was just lots of</p> <p>19 discussions about a lot of -- everything. You know,</p> <p>20 it was -- these guideline discussions were -- you</p> <p>21 know, there was a lot going on. But -- but it was</p> <p>22 just one of the things, one of the things to</p>	<p style="text-align: right;">39</p> <p>1 of an administrative problem, not a technical</p> <p>2 problem. So if you have 300 by 250s available to</p> <p>3 you, you have to traffic 300 by 250s there. Right?</p> <p>4 And if you're trafficking 600 by 600s into the wrong</p> <p>5 ad space, you know, probably the exchange or -- will</p> <p>6 have a control in place to make you not be able to do</p> <p>7 that. But basically that's -- you're just talking</p> <p>8 about kind of like administrative problems.</p> <p>9 Q So --</p> <p>10 A And you can put controls in place, for</p> <p>11 example. I'm not sure what your question is. If</p> <p>12 your question is -- what's the question? I'm sorry.</p> <p>13 Q If the ad is smaller than the ad space,</p> <p>14 is the ad measured or the -- is the ad space</p> <p>15 measured?</p> <p>16 A Oh, that's your question. It totally --</p> <p>17 it totally depends. It depends on how the system is</p> <p>18 set up. In other words, it depends -- it's -- that</p> <p>19 doesn't relate to this claim. That depends on how</p> <p>20 the system is set up. In other words, how much</p> <p>21 communication is there between the container and the</p> <p>22 ad itself.</p>
<p style="text-align: right;">38</p> <p>1 consider.</p> <p>2 Q What if an ad space is larger than the</p> <p>3 advertisement? Is that an issue in this type of</p> <p>4 technology?</p> <p>5 A Well, that would be human error in most</p> <p>6 cases. That would be considered human error, that</p> <p>7 somebody trafficked -- that somebody trafficked an ad</p> <p>8 of the wrong size into an ad space.</p> <p>9 Q You do understand that ads come in</p> <p>10 different shapes and sizes, correct?</p> <p>11 A Yes. Sorry.</p> <p>12 Q Well, I --</p> <p>13 A Yes, I do understand. Yes, I do. They</p> <p>14 come in different sizes. Correct.</p> <p>15 Q And so, for example, one ad could be</p> <p>16 quite large and then the winner of an auction may</p> <p>17 have a smaller ad that. Sometimes happens, correct?</p> <p>18 A Correct.</p> <p>19 Q And so the replacement ad would be</p> <p>20 smaller than the prior ad, correct?</p> <p>21 A Well, I mean, if that happens, then</p> <p>22 there's -- then it was trafficked wrong. That's more</p>	<p style="text-align: right;">40</p> <p>1 Q So in the context of this claim, let's</p> <p>2 say the predefined area is larger than the</p> <p>3 advertisement.</p> <p>4 A Uh-huh. I don't know, that -- that's</p> <p>5 outside the field of this claim.</p> <p>6 Q So this claim --</p> <p>7 A I don't know.</p> <p>8 Q -- doesn't cover the implementation of an</p> <p>9 ad space -- sorry -- the predefined area being larger</p> <p>10 than the advertisement?</p> <p>11 A Doesn't cover the predefined area being</p> <p>12 larger than the advertisement? Again, that's -- in</p> <p>13 answer to your question, that's an administrative</p> <p>14 issue. That's an issue of how that is handled.</p> <p>15 Right? So I -- you know.</p> <p>16 Q In your experience, are ad serves that</p> <p>17 are smaller than the -- than the ad space?</p> <p>18 A No, I didn't experience that as a</p> <p>19 problem. Because the IAB -- the IAB defines -- the</p> <p>20 ad sizes are very defined. There are really only</p> <p>21 like three or four basic ad sizes that are -- that</p> <p>22 are approved by the IAB. So it's pretty</p>

<p>41</p> <p>1 standardized.</p> <p>2 So when trafficking is set up, it's like</p> <p>3 you have 300 by 250s, 700 by 90s, and you have your</p> <p>4 600 by 600s, and the twain don't meet. So this</p> <p>5 possibility that one is going to be trafficked into</p> <p>6 the wrong space is not a problem, you know, that</p> <p>7 occurs in any -- in any tangible way. In my</p> <p>8 experience back then.</p> <p>9 I understand your question, though.</p> <p>10 Q So the claim requires that the ad space</p> <p>11 be measured, not the ad size, correct?</p> <p>12 MR. BERTEN: I'll object to the</p> <p>13 extent it's mischaracterizing the claim.</p> <p>14 BY MR. GREENLEAF:</p> <p>15 Q I'll show you the claim. So the question</p> <p>16 again was -- which I think will be the same</p> <p>17 objection -- whether the claim requires that the ad</p> <p>18 space be measured, not the ad size, correct?</p> <p>19 MR. BERTEN: Same objection. Did</p> <p>20 we lose audio?</p> <p>21 MR. GREENLEAF: I don't know.</p> <p>22 Alan, are you there?</p>	<p>43</p> <p>1 that's the assumption, but it doesn't require it.</p> <p>2 Yeah, I don't really understand what -- I'm sorry.</p> <p>3 Q So what does MRC stand for?</p> <p>4 A That's Media Rating Council.</p> <p>5 Q What do they do?</p> <p>6 A So it's an interesting story. So during</p> <p>7 the Nixon administration, there was a big scandal</p> <p>8 with a game show. I think they made a movie about</p> <p>9 it. But there was a lot of lying about audience</p> <p>10 numbers on television. And it kind of got out and</p> <p>11 there was a big uproar on the advertiser side that</p> <p>12 the audience measurements were being -- were not</p> <p>13 accurate, so people -- they were paying too much for</p> <p>14 advertising and they wanted regulation.</p> <p>15 So, of course, the advertising industry</p> <p>16 kind of got together, and the publishers, and went to</p> <p>17 Congress and said, look, we don't need regulation</p> <p>18 kind of like the SEC. We don't need government</p> <p>19 regulation. We can regulate ourselves.</p> <p>20 And they're like, okay, well, you can</p> <p>21 regulate yourselves. What are you going to do? And</p> <p>22 they said, well, we'll create this Media Rating</p>
<p>42</p> <p>1 THE WITNESS: I'm here. Can you</p> <p>2 hear me?</p> <p>3 BY MR. GREENLEAF:</p> <p>4 Q Yeah, I'm just waiting for an answer to</p> <p>5 my question.</p> <p>6 A Oh, I'm sorry. There's a question?</p> <p>7 Q Yes.</p> <p>8 A Please restate the question. I</p> <p>9 apologize.</p> <p>10 Q The claim requires that the ad space be</p> <p>11 measured, not the ad size, correct?</p> <p>12 A The ad size?</p> <p>13 Q Yes.</p> <p>14 A I'm sorry. I don't understand the</p> <p>15 question. What -- I just don't understand the</p> <p>16 question.</p> <p>17 It's a predefined area and ad content is</p> <p>18 delivered into the predefined area. So the ad</p> <p>19 content would be the predefined size.</p> <p>20 Q So you're saying that the claim requires</p> <p>21 that the ad be the same size as the predefined area?</p> <p>22 A It doesn't require it, but that's --</p>	<p>44</p> <p>1 Council and it will be a self-regulatory body and</p> <p>2 we -- we will all be on the board of members -- will</p> <p>3 be board members of this organization. And we will</p> <p>4 bring in third parties -- third party auditing firms</p> <p>5 to audit and accredit all advertising measurement of</p> <p>6 systems. And in that way we'll keep our integrity,</p> <p>7 but not necessarily be regulated directly by</p> <p>8 Congress, by the government. So Congress agreed to</p> <p>9 that, and the Media Rating Council was formed.</p> <p>10 So prior to the internet, they were</p> <p>11 auditing Nielsen, Arbitron, television, radio, print.</p> <p>12 All of these different companies were -- anybody</p> <p>13 selling advertising and measuring it in the form of a</p> <p>14 currency or measuring it in the form of billing have</p> <p>15 to get accredited by the Media Rating Council, and</p> <p>16 audited, annual audits, by third party auditing --</p> <p>17 third party auditing firms.</p> <p>18 Q And what does MRC audit?</p> <p>19 A They audit -- they audit, for example,</p> <p>20 Nielsen, all Nielsen ratings. They audit all</p> <p>21 Arbitron ratings.</p> <p>22 Q What do they confirm during the audit?</p>

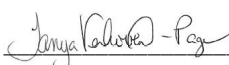
<p style="text-align: right;">45</p> <p>1 A They confirm any point of transaction, 2 any currency is accurate. So anything something is 3 billed on. So if Neilsen is billing on audience 4 number, gross rating points, for example, then 5 Nielsen will go through an audit with whatever 6 auditing firm, EY or whichever one is chosen, to 7 confirm that their sample boxes are accurate, that 8 the -- that whatever -- whatever numbers they are 9 generating are accurate. 10 Q So MRC confirms that, for example, 11 Nielsen is doing what Nielsen says it's doing? 12 A Exactly; but, to be clear, it's specific 13 to what they're billing on. So you only can get 14 accredited by the Media Rating Council if you're 15 sending bills to somebody and saying, pay on this 16 number. Right? So it's very specific to that. 17 And it goes into how you -- you know, 18 your control systems, your data, how you save data, 19 security. You know, the audits are very extensive 20 across the board. Not only testing your 21 measurements, but also testing your -- your data 22 retention, your security, your -- I mean, during our</p>	<p style="text-align: right;">47</p> <p>1 Mr. Edwards, that you would need to spend a 2 substantial amount of time reviewing the patent to be 3 able to understand this figure; is that correct? 4 A Yeah, I -- yes, I would prefer to review, 5 have time to review this. Yes, that's correct. 6 Q And the '329 patent, you agree that it 7 requires a script on the client side to determine 8 whether an ad is in view, correct? 9 A A script on the client side? 10 Q Yes. 11 A I'm not sure what you mean by script. I 12 mean, something has to be on the client side, yes. 13 Q Yeah. A script is a -- 14 A Some code. Some code. 15 Q Yeah. 16 A I mean, Igor is better to refer to these 17 for the technical stuff, but yeah, the code is 18 delivered to the page. 19 Q Okay. So MRC accredited RealVu in 2010, 20 correct? 21 A Correct. 22 Q What did they accredit RealVu for?</p>
<p style="text-align: right;">46</p> <p>1 process they even tested like, you know, our 2 emergency -- you know, you have -- your emergency 3 procedures. It's very -- it's very extensive what 4 the audits entail. 5 But the high level purpose of the Media 6 Rating Council is to kind of give integrity -- give a 7 stamp of integrity to any company billing for 8 advertising. If that makes sense. 9 MR. GREENLEAF: So we've been going 10 about an hour. 11 THE WITNESS: Yeah. 12 MR. GREENLEAF: Would you like a 13 break? 14 THE WITNESS: Yeah, maybe that 15 would be good. 16 MR. GREENLEAF: Okay. 17 (Brief pause.) 18 MR. GREENLEAF: Back on the record. 19 BY MR. GREENLEAF: 20 Q So I've got the Koeppel patent up again, 21 which I guess is Exhibit 2 to this deposition. 22 And I just want to confirm with you,</p>	<p style="text-align: right;">48</p> <p>1 A For the viewable impression. 2 Q What do you mean by the viewable 3 impression? 4 A That's a great question. So when EY was 5 auditing us, they -- they had just completed the last 6 guidelines for the served -- for impression. They 7 were called impressions, served impressions. Right? 8 But they were just called impressions. So when -- 9 after -- after we showed this to the MRC, they wanted 10 to audit this. But the problem was, this was a new 11 form of measurement. Right? 12 So they had to use the impression 13 guidelines and sort of modify them in our process to 14 start to create new guidelines. So they audited us 15 under the served guidelines, but we created new 16 guidelines for the new impression during that 17 process. 18 Does that make sense? So -- 19 Q Would -- go ahead. 20 A All right. So would the impression was 21 already -- the impression already had guidelines, so 22 they had to come up with something that would -- a</p>

<p style="text-align: right;">49</p> <p>1 phrase that would distinguish this new measurement 2 from the old impression. 3 So what they came up with was viewable 4 impression, which we thought was kind of funny 5 because an impression is supposed to be viewable. 6 That's what an impression is. It means an ad reached 7 a person. So it was kind of like wet water to us, 8 you know, the phrase. But anyway, so it became the 9 viewable impression during that audit process. 10 Q How did they define the viewable 11 impression at that time? 12 A So that went to committee, and there was 13 back and forth. And it -- it kind of netted out 14 to -- it netted out to basically 50 percent of the ad 15 in view for one second. That was the threshold to 16 count it. 17 Q Do you see my screen? 18 A Yes. 19 (Previously marked Exhibit No. 2039 20 was identified for the record.) 21 BY MR. GREENLEAF: 22 Q So this is Exhibit 2039 from the IPR.</p>	<p style="text-align: right;">51</p> <p>1 measurement business. We were in the exchange 2 business. So that's the only thing I can think of as 3 to why, but I don't know. 4 Q Why weren't you in the measurement 5 business? 6 A I -- I don't -- I mean, I don't know the 7 answer to that question. 8 Q What do you mean by the measurement 9 business? 10 A The measurement business, meaning like 11 delivering reports on -- on, you know -- I -- I 12 don't -- I don't know. I don't know the answer to 13 this question. I don't know. I honestly don't know. 14 Q Well, you used the term -- you said we 15 weren't in the measurement business. 16 A Yeah, but I don't -- again, I don't know 17 what time this is and I stopped -- I left the company 18 a while back. Not left entirely, but I mean I don't 19 really know the answer to the question. I don't know 20 the answer to why this is NA. I was just 21 speculating. 22 Q When did you leave the company?</p>
<p style="text-align: right;">50</p> <p>1 It's labeled MRC Accredited Viewability Verification 2 Disclosure. 3 Are you familiar with this document? 4 A Yeah. 5 Q And what is this document? 6 A It looks -- this is -- 7 Q I can upload it into the Chat if you -- 8 A No, no, no. This just shows the 9 different vendors and their methods and this kind of 10 thing. 11 Q Why does Real -- why does RealVu say NA 12 down here? 13 A I'm not sure. It might be -- it might be 14 because this was at a later date that -- that we -- 15 that we stopped being audited. That's the only thing 16 I can think of. I don't know why. 17 Q Yeah. It's labeled -- 18 A Because at some point we stopped -- we 19 stopped being audited. 20 Q Why did you stop being audited? 21 A Because the primary business turned into 22 something. Like it was -- we weren't in the</p>	<p style="text-align: right;">52</p> <p>1 A Well, I work part-time with the company 2 now. So I was -- I was more full-time three or four 3 years ago. 4 Q What did you mean by the exchange 5 business? 6 A The viewable exchange or second print 7 auction or that kind of thing. It -- as opposed to 8 like a verification company or something like that. 9 If that makes sense. 10 Q What do you mean by a verification 11 company? 12 A A verification company kind of like 13 tags-up ads and gives reports as to, you know, how 14 many were delivered or showed up, that kind of thing. 15 Q So the document says it's from -- it says 16 a viewability verification disclosure from August 1, 17 2013. Were you full-time at RealVu at that time? 18 A I don't -- I don't recall. I don't 19 recall exactly. 20 Q So in 2013, you said something to the 21 effect of RealVu switched from a measurement business 22 to an exchange business.</p>

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<p style="text-align: right;">53</p> <p>1 When it made that switch, did RealVu need</p> <p>2 to provide viewability information to get paid?</p> <p>3 A I -- first of all, I don't know about --</p> <p>4 I mean, the switch, maybe I misstated. You know, I</p> <p>5 was trying to answer your question about why that</p> <p>6 report might not be there. Right? So -- so, you</p> <p>7 know, I -- I can't say there's an actual switch in</p> <p>8 any way. I just remember we were in a -- we had a</p> <p>9 viewable exchange business at that time. I was</p> <p>10 trying to be helpful, but I don't -- I don't know why</p> <p>11 it was NA on that sheet.</p> <p>12 Q So in 2013, to get paid, didn't RealVu</p> <p>13 need to provide viewability information?</p> <p>14 A I -- I don't recall exactly, but -- but</p> <p>15 I -- I don't recall exactly, to be honest with you,</p> <p>16 because -- because in an exchange there can be third</p> <p>17 parties that are -- that are doing the actual, you</p> <p>18 know, measurement. So I don't -- I don't recall.</p> <p>19 It's so long ago. I --</p> <p>20 Q I understand. All right. I'm going to</p> <p>21 upload another document. This is Exhibit 3.</p> <p>22 (Edwards Deposition Exhibit No. 3</p>	<p style="text-align: right;">55</p> <p>1 arrangements.</p> <p>2 Q Licensing what?</p> <p>3 A The technology itself.</p> <p>4 Q What's the technology?</p> <p>5 A What's the technology?</p> <p>6 Q Yes.</p> <p>7 A I don't know exactly what they're</p> <p>8 licensing. I'm not involved in the, like, day-to-day</p> <p>9 business or I have not seen, but my understanding,</p> <p>10 it's is this patent relates to.</p> <p>11 Q Who does RealVu provide a license to?</p> <p>12 A Again, I don't even have a list of the</p> <p>13 clients. I'm not involved on that level. I know</p> <p>14 there's this issue with Duration, but other than</p> <p>15 that, I don't really -- I don't know the details.</p> <p>16 Q So prior to 2008 and viewability becoming</p> <p>17 in vogue, how were companies such as Google making</p> <p>18 money on advertising?</p> <p>19 A Well, they were billing on -- on</p> <p>20 impressions or cost per thousand impressions, and</p> <p>21 they were billing on clicks, mostly. Right? So I</p> <p>22 think -- I think what happened was -- was clicks were</p>
<p style="text-align: right;">54</p> <p>1 was marked for the record.)</p> <p>2 BY MR. GREENLEAF:</p> <p>3 Q And you're welcome to look at it, but I</p> <p>4 have it up here on the screen. It's a nunc pro tunc</p> <p>5 assignment, which you assigned -- which you signed in</p> <p>6 2022.</p> <p>7 Do you recognize this document?</p> <p>8 A I don't see it yet.</p> <p>9 Q I'm not sharing my screen. So -- and I</p> <p>10 also uploaded it. So could you please download it?</p> <p>11 A Yeah, yeah. I remember this.</p> <p>12 Q Okay. What is this document?</p> <p>13 A It's an assignment of one of the -- one</p> <p>14 of the patents from the past.</p> <p>15 Q Why did you assign this document?</p> <p>16 A Because it's my duty to assign the</p> <p>17 inventions to the company.</p> <p>18 Q This is your assignment of your rights to</p> <p>19 the invention to Rich Media Club; is that correct?</p> <p>20 A Correct.</p> <p>21 Q How does RealVu get paid today?</p> <p>22 A My understanding is through licensing</p>	<p style="text-align: right;">56</p> <p>1 so important to Google that they really didn't focus</p> <p>2 too much on the impression part of it; but then it</p> <p>3 turns out that the baseline measurement for all</p> <p>4 advertising in other mediums is the impression.</p> <p>5 Like, for example, if you buy a Super Bowl ad, the</p> <p>6 number is how many people you were exposed to Super</p> <p>7 Bowl and that's how you bill. Right?</p> <p>8 So the impression became more and more</p> <p>9 important, and the only technology they really had to</p> <p>10 do it was the ad served. So they -- they -- they</p> <p>11 worked with the ad served. So when we -- when I</p> <p>12 first started doing media buys, it didn't make any</p> <p>13 sense. Like the numbers that were coming back</p> <p>14 were -- were so large. You know, because I'm</p> <p>15 originally from television. You know, I was a</p> <p>16 television AD. And it just didn't look right, you</p> <p>17 know?</p> <p>18 But at the time, it was kind of -- the</p> <p>19 number were so big, it was exciting, but they -- they</p> <p>20 kind of got -- the industry got used to it. And the</p> <p>21 click-through rates were measured also against the</p> <p>22 impression. So the impression was kind of like the</p>

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<p style="text-align: right;">57</p> <p>1 baseline. And it was a served impression, let's face 2 it. 3 Q So companies like Google were making a 4 lot of money on certain impressions at that time, 5 correct? 6 A Yeah. Yeah. And I think -- I think 7 there was an awareness that served impressions 8 probably didn't show up. It's just the amount that 9 didn't show up was the shock. I think it was a shock 10 to all of us. Because -- because even -- even if you 11 take the render, if you take just how many ads are 12 served that actually load on a page, the number drops 13 a huge amount. And then you add the other criteria, 14 then it becomes even more. 15 But I think this whole 50 and 60 percent 16 thing was just a shocker to everybody. Even us. I 17 think if the number was a little smaller, it would 18 have been more manageable. I think that was one of 19 the problems, was that it was such a big number, the 20 discrepancy. 21 Q Okay. Did RealVu ever provide a 22 viewability service directly to customers?</p>	<p style="text-align: right;">59</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC 2 3 I, Tanya L. Verhoven-Page, Reporter and Notary 4 Public within and for the State of Georgia do hereby 5 certify: 6 That ALAN EDWARDS, the witness whose deposition 7 is hereinbefore set forth, was duly sworn by me 8 before the commencement of such deposition and that 9 such deposition was taken before me and is a true 10 record of the testimony given by such witness. 11 I further certify that the adverse party, 12 RICH MEDIA CLUB, LLC, was represented by counsel at 13 the deposition. 14 I further certify that the deposition of ALAN 15 EDWARDS occurred via Zoom conference (Taipei, 16 Taiwan), on Wednesday, January 31, 2024, commencing 17 at 4:03 a.m. to 5:35 a.m. 18 19 20 21 22</p>
<p style="text-align: right;">58</p> <p>1 A What do you mean, viewability service? 2 Q The viewability test as described in the 3 '329 patent. 4 A I mean, historically we've delivered 5 viewability, yes. 6 Q To companies such as Duration, correct? 7 A Yeah, Duration was after my time, but -- 8 MR. GREENLEAF: Okay. I'd like to 9 take a five-minute break. I'm pretty 10 close to wrapping up. 11 So let's come back at, say, 8:35. 12 (Brief pause.) 13 MR. GREENLEAF: Back on the record. 14 We have no further questions right now. 15 David can ask questions if he'd like. 16 MR. BERTEN: I have no questions. 17 MR. GREENLEAF: All right. Thank 18 you, Mr. Edwards. 19 20 (Thereupon, the deposition was 21 concluded at approximately 5:35 a.m.) 22</p>	<p style="text-align: right;">60</p> <p>1 I further certify that I am not related to any 2 of the parties to this action by blood or marriage, I 3 am not employed by or an attorney to any of the 4 parties to this action, and that I am in no way 5 interested, financially or otherwise, in the outcome 6 of this matter. 7 IN WITNESS WHEREOF, I have hereunto set my hand 8 this 12th day of February, 2024. 9 My commission expires: 10 April 31, 2024 11 12 13 14  15 NOTARY PUBLIC IN AND FOR THE 16 STATE OF GEORGIA 17 18 19 20 21 22</p>

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