

# **Exhibit A**

**In The Matter Of:**

***TERRY GENE BOLLEA***

***v.***

***HEATHER CLEM***

---

***ANDERSON, JEFF - Vol. 1***

***March 24, 2015***

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**MERRILL CORPORATION**

**Legalink, Inc.**

20750 Ventura Boulevard  
Suite 205  
Woodland Hills, CA 91364  
Phone: 818.593.2300  
Fax: 818.593.2301

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA

TERRY GENE BOLLEA professionally )  
known as HULK HOGAN, )  
Plaintiff, ) Case No.  
vs. ) 12012447-CI-011  
HEATHER CLEM; GAWKER MEDIA, LLC aka )  
GAWKER MEDIA; et al., )  
Defendants. ) (Pages 1-315)  
-----)

VIDEOTAPED DEPOSITION OF:

JEFF ANDERSON

TUESDAY, MARCH 24, 2015

10:07 A.M.

REPORTED BY:

SUSAN NELSON

C.S.R. No. 3202

Page 2	Page 4
1 Videotaped deposition of JEFF ANDERSON, the witness, 2 taken on behalf of Defendants, commencing at 3 10:07 A.M., on TUESDAY, MARCH 24, 2015, at 1925 4 Century Park East, Los Angeles, California, before 5 SUSAN NELSON, C.S.R. No. 3202. 6 7 APPEARANCES OF COUNSEL 8 9 FOR PLAINTIFF: 10 BAJO CUVA COHEN & TURKEL, P.A. 11 BY: SHANE B. VOGT, ESQ. 12 100 North Tampa Street 13 Suite 1900 14 Tampa, Florida 33602 15 (813) 443-2199 16 -- and -- 17 HARDER MIRELL & ABRAMS LLP 18 BY: CHARLES J. HARDER, ESQ. 19 1925 Century Park East 20 Suite 800 21 Los Angeles, California 90067 22 (424) 203-1600 23 24 25	1 I N D E X 2 WITNESS EXAMINATION PAGE 3 JEFF ANDERSON 4 By Mr. Berry 8 5 (P.M. Session) 133 6 7 8 9 10 E X H I B I T S 11 NO. PAGE DESCRIPTION 12 Exhibit 170 21 Expert Report of Jeff Anderson 13 Exhibit 171 39 Curriculum Vitae, Jeff Anderson 14 (GAWKER24842-24843) 15 Exhibit 172 86 WIPO Workshop, IPO Valuation, 16 Exploitation and Finance 17 Exhibit 173 91 Traditional Intangible Asset 18 Valuation Techniques 19 (GAWKER24848-24856) 20 Exhibit 174 111 The Pricing of Online Media 21 Cogent Valuation 22 Exhibit 175 122 Valuation Metrics of Large vs. 23 Small Website Acquisitions 24 Exhibit 176 146 Exhibit 1 through Exhibit 5 25 Summary of Findings
Page 3	Page 5
1 APPEARANCES OF COUNSEL (CONTINUED): 2 3 FOR DEFENDANTS: 4 LEVINE SULLIVAN KOCH & SCHULZ, LLP 5 BY: MICHAEL BERRY, ESQ. 6 1760 Market Street 7 Suite 1001 8 Philadelphia, Pennsylvania 19103 9 (215) 988-9773 10 -- and -- 11 LEVINE SULLIVAN KOCH & SCHULZ, LLP 12 BY: ALIA L. SMITH, ESQ. 13 1899 L Street, N.W. 14 Suite 200 15 Washington, D.C. 20036 16 (202) 508-1125 17 18 ALSO APPEARING: 19 JEMAL JUDKINS, VIDEOGRAPHER 20 21 22 23 24 25	1 E X H I B I T S 2 NO. PAGE DESCRIPTION 3 Exhibit 177 171 Google Analytics Printout 4 (GAWKER01148-01149) 5 Exhibit 178 182 Search Google Trends Printout 6 Exhibit 179 183 Google Printout, Gawker 7 (GAWKER24847) 8 Exhibit 180 219 Bleacher Report Printout 9 Exhibit 181 221 Bleacher Report Printout 10 (GAWKER24736-24738) 11 Exhibit 182 221 Bleacher Report Printout 12 (GAWKER24739-24741) 13 Exhibit 183 225 BuzzFeed Network Printout 14 Exhibit 184 226 BuzzFeed Network Printout 15 (GAWKER24742-24744) 16 Exhibit 185 226 BuzzFeed Network Printout 17 (GAWKER24745-24747) 18 Exhibit 186 231 Business Insider, AOL Hope to 19 Turn a Profit on Huffington Post 20 New Year 21 Exhibit 187 235 Ozy.com Printout 22 Exhibit 188 239 Grandparents.com Printout 23 (GAWKER24753-24755) 24 Exhibit 189 241 Grandparents.com Printout 25 (GAWKER24748-24752)

Page 6

1                    E X H I B I T S  
2 NO.        PAGE    DESCRIPTION  
3 Exhibit 190 245    S&P Capital IQ, Grandparents.com  
4                    Financials, Historical  
5                    Capitalization  
6 Exhibit 191 247    Grandparents.com S&P Capital IQ  
7                    Printout  
8 Exhibit 192 252    Yahoo Finance, Grandparents.com  
9                    Printout  
10                    (GAWKER24756-24757)  
11 Exhibit 193 272    Quantcast Gawker.com Printout  
12                    (GAWKER24776-24778)  
13 Exhibit 194 273    Quantcast Gawker.com Printout  
14                    (GAWKER24806-24808)  
15 Exhibit 195 274    Quantcast Gawker.com Printout  
16                    (GAWKER24818-24820)  
17 Exhibit 196 277    Quantcast Gawker.com Printout  
18                    (GAWKER24821-24823)  
19 Exhibit 197 277    Quantcast Gawker.com Printout  
20                    (GAWKER24839-24841)  
21 Exhibit 198 278    Quantcast Gawker.com Printout  
22                    (GAWKER24824-24826)  
23  
24  
25

Page 8

1 the plaintiff Terry Bollea.  
2            THE VIDEOGRAPHER: Okay. The court reporter  
3 today is Susan Nelson of Merrill Legal Solutions.  
4 Would the reporter please swear in the witness.  
5  
6                    JEFF ANDERSON,  
7            having been first duly sworn, was  
8            examined and testified as follows:  
9  
10            THE VIDEOGRAPHER: Please begin.  
11  
12                    EXAMINATION  
13  
14 BY MR. BERRY:  
15            **Q. Mr. Anderson, thank you for coming in today**  
16 **and I appreciate you flying up. I understand you**  
17 **came in from La Jolla?**  
18            A. I drove, yeah, but I did come up from  
19 La Jolla.  
20            **Q. Oh, thank you, yeah, I appreciate you making**  
21 **that trek up here.**  
22            A. Absolutely.  
23            **Q. I take it you've been deposed before?**  
24            A. I have.  
25            **Q. How many times have you been deposed?**

Page 7

1                    LOS ANGELES, CALIFORNIA;  
2                    TUESDAY, MARCH 24, 2015;  
3                    10:07 A.M.  
4  
5            THE VIDEOGRAPHER: Here begins Volume Number  
6 1, videotape number 1, in the deposition of Jeff  
7 Anderson in the matter of Terry Gene Bollea versus  
8 Heather Clem.  
9            Today's date is March 24th, 2015. The time  
10 on the video monitor is 10:07.  
11            The video operator today is Jemal Judkins,  
12 contracted by Merrill Legal Solutions at 20750  
13 Ventura Boulevard, Suite 205, Woodland Hills,  
14 California.  
15            This video deposition is taking place at  
16 1925 Century Park East in Los Angeles.  
17            Counsel, please voice-identify yourselves  
18 and state whom you represent.  
19            MR. BERRY: Mike Berry, Levine Sullivan Koch  
20 & Schultz, representing Gawker Media, Nick Denton,  
21 and A.J. Daulerio.  
22            MS. SMITH: Alia Smith, also with Levine  
23 Sullivan Koch & Schultz, also representing Gawker  
24 Media, Nick Denton, and A.J. Daulerio.  
25            MR. VOGT: And I'm Shane Vogt on behalf of

Page 9

1            A. One other time.  
2            **Q. When was that?**  
3            A. That was in -- I want to say in late 2013 or  
4 early 2014 -- early 2014, I believe.  
5            **Q. Okay. Have you ever testified in court**  
6 **before?**  
7            A. I have not -- I have given testimony over  
8 the phone for a matter that was abbreviated testimony  
9 and that trial is still continuing, so.  
10            **Q. What trial is that?**  
11            A. It's not a trial really. It's in front of  
12 the California Gambling Control Commission. It's a  
13 database valuation, so I have to testify for my  
14 client on that, but it's -- again, it's on hold right  
15 now.  
16            **Q. Okay. When did you testify in that?**  
17            A. That was -- I want to say late 2014.  
18            **Q. When you testified in the deposition, was**  
19 **that as an expert?**  
20            A. Yes.  
21            **Q. And what case was that?**  
22            A. That was GNC versus Jason Olive -- or Jason  
23 Olive versus GNC.  
24            **Q. Okay. We'll come back and talk about that**  
25            A. Sure.

Page 10

1 **Q. Have you ever been instructed on techniques**  
 2 **for testifying as a witness?**  
 3 A. No.  
 4 **Q. Have you ever taken any classes on**  
 5 **testifying as a witness?**  
 6 A. I did take one class, yes.  
 7 **Q. What class was that?**  
 8 A. It's a SEAK class.  
 9 **Q. What is SEAK?**  
 10 A. It's an abbreviation for something. It's an  
 11 expert training course.  
 12 **Q. Where was that?**  
 13 A. It was in San Diego.  
 14 **Q. When did you take that class?**  
 15 A. It was earlier this -- I think the beginning  
 16 of this year, January.  
 17 **Q. How long was that class?**  
 18 A. It was a two-day class.  
 19 **Q. Have you ever read any books on testifying?**  
 20 A. My chairman's written a book on testifying,  
 21 so I've paged through his book. I don't -- I hate to  
 22 say, I haven't read it cover to cover, but.  
 23 **Q. Have you read any articles on testifying?**  
 24 A. Not that I can recall.  
 25 **Q. Has anybody at your employer ever taught you**

Page 11

1 **techniques on testifying as a witness?**  
 2 A. I've been given tips, but, I -- sure, I  
 3 guess, yeah.  
 4 **Q. By who?**  
 5 A. By the chairman of my firm.  
 6 **Q. How often has he given you tips?**  
 7 A. I -- I don't know the answer to that.  
 8 **Q. Okay. Since you've only testified in a**  
 9 **deposition once -- and I'm sure Shane and maybe**  
 10 **Charles have explained this to you -- I'll take some**  
 11 **time and just tell you a little about what we're**  
 12 **going to be doing today.**  
 13 A. Sure.  
 14 **Q. During the course of the deposition, I guess**  
 15 **as you know, I'll be asking you a series of questions**  
 16 **and you'll be giving answers. From time to time,**  
 17 **Shane may speak up and object. Largely as I**  
 18 **understand that, that will be to preserve the record.**  
 19 **But for the most part, unless he tells you otherwise,**  
 20 **you'll need to answer my questions.**  
 21 **Because the -- because Susan is taking**  
 22 **everything down, you know, in a transcript --**  
 23 A. Sure.  
 24 **Q. -- all your answers have to be oral, "yes,"**  
 25 **"no," instead of "uh-uh," "uh-huh." It's being**

Page 12

1 **recorded also by video, so we'll have the video**  
 2 **record. But to make sure that the transcript is**  
 3 **clear, have to say everything orally.**  
 4 A. Okay.  
 5 (Mr. Harder joined the proceedings.)  
 6 BY MR. BERRY:  
 7 **Q. Also to help with the transcript, we'll need**  
 8 **to do like we're doing now, go back and forth and try**  
 9 **not to interrupt each other. Sometimes I get a**  
 10 **little excited and cut folks off before they've**  
 11 **finished their answer. I'll do my best to avoid**  
 12 **that. And if you do your best to let me finish my**  
 13 **question before jumping in with an answer, it will**  
 14 **make Susan's job a little bit easier.**  
 15 A. Sounds good.  
 16 **Q. The other thing I'd warned Susan about, and**  
 17 **now Charles is here and so he can attest to this from**  
 18 **our time together, is sometimes I talk quickly.**  
 19 **Sometimes I talk quietly. Sometimes I mumble.**  
 20 **Sometimes my questions come out and they are more**  
 21 **garbled than I intend and they don't make a whole lot**  
 22 **of sense.**  
 23 **If at any point for any of those reasons you**  
 24 **don't understand what I'm saying, ask me to repeat**  
 25 **the question, ask me to clarify the question, I'm**

Page 13

1 **happy to do so. And I apologize for talking funny**  
 2 **sometimes. And if you -- I just want to make sure**  
 3 **that we're on the same page --**  
 4 A. Sure.  
 5 **Q. -- as we go through it.**  
 6 **During the course of the deposition -- we'll**  
 7 **be here for some time obviously, and there will --**  
 8 **we'll be going through a bunch of your analysis and**  
 9 **talking about what you did as we go through. And if**  
 10 **there comes points during the deposition where we've**  
 11 **talked about one aspect of your report or one aspect**  
 12 **of your opinion and then move on and talk about**  
 13 **something else later and you realize that you want to**  
 14 **clarify something or qualify something that we talked**  
 15 **about earlier, or if it reminds you of something that**  
 16 **we talked about earlier, tell me and we'll go back**  
 17 **and we can revisit whatever we've talked about. I**  
 18 **just want to make sure that we get everything out**  
 19 **today.**  
 20 A. Okay. Great.  
 21 **Q. Are you taking any medications or any other**  
 22 **substances that ability -- that would affect your**  
 23 **ability to testify truthfully today?**  
 24 A. No.  
 25 **Q. Any reason that you can't testify truthfully**

Page 14

1 today?  
 2 A. No.  
 3 **Q. During the course of the deposition --**  
 4 **And, Charles, it's actually good that you**  
 5 **came in here.**  
 6 **During the course of the deposition today,**  
 7 **I'll be showing you a bunch of pieces of paper that**  
 8 **we'll be marking as exhibits and we've been marking**  
 9 **them continuously through the course of the**  
 10 **litigation starting at 1 and --**  
 11 **Do you recall what we ended with in the --**  
 12 MR. HARDER: I can find out for you.  
 13 MR. BERRY: Yeah.  
 14 BY MR. BERRY:  
 15 **Q. And I -- so we're just going to -- you're**  
 16 **coming into a moving train here. We're going to pick**  
 17 **up wherever the train is.**  
 18 A. Sure.  
 19 **Q. Charles will find out the number and we'll**  
 20 **just pick up where it is and I'll show you the**  
 21 **documents. We'll give a copy to Shane. But they'll**  
 22 **start at some random number that we'll find out here**  
 23 **shortly.**  
 24 A. Okay.  
 25 **Q. Between the time that you prepared your**

Page 15

1 **report and today, have you reviewed any new documents**  
 2 **pertaining to the case?**  
 3 A. I believe I got a set of documents that you  
 4 guys sent to counsel, so I did review 170-some pages.  
 5 **Q. These are the documents that we produced**  
 6 **last Thursday, I believe?**  
 7 A. I believe so, yes.  
 8 **Q. Okay. During the course of the day today, I**  
 9 **may be showing you some of those things. We have a**  
 10 **requirement in this case to provide any additional**  
 11 **documents we plan to show a witness five days before**  
 12 **the deposition, and so that's why you got those**  
 13 **things.**  
 14 **Other than that set of documents, have you**  
 15 **reviewed anything other than what you had reviewed in**  
 16 **preparing your report?**  
 17 A. I don't believe so, no.  
 18 MR. BERRY: Okay. Now that Charles is back,  
 19 we'll --  
 20 MR. HARDER: Still trying to get the number.  
 21 MR. BERRY: Okay. Well, I won't be showing  
 22 you anything for a few minutes.  
 23 THE WITNESS: Sure.  
 24 BY MR. BERRY:  
 25 **Q. Do you have any questions before we get**

Page 16

1 **going about the process here?**  
 2 A. Not right now, no.  
 3 **Q. Okay. First I'm just going to talk to you a**  
 4 **little bit about your background.**  
 5 **Where did you go to college?**  
 6 A. Went to undergraduate school at Santa Clara  
 7 University.  
 8 **Q. And what did -- did you -- I assume you got**  
 9 **a degree?**  
 10 A. I did.  
 11 **Q. What did you get your degree in?**  
 12 A. In economics.  
 13 **Q. What year did you graduate?**  
 14 A. Graduated in 2006.  
 15 **Q. And did you go to graduate school after**  
 16 **that?**  
 17 A. I did.  
 18 **Q. Where did you go to graduate school?**  
 19 A. To San Diego State University.  
 20 **Q. When did you go to graduate school?**  
 21 A. Between 2009 and 2010 or '11. It's a  
 22 two-year program.  
 23 **Q. What did you do between the time that you**  
 24 **graduated college and then went on to graduate**  
 25 **school?**

Page 17

1 A. I worked.  
 2 **Q. Where did you work?**  
 3 A. I worked at Wells Fargo Bank, Bridge Bank,  
 4 and RXSafe.  
 5 **Q. I'm sorry. What was the last one?**  
 6 A. RX, like prescription, Safe.  
 7 **Q. What did you do at Wells Fargo?**  
 8 A. I was a business banker.  
 9 **Q. What does that mean?**  
 10 A. I take care of loans for customers, handled  
 11 deposit accounts, give advice as far as financial  
 12 instrument needs for their business.  
 13 THE VIDEOGRAPHER: Counsel, I'm sorry, I'm  
 14 getting your right shoulder. If you could just  
 15 slide -- that's perfect. Thank you.  
 16 BY MR. BERRY:  
 17 **Q. Were you working in one of the bank**  
 18 **branches?**  
 19 A. I did, yes.  
 20 **Q. How long were you at Wells Fargo?**  
 21 A. I'd say approximately two years.  
 22 **Q. And then you went to Bridge Bank?**  
 23 A. I did.  
 24 **Q. How did you come to work at Bridge Bank?**  
 25 A. I was actually recruited by a client that I

Page 18

1 had at Wells Fargo, told Bridge Bank they should hire  
2 me.  
3 **Q. And what did you do at Bridge Bank?**  
4 A. I was an analyst, financial analyst.  
5 **Q. Doing what?**  
6 A. So I calculated loans, did projections,  
7 figured out how much we should lend someone, how much  
8 we should charge for it.  
9 **Q. What kind of loans?**  
10 A. Business loans.  
11 **Q. So a business would come in and want to**  
12 **borrow money for whatever it is they were doing, you**  
13 **would help value the loan?**  
14 A. Sure.  
15 **Q. Did you do anything else there?**  
16 A. I was just an analyst.  
17 **Q. How long were you at Bridge Bank?**  
18 A. For just under a year.  
19 **Q. And why did you leave Bridge Bank?**  
20 A. I decided that I wanted to get a master's,  
21 master's degree.  
22 **Q. And that's when you went on to San Diego**  
23 **State?**  
24 A. That's correct.  
25 **Q. When did you work at RXSafe?**

Page 19

1 A. When I started the master's program.  
2 **Q. So you worked --**  
3 A. So in 2009-ish.  
4 **Q. So you worked through the -- the time that**  
5 **you were getting your graduate degree?**  
6 A. I took a month or two off to move and, you  
7 know, get into the program, get set up in San Diego,  
8 and then I started at RXSafe.  
9 **Q. What did you get your graduate degree in?**  
10 A. Finance.  
11 **Q. And what degree did you get?**  
12 A. MBA.  
13 **Q. Was that a two-year program or a --**  
14 A. Two-year.  
15 **Q. And you worked concurrently with your**  
16 **studies?**  
17 A. I did.  
18 **Q. What did you do at RXSafe?**  
19 A. I ran all of the finance, the accounting,  
20 inventory management. It was a startup company, so I  
21 wore lots of hats.  
22 **Q. Right. What was your official title there?**  
23 A. Finance consultant, I believe.  
24 **Q. How many people worked at RXSafe?**  
25 A. Four or five. Pretty small.

Page 20

1 **Q. And what kind of company was that?**  
2 A. It's a pharmaceutical technology company.  
3 It created robotics for pharmacies.  
4 **Q. Robotics that would help fill prescriptions?**  
5 A. Store and fill prescriptions, yes.  
6 **Q. And how long did you work at RXSafe?**  
7 A. I want to say two or -- two or three years.  
8 **Q. So you continued to work there after you**  
9 **graduated from San Diego State?**  
10 A. Yeah, for part -- for sometime after  
11 graduating, yes.  
12 **Q. What did you do after you left RXSafe?**  
13 A. I went to CONSOR.  
14 **Q. When did you start at CONSOR?**  
15 A. I started at CONSOR right after I graduated.  
16 So that was May? May of 2011? There's a little  
17 overlap between RXSafe and CONSOR. I was still doing  
18 some work for them.  
19 **Q. Still doing some work for Con- -- for**  
20 **RXSafe?**  
21 A. For RXSafe. I was helping to wrap a couple  
22 things up, yeah.  
23 MR. BERRY: Okay. I'm going to go ahead  
24 here and we'll mark the first document.  
25 MR. HARDER: The last depo exhibit was 167.

Page 21

1 If you start at 170, that would give us a little  
2 cushion just in case I'm -- I'm off by a number.  
3 MR. BERRY: Okay. That makes sense here.  
4 Why don't we mark this, then, as Exhibit 170.  
5 (The document referred to was  
6 marked as Exhibit 170.)  
7 BY MR. BERRY:  
8 **Q. So what I've handed you as document 170 is**  
9 **the report you prepared for this litigation. Right?**  
10 A. Can I flip through it real quick --  
11 **Q. Oh, absolutely.**  
12 A. -- just to make sure it's all there?  
13 **Q. Absolutely.**  
14 A. Looks like the report. I think there are  
15 some exhibits missing though.  
16 **Q. Right. Well, yes, you had -- and five**  
17 **exhibits to the report?**  
18 A. Right.  
19 **Q. I'll separately be asking you about those**  
20 **later. If you'd like, we can mark them now, but**  
21 **we'll get there later in the day.**  
22 A. Sure. If I need them, I'll ask for them.  
23 **Q. Okay. If you would, turn to page 117**  
24 **here -- or, I'm sorry, to page 17.**  
25 **And going to the last paragraph in the text**



Page 22

1 of bio above "Memberships, Speeches and  
 2 Publications," it says:  
 3 "Prior to joining CONSOR,  
 4 Mr. Anderson was a finance manager  
 5 in the pharmacy technology  
 6 industry" --  
 7 That was your experience in RXSafe?  
 8 A. That's correct.  
 9 Q. And then the next part of that sentence  
 10 says:  
 11 -- "and has had extensive  
 12 experience in the mortgage and  
 13 banking industry."  
 14 Is that referring to your experience at  
 15 Wells Fargo and at Bridge Bank?  
 16 A. That's correct.  
 17 Q. Okay. Anything else for those two things?  
 18 A. No.  
 19 Q. Since the time that you started at CONSOR,  
 20 have you worked there continuously?  
 21 A. I have.  
 22 Q. What is CONSOR?  
 23 A. We're an intellectual asset management firm.  
 24 Q. Intellectual asset management firm?  
 25 A. (Nods head.)

Page 23

1 Q. What does that mean?  
 2 A. So we do intellectual property valuation,  
 3 licensing. Help with sale, disposal of intellectual  
 4 property assets. We focus solely on intellectual  
 5 property.  
 6 Q. So if you were going to try and explain this  
 7 to my mom who -- you know, 65-year-old woman down in  
 8 Birmingham, Alabama, what would you say you do at  
 9 CONSOR?  
 10 A. We do intellec- -- we do anything that  
 11 touches intellectual property and money. So where  
 12 intellectual property and money meet, whether that's  
 13 licensing, sale, expert testimony, valuation for  
 14 transactional purposes, that's what we do.  
 15 So we are experts when it comes to the value  
 16 of intellectual property.  
 17 Q. And when you talk about intellectual  
 18 property, what are you talking about?  
 19 A. The whole gamut of intellectual property.  
 20 So patents, trademarks, copyrights, rights of  
 21 publicity, trade secrets, know-how, databases,  
 22 Web sites. Any piece of IP.  
 23 Q. How many people work at CONSOR?  
 24 A. There's approximately ten.  
 25 Q. Has that number stayed the same since the

Page 24

1 time that you've been there?  
 2 A. It's fluctuated by one or two.  
 3 Q. I take it from what you said that CONSOR  
 4 advises in some business transactions?  
 5 A. (Nods head.)  
 6 Q. "Yes"?  
 7 A. Yes.  
 8 Q. What kind of transactions?  
 9 A. It -- it depends. It could be a bankruptcy.  
 10 It could be a buyer wanting to buy an intellectual  
 11 property asset. It could be a seller wanting to sell  
 12 and wanting to know what to value it at. It could be  
 13 somebody that wants to license a piece of their  
 14 intellectual property. Really any form of  
 15 monetization of IP.  
 16 Q. Has it -- what percentage of the company's  
 17 work involves expert witness services?  
 18 A. About half, I'd say.  
 19 Q. Do you know what percentage of the company's  
 20 revenue has come from expert witness services over  
 21 the past three years?  
 22 A. I -- I don't know exactly.  
 23 Q. Your title at CONSOR I understand is  
 24 director of valuation and analytics. Is that right?  
 25 A. That is correct.

Page 25

1 Q. How long have you held that position?  
 2 A. I want to say going on two years now.  
 3 Q. What were you before?  
 4 A. Before that, I was a senior financial  
 5 analyst.  
 6 Q. Did you do anything at CONSOR before being a  
 7 senior financial analyst?  
 8 A. No. That was my only other title.  
 9 Q. How many people at CONSOR hold the title  
 10 director of valuation and analytics?  
 11 A. Just me.  
 12 Q. Who do you report to at CONSOR?  
 13 A. I report to our chairman.  
 14 Q. And who is that?  
 15 A. Weston Anson.  
 16 Q. And is that the fellow you referred to  
 17 earlier when I'd talked about getting tips for  
 18 deposition testimony?  
 19 A. That's correct.  
 20 Q. And what is his -- his title is chairman?  
 21 A. Correct.  
 22 Q. Do any people at CONSOR report to you?  
 23 A. Yes.  
 24 Q. How many people?  
 25 A. I have four or five direct reports.

<p><b>Q. And what are those people's titles?</b>  A. Senior financial analyst. Financial analyst. Research analyst. And I think that's it.</p> <p><b>Q. So there's four or five people who hold those three roles?</b></p> <p><b>Q. What did you do as a senior financial</b></p> <p>A. I did valuations, modeling, writing reports. Basically preparing any type of valuation work that was necessary or licensing if necessary. Whatever work was coming in. Essentially I did a lot of the research behind it and wrote the reports and did the</p> <p><b>Q. And you did that both for transactional work and expert services?</b>  A. Primarily transactional work.</p> <p><b>Q. As a senior financial analyst, were you ever retained separately as an expert?</b>  A. Not as a senior financial analyst.</p> <p><b>Q. As director of valuation and analytics, what is your job responsibilities now?</b>  A. I run the entire valuation department.</p> <p><b>Q. And what does that mean?</b>  A. It means I -- I direct and manage almost all</p>	<p>emblem on their t-shirt, that would be a licensee. So we as Coca-Cola, the licensor, we would have one of those two gentlemen I spoke of, go out, find the t-shirt manufacturer and negotiate a license to put the Coca-Cola emblem on a t-shirt.</p> <p><b>Q. And how would those folks know the value of the logo, say, in that case?</b>  A. Sometimes they would ask me.</p> <p><b>Q. And so you would help them value whatever IP they're licensing in that particular transaction?</b></p> <p><b>Q. Since becoming director of valuation and analytics, what percentage of your time has involved expert witness services?</b></p> <p><b>Q. And during the rest of your time, you're doing this transactional work?</b>  A. Transactional and licensing, yes.</p> <p><b>Q. Give me some examples from over the past year of the non-expert kinds of work you've done.</b>  A. We'll do -- God, it really covers the whole gamut. So we'll help --</p> <p><b>Q. I'm sorry. Just you personally, not -- like what kind of work have you personally been doing over the past year other than expert work?</b></p>
<p>of the projects that come into CONSOR.</p> <p><b>Q. What -- are there other divisions of CONSOR other than valuation and analytics?</b>  A. We have a licensing division, which I work</p> <p><b>Q. All right. And so those are the only two</b></p> <p><b>Q. How many people work over in the licensing</b></p> <p><b>Q. And what do those folks do?</b>  A. They go out and actually actively solicit licensees for licensors that we represent.</p> <p><b>Q. Explain what you mean.</b>  A. They go out and will find licensees. So if we represent a licensor, they'll go find licensees to sell whatever products, patent service, whatever it might be that's being licensed.</p> <p><b>Q. Okay. So again going back to my mom in Birmingham --</b></p> <p><b>Q. -- what does that mean in plain English?</b>  A. So if I was Coca-Cola and there was a t-shirt manufacturer who wanted to put the Coca-Cola</p>	<p>A. Sure. Transactional work. So clients have a Web site, patent, trademark, copyright that they want to sell, they'll ask us to value it for them. Sometimes they want to go and get financing for their IP, so we'll value that for financing purposes. They'll want advice on whether or not they should buy a certain asset that someone's offering to sell, and so I'll value it for those purposes.</p> <p><b>Q. Without giving me any like client names, give me a couple of specific examples of that kind of transactional work that you've done over the past</b></p> <p><b>A. So we've done a large patent portfolio that dealt with the headphone and speaker space, a company you would know the name of. They wanted to get a loan on their IP, securitize it, so they called us to</b></p> <p><b>Done work for someone that had -- this is pre-litigation work for a Web site valuation. I'm not sure if they wanted to go in and do litigation or</b></p> <p><b>It's hard to say. We do -- we do a lot of work in this space. I mean, it's really all across</b></p> <p><b>Q. Tell me about the Web site valuation. What</b></p>

<p>Q. kind of Web site was that?</p> <p>A. It was a content and social media Web site.</p> <p>Q. And what exactly were you doing for that Web site?</p> <p>MR. VOGT: I'm -- and I'm going interpose an objection. This specific area of inquiry is going into work product that's related to that -- that litigation, 'cause he was a consulting expert.</p> <p>Q. Oh, I'm sorry, I thought we were talking about, like your transactional work, not expert related with -- sorry -- the line of questions --</p> <p>Q. -- that I was asking about. 'Cause this was</p> <p>A. This was pre-litigation, yeah, but it was --</p> <p>Q. But not a transactional --</p> <p>A. Right. Right.</p> <p>Q. Okay. I apologize.</p> <p>Thank you for bringing that --</p> <p>MR. VOGT: That's okay.</p> <p>Q. Is that in litigation now?</p>	<p>Q. In the second case, you were retained by somebody to value --</p> <p>A. They wanted to purchase the Web site and potentially litigate against it.</p> <p>Q. And what kind of Web site was that?</p> <p>A. It was a content fan-based Web site.</p> <p>Q. Did the -- your client end up purchasing the</p> <p>Q. Do you know if there was litigation over it?</p> <p>Q. And in both of these circumstances, you actually wound up providing a value for the Web site?</p> <p>Q. We may come back to that in a bit.</p> <p>Other than those two situations, have you ever valued a Web site? And this case.</p> <p>A. We have at CONSOR valued Web sites as part of larger transactions. So we do work for government entities and agencies and quasi governmental entities that have Web sites and need those valued as part of their portfolio of intellectual property, so we'll also value their trademarks, copyrights, databases,</p>
<p>Q. In that situation with the Web site, you were valuing what?</p> <p>Q. Was the Web site and the company synonymous? That is, did the company do anything other than have the Web site?</p> <p>A. As far as I'm -- as far as I know, it was just the Web site.</p> <p>Q. Okay. Other than that situation, had you ever been retained to do expert work with respect to valuing a Web site other than this case and that</p> <p>A. Yes, another case, too.</p> <p>Q. When was that?</p> <p>A. I want to say two or three years ago.</p> <p>Q. And what was the nature of that assignment?</p> <p>A. To value a different Web site for purchase and potentially for litigation purposes.</p> <p>Q. And if I understand your testimony -- this may have been implicit -- in both cases, the Web sites were your clients?</p> <p>A. No. One of each.</p> <p>Q. Okay. In the first case, the Web site was</p>	<p>but -- but, yes, we will value their Web sites in those cases as well.</p> <p>Q. And that's work that you personally have</p> <p>Q. How many times have you valued Web sites for those government or quasi government entities?</p> <p>A. Maybe two times.</p> <p>Q. And who were those entities?</p> <p>A. I -- I don't know the --</p> <p>MR. VOGT: Before you --</p> <p>THE WITNESS: Yeah.</p> <p>MR. VOGT: -- before you answer that, I can't allow him to answer any questions if he's subject to confidentiality agreements --</p> <p>MR. BERRY: That's fine.</p> <p>MR. VOGT: -- about those, so.</p> <p>THE WITNESS: And these are -- and they're -- I don't think I can tell you who the conditions are, or who the entities are. I'm under a con- -- strict confidentiality on those.</p> <p>Q. Okay. In the second class of folks, the two times with the government entities or quasi government entities, those are not private</p>

<p>corporations?</p> <p>A. It's a -- it -- I don't know the answer to that. Quasi governmental, meaning it's -- it's confusing even to them sometimes. They're -- they border between private and public and so it's -- it can get a little -- I don't know the answer to that.</p> <p>Q. And in those instances, without getting into the details of who it was, what specifically were you valuing in those two cases?</p> <p>A. We valued their entire IP portfolio.</p> <p>Q. Meaning trademarks. Right?</p> <p>A. Trademarks, yes.</p> <p>Q. And copyrights?</p> <p>Q. Did they have patents?</p> <p>A. They might have had some patents. I don't</p> <p>Q. What other stuff was in that IP portfolio -- those IP portfolios?</p> <p>A. Databases. Email marketing lists. Web sites. Logos. Brand portfolio.</p> <p>Q. Okay. Coming back to the report, Exhibit 170, looking at page 17, there's a list of memberships at the bottom of the page there. Are these the only professional</p>	<p>The first situation involved the Gaming Fund Group. What kind of matter is that?</p> <p>A. It's a database valuation.</p> <p>Q. What kind of database?</p> <p>A. It's a date -- a database full of data regarding gambling transactions. Dealers, for a</p> <p>Q. And what kind of matter is this before the California Gambling Control Commission?</p> <p>A. It's not a typical litigation like this is. This is something where the Gambling Control Commission needs to approve of any purchase or sale of any asset. And so we did the valuation. The Gambling Control Commission needs to approve that.</p> <p>Q. The sale of the database?</p> <p>Q. And do you represent the buyer or the</p> <p>Q. And that's ongoing currently?</p> <p>Q. The second matter, Jason Olive versus General Nutrition Centers, Inc., this is the case that you had been deposed in?</p> <p>A. That's correct.</p>
<p>organizations that you belong to currently?</p> <p>Q. Are you an officer in any of them?</p> <p>Q. Do you belong to any organizations for media professionals?</p> <p>Q. Do you belong to any organization for advertising professionals?</p> <p>Q. Do you belong to any organization for media financial advisers?</p> <p>A. Specific to media?</p> <p>Q. (Nods head.)</p> <p>Q. Belong to any organization for Web site financial advisers?</p> <p>Q. Turning to page 18. At the bottom of the page there, it mentions that you've testified as an expert in two cases over the past three years.</p> <p>A. That is correct.</p> <p>Q. And I think earlier you had mentioned both of these situations.</p>	<p>Q. What kind of matter was this?</p> <p>A. It was a right of publicity case.</p> <p>Q. And is that case still ongoing?</p> <p>A. I believe it is, yes.</p> <p>Q. What was the nature of your testimony?</p> <p>Well, sorry, before I ask you that, tell me just the background about the case.</p> <p>It's a right of publicity case involving</p> <p>A. Involving the use of a model's image and likeness to -- for General Nutrition stores.</p> <p>Q. So this is like a GNC store?</p> <p>A. The model's image was used in stores,</p> <p>Q. For advertising purposes?</p> <p>A. Sure. Advertising, marketing.</p> <p>Q. And presumably that was without the person's</p> <p>Q. In that case, were you representing the</p> <p>Q. And what was the nature of your expert testimony in that case?</p> <p>A. My testimony pertained to revenue growth and</p>

<p>store growth for General Nutrition Centers.</p> <p><b>Q. And did you value that revenue growth and store growth and then attribute it to their use of</b></p> <p>A. I didn't do any valuation or -- there was no attribution going on.</p> <p><b>Q. Okay. So explain to me again what you were</b></p> <p>A. I strictly testified to the revenue growth and store growth and comp and annual growth rates.</p> <p><b>Q. For GNC?</b></p> <p><b>Q. And there was nothing in connection with the damages in that case with the right of publicity violation, alleged violation?</b></p> <p>A. I only testified to the revenue and store</p> <p><b>Q. And you had your deposition taken in that</b></p> <p><b>Q. Do you know what stage that case is at now in the litigation?</b></p> <p>MR. BERRY: All right. I'm going to mark another exhibit as 171.</p>	<p><b>Q. Okay. Other than these eight items, have you done any additional expert work?</b></p> <p><b>Q. Or, sorry, and the GNC case, which is not on here, so there's nine things.</b></p> <p>A. GNC is number 1.</p> <p><b>Q. Oh, sorry. The Gaming Fund. I apologize.</b></p> <p>A. Yeah. Recently I was named as an expert I think before -- actually within the last week on</p> <p><b>Q. Is that -- has your --</b></p> <p>A. No report yet.</p> <p><b>Q. -- retention been disclosed?</b></p> <p>A. I don't know if it's been disclosed yet.</p> <p><b>Q. What kind matter is that?</b></p> <p>A. It's a patent valuation.</p> <p><b>Q. Just in talking to you about the two -- number 2 and number 3. In number 2, the Chevron Corporation v. Donziger, who were you retained by in</b></p> <p>A. By the -- Chevron, the Chevron side.</p> <p><b>Q. And what was your -- the nature of your expert work in that case?</b></p> <p>MR. VOGT: Can I -- were you a consulting</p>
<p>(The document referred to was marked as Exhibit 171.)</p> <p><b>Q. The document that you've been handed that is 171 is I guess one of those documents that you had mentioned earlier that we had produced last week. So for those, you'll see there's a little Bates number at the bottom that says "GAWKER" and in this case it's 28 -- sorry -- 24842.</b></p> <p><b>Q. This I believe is your CV from the CONSOR Web site. Is that right?</b></p> <p>A. It looks like it, yes.</p> <p><b>Q. Okay. On the second page there, there's a list of eight examples of expert experience in litigation support.</b></p> <p><b>Do you see that?</b></p> <p><b>Q. In which of these eight matters were you the actual retained expert? You personally.</b></p> <p>A. Number 3. And then I was the consulting expert on number 2. And, well, 1 we talked about.</p> <p><b>Q. We talked about.</b></p> <p>A. Yeah, that's -- Gaming Fund's not on there. I got to update that.</p>	<p>THE WITNESS: Yes.</p> <p>MR. VOGT: So you weren't disclosed?</p> <p>THE WITNESS: I don't know if I was</p> <p>MR. BERRY: Well, I mean, it's disclosed in his public CV.</p> <p>MR. VOGT: Right, right, right, but I'm worried about him getting into specifics about what he was consulted on.</p> <p>MR. BERRY: Well, it actually says he filed an expert report.</p> <p>BY MR. BERRY:</p> <p><b>Q. Did you file an expert report in that case?</b></p> <p>A. There was an expert report filed by our chairman, Weston Anson.</p> <p>MR. VOGT: Okay.</p> <p>BY MR. BERRY:</p> <p><b>Q. Okay. And you helped --</b></p> <p>A. I'm aware of that report. He was the testifying expert. I was the consulting expert.</p> <p><b>Q. Okay. And so ult- --</b></p> <p><b>Thanks for clarifying that. So --</b></p> <p>MR. VOGT: It takes a different meaning</p>

<p>MR. BERRY: Right.</p> <p>THE WITNESS: Sure. Sure.</p> <p>Q. So Mr. Anson was the identified disclosed</p> <p>A. He testified in that matter, yes.</p> <p>Q. Right. And you were helping him behind the</p> <p>Q. Okay. What was the nature of Mr. Anson's expert report in that case?</p> <p>A. It's a trademark valuation.</p> <p>Q. And what trademark were -- I mean was he</p> <p>A. The Chevron trademark.</p> <p>Q. And what was that case concerning, do you</p> <p>A. Concerning Ecuador. It was against the country of Ecuador. Ecuador actually seized the Chevron trademarks in Ecuador, and so we had to value the trademark for an international arbitration.</p> <p>Q. So was this pending in the Southern District</p> <p>A. That's where the court was held, yes. That's where he testified, was in New York.</p>	<p>A. There was an -- long story short, they had an email marketing database they purchased from Florida Panthers to do a deal-of-the-day email blast. The email addresses they promised to provide were opted out. It was an insufficient database per -- per what the agreement was supposed to be. So they needed a value of what the database should have been.</p> <p>Q. And that's what you provided?</p> <p>Q. These other cases, number 4 through 8 on the CV here, in each of these cases, these were valuations also that were CON- -- sorry. Let me</p> <p>In numbers 4 through 8, were these all situations where somebody at CONSOR had been retained to value something?</p> <p>A. I don't know if 4 was a valuation. It might have been licensing customs and practices, but I -- not a hundred percent sure on that.</p> <p>Five was a valuation. Six was a valuation. Seven -- yeah, seven was a valuation. And eight was also a valuation, yes.</p> <p>Q. Okay. In 5, what were you valuing -- or what was CONSOR valuing?</p>
<p>Q. Did you all do two separate engagements for</p> <p>A. There were two engagements, yes.</p> <p>Q. In the case in New York, do you recall what the nature of the expert report was?</p> <p>A. Trademark valuation.</p> <p>Q. Of the Chevron trademark?</p> <p>A. That's correct.</p> <p>Q. In the Direct Consumer Information versus Florida Panthers Hockey Club, you were the actual identified retained expert in that case. Correct?</p> <p>A. That is correct.</p> <p>Q. And you have prepared an expert report in</p> <p>Q. And that was disclosed to the other side</p> <p>Q. What is the nature of that case?</p> <p>A. That was a database valuation.</p> <p>Q. Who were you retained by in that case?</p> <p>A. By the plaintiff.</p> <p>Q. Direct Consumer Information?</p> <p>Q. And why did they sue the Florida Panthers</p>	<p>A. There, we were valuing a trademark.</p> <p>Q. What trademark?</p> <p>A. I believe it was Spitfire.</p> <p>Q. And Spitfire is a production studio?</p> <p>Q. What kind of production studio?</p> <p>A. I don't remember exactly.</p> <p>A. But they're both in the production space. They obviously have the same name and that's what they were fighting over.</p> <p>Q. Okay. And then in the Andrew Parower versus Lauren Schachter Parower case, what was the valuation</p> <p>A. It was a copyright valuation.</p> <p>Q. Do you recall specifically what it was that CONSOR was valuing?</p> <p>A. I want to say that was a pitch book, a deck for a -- basically a business plan book.</p> <p>Q. And you were valuing the copyright in the</p> <p>Q. How about in the number 7, the Syngenta Seeds case, do you recall what CONSOR was valuing?</p> <p>A. It was a -- I want to say it was a mix of</p>

<p>● trademark and patent.</p> <p>● <b>Q. Do you recall what it was specifically that you all were valuing?</b></p> <p>● A. I think it was both the trademark and the patent. There was a specific patent for a specific</p> <p>● Syngenta does -- they're a big seed company.</p> <p>● So I don't remember. What more specifically do you</p> <p>● <b>Q. You valued the patent on the compound.</b></p> <p>● A. I think there was a patent and a trademark on the patent, so they traveled together, and so it was a value of both.</p> <p>● <b>Q. And then the Youngblood Timepieces case, what were you all valuing there?</b></p> <p>● A. That was a trademark case.</p> <p>● <b>Q. And what trademark were you valuing there?</b></p> <p>● A. I believe it was Youngblood.</p> <p>● <b>Q. In these cases 4 through 8, can you just run through each and tell me whether you were retained by the plaintiff or by the defendant?</b></p> <p>● A. One was plaintiff. Two was plaintiff.</p> <p>● So you're starting with Jason Olive?</p>	<p>● <b>valuations of intangible assets" --</b></p> <p>● <b>What is an intangible asset?</b></p> <p>● A. Intangible asset is an overarching umbrella for intellectual properties. So you have -- typically the dividing line -- you might know this better than me being an attorney -- is whether or not you can have protection on it, legal protection versus you can't have protection.</p> <p>● So something like a trade secret, if you're not actually filing it, you actually don't have a legal protection on it. I mean, it can be protected, but that would be more on the intangible asset side of things. So that's kind of the basic explanation I think I would give for that.</p> <p>● <b>Q. Can you give me some other examples of what an intangible asset might be?</b></p> <p>● A. Database could be an intangible asset. A Web site could be an intangible asset. Could be. There's some that are a gray area and fall between intell- -- a clear intellectual property would be a trademark, copyright, or a patent. And then you've got your trade secrets, know-how, customer lists, relationships, those could be intangible assets.</p> <p>● <b>Q. In the Beach Mart case, number 4 on the CV,</b></p>
<p>● <b>Q. Yeah. Yeah.</b></p> <p>● A. So 1 is plaintiff; 2 is plaintiff; 3 is plaintiff; 4 is plaintiff; 5 -- I honestly don't remember which side we were on on that one because they're both Spitfire. Six was defendant; 7 was plaintiff; 8 was defendant.</p> <p>● <b>Q. And of these cases, it sounds like the Jason Olive case was the only case that involved the right of publicity claim?</b></p> <p>● A. That's -- yeah, that is correct.</p> <p>● <b>Q. But just to be clear, your role in the Olive case did not involve valuing the right of publicity.</b></p> <p>● A. I provided foundational fact -- factual</p> <p>● <b>Q. About the revenue?</b></p> <p>● A. Revenues and store growth.</p> <p>● <b>Q. For GNC?</b></p> <p>● <b>Q. Going back to the report on page 17 with your bio. In the third paragraph, the first line</b></p> <p>● "Mr. Anderson has performed</p>	<p>● <b>what were you valuing? Or --</b></p> <p>● A. That was a trademark. It was trademark and licensing customs and practices.</p> <p>● <b>Q. So of these expert retentions, the nine different expert retentions that we've talked</b></p> <p>● A. There's eight. Right?</p> <p>● <b>Q. Eight -- well, eight on here and then the Gaming Fund.</b></p> <p>● <b>Q. Two of them involve intangible assets. Right? The Gaming Fund and the Direct Consumer Information case?</b></p> <p>● A. That's -- yes, that's fair to say.</p> <p>● <b>Q. And both of those cases involve valuing databases. Right?</b></p> <p>● <b>Q. Going back to the report here, if you'd turn to page 3. And I'm going to ask you about one sentence and then turn back to 17.</b></p> <p>● Under section B, "Qualifications of the Named Expert," there's a section paragraph that starts "Mr. Anderson has a broad view."</p> <p>● Do you see where I'm at?</p>

<p>Q. Okay. The second sentence there says: "He has lectured, spoken, and written on the topic of IP valuation, as well as the licensing of various intellectual property</p> <p>Then continues on and talks about -- it</p> <p>"He is contributing author to a newly published book and he is the author and co-author of several articles on intellectual property</p> <p>Do you see that?</p> <p>Q. Okay. If you turn back to the page 17 -- I apologize -- page 18.</p> <p>Q. On page 18 at the top of the page, there's three different sections. One, "Seminar, Speeches and Presentations," another "Books," another "Published Articles."</p> <p>Are those all the times that you've lectured, spoken, and written on IP valuation and licensing of various intellectual property rights</p>	<p>intellectual property or intangible asset.</p> <p>Q. How long does your present- -- have your presentations to the Clear Law Institute lasted?</p> <p>A. I think they're set for 90 minutes.</p> <p>Q. So it's just a broad overview of those</p> <p>A. We do a broad overview and then we do some case studies to get into specific examples.</p> <p>Q. Just talking about Web site valuation, in the Clear Law Institute presentations you have done, have you used any case study examples for a Web site</p> <p>Q. What Web site valuation did you use as an</p> <p>A. I didn't use a specific case that we've done, but we did a mock-up of a past case we've done. And we teach how to value content Web sites based on</p> <p>Q. Any other technique?</p> <p>A. I think in the example we give, it's the only technique that we use. We try to -- there's -- 90 minutes is not enough time to do everything, but for content Web sites, that's how we teach how to do</p>
<p>from the sentences we just talked about?</p> <p>A. I think there's actually one more, Clear Law Institute that I spoke at. So a CLE Webinar I did in</p> <p>Q. And what did you talk about in that?</p> <p>A. Valuation of intellectual property and intangible assets.</p> <p>Q. And for the Clear Law Institute, who is the</p> <p>A. Typically attorneys but also other valuation professionals. Accountants. It can really be anybody that wants to listen in on it.</p> <p>Q. And what do you discuss in the valuation of intellectual property Webinars that you've done for the Clear Law Institute?</p> <p>A. We talk about how to value intellectual property and intangible assets. We talk about the difference between intellectual property and tangible assets that we just spoke about.</p> <p>We got a good diagram. I wish I had it to show it you. It'd probably help that understanding.</p> <p>We talk about how to value Web sites, how to evaluate trademarks, how to evaluate patents, copyrights. We go through a fairly good demonstration of how you would go about valuing any</p>	<p>Q. And when you talk about content Web sites, what do you mean by a content Web site?</p> <p>A. So content Web site would be a Web site that has just that. It's content driven. There's stories, videos, images. It's the content that drives the user to the Web site as opposed to ECommerce where -- like an Amazon where you're actually selling products, or as opposed to like a Wall Street Journal which has content but it's subscription based.</p> <p>Q. So this would be like just your typical local newspaper Web site?</p> <p>A. Could be that, sure.</p> <p>Q. Or it could be like ESPN.com?</p> <p>Q. In the other two seminars or speeches for the brand establishment conference and then this other business valuation resources, did you discuss Web site valuation at either of those?</p> <p>A. I believe we touched on it, but I don't know</p> <p>Q. The book that's mentioned here, "Rights of Publicity," that has yet to be published?</p> <p>A. That's correct. It's coming out I believe</p>



<p><b>Q. And it's published by the ABA?</b></p> <p><b>Q. Anybody besides you and Weston Anson as</b></p> <p>A. I believe there's one or two others from the office who have contributed.</p> <p><b>Q. The June 2014 article, "What is your client really worth? Valuing the licensing potential of celebrities, characters and athletes," who is that published by?</b></p> <p>A. I think it was The Licensing Book. Yeah, that's what it says, The Licensing Book.</p> <p><b>Q. Sorry. I should have asked a better</b></p> <p><b>Who publishes The Licensing Book?</b></p> <p>A. I don't know that.</p> <p><b>Q. Does that discuss the valuation of</b></p> <p>A. I have to see the article to see if we mention it. I don't recall off the top of my head.</p> <p><b>Q. Do you recall in your book whether you all discussed the valuing of Web sites?</b></p> <p>A. The book's really rights of publicity specific, but we do go through broad valuation methodologies and techniques, so there may be a</p>	<p>A. On valuing rights of publicity.</p> <p><b>Q. Did you write any other part of the book?</b></p> <p><b>Q. Has that book been published previously?</b></p> <p><b>Q. In the report on page 3, it mentions that you served as a teaching assistant for a course on IP valuation at Thomas Jefferson School of Law. Where is Thomas Jefferson School of Law?</b></p> <p>A. San Diego.</p> <p><b>Q. And when did you serve as a teaching</b></p> <p>A. The course is currently going on.</p> <p><b>Q. Have you done that before?</b></p> <p><b>Q. So this is the first semester that you've been a teaching assistant?</b></p> <p>A. As -- yes, yes.</p> <p><b>Q. Who teaches that course?</b></p> <p><b>Q. And so he's the professor?</b></p> <p>A. Adjunct professor, yes.</p> <p><b>Q. Right. And what is your role, then, as teaching assistant?</b></p> <p>A. I help him prepare course materials, prepare</p>
<p>mention of it. But I'd have to -- I'd have to look at the book again to know for sure.</p> <p><b>Q. Okay. Is Mr. Anson a lawyer?</b></p> <p><b>Q. His background is in business?</b></p> <p><b>Q. In the April 2013 article, "Putting a price on trademarks: Trends in IP valuation and damages calculations," is there any discussion in that article about valuing Web sites?</b></p> <p>A. I -- I don't know.</p> <p><b>Q. Is the World Trademark Review a journal?</b></p> <p><b>Q. Do you know where that's published?</b></p> <p><b>Q. (Nods head.)</b></p> <p>A. I believe in the United States and abroad, but I don't know for certain.</p> <p><b>Q. Do you know who publishes it?</b></p> <p>A. Not sure who the publisher is.</p> <p><b>Q. In the book that is forthcoming that you wrote with Mr. Anson, what was your contribution to</b></p> <p>A. I wrote a chapter of the book.</p> <p><b>Q. Which chapter?</b></p>	<p>an outline for what to discuss, get a presentation together for him, with him.</p> <p><b>Q. And what does that course teach?</b></p> <p>A. It's intellectual property valuation.</p> <p><b>Q. In that course, does Mr. Anson talk about valuing Web sites?</b></p> <p>A. I believe there's a section in the course, but I -- I think that's for a later course that's -- again, the course is going on right now, so I don't know if it's been taught yet. I don't recall.</p> <p><b>Q. Other than what we spoke about earlier, have you had any experience in valuing media companies?</b></p> <p>A. Media companies. What do you mean by that?</p> <p><b>Q. Well, earlier you'd mentioned a couple of Web sites that you had done work with either in connection with litigation or just general valuation.</b></p> <p><b>Q. Other than those experiences, have you done any work valuing a media company?</b></p> <p><b>Q. You personally.</b></p> <p>A. I've been part of the team doing it, yes.</p> <p><b>Q. Which ones?</b></p> <p>A. We did some work -- it was a private transaction, so I don't know if I'm allowed to get</p>

Page 58

1 into this.  
 2 MR. VOGT: Is it subject to a  
 3 confidentiality agreement?  
 4 THE WITNESS: Definitely, yes.  
 5 MR. VOGT: Okay.  
 6 THE WITNESS: But it was a media mogul, big  
 7 name, involving a very large newspaper. And there  
 8 was a valuation of what he brought to the table for  
 9 this company who acquired another set of large names  
 10 you would know. And so we helped to value many of  
 11 the assets in that transaction, but I -- I don't  
 12 think I can say much more than that.  
 13 BY MR. BERRY:  
 14 **Q. Did you value any of the newspaper Web sites**  
 15 **in connection with the -- that transaction?**  
 16 A. I don't think the Web sites were involved.  
 17 THE VIDEOGRAPHER: Counsel --  
 18 MR. BERRY: Shane, if you all are going to  
 19 put him on up as an expert on valuation on Web sites  
 20 and media, I think this is fair game to find out  
 21 specifically what he's done --  
 22 MR. VOGT: I understand.  
 23 MR. BERRY: -- so.  
 24 MR. VOGT: And I don't want to keep you from  
 25 getting this stuff, but if he's subject to a

Page 59

1 confidentiality agreement, we're going to have to  
 2 figure out how to address that, because that's not  
 3 really our call and it's not his call. It's the  
 4 client -- that client's call.  
 5 MR. BERRY: All right. Well, that makes  
 6 sense. I mean, we'll leave it there. I don't --  
 7 MR. VOGT: It may be something we have to  
 8 address to the court and to the extent that you need  
 9 to come back later and --  
 10 MR. BERRY: No, no, no. I think we can just  
 11 leave it here.  
 12 BY MR. BERRY:  
 13 **Q. So other than those instances, have you done**  
 14 **any valuations for -- of media companies?**  
 15 A. I don't recall off the top of my head, but  
 16 we deal with a lot of -- we deal with every industry,  
 17 every sector, all types of intellectual property.  
 18 I've worked on hundreds of cases, private and -- you  
 19 know, private transactions and litigations. There  
 20 may have been some others, but I -- off the top of my  
 21 head, I don't remember.  
 22 **Q. Setting aside media and Web site companies,**  
 23 **have you done any valuation work for a company whose**  
 24 **revenue is derived principally from advertising?**  
 25 A. There may have been some, but I don't know

Page 60

1 the names or the specifics, but we deal with clients  
 2 who have revenues from, again, all different avenues  
 3 of revenue, so I'm sure we have.  
 4 **Q. Right. But just you personally, do you**  
 5 **recall doing any valuations for a company that**  
 6 **derives its revenue principally from advertising?**  
 7 A. I believe so. But, again, I don't know the  
 8 specifics, but I believe that I have, yes.  
 9 **Q. Do you recall when that was?**  
 10 A. Within the last three or four years.  
 11 **Q. But you don't recall the specifics?**  
 12 A. I don't.  
 13 **Q. Do you know what Alexa is?**  
 14 A. I've heard of Alexa.  
 15 **Q. What is it?**  
 16 A. They track Web site information.  
 17 **Q. And what kind of information does it have**  
 18 **available?**  
 19 A. I don't want to guess, but analytics of  
 20 sorts.  
 21 **Q. Okay. Before you were engaged in this case**  
 22 **have you analyzed Internet traffic data before?**  
 23 A. I have.  
 24 **Q. What kind of experience have you had with**  
 25 **Internet traffic data?**

Page 61

1 A. What do you mean by that?  
 2 **Q. What kind of experience have you had with**  
 3 **it?**  
 4 A. I'm not sure -- experience? Maybe try it a  
 5 different way.  
 6 **Q. What kind of work have you done working with**  
 7 **Internet traffic data?**  
 8 A. So the Web sites that I've -- that we spoke  
 9 about, we've looked at traffic data for those.  
 10 **Q. And you personally have done that work?**  
 11 A. Yes.  
 12 **Q. Where did the data in those instances come**  
 13 **from?**  
 14 A. I don't remember exactly. There's various  
 15 sources. I'm not sure.  
 16 **Q. What sources have you used in the past?**  
 17 A. We've looked at Alexa, Quantcast. I'm sure  
 18 there's others, but I don't remember the names off  
 19 the top of my head.  
 20 **Q. Are you -- have you ever been responsible**  
 21 **for collecting the data on Internet traffic?**  
 22 A. Responsible? I'm responsible for the  
 23 valuation department, so, in a sense, yes.  
 24 **Q. Have you ever yourself actually collected**  
 25 **the data on Internet traffic?**

Page 62

1 A. Sure.

2 **Q. And you've done that through Quantcast?**

3 A. Quantcast is one, yes.

4 **Q. Have you ever collected it from anybody**

5 **else -- any other service?**

6 A. I believe we've looked at others, yes.

7 **Q. Have they -- you --**

8 A. I've looked at others, yes.

9 **Q. Are you familiar with the different terms**

10 **that Quantcast used to describe the data that it**

11 **provides?**

12 A. What terms are you speaking of?

13 **Q. Well, just generally how it defines unique**

14 **page views, how it defines page views. There's a**

15 **glossary of terms that I think was attached as a**

16 **document that you had looked at.**

17 **Prior to this engagement, were you familiar**

18 **with those terms?**

19 A. Prior to this engagement, I had generally

20 heard of those terms and used them, yes.

21 **Q. Before you were engaged for this case, had**

22 **you ever looked at data from Google Analytics?**

23 A. We have.

24 **Q. In what context?**

25 A. I don't recall the specific context, but

Page 63

1 I -- we've used Google Analytics. We've looked at

2 it. We've analyzed it.

3 **Q. For what kind of work?**

4 A. For valuation work.

5 **Q. For the kind of valuation work that we**

6 **talked earlier about in connection with the expert**

7 **services you've provided for Web sites' valuations?**

8 A. Could be for that and maybe for other

9 private transactions that didn't necessarily involve

10 a Web site. I'm not sure.

11 I know we've used Google Analytics before.

12 I don't remember the exact context of that use.

13 **Q. The other thing I should mention is, if you**

14 **want to take a break at any point -- I'm sure you**

15 **probably know this. Shane probably told you or**

16 **Charles -- if you want to step out, go to the**

17 **bathroom, grab a drink, feel free.**

18 A. I appreciate that.

19 **Q. Kind of change of gears here.**

20 **The expert report that you prepared in this**

21 **case, did other people assist you in the analysis**

22 **that you did in putting together that report?**

23 A. I had one individual who helped me, yes.

24 **Q. Who assisted you?**

25 A. One of my senior analysts.

Page 64

1 **Q. What is that person's name?**

2 A. David Noble.

3 **Q. And what assistance did Mr. Noble provide?**

4 A. Under my direction, I might ask him to find

5 a specific piece of data, help me build the model.

6 Maybe, you know, read through, review the report,

7 check for errors. General assistance under my

8 direction. It really depends on -- if there's some

9 specific task I need help with, then he'll help me.

10 **Q. Right. Just talking about this report in**

11 **particular, what do you recall Mr. Noble doing?**

12 A. I don't remember any -- I don't know

13 specifically what he helped with. Again, he probably

14 helped with finding data. Maybe doing some research

15 for me. Developing -- helping to develop a model.

16 And, again, maybe reading through some of this and

17 helping to, you know, check for errors in the

18 writing.

19 **Q. Did you personally draft this report?**

20 A. I did, yes.

21 **Q. And you personally prepared the analysis for**

22 **this report?**

23 A. I did.

24 **Q. And so I take it, then, you're sufficiently**

25 **knowledgeable to testify about the full report?**

Page 65

1 A. Absolutely.

2 **Q. And this report reflects your expert**

3 **opinion?**

4 A. It does.

5 **Q. There's no reason for Mr. Noble to testify**

6 **as an expert in this case. Right?**

7 A. No.

8 **Q. When were you retained?**

9 A. I want to say a little under a year ago

10 roughly. I don't remember the specific date, but

11 about then.

12 **Q. Approximately how many hours have you worked**

13 **on this case?**

14 A. A hundred or more.

15 **Q. How about Mr. Noble?**

16 A. I don't know exactly.

17 **Q. More or less than you?**

18 A. I really don't know that.

19 **Q. Following the deposition today, do you plan**

20 **on doing any additional work for this case?**

21 A. I don't know.

22 **Q. Your report discusses three approaches --**

23 **three approaches to valuation. Right?**

24 **Talks about the income approach?**

25 A. Yes.

<p><b>Q. And the cost approach?</b></p> <p><b>Q. It talks about the market approach?</b></p> <p><b>Q. And what I'd like to do now is kind of go through these approaches and --</b></p> <p><b>Q. -- kind of under- -- make sure that I</b></p> <p><b>The cost approach I understand you didn't</b></p> <p><b>Q. And the reason that you didn't use it is because you felt that the cost approach doesn't provide an accurate measure of value to Gawker from the Hulk Hogan video. Right?</b></p> <p>A. Correct. Cost approach is for typically a piece of software that's proprietary and it's not licensed or sold. There's no transactions around it. And you want to redevelop it, so you look at how much would it cost to redevelop that software and then that's the price you could acquire for rather than putting in the development effort.</p> <p>So it -- for this asset, no, it does not</p>	<p><b>Q. So to undertake an analysis using the income approach, you'd look at the company's actual financial data. Right?</b></p> <p><b>Q. You'd look at actual revenue. Right?</b></p> <p><b>Q. You'd look at actual profits. Right?</b></p> <p><b>Q. You'd look at actual growth rates. Right?</b></p> <p><b>Q. You didn't factor Gawker's actual financials into your analysis, did you?</b></p> <p>A. Factor -- no, they're not part of the conclusions in my report or my opinion, no.</p> <p><b>Q. Okay. So you didn't factor in Gawker's actual revenue. Right?</b></p> <p>A. Gawker's actual revenue is not part of my</p> <p><b>Q. And neither is its actual profits. Right?</b></p> <p>A. That's correct.</p> <p><b>Q. And nor is the actual growth rates for its finances. Correct?</b></p> <p><b>Q. You could have looked at this data, though.</b></p>
<p><b>Q. Okay. Just kind of flagging ahead here. We're going to be talking about the income approach on page 8 in the report.</b></p> <p><b>Q. The income approach looks at the present value of future income. Right?</b></p> <p>A. That's correct. Well, earnings.</p> <p><b>Q. Right. Basically how much money somebody can expect to make off of something in the future.</b></p> <p><b>Q. And then that amount is discounted to present value terms. Right?</b></p> <p><b>Q. So you get an idea of what the future money that you'll be making off something would be and you put it into today's dollars. Right?</b></p> <p>A. You do a present value of the cash flow,</p> <p><b>Q. But a present value of cash flow means what that cash flow means to me today. Right?</b></p> <p>A. Present value today.</p> <p><b>Q. Right. So what somebody would be willing to trade off the future cash flow for today?</b></p> <p>A. For a lump sum today.</p>	<p>A. We could have.</p> <p><b>Q. But you did not?</b></p> <p>A. I believe we looked at the financials, but we did not -- the financials were not used for my opinion that's presented in the report.</p> <p><b>Q. Why did you not use those financials in preparing your report?</b></p> <p>A. Because the income approach most of the time, the vast majority of the time, will undervalue</p> <p><b>Q. Why is that?</b></p> <p>A. Because the future -- it's the future monetization potential of Web sites through their traffic that has value rather than the current income stream they are generating.</p> <p><b>Q. So the actual dollars that a Web site is earning is a less good predictor of its value than</b></p> <p><b>A. Than the market.</b></p> <p><b>MR. VOGT: Objection to form.</b></p> <p><b>THE WITNESS: What the market -- so the income of a -- a Web site's currently generating is a far -- it's less of an indication of value of the Web site than the traffic. And what markets show us is the true value of a Web site, the market value of</b></p>

<p>Q. Is that true for all content-based</p> <p>A. For most content-based Web sites that we've</p> <p>Q. What is that conclusion based on?</p> <p>A. It's based on looking at content-based Web sites. For example, if you look at some of the comps that we used, the publicly traded comps, if you valued those companies on an income approach, their value would be a small fraction of what their actual true market value is.</p> <p>Q. So valuing a content-based Web site -- let me ask it a different way.</p> <p>Are there other industries in which the income approach would work best?</p> <p>A. Other industries?</p> <p>Q. (Nods head.)</p> <p>A. We use the income approach when it's</p> <p>Q. And how do you determine whether the income approach is appropriate for those industries?</p> <p>A. Typically for mature industries, brick-and-mortar industries, we'll use the income</p>	<p>differently. Right?</p> <p>A. Market values them much higher.</p> <p>Q. Right. For mature industries, would use the income approach. Right?</p> <p>A. You could use the income approach for a mature industry, sure. You could also use the market approach. But typically the market approach and the income approach for a mature company like Coca-Cola are going to yield similar results. Whereas for Web sites or Internet-based companies, an income approach is going to yield a far lower value than a market approach and what is actually -- the company's actually transacting at on the market.</p> <p>So you would -- you'd take multiple approaches if possible.</p> <p>Q. You'd take multiple approaches if possible</p> <p>A. To value an asset.</p> <p>Q. To make sure that the valuation is consistent among approaches. Right?</p> <p>A. To make sure that your assumptions are being</p> <p>Q. Kind of a way to double-check your work?</p> <p>Q. What defines whether something is a mature</p>
<p>Q. How do you determine if an industry is</p> <p>A. If its full growth potential has been</p> <p>Q. How do you determine that?</p> <p>A. Coca-Cola, for example, would be a mature</p> <p>Q. Well, it -- right. Coca-Cola is not an industry. It's a company. Right?</p> <p>A. Mature company --</p> <p>A. -- within a mature industry.</p> <p>Q. So soft drinks would be a mature industry?</p> <p>A. Could be seen as that.</p> <p>Q. Within the software [sic] industry, there's different kind of drinks. Right?</p> <p>A. Let's correct that. It's not a mature industry. It's a mature company that you would determine whether or not.</p> <p>Q. Right, but you said before -- and I just want to make sure that I understand.</p> <p>You said before that Web-based -- content-based Web companies use -- should not use the income approach because the market values them</p>	<p>A. I don't have an exact definition of a mature company, but a company that has realized its growth</p> <p>Q. And who makes that assessment?</p> <p>A. I guess any of us could make that assessment. I don't know who makes that specific</p> <p>Q. Right. So you could come in, though, as a valuation expert and say that this company is a mature company, but somebody else might come in and say, well, they haven't reached their potential. They're not a mature company. Right?</p> <p>A. I don't know if that's the case.</p> <p>Q. Well, is there some consensus on what's mature and what's not a mature company?</p> <p>A. I think you and I would both agree that Coca-Cola is a mature company.</p> <p>A. So I think we have a consensus there.</p> <p>Q. The RX company that you had worked for with your MBA -- during the time that you were getting your MBA was not a mature company. Right?</p> <p>Q. But there's other companies in the</p>

Page 74

1 pharmaceutical technology industry that would be  
 2 considered mature companies. Right?  
 3 A. Correct.  
 4 Q. Is it your belief in the Web-based -- the  
 5 content-based Web site arena that there are not  
 6 mature companies?  
 7 A. Yes.  
 8 Q. Is it your opinion that there are mature  
 9 companies within the content-based Web site's base?  
 10 A. I'm trying to think of any that would be  
 11 considered mature at this point. I'm not sure off  
 12 the top of my head.  
 13 Q. At what point will content-based Web site  
 14 companies become mature companies?  
 15 A. When they've realized their maximum value  
 16 potential and earnings potential, revenue potential.  
 17 Q. Could that be considered on a  
 18 company-by-company basis?  
 19 A. What do you mean?  
 20 Q. Well, could you determine, you know, company  
 21 A has met its earnings potential but company B has  
 22 not?  
 23 A. I don't know if you could do that or not.  
 24 I'd have to see company A and company B to figure  
 25 that out.

Page 75

1 Q. Well, within the content-based Web site  
 2 industry, could you make a company-by-company  
 3 assessment on whether something is mature or not  
 4 mature? Whether it's reached its full earnings  
 5 potential?  
 6 A. I think the general consensus is that most  
 7 content-based Web sites are not mature. They're in a  
 8 growth phase.  
 9 Q. And so I guess consistent with what you're  
 10 saying now, that you believe -- and I think this is  
 11 reflected in your report at page 8 -- that the  
 12 primary benefit to Gawker from posting the Hulk Hogan  
 13 video was an increase in its user traffic. Right?  
 14 A. There was a large increase in user traffic,  
 15 yes.  
 16 Q. And that was the primary benefit to Gawker  
 17 in -- in this circumstance. Right?  
 18 A. The benefit Gawker received was a large  
 19 increase in user traffic.  
 20 Q. And then do you believe that an increase in  
 21 user traffic is generally more valuable for the  
 22 future monetization potential of those additional  
 23 users because it provides a baseline for future  
 24 revenue from advertisers rather than using this  
 25 income approach we were talking about. Right?

Page 76

1 A. From advertisers or from other monetization  
 2 opportunities.  
 3 Q. And for that reason, looking at the current  
 4 income stream to Gawker, it was not appropriate?  
 5 A. It undervalues the company.  
 6 Q. Did you look at ways that Gawker could  
 7 increase the monetization of its users?  
 8 A. I was not asked to do that.  
 9 Q. Did you look at ways that Gawker does  
 10 monetize its users?  
 11 A. I've seen that they have advertising  
 12 revenue.  
 13 Q. But you weren't asked to evaluate whether it  
 14 could monetize its users further. Right?  
 15 A. That was not my task.  
 16 Q. It's just -- it's an assumption, though,  
 17 built into your ultimate analysis. Right?  
 18 A. What assumption?  
 19 Q. That it could mon- -- provide additional  
 20 monetization of these users that came from the  
 21 Hulk Hogan video?  
 22 MR. VOGT: Objection to form.  
 23 THE WITNESS: The analysis looks at  
 24 comparable, other entities in the market, and  
 25 determines a value based on what those other

Page 77

1 comparable entities transact at. So that's the  
 2 assumption we're using.  
 3 BY MR. BERRY:  
 4 Q. Right. And so if the income stream is less,  
 5 would value -- Gawker at less than you have valued  
 6 it, your assumption is that Gawker could be doing  
 7 more to monetize its user traffic. Right?  
 8 MR. VOGT: Objection to form.  
 9 THE WITNESS: No. The assumption is that  
 10 there's more value to a Web site than its income  
 11 stream presents.  
 12 BY MR. BERRY:  
 13 Q. But what is that value -- the value actually  
 14 means money. Right?  
 15 A. Well, value, could be whatever currency you  
 16 want. But value is more than what the income stream  
 17 would dictate it -- that it is.  
 18 Q. So a willing -- I think the phrase that you  
 19 use in your report is an arm's-length investor or  
 20 buyer.  
 21 An arm's-length buyer would be willing to  
 22 pay more for Gawker than Gawker actually makes in  
 23 revenue that would justify its value under an income  
 24 approach. Right?  
 25 A. An arm's-length investor is going to value

Page 78

1 Gawker based on the market approach and not on its  
 2 income stream that it currently generates.  
 3 **Q. So it's been more than two years since**  
 4 **Gawker posted the Hogan video. Right?**  
 5 A. Was --  
 6 **Q. Gawker posted the video on October 4,**  
 7 **2012 --**  
 8 A. Came down --  
 9 **Q. -- right?**  
 10 A. -- April 2013, so almost --  
 11 **Q. Almost two years since it --**  
 12 A. Almost two years.  
 13 **Q. -- came down. But it's been more than two**  
 14 **years since it was first posted. Right?**  
 15 A. That's correct.  
 16 **Q. So could you look to see whether Gawker**  
 17 **actually had monetized the posting of the video.**  
 18 **Right?**  
 19 A. What do you mean?  
 20 **Q. Well, whether Gawker had actually translated**  
 21 **that additional traffic into dollars in its pocket.**  
 22 **Right?**  
 23 A. I don't know how that would have had any  
 24 effect on our analysis.  
 25 **Q. You could have looked to determine, did**

Page 79

1 **Gawker earn additional revenue from the user traffic**  
 2 **that was generated by the Hogan video. Right?**  
 3 MR. VOGT: Objection to form.  
 4 THE WITNESS: We could have looked at that?  
 5 BY MR. BERRY:  
 6 **Q. Yes.**  
 7 A. It wouldn't have had any bearing on my  
 8 analysis.  
 9 **Q. Because you used the market approach?**  
 10 A. Sure. Companies today -- Internet companies  
 11 today are still valued based on the market approach,  
 12 not the income approach.  
 13 **Q. Right. But you could have determined how**  
 14 **much revenue Gawker generated from the Hogan post.**  
 15 **Correct?**  
 16 MR. VOGT: Objection to form.  
 17 THE WITNESS: I was not asked to look at the  
 18 revenue generated from that, no.  
 19 BY MR. BERRY:  
 20 **Q. But you could have?**  
 21 A. I don't know.  
 22 MR. VOGT: Objection to form.  
 23 BY MR. BERRY:  
 24 **Q. You could have reviewed actual financial**  
 25 **data from Gawker to see if the additional traffic had**

Page 80

1 **been monetized. Right?**  
 2 A. I haven't seen any -- I don't know the  
 3 answer to that. I haven't seen anything to that.  
 4 **Q. It wasn't made available to you. Right?**  
 5 A. I don't believe so.  
 6 **Q. And so even if that financial data was**  
 7 **available to you, it would not have caused you to use**  
 8 **the income approach. Right?**  
 9 MR. VOGT: Objection to form.  
 10 THE WITNESS: The market approach is the  
 11 appropriate approach, the most appropriate approach  
 12 to use when valuing a content-based Web site.  
 13 BY MR. BERRY:  
 14 **Q. If you were going to do the income approach,**  
 15 **what documents would you need to see to be able to do**  
 16 **that?**  
 17 MR. VOGT: Objection to form.  
 18 THE WITNESS: Off the top of my head, I'd  
 19 have to get a list of documents. I don't know off  
 20 the top of my head.  
 21 BY MR. BERRY:  
 22 **Q. Well, in your experience valuing other**  
 23 **companies using the income approach, what kinds of**  
 24 **documents have you looked at?**  
 25 A. Financials. Full financials.

Page 81

1 **Q. Meaning what?**  
 2 A. Income statement. Balance sheet. Cash flow  
 3 statement. Projections. Pro formas.  
 4 MR. BERRY: Why don't we take a quick break  
 5 and then we'll --  
 6 THE VIDEOGRAPHER: Okay. Let's go off the  
 7 record. The time is 11:29.  
 8 (Recess taken.)  
 9 THE VIDEOGRAPHER: Back on the record at  
 10 11:42.  
 11 BY MR. BERRY:  
 12 **Q. And so picking up with the report, the**  
 13 **analysis that you had done, the approach that you**  
 14 **ultimately used to analyze gawker.com's value is the**  
 15 **market approach. Right?**  
 16 A. We used the market approach, yes.  
 17 **Q. And I guess this was -- we alluded to this a**  
 18 **little bit before, but just to be explicit about it,**  
 19 **what the market approach basically does is compares**  
 20 **one thing that you're valuing to transactions of**  
 21 **other similar things to estimate a value for the**  
 22 **first thing. Right?**  
 23 A. Other sales, transactions, it's really,  
 24 yeah, benchmarking, using other similar data points  
 25 to compare an asset and derive a value from that.

Page 82

1 **Q. And -- right. So you're comparing similar**  
 2 **assets to ultimately establish what the value is of**  
 3 **whatever it is you're looking at. Right?**  
 4 A. Sure. It's like your house when you  
 5 refinance it, you -- they look at other market  
 6 comparables, similar homes, and help determine a  
 7 value based on how comparable they are.  
 8 **Q. And here the asset that you valued initially**  
 9 **was gawker.com. Right? Like what you're looking at**  
 10 **and -- sorry.**  
 11 A. You say "initially," I'm not sure.  
 12 **Q. Well, ultimately what your report does is**  
 13 **attempt to assess the value -- sorry.**  
 14 **What your report ultimately does is attempt**  
 15 **to assess the increase in value to gawker.com from**  
 16 **posting the Hulk Hogan video. Right?**  
 17 A. So we look at the value that Gawker  
 18 received -- gawker.com received from posting the  
 19 video on the Web site.  
 20 **Q. And to do that you looked initially at the**  
 21 **value of gawker.com prior to posting the video and**  
 22 **compared it to its value after posting the video?**  
 23 A. Correct.  
 24 **Q. And by looking at the difference of those**  
 25 **things, you were effectively looking at the market**

Page 83

1 **value of a Hulk Hogan sex tape being posted on**  
 2 **Gawker's Web site. Right?**  
 3 MR. VOGT: Objection to form.  
 4 THE WITNESS: No, that's not entirely right.  
 5 So we looked at the value of gawker.com before the  
 6 video. The exact dates we used were September 30th.  
 7 And I just want to check with my report if that's all  
 8 right. It was September 30th, 2012, that's one  
 9 valuation date. And then April 30th, 2013 after it  
 10 was removed, the video was removed. So that gives  
 11 you the increase in value of gawker.com.  
 12 We then apportioned that increase in value  
 13 based on the traffic that went to the video. So it's  
 14 not just the valuation after -- before. There's a  
 15 difference there. I think you -- yeah.  
 16 BY MR. BERRY:  
 17 **Q. Right. Right. We'll kind of go through the**  
 18 **report and talk about each step. But ultimately what**  
 19 **you were looking at was the increase in value**  
 20 **attributable to it posting the Hulk Hogan sex tape on**  
 21 **the Web site. Right?**  
 22 MR. VOGT: Objection to form.  
 23 THE WITNESS: Ultimately what we were trying  
 24 to do was determine the increase in value of  
 25 gawker.com that was due to the video of Hulk Hogan

Page 84

1 being posted.  
 2 MR. BERRY: Okay. And just, Shane, the  
 3 objection to form is to calling it the Hulk Hogan sex  
 4 tape or --  
 5 MR. VOGT: It's to calling it the Hulk Hogan  
 6 sex tape. And it's also to the extent that it  
 7 mischaracterizes the opinions set forth in his report  
 8 and which he had already asked and answered.  
 9 BY MR. BERRY:  
 10 **Q. Okay. Just as we go through the deposition,**  
 11 **I might call it "the Hogan video," "the Hulk Hogan**  
 12 **video," "Hulk Hogan sex tape," "Hogan sex tape,"**  
 13 **whenever I use any of those terms, what I'm referring**  
 14 **to is the excerpts that were posts on Gawker of**  
 15 **Hulk Hogan and Heather Clem together.**  
 16 **You understand that?**  
 17 A. I understand.  
 18 **Q. And --**  
 19 A. And if I get confused, I will ask you.  
 20 **Q. Okay. I appreciate that.**  
 21 **So turning to your report, at the bottom of**  
 22 **page 8 onto page 9, and I think this is what we were**  
 23 **starting to get into a little bit when we were**  
 24 **talking about the income approach, you wrote:**  
 25 **"Specifically we analyzed the**

Page 85

1 **increase in value of gawker.com**  
 2 **based on market multiples" --**  
 3 A. What page are you on?  
 4 **Q. Sorry. The bottom of page 8, the very last**  
 5 **line, "Specifically we analyzed" --**  
 6 A. Oh, okay.  
 7 **Q. -- "the increase in value of gawker.com**  
 8 **based on market multiples, a**  
 9 **variation of the market approach."**  
 10 **Do you see where I'm at?**  
 11 A. I do.  
 12 **Q. All right. For that sentence, you cite a**  
 13 **document number 50 in footnote 35?**  
 14 A. (Nods head.)  
 15 **Q. Just for clarification purposes, attached to**  
 16 **your report as Appendix B there's a list of documents**  
 17 **reviewed.**  
 18 A. Correct.  
 19 **Q. And I forget how many there is. Fifty**  
 20 **something documents, I believe. These are the**  
 21 **documents that you looked at in connection with this**  
 22 **case. Right?**  
 23 A. These are the documents that helped me form  
 24 my opinion in this case, yes.  
 25 **Q. Okay. We may be going back and forth to**



Page 86

1 **that page, so I'm going to give you a paper clip so**  
 2 **you can mark it.**  
 3 A. I got it. It's at the end. Thank you  
 4 though. Appreciate it.  
 5 **Q. So I guess to decode the footnote 35**  
 6 **referring to document 50, if you turn to page 21, it**  
 7 **refers to something called IP valuation, exploitation**  
 8 **and finance from a WIPO workshop. Right?**  
 9 A. Hm-hm.  
 10 MR. BERRY: Right. I'm going to mark as  
 11 Exhibit Number 172 what is referred to in your report  
 12 as document 50.  
 13 THE WITNESS: Okay.  
 14 (The document referred to was  
 15 marked as Exhibit 172.)  
 16 BY MR. BERRY:  
 17 **Q. So Exhibit 172, is this document 50 in your**  
 18 **report?**  
 19 A. I'm flipping through it, but yes, it looks  
 20 like it is.  
 21 **Q. Okay. Yeah, I just want to make sure. If**  
 22 **there is any point where I start to ask questions**  
 23 **before you're done looking, just tell me and I'll**  
 24 **wait. I want to make sure you have time.**  
 25 A. Sure.

Page 87

1 **Q. You know, I'm only going to ask you -- ask**  
 2 **you about a couple things in here.**  
 3 A. Okay. I mean, you can ask.  
 4 **Q. Okay. In this Exhibit 172, it discusses**  
 5 **intangible assets which is something that we had**  
 6 **talked about earlier. Right?**  
 7 A. It does.  
 8 **Q. Okay. And in the circumstances of in --**  
 9 **sorry.**  
 10 **The gawker.com Web site is an intangible**  
 11 **asset. Right?**  
 12 A. It can be considered an intangible asset or  
 13 an intellectual property. It -- for the purposes of  
 14 our discussion, I think we can call those two  
 15 synonymous for this analysis.  
 16 **Q. Okay. And what about the Hulk Hogan video,**  
 17 **is that an intangible asset?**  
 18 MR. VOGT: Objection to form.  
 19 THE WITNESS: I haven't -- I haven't  
 20 classified that and it wasn't part of my assignment.  
 21 BY MR. BERRY:  
 22 **Q. Based on your discussion of what intangible**  
 23 **assets are earlier, would that be considered an**  
 24 **intangible asset?**  
 25 A. It could be an intellectual property. You

Page 88

1 could copyright it. Right?  
 2 **Q. But either way, the valuation of the video**  
 3 **would be the same whether it's considered**  
 4 **intellectual property or an intangible asset. Right?**  
 5 A. Sure. Whether I'm --  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: Whether I'm doing a database  
 8 valuation of an intangible or a database valuation  
 9 that's an intellectual property, it's the same -- the  
 10 same methodologies, the same tools that we would use  
 11 to do that valuation.  
 12 So, again, for the purposes of our  
 13 discussion, I think you and I can call an intangible  
 14 asset and intellectual property synonymous.  
 15 BY MR. BERRY:  
 16 **Q. Okay. If you turn to page 22 of**  
 17 **Exhibit 172.**  
 18 MR. VOGT: Which page? I'm sorry.  
 19 MR. BERRY: 22.  
 20 BY MR. BERRY:  
 21 **Q. This page discusses the market approach.**  
 22 **And the first line under this chart says that:**  
 23 **"Difficult to apply to**  
 24 **intangibles. Sufficient number of**  
 25 **transactions of truly comparable**

Page 89

1 **assets is rarely available."**  
 2 **That is generally one of the difficulties in**  
 3 **the market approach. Right?**  
 4 A. For certain assets, that can be difficult.  
 5 But there's no such thing as a truly perfect  
 6 comparable. But for some assets, sure, it's hard to  
 7 find comparables.  
 8 For Internet-based assets, that is not the  
 9 case. It is quite easy to find comparables.  
 10 **Q. Okay. But just in general with the market**  
 11 **approach, you need to be sure that the assets that**  
 12 **you're comparing are actually comparable. Right?**  
 13 A. Sure. It's important to have comparable  
 14 comparables.  
 15 **Q. Right. So like in your example about**  
 16 **houses, when my wife and I bought a house and you get**  
 17 **comps, you are looking at houses in the same**  
 18 **neighborhood. Right?**  
 19 A. Typically.  
 20 **Q. Houses that have roughly the same number of**  
 21 **rooms. Right?**  
 22 A. It can be a criteria, yes.  
 23 **Q. Same number of bathrooms. Right?**  
 24 A. Again, that can be one of the criteria.  
 25 **Q. Same size yard?**

Page 90

1 A. Sure.

2 **Q. You want to look at a house that's in the**

3 **same condition. Right?**

4 A. That can be something you look at.

5 **Q. Okay. But all of those things --**

6 A. I don't do real estate appraisals, so.

7 **Q. Right. Well, but you have been in the**

8 **mortgage industry you'd said.**

9 A. I didn't do real estate appraisals, though.

10 **Q. But you did loans on mortgages?**

11 A. Well, yeah.

12 **Q. But generally the idea is you try and find**

13 **something that's as comparable to the asset that**

14 **you're looking at so that you're comparing apples to**

15 **apples. Right?**

16 A. That's correct.

17 **Q. All right.**

18 A. And they're never identical.

19 **Q. Right, because you're not doing -- dealing**

20 **with two of the same exact things. Right?**

21 A. Correct.

22 **Q. You're just trying to find something that is**

23 **comparable so that you're comparing an apple to an**

24 **apple instead of comparing an apple to an orange?**

25 A. Correct.

Page 91

1 MR. BERRY: I'd like to mark as Exhibit

2 Number 173.

3 (The document referred to was

4 marked as Exhibit 173.)

5 THE WITNESS: Should I give this back to her

6 or --

7 MR. BERRY: Well, you might just hold on --

8 well, yeah, you can give it back to her. I don't

9 know that we'll be coming back to it.

10 THE REPORTER: Just put a stack there on the

11 table.

12 THE WITNESS: I'll stack them up.

13 THE BERRY: Yeah, we'll stack that up.

14 We'll go through a bunch of documents now, so.

15 THE WITNESS: We can do it that way.

16 BY MR. BERRY:

17 **Q. All right. So the document that's been**

18 **handed to you is Exhibit 173 which is a publication**

19 **that at the top says "Traditional Intangible Asset**

20 **Valuation Techniques," and it's apparently an excerpt**

21 **from a book that was written by Weston Anson. And**

22 **I'll represent to you that is this an article that**

23 **came off of the CONSOR Web site.**

24 **Are you familiar with this article?**

25 A. It's a chapter of a book. But I'm familiar

Page 92

1 with this, yes.

2 **Q. Okay. So you've read this before?**

3 A. Again, for the record, if my chairman reads

4 it, I don't know if I read it word for word, but I

5 have looked at this, yes.

6 **Q. Okay. I won't tell him.**

7 A. Thank you.

8 **Q. I just want to ask you about one part of it,**

9 **which is -- and if you want to read, but I'm really**

10 **only interested in just a small portion of this.**

11 **From pages 3 to 4, it discusses the market approach**

12 **of valuation. And the specific part that I'd like to**

13 **ask you about is in the first full paragraph on**

14 **page 4. But if you want to take time to read the**

15 **whole thing, please feel free to do so.**

16 A. Let me just read through it real quick just

17 to make sure.

18 **Q. Yeah.**

19 A. Okay.

20 **Q. All right. So --**

21 A. Thank you.

22 **Q. My pleasure.**

23 **And if you want to go back and look at it**

24 **again after I ask -- I'm only going to ask you a**

25 **couple of questions about it.**

Page 93

1 **That first full paragraph on page 4 starts,**

2 **"In addition to the type of asset." On the next --**

3 A. The next page?

4 **Q. Page 4.**

5 A. Okay.

6 **Q. The very last sentence says:**

7 **"Along with the possible**

8 **adjustments listed above, the price**

9 **information contained in comparable**

10 **sale and licensing transactions**

11 **will frequently have to be adjusted**

12 **using a common reference point such**

13 **as sales, profit margin or net**

14 **income."**

15 **Do you see that?**

16 A. I do.

17 **Q. Okay. Do you agree with that statement?**

18 A. In certain contexts, I do.

19 **Q. In what contexts?**

20 A. This is really speaking to licensing

21 context, if you look at geographical constraints. I

22 mean, exclusivity -- I'm at the top of this paragraph

23 now -- exclusivity, payment mechanisms, time frame,

24 among others. This is specifically referring to a

25 licensing arrangement, not an asset like a Web site.

Page 94

1 And I know this because I've spoken to my  
 2 chairman specifically about this chapter. We've  
 3 rewritten this chapter in subsequent books. In fact,  
 4 the new book that's coming out, we rewrote this  
 5 chapter, so. But that's -- that's what that pertains  
 6 to.

7 **Q. Okay. But just in principle, then, the**  
 8 **price information contained in comparable sales**  
 9 **transactions -- continuing on -- "will frequently**  
 10 **have to be adjusted using a common reference point**  
 11 **such as sales, profit margin or net income."**

12 **In sales transactions, would there have to**  
 13 **be adjustments using a common reference point such as**  
 14 **sales, profit margin, or net income?**

15 MR. VOGT: Objection to form.

16 THE WITNESS: Not sure what you mean by  
 17 "sales transactions."

18 BY MR. BERRY:

19 **Q. In an asset sale. Right? If you're valuing**  
 20 **something using the market approach for a sale --**  
 21 A. Okay.

22 **Q. -- do you agree that you would have to**  
 23 **frequently adjust the value assessed by a market**  
 24 **approach using a common reference point such as**  
 25 **sales, profit margin, or net income?**

Page 95

1 MR. VOGT: Objection to form.

2 THE WITNESS: Okay. I understand what  
 3 you're saying now.

4 And yes, that's how the market approach  
 5 works. And it's exactly what we did in this case.  
 6 It's -- so sales would be -- if you're using the  
 7 market approach to come up with, let's say, a revenue  
 8 multiple, EBITDA multiple, an EBIT multiple, a net  
 9 income multiple -- I'm sure you've heard of some of  
 10 these multiples -- that's what makes that adjustment.

11 So if you're looking at a multiple of some  
 12 revenue numbers, so clearly the revenue is going --  
 13 if the revenue changes, the value will change.

14 Does that make sense?

15 BY MR. BERRY:

16 **Q. Right. So how did you do that in this case?**

17 A. Well, we used a different multiple. We used  
 18 a unique user multiple. A viewership multiple. So  
 19 it's the same concept.

20 **Q. So in this case -- and we'll get to this in**  
 21 **just a second -- the common denominator was unique**  
 22 **users, and you used that to come up with a market**  
 23 **multiple and that is what this sentence refers to,**  
 24 **you coming up with some sort of market multiple**  
 25 **whether it's based on sales, profit margins, or net**

Page 96

1 **income?**

2 MR. VOGT: Objection to form.

3 THE WITNESS: Okay. A common reference  
 4 point such as sales, profit margin, and -- or net  
 5 income, so if you use a multiple of revenue or net  
 6 income, then clearly the revenue or profit is what  
 7 you're using that multiple on, so that can change the  
 8 value.

9 In this case, we used monthly unique users,  
 10 and so more or less monthly unique users you have  
 11 will change the value accordingly.

12 BY MR. BERRY:

13 **Q. And there's no, then, back-end analysis**  
 14 **that's done to adjust for actual revenue income**  
 15 **growth or anything like that. Right?**

16 MR. VOGT: Objection.

17 THE WITNESS: Again --

18 MR. VOGT: Objection to form.

19 THE WITNESS: Again, valuing content-based  
 20 Web sites based on their income or revenue is going  
 21 to undervalue that site in an arm's-length  
 22 transaction. So you use the market approach and  
 23 compare it to market-based benchmarking to determine  
 24 what its true value is.

25 BY MR. BERRY:

Page 97

1 **Q. And no adjustment is made on the back side**  
 2 **based on any differences between the comps. Right?**

3 MR. VOGT: Objection to form.

4 BY MR. BERRY:

5 **Q. Once you get the --**  
 6 A. I'm not sure.

7 **Q. -- the value based on the market multiple**  
 8 **you've come up with with unique user, there's no**  
 9 **adjustment made for differences in revenue, profits,**  
 10 **income. Right?**

11 MR. VOGT: Objection to form.

12 THE WITNESS: Again, revenue and profits  
 13 don't come into play in this valuation.

14 BY MR. BERRY:

15 **Q. Okay. All right. And touching on this same**  
 16 **point and coming back to something we just mentioned,**  
 17 **in the market approach, you used -- sorry, let me**  
 18 **start again.**

19 **In the market approach, you're using a**  
 20 **market multiple to value comparable assets based on a**  
 21 **ratio of some common denominator. Right?**

22 A. We're looking to the common denominator  
 23 being monthly unique users.

24 **Q. Just in general, though, you're looking at a**  
 25 **common denominator when you use the market approach.**

<p>A. Sure, you use a common denominator.</p> <p><b>Q. And you're assuming, then, that the ratios that come from that common denominator value some flow specific variable the same across all firms. Right? Across the comps you're using.</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: There's always going to be variations in that and that's why you use averages. Sometimes you'd use a median.</p> <p>In this case, we were conservative. We used the minimum to the average, so because they're -- never say "never" -- but almost never going to be identical. That's why you look at a set of comparables for your analysis.</p> <p><b>Q. Could you select any common denominator when doing the market approach?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: For what purpose?</p> <p><b>Q. For valuing the company. Could you -- here you used unique users. Right? Could you choose some other common denominator?</b></p> <p>A. If there was a common denominator that there</p>	<p><b>Q. In other contents -- in other contexts, what do you look at in determining whether something is an appropriate common denominator in using the market</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: In other contexts?</p> <p><b>Q. (Nods head.)</b></p> <p><b>Q. When you set out to use the market approach, how do you assess what the appropriate common denominator would be?</b></p> <p>A. Unfortunately, I don't know the direct answer to that question. I wish I did, but it depends on the situation and the context at hand and, again, what information is available. So I don't -- I don't know the answer to that.</p> <p><b>Q. And here, then, explain -- and this may have been in your prior answer, but explain to me clearly why you chose unique viewers as the benchmark to compare assets?</b></p> <p>A. Because Web site, content-based Web site value is directly tied to the amount of traffic they have, the amount of viewers that go to the Web site. That, in turn, drives potential advertising dollars</p>
<p>was information on, sure, another common denominator could potentially be used. It depends on the context of any valuation. They're all slightly different. It's all what information do you have, what's available, what makes the most sense given the situation that you're in.</p> <p><b>Q. Just talking about content-based Web sites, could you use the common denominator of the number of</b></p> <p>A. I have not seen that before, but that's not to say it couldn't be done. I have not personally</p> <p><b>Q. Could you look at server size used by the</b></p> <p><b>Q. How do you go about selecting a common denominator in the market approach?</b></p> <p>A. For a content-based Web site, traffic is the key driver of value. These Web sites are after ultimately advertising and maybe something beyond that later, but it's traffic which is the key driver</p> <p>So for a common denominator for a content-based Web site, it would be just that. It</p>	<p>and potential future monetization through having that collection of users and viewers that come to your site. Traffic is key.</p> <p><b>Q. And is traffic a key because ultimately that will determine what kind of revenue is generated from the Web site based on advertising. Right?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: Not necessarily just advertising. But it's -- traffic is what drives the value, drives that future potential monetization value, and it drives -- it drives advertising, too,</p> <p><b>Q. How else would it drive -- how else does traffic drive value?</b></p> <p>A. Aside from future monetization potential?</p> <p><b>Q. Aside from -- sorry. Aside from</b></p> <p>A. Future monetization potential.</p> <p><b>Q. How else do you monetize traffic on a content-based Web site?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: I don't know the specific answer to that. I think that's something a lot of Web sites are figuring out.</p>

<p> <b>Q. But might not have figured out yet?</b>  A. I don't know if they have or haven't.  <b>Q. Are unique viewers useful to a Web site if they can't be monetized?</b>  MR. VOGT: Objection to form.  THE WITNESS: Again, I don't -- they can have future value.  <b>Q. Right. But if they can't be monetized, do they have any value?</b>  MR. VOGT: Objection to form.  THE WITNESS: I'm sure they could. I don't know the answer to that question.   <b>Q. Have you ever worked in a space of trying to convert unique users to actual income?</b>  A. Have we at CONSOR worked on that?  <b>Q. You personally.</b>  MR. VOGT: Objection to form.  THE WITNESS: I'm not sure. Give me an example of what you're talking about.   <b>Q. Have you ever worked for a company -- let me</b> </p>	<p> <b>Earlier we talked about what you had taught personally. That is covered by this sentence?</b>   <b>Q. Has CONSOR ever valued a Web site using the market multiple of average unique viewers where the Web site has actually sold for that amount?</b>  A. I don't know what happens after our valuation. We are typically not filled in on the results of any of our advice or reports. It's just it's -- that's not typical.  <b>Q. Are you aware of any situation where CONSOR has ever valued a Web site using this approach that you used in this case where that value was actually awarded as damages in litigation?</b>  A. Again, when it comes to outcomes of cases, I wish I knew the answers to some of them, and I don't   <b>Q. Outside of the work that CONSOR has done, over the past five years, are you aware of any situation in which a Web site was valued for commercial purposes based on unique visitors?</b>  MR. VOGT: Objection to form.  THE WITNESS: For commercial purposes? What do you mean by that? </p>
<p> <b>Have you ever worked for a Web site, content-based Web site to turn users into income?</b>  MR. VOGT: Objection to form.  THE WITNESS: I have not.  BY MR. BERRY:  <b>Q. In the report at page 9, in the first full paragraph that starts "For the purpose of our</b>   <b>"Over the last several years, CONSOR has valued numerous Web sites using monthly unique user multiples in the context of litigation and private</b>   <b>Earlier we talked about several of those. Is that what that -- the things that we've talked about previously, what that sentence refers to?</b>   <b>Q. And then in the next sentence, it says: "CONSOR employees have also taught this methodology extensively in valuation presentations and continuing legal education</b> </p>	<p> <b>Q. For sales. Like for the sale of the Web</b>   A. Typically they don't make public how they came up to any valuation. I'm sure that viewership was used in some of those sales, but I don't have data that shows that.  <b>Q. But you personally are not aware of any</b>   A. I have not -- I have not seen or heard of   <b>Q. Are you aware of any situations where investments have been made to content-based Web sites based solely on the valuation of the Web site using the kind of analysis that you employed here looking strictly at unique viewers?</b>  MR. VOGT: Objection to form.  THE WITNESS: I don't have any specific   <b>Q. But you're not aware of any?</b>  MR. VOGT: Objection to form.  THE WITNESS: Not that I'm aware of.   <b>Q. Are you aware of any loans that have been</b> </p>

<p><b>made to Web sites based on the kind of analysis that you undertook in this case?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: Again, I don't know the -- how they came up with the valuations when they did it at the time. That was not made public.</p> <p><b>Q. But you personally are not aware of any instances in the past five years where loans have been made based on the analysis -- the kind of analysis that you did in this case?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: Other than the articles that I've cited to that speak to it, other than the other investment or investment, consulting, and financial valuation houses that also speak to using market multiples, I don't know of any specific cases. And I think anybody would be hard pressed to find that because they don't make that information public just like our valuations are not made public.</p> <p><b>Q. But the bottom line is, you're not aware of any situation then?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: I don't have any specifics,</p>	<p>potential, potential revenue. So I would say they are still in a growth cycle.</p> <p><b>Q. How much revenue did Gawker have in 2014?</b></p> <p>A. I don't have the numbers in front of me.</p> <p><b>Q. Did you ever look to see how much revenue Gawker had in 2013?</b></p> <p>A. We may have been presented those numbers. I'm not -- I don't have them in front of me.</p> <p><b>Q. How do you assess whether a site had much</b></p> <p>A. Again, it goes back to whether you're in a mature cycle like a Coca-Cola or if you're in a growth phase like the general consensus is that most, if not all, content-based Web sites and I think Web sites in general and Internet-based companies are still in a growth phase.</p> <p><b>Q. So any -- for any Web site, it doesn't matter -- any content-based Web site, it wouldn't matter how much revenue the site would have to determine whether a revenue multiplier would be appropriate or a market approach would be appropriate. Right?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: I'm not going to say "any." But, again, the majority and the general consensus is</p>
<p><b>Q. I want to come back and ask you about a couple of the articles. But first I wanted to mention -- to ask you something about on page 9, kind of picking up where we left off here.</b></p> <p>In the following paragraph, which I think is the second full paragraph on page 9 that starts "Third-party valuation professionals."</p> <p><b>Q. The very last sentence says:</b></p> <p>"For sites without much revenue, price per user can often be a more accurate gauge of a site's value than a revenue</p> <p><b>Do you see that?</b></p> <p><b>Q. Is Gawker a site without much revenue?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: I would say yes.</p> <p>A. Again, we go back to the previous conversation about maximum -- maximizing your</p>	<p>that content-based Web sites are, in fact, still in a growth phase and they have more potential than they are actually extracting.</p> <p>BY MR. BERRY:</p> <p><b>Q. The phrase here, "revenue multiple," what does that mean? The very last two words in that paragraph, "revenue multiple."</b></p> <p>A. So that would be a multiple of revenue, so it would be your value is twenty times revenue, ten times revenue, two times revenue. That would be a revenue multiple.</p> <p><b>Q. And for a revenue multiple -- when is a revenue multitude used to value something?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: It can be used in various instances. You can use it for commercial real estate. You can use it for valuing a business, valuing publicly traded companies. It's just -- it depends on the specific circumstances and instance we're talking about.</p> <p>BY MR. BERRY:</p> <p><b>Q. But you would -- you couldn't use a revenue multiplier for gawker.com to assess the value.</b></p> <p>A. A revenue multiple would not be as accurate,</p>

<p> <ul style="list-style-type: none"> <li>● would not provide an arm's-length market value for</li> <li>● the company as a user multiple will.</li> <li>● Again, the traffic is what is key and what</li> <li>● is -- what drives value for these content-based Web</li> <li>●</li> </ul> <p><b>Q.</b> Okay. So going up to that -- the top part of this paragraph, it says:  "Third-party valuation professionals have also recognized the ability to value Web sites based on a multiple of monthly unique users."  Do you see that?</p> <p><b>Q.</b> And so earlier you'd mentioned that a couple articles in here -- I think this is what you're referring to -- it refers to, in footnotes 37 and 38, documents 52 and 53.  Do you see that?</p> <p>A. Those, and others. And other firms that if you go on their -- valuation firms, you go on their Web sites and they discuss the use of market multiples for valuing Web sites as well.</p> <p><b>Q.</b> Right. But here in this report you used document 52 and 53. Right?</p> </p>	<p><b>Q.</b> All right. On the first page, it says, "The state of Internet advertising." In the first sentence it says:  "Since its public inception almost five years ago, the Internet has become the fastest growing medium in history with a current reach of 43.2 million active</p> <p>Do you know how many active users the Internet has now?</p> <p>A. I don't have an exact number, no.</p> <p><b>Q.</b> It's more than 43.2 million. Right?</p> <p>A. I would hate to guess.</p> <p><b>Q.</b> Well, I mean, in your report, it said that BuzzFeed alone had 135 million users. Right?</p> <p>A. It's more than 43 million, yes.</p> <p><b>Q.</b> Okay. Has the Internet changed since 1999?</p> <p>MR. VOGT: Objection to form.  THE WITNESS: In what sense?</p> <p><b>Q.</b> Have Web site media companies changed since</p> <p>MR. VOGT: Objection to form.</p>
<p>A. Yeah, I'm just -- I'm telling you for the first sentence, what I'm referring to in the first</p> <p>MR. BERRY: Okay. Why don't we mark as</p> <p>(The document referred to was marked as Exhibit 174.)</p> <p>BY MR. BERRY:</p> <p><b>Q.</b> Just using the decoder here from your report, what I've handed you as Exhibit 174 is -- what I think is referred to in your report as document 52, which is a -- something from Cogent Valuation titled "The Pricing of Online Media."  Is this the document that you used?</p> <p>A. This is correct, yes.</p> <p><b>Q.</b> Okay. What is Cogent Valuation?</p> <p>A. I believe it's a valuation firm.</p> <p><b>Q.</b> Have you worked with them before?</p> <p>A. Not directly, no.</p> <p><b>Q.</b> Do you know when this article was written?</p> <p>A. I believe this was written in the nineties.</p> <p><b>Q.</b> Okay. The article here he says, under the -- on the first page, "The state of Internet advertising." Well, if you want to take time to</p>	<p>THE WITNESS: I'm sure some things have changed and others remain the same.</p> <p><b>Q.</b> Looking at page 2. The very last paragraph, the paragraph starts "The application of traditional valuation methodologies"?</p> <p><b>Q.</b> Okay. The second sentence says "Lending to this difficulty," and it's talking about valuing Internet companies.  "Lending to this difficulty are factors such as the lack of earnings, uncertainty of the mature state of the industry, and unpredictability of further cash</p> <p>Do you see that sentence?</p> <p><b>Q.</b> Are all those things still true?</p> <p>A. To some degree, sure.</p> <p><b>Q.</b> Does gawker.com have a lack of earnings?</p> <p>MR. VOGT: Objection to form.  THE WITNESS: I would say they -- some would argue they do.</p>

Page 114

1 **Q. Would you argue that they do?**  
 2 MR. VOGT: Objection to form.  
 3 THE WITNESS: I think they have future  
 4 monetization potential that's not being realized  
 5 today.  
 6 BY MR. BERRY:  
 7 **Q. Right. But I think my question was a little**  
 8 **different.**  
 9 A. I'm sorry.  
 10 **Q. Does gawker.com have a lack of earnings?**  
 11 MR. VOGT: Objection to form.  
 12 THE WITNESS: And based on what I -- my  
 13 statement I just made, I would say yes.  
 14 BY MR. BERRY:  
 15 **Q. So but your statement -- and let me know if**  
 16 **I'm mischaracterizing this in any way, but I think**  
 17 **your statement is that they could have more earnings.**  
 18 **Right?**  
 19 **It hasn't reached its monetization**  
 20 **potential. Correct?**  
 21 MR. VOGT: Objection to form.  
 22 THE WITNESS: They have future monetization  
 23 potential, so they have the potential to earn more.  
 24 So because they could earn more -- I mean, you used  
 25 the word "lack," I don't know what your definition of

Page 115

1 it is, but, sure, they are lacking in the fact that  
 2 they could have more.  
 3 BY MR. BERRY:  
 4 **Q. But it does have earnings. Right?**  
 5 MR. VOGT: Objection to form.  
 6 THE WITNESS: I'd have to see their  
 7 financials, but I believe they have earnings.  
 8 BY MR. BERRY:  
 9 **Q. Okay. Do you believe that there's an**  
 10 **unpredictability in Gawker's future cash flows?**  
 11 MR. VOGT: Objection to form.  
 12 THE WITNESS: I think, sure. Sure, there's  
 13 unpredictability. I can't predict it exactly.  
 14 BY MR. BERRY:  
 15 **Q. But could you predict for Coca-Cola?**  
 16 MR. VOGT: Objection to form.  
 17 THE WITNESS: To some exact science, I don't  
 18 know that anybody can exactly predict, so there's  
 19 some unpredictability in nearly anything.  
 20 BY MR. BERRY:  
 21 **Q. Do you know how long Gawker has been in**  
 22 **existence?**  
 23 A. Since -- if I can turn to my report real  
 24 fast. I -- I could guess and be right but rather  
 25 just tell you.

Page 116

1 Since 2002.  
 2 **Q. So at this point, over twelve years. Right?**  
 3 A. Correct.  
 4 **Q. In general, would the value of a company --**  
 5 **sorry.**  
 6 **In general, would the value of a**  
 7 **content-based Web site go up as the number of unique**  
 8 **users increases?**  
 9 A. Generally?  
 10 **Q. (Nods head.)**  
 11 MR. VOGT: Objection to form.  
 12 THE WITNESS: More unique users implies a  
 13 higher valuation.  
 14 BY MR. BERRY:  
 15 **Q. Does the value of a Web site -- a**  
 16 **content-based Web site go up if the number of users**  
 17 **is increasing rapidly?**  
 18 MR. VOGT: Objection to form.  
 19 THE WITNESS: I'm not sure what you mean by  
 20 that.  
 21 BY MR. BERRY:  
 22 **Q. Well, you talk about future monetization**  
 23 **potential. Does the value go up if the number of**  
 24 **unique users for the Web site is going up more**  
 25 **quickly?**

Page 117

1 MR. VOGT: Objection to form.  
 2 THE WITNESS: The value would go up in  
 3 relation to proportionally, to the number of unique  
 4 users that it has increased by.  
 5 BY MR. BERRY:  
 6 **Q. So if it's increased by greater numbers, the**  
 7 **value would go up accordingly. Right?**  
 8 A. If -- if you have an increase in your unique  
 9 user traffic, you would have an increase in value.  
 10 **Q. So if the number of unique users coming to a**  
 11 **site increases by 50 percent over a period of time,**  
 12 **the value of the Web site would increase by**  
 13 **50 percent?**  
 14 MR. VOGT: Objection to form.  
 15 THE WITNESS: It could in that instance.  
 16 I'd have to see the specific circumstances we're  
 17 talking about, but generally speaking.  
 18 BY MR. BERRY:  
 19 **Q. And if it's a hundred percent growth, it's**  
 20 **value could increase a hundred percent. Right?**  
 21 MR. VOGT: Objection to form.  
 22 THE WITNESS: It could.  
 23 BY MR. BERRY:  
 24 **Q. If the growth were happening quickly, would**  
 25 **its value increase quickly?**



Page 118

1 MR. VOGT: Objection to form.  
 2 THE WITNESS: It would depend on the  
 3 circumstances. I can't answer that directly  
 4 unfortunately.  
 5 BY MR. BERRY:  
 6 **Q. Turning back to Exhibit 174 here. On**  
 7 **page 1, in that first paragraph, in the third line,**  
 8 **towards the end there's a sentence that starts**  
 9 **"However."**  
 10 A. "For the time being"?  
 11 **Q. Yeah. It says:**  
 12 **"For the time being, the**  
 13 **escalating valuations in the**  
 14 **Internet space and the Internet**  
 15 **content/community ('Online Media')**  
 16 **sector in particular, seem to defy**  
 17 **all sense of reliance on investment**  
 18 **fundamentals."**  
 19 **Is that still true?**  
 20 MR. VOGT: Objection to form.  
 21 THE WITNESS: To some degree.  
 22 BY MR. BERRY:  
 23 **Q. The valuation of online media companies**  
 24 **defies all sense of reliance on investment**  
 25 **fundamentals?**

Page 119

1 MR. VOGT: Objection to form.  
 2 THE WITNESS: I don't know what the author  
 3 is defining as an investment fundamental, but to some  
 4 degree.  
 5 BY MR. BERRY:  
 6 **Q. What do you consider investment**  
 7 **fundamentals?**  
 8 MR. VOGT: Objection to form.  
 9 THE WITNESS: This would be your -- I don't  
 10 know what he means by that. But from my perspective,  
 11 it would be blue chip stocks. Investment  
 12 fundamentals like a basic PE, price-to-earnings  
 13 ratio.  
 14 You're going to see Internet-based companies  
 15 at much higher multiples of that than any other  
 16 measure, and so I believe that's what they're  
 17 speaking to here, and I believe to some degree, that  
 18 is still true.  
 19 BY MR. BERRY:  
 20 **Q. To what degree is it not true?**  
 21 MR. VOGT: Objection to form.  
 22 THE WITNESS: I don't know specifically how  
 23 it is or is not true. I just -- you're asking me in  
 24 general. And, in general, I believe to some degree  
 25 it is still true that there is still -- that it's --

Page 120

1 the investment fundamentals are still slightly or to  
 2 some degree being overseen through an Internet  
 3 company.  
 4 BY MR. BERRY:  
 5 **Q. Are Internet companies overvalued then?**  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: I don't -- I don't -- I don't  
 8 know the answer to that.  
 9 BY MR. BERRY:  
 10 **Q. Let's take a look at page 3. There's a**  
 11 **paragraph there in the second paragraph that says**  
 12 **"Price to revenues," and it lists twenty publicly**  
 13 **traded online media companies.**  
 14 **After this article was published, do you**  
 15 **know what happened to Lycos's stock?**  
 16 MR. VOGT: Objection to form.  
 17 THE WITNESS: Where do you see -- oh, Lycos.  
 18 I do not.  
 19 BY MR. BERRY:  
 20 **Q. What about Infoseek?**  
 21 MR. VOGT: Same objection.  
 22 THE WITNESS: I don't know.  
 23 BY MR. BERRY:  
 24 **Q. Do you know what happened to xoom.com?**  
 25 MR. VOGT: Same objection.

Page 121

1 THE WITNESS: I do not.  
 2 BY MR. BERRY:  
 3 **Q. Do you know what happened to launch.com?**  
 4 MR. VOGT: Same objection.  
 5 THE WITNESS: I do not.  
 6 BY MR. BERRY:  
 7 **Q. Do you know how the stock did for goto.com?**  
 8 MR. VOGT: Same objection.  
 9 THE WITNESS: I do not.  
 10 BY MR. BERRY:  
 11 **Q. Following the publication of this article,**  
 12 **the value of tech stocks dropped dramatically.**  
 13 **Right?**  
 14 MR. VOGT: Objection to form.  
 15 THE WITNESS: There was a market crash in  
 16 2000-2001, yes.  
 17 BY MR. BERRY:  
 18 **Q. And people in common parlance refer to that**  
 19 **as the dot com --**  
 20 THE REPORTER: I'm sorry. Would you --  
 21 BY MR. BERRY:  
 22 **Q. People in common parlance refer to that as**  
 23 **the dot com bubble?**  
 24 A. I've heard of the dot com bubble.  
 25 **Q. And that occurred shortly after this article**

Page 122

1 was published, the bubble burst?  
 2 A. That is generally correct, yes.  
 3 **Q. The second article that you mentioned here**  
 4 **is document 53 in your report on page 9. Right? And**  
 5 **footnote 38. Right? You referred to document 53?**  
 6 A. 53, yup.  
 7 MR. BERRY: We'll mark as Exhibit 175.  
 8 (The document referred to was  
 9 marked as Exhibit 175.)  
 10 MR. VOGT: Are you done with 174?  
 11 MR. BERRY: Yes.  
 12 BY MR. BERRY:  
 13 **Q. The document that has been handed to you is**  
 14 **Exhibit 175 which is titled "Valuation Metrics of**  
 15 **Large vs. Small Web Site Acquisitions."**  
 16 **This is exhibit -- sorry -- document 53 that**  
 17 **you referred to in footnote 39 of your report. Is**  
 18 **that right?**  
 19 A. Yes. Can I take a minute and read through  
 20 this?  
 21 **Q. Oh, absolutely.**  
 22 A. Thank you.  
 23 Okay.  
 24 **Q. Okay. So this is document 53 that you're**  
 25 **looking at?**

Page 123

1 A. It is, yes.  
 2 **Q. And I apologize for standing. My back is**  
 3 **just killing me.**  
 4 A. That's fine. I hope your back feels better.  
 5 **Q. What is seekingalpha.com?**  
 6 A. Seeking Alpha is an investment-related  
 7 Web site.  
 8 **Q. And do you know who James Nicholson is?**  
 9 A. I don't know him personally, no.  
 10 **Q. Do you consider him to be a valuation**  
 11 **professional?**  
 12 A. I believe he's well knowledgeable in this  
 13 space.  
 14 **Q. What do you base that on?**  
 15 A. I'm seen his name before on articles.  
 16 **Q. What kind of articles?**  
 17 A. Investment-related articles,  
 18 valuation-related articles.  
 19 **Q. What else have you read by him?**  
 20 A. I don't remember.  
 21 **Q. What is alpha?**  
 22 A. Alpha?  
 23 **Q. (Nods head.)**  
 24 A. In terms of finance?  
 25 **Q. Yes.**

Page 124

1 A. It's -- it's what all investors seek to  
 2 find. It is the -- trying to figure -- for  
 3 your aunt, I'm trying to figure out how to explain  
 4 this.  
 5 In an equation for figuring out value, it's  
 6 the part that can't be explained but is there.  
 7 **Q. Trying to find something's intrinsic value?**  
 8 A. That's one way to put it.  
 9 **Q. Do you know when this article was written?**  
 10 A. August 27, 2008.  
 11 **Q. Under the header "Revenue Multiple,"**  
 12 **Mr. Nicholson writes:**  
 13 **"Larger established Web sites**  
 14 **generally have been valued at**  
 15 **anywhere from three times to ten**  
 16 **times annual revenues."**  
 17 **Do you see that?**  
 18 A. I do.  
 19 **Q. Do you know what he means by "larger**  
 20 **established Web sites"?**  
 21 A. This has YouTube being one of them, but  
 22 large sites like YouTube.  
 23 **Q. But in his view, you could use a revenue**  
 24 **multiple for a large established Web site. Correct?**  
 25 MR. VOGT: Objection to form.

Page 125

1 THE WITNESS: In his view, yes.  
 2 BY MR. BERRY:  
 3 **Q. But I take it from our discussion earlier,**  
 4 **you wouldn't categorize gawker.com as a larger**  
 5 **established Web site. Correct?**  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: A revenue multiple would not  
 8 be appropriate to use for gawker.com.  
 9 BY MR. BERRY:  
 10 **Q. But it's not a larger established Web site?**  
 11 MR. VOGT: Objection to form.  
 12 THE WITNESS: I'm not going to use his words  
 13 to explain that gawker.com using a revenue multiple  
 14 would not be valued properly.  
 15 BY MR. BERRY:  
 16 **Q. Okay. But the premise of his article --**  
 17 **right? -- is to -- refers to smaller Web sites, it**  
 18 **says, being worth under a million dollars. Right?**  
 19 A. Where do you see that?  
 20 **Q. In the second paragraph:**  
 21 **"While looking into the market**  
 22 **for buying and selling smaller Web**  
 23 **sites generally with price tags**  
 24 **under a million dollars."**  
 25 A. Okay.

Page 126

1 **Q. Right. That's what he's talking about.**  
 2 **Right?**  
 3 MR. VOGT: Objection to form.  
 4 THE WITNESS: As being -- smaller Web sites  
 5 are under \$1 million.  
 6 BY MR. BERRY:  
 7 **Q. And you've valued gawker.com as being well**  
 8 **over a million. Right?**  
 9 MR. VOGT: Objection to form.  
 10 THE WITNESS: Valued the Web site?  
 11 BY MR. BERRY:  
 12 **Q. You valued in this case gawker.com to be**  
 13 **worth well more than a million dollars. Right?**  
 14 A. We valued -- yes.  
 15 **Q. Down under the "Cost per user" section here,**  
 16 **Mr. Nicholson writes:**  
 17 **"For sites without much**  
 18 **revenue, price per user can often**  
 19 **be a more accurate gauge of a**  
 20 **site's value than revenue**  
 21 **multiple."**  
 22 **Do you see where I'm at?**  
 23 A. I do. I see that.  
 24 **Q. So what he's talking about are sites without**  
 25 **much revenue. Right?**

Page 127

1 MR. VOGT: Objection.  
 2 THE WITNESS: That's what his statement  
 3 says, yes.  
 4 BY MR. BERRY:  
 5 **Q. Is Gawker a site without much revenue?**  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: Again, that -- it could be  
 8 argued they have future monetization potential, and  
 9 so they are without much revenue in the sense that  
 10 they could have more.  
 11 BY MR. BERRY:  
 12 **Q. Okay. Does this article anywhere say that**  
 13 **Web sites are actually valued using this cost per**  
 14 **user in the marketplace?**  
 15 MR. VOGT: Objection to form.  
 16 THE WITNESS: What do you mean?  
 17 BY MR. BERRY:  
 18 **Q. Well, does it say anywhere that a Web site**  
 19 **has been valued for sale using this cost per user?**  
 20 MR. VOGT: Objection to form.  
 21 THE WITNESS: It doesn't explicitly say XYZ  
 22 Web site was valued using cost per user, but it  
 23 explains how it can be done.  
 24 BY MR. BERRY:  
 25 **Q. Right. But he's not saying that any**

Page 128

1 **Web site has ever been sold using that. Right?**  
 2 MR. VOGT: Objection to form.  
 3 THE WITNESS: It doesn't say that they  
 4 weren't either. It says that, based on the users and  
 5 the value, the price per user was X.  
 6 BY MR. BERRY:  
 7 **Q. But he's not saying that anything was**  
 8 **actually valued in that way?**  
 9 MR. VOGT: Objection to form.  
 10 THE WITNESS: And he's also not saying that  
 11 it wasn't valued in that way.  
 12 MR. BERRY: That's a fair point.  
 13 BY MR. BERRY:  
 14 **Q. So, I mean, you point out that he mentions a**  
 15 **couple here. It says:**  
 16 **"eBay acquired StumbleUpon for**  
 17 **\$75 million last May."**  
 18 **Do you see that?**  
 19 A. I do.  
 20 **Q. It doesn't say that that \$75 million figure**  
 21 **was arrived at using a cost-per-user valuation, does**  
 22 **it?**  
 23 MR. VOGT: Objection to form.  
 24 THE WITNESS: And it also doesn't say that  
 25 it wasn't arrived at using that analysis.

Page 129

1 BY MR. BERRY:  
 2 **Q. Do you know how the valuation was arrived at**  
 3 **for StumbleUpon?**  
 4 A. As I stated I think an hour or so ago, they  
 5 don't make public the actual calculations that go  
 6 into any of these transactions.  
 7 **Q. Apart from these two articles, can you point**  
 8 **to any other documents that support your statement**  
 9 **"Third-party valuation**  
 10 **professionals have also recognized**  
 11 **the ability to value Web sites**  
 12 **based on a multiple of monthly**  
 13 **unique users"?**  
 14 MR. VOGT: Objection to form.  
 15 THE WITNESS: Again, I have seen other  
 16 valuation firms who write about using a user multiple  
 17 to value a Web site. I don't have them in front of  
 18 me.  
 19 BY MR. BERRY:  
 20 **Q. Can you recall any specifically sitting here**  
 21 **today?**  
 22 A. The name of the firms?  
 23 **Q. The name of the publication, the name of the**  
 24 **firm?**  
 25 A. I can't.

Page 130

1 **Q. None of the materials that you point to for**  
 2 **your report deals with actually valuing a single post**  
 3 **on a Web site, does it?**  
 4 A. Single post?  
 5 **Q. (Nods head.)**  
 6 A. What do you mean by that?  
 7 **Q. Well, here you valued the -- you -- or you**  
 8 **were assessing the increased value of the post that**  
 9 **contained the Hulk Hogan video. Right?**  
 10 MR. VOGT: Objection to form.  
 11 THE WITNESS: We looked at the increase in  
 12 value of gawker.com at two points in time -- before  
 13 and after the video was posted -- and then we  
 14 apportioned that value based on the traffic that went  
 15 to the video.  
 16 BY MR. BERRY:  
 17 **Q. Are you aware of any materials where that**  
 18 **kind of analysis has been done for a single post like**  
 19 **you did in this case?**  
 20 MR. VOGT: Objection to form.  
 21 THE WITNESS: I don't know that that would  
 22 ever be available publicly.  
 23 What you have to understand here is that the  
 24 approach we took in valuing the Web site and  
 25 subsequently apportioning it to the Hulk Hogan video

Page 131

1 was probably the most common approach used in the  
 2 valuation of any intellectual property of tangible  
 3 real estate and other assets as well. We took the  
 4 market approach and we used benchmarking.  
 5 So while I don't know if there's any  
 6 literature that speaks to the specifics you're asking  
 7 about, I can tell you that the approach in general is  
 8 probably the most common.  
 9 BY MR. BERRY:  
 10 **Q. Right. But have you -- are you aware of any**  
 11 **other instance in which the increase in value**  
 12 **attributed to a company from a single post followed**  
 13 **the methodology that you used in this case?**  
 14 MR. VOGT: Objection to form.  
 15 THE WITNESS: It's no different from valuing  
 16 a Web site at two different points in time. So it's  
 17 the same approach we would use whether I'm going just  
 18 valuing a Web site or if I'm looking at the increase  
 19 in value that's attributable to a post, it's the same  
 20 approach.  
 21 BY MR. BERRY:  
 22 **Q. Again, are you aware of any other instance**  
 23 **in which the increase in value attributed to a single**  
 24 **post followed the methodology you used in this case?**  
 25 MR. VOGT: Objection to form.

Page 132

1 THE WITNESS: I don't know. I don't know.  
 2 BY MR. BERRY:  
 3 **Q. Sitting here today, you are not aware of any**  
 4 **other circumstance in which this methodology has been**  
 5 **used to value -- or to assess the increase of value**  
 6 **attributable to a single post. Right?**  
 7 MR. VOGT: Objection to form.  
 8 THE WITNESS: I know that this approach is  
 9 used to value a Web site.  
 10 BY MR. BERRY:  
 11 **Q. My question is about a single post. Are you**  
 12 **aware of any other situation in which this**  
 13 **methodology has been used to assess the value of a**  
 14 **post?**  
 15 MR. VOGT: Objection to form.  
 16 THE WITNESS: I don't know.  
 17 MR. BERRY: All right.  
 18 MR. VOGT: Can we take a break?  
 19 MR. BERRY: Yeah.  
 20 THE VIDEOGRAPHER: Let's go off the record.  
 21 The time is 12:37.  
 22 (Whereupon at 12:37 P.M., the  
 23 videotaped deposition of JEFF  
 24 ANDERSON was adjourned for noon  
 25 recess.)

Page 133

1 (Whereupon, at 1:08 P.M., the  
 2 videotaped deposition of JEFF  
 3 ANDERSON was reconvened.)  
 4  
 5 THE VIDEOGRAPHER: We are back for the  
 6 afternoon. The time on the video monitor is 1:08.  
 7  
 8 EXAMINATION (CONTINUED)  
 9  
 10 BY MR. BERRY:  
 11 **Q. I'm going to talk to you now about the**  
 12 **specific analysis that you had done for this case,**  
 13 **and I think that's what we'll spend the balance of**  
 14 **our time today talking about.**  
 15 **And just, can we go off the record for a**  
 16 **second?**  
 17 THE VIDEOGRAPHER: Sure. Off the record at  
 18 1:08.  
 19 (Discussion held off the record.)  
 20 THE VIDEOGRAPHER: Back on the record at  
 21 1:09.  
 22 BY MR. BERRY:  
 23 **Q. As I understand it, you were asked to**  
 24 **provide an opinion regarding the benefit to Gawker as**  
 25 **measured by the increase in value of the gawker.com**

Page 134

1 **Web site that resulted from Gawker posting on the**  
 2 **Web site the video of Mr. Bollea engaged in private**  
 3 **consensual sexual relations with Heather Clem.**  
 4 **Is that right?**  
 5 A. Sounds like it was taken right from my  
 6 report, yes.  
 7 Are we done with this one, too? Can I put  
 8 this one away?  
 9 **Q. Yeah, yeah, we're done with that.**  
 10 A. Thanks.  
 11 **Q. So just to be clear here, you only measured**  
 12 **the value of the gawker.com Web site. Right?**  
 13 A. Gawker.com, yes.  
 14 **Q. You didn't measure the value of Gawker**  
 15 **Media's other Web sites. Right?**  
 16 A. That is correct.  
 17 **Q. So you didn't consider the value of**  
 18 **gizmodo.com?**  
 19 A. No.  
 20 **Q. You didn't consider the value of**  
 21 **deadspin.com?**  
 22 A. No.  
 23 **Q. You didn't consider the value of**  
 24 **jezebel.com?**  
 25 A. No.

Page 135

1 **Q. You didn't consider the value of any of the**  
 2 **other Gawker Media Web sites then. Right?**  
 3 A. No.  
 4 **Q. And you didn't consider the value of Kinja.**  
 5 **Right?**  
 6 A. That's correct.  
 7 **Q. Your consideration of value only focused on**  
 8 **the domain gawker.com. Right?**  
 9 A. That's correct.  
 10 **Q. So throughout the deposition, I guess I kind**  
 11 **of -- with key words here, whenever kind of going**  
 12 **forward I'm talking about Gawker, and particularly in**  
 13 **connection with users or visitors, I'm talking just**  
 14 **about gawker.com Web site. Unless I say otherwise,**  
 15 **I'm not talking about Gawker Media, just for clarity**  
 16 **sake.**  
 17 A. Sure. Sure. Thank you.  
 18 **Q. Gawker, gawker.com.**  
 19 A. Got it.  
 20 **Q. And if I understand this, and it's what I**  
 21 **read from your report, you measured the increase in**  
 22 **value that was solely attributable to the video.**  
 23 **Right?**  
 24 A. Correct.  
 25 **Q. Did you watch the video that was posted on**

Page 136

1 **gawker.com's Web site?**  
 2 A. I did not see the video.  
 3 **Q. Your expert opinion ultimately is that the**  
 4 **increase in value of gawker.com as a result of Gawker**  
 5 **posting the video is between \$4,995,000 and**  
 6 **\$15,445,000. Is that right?**  
 7 A. And for simplicity, rather than the  
 8 decimals, we can -- if it's all right with you, we  
 9 can say that that 4.995 million, we can round it to  
 10 5 million, and the 15.445, we can just call it  
 11 15 million --  
 12 **Q. Right.**  
 13 A. -- otherwise, it gets lengthy.  
 14 **Q. Yeah, no, that's all right.**  
 15 **So it's roughly between 5- and 15 million?**  
 16 A. Five and 15 million, yes.  
 17 **Q. And this value is based on the market**  
 18 **multiple per monthly unique users as measured by an**  
 19 **average monthly unique users. Right?**  
 20 A. So there's a lot in that sentence. I  
 21 just -- I'm going to say it back to you so we make  
 22 sure we get it right for the record.  
 23 So this is based on using a monthly unique  
 24 user multiple value per monthly unique user and then  
 25 apportioning the value of the increase in the

Page 137

1 Web site to the value of the video based on the  
 2 traffic, the unique user traffic that went to the  
 3 video.  
 4 **Q. Okay. And that was going to be my next**  
 5 **question, so. Yeah, they -- that's exactly right.**  
 6 **And what we'll do is, we go through some of this, and**  
 7 **in just a little bit, we'll go piece by piece through**  
 8 **the analysis so you can explain, or at least make**  
 9 **sure that I understand exactly what you did.**  
 10 A. Sure.  
 11 **Q. You're not, though, offering any opinions**  
 12 **other than what's in your report. Right?**  
 13 A. My opinions are in my report, yes.  
 14 **Q. You're only offering your opinion on the**  
 15 **increase in value to gawker.com attributable to the**  
 16 **Hulk Hogan video. Right?**  
 17 A. Correct, unless something changes. And I  
 18 think I've noted in my report that I reserve the  
 19 right to amend or revise the analysis or respond to  
 20 opposing experts. But, yes, for now, my opinions are  
 21 strictly in my report.  
 22 **Q. But you're not planning to do any further**  
 23 **analysis at this point. Right?**  
 24 A. Only if necessary and if I'm asked to.  
 25 **Q. Okay. You're not expressing any opinion**

Page 138

1 **about any other theory of damages. Right?**  
 2 MR. VOGT: Objection to form.  
 3 THE WITNESS: I'm not sure what you mean.  
 4 BY MR. BERRY:  
 5 **Q. Other than the increase in value to**  
 6 **gawker.com, you're not assessing any opinion about**  
 7 **Plaintiff's other theory of damages. Right?**  
 8 A. I don't --  
 9 MR. VOGT: Objection to form.  
 10 THE WITNESS: I'm not an attorney, so I  
 11 don't know about theories to damages. I was asked to  
 12 value the increase in value of the Web site of  
 13 gawker.com and apportion it based on -- well, I  
 14 wasn't even asked to apportion it. We apportioned it  
 15 based on the number of users that went to the Hulk  
 16 video. That's all I was asked to do.  
 17 BY MR. BERRY:  
 18 **Q. So you're not expressing any opinion on how**  
 19 **much profit Gawker earned from the video. Right?**  
 20 A. I have not been asked to look at that, no.  
 21 **Q. And you're not expressing any opinion on**  
 22 **what the video itself could have been sold for?**  
 23 A. I'm not looking at that, no.  
 24 **Q. And you're not offering an opinion on the**  
 25 **market value of the Hulk Hogan sex tape. Right?**

Page 139

1 A. Again, I was asked to value -- how the  
 2 val- -- the video impacted the value of gawker.com.  
 3 **Q. And so -- this is, I think, implicit in what**  
 4 **you're saying -- you're not expressing any opinion on**  
 5 **whether Gawker or any of the other defendants are**  
 6 **liable in this case. Right?**  
 7 A. I'm not jumping to any legal conclusions.  
 8 Again, I'm not an attorney. I was just asked to  
 9 value how the video increased the value of  
 10 gawker.com.  
 11 **Q. So no opinion on whether Gawker committed an**  
 12 **invasion of privacy. Right?**  
 13 A. I was not asked to testify to that.  
 14 **Q. And no opinion on whether there was any**  
 15 **misappropriation of the plaintiff's image or name.**  
 16 **Right?**  
 17 A. Correct.  
 18 **Q. And no opinion on whether the defendant is**  
 19 **liable for infringing the plaintiff's right of**  
 20 **publicity. Right?**  
 21 A. Was not asked to look at that.  
 22 **Q. All right. So now we'll turn and talk**  
 23 **specifically about your report. And I'm going to go**  
 24 **step by step through different parts of the analysis**  
 25 **and just ask you about them to make sure that I**

Page 140

1 **understand them.**  
 2 **Earlier you had mentioned the exhibits, and**  
 3 **as we get into this, I'll bring out the exhibits and**  
 4 **we can talk about those as well.**  
 5 A. Sure.  
 6 **Q. The first thing that I want to talk about is**  
 7 **this concept of a market multiple which we had talked**  
 8 **about earlier in the day.**  
 9 **As I understand it, what you did was -- is**  
 10 **set out to determine a market multiple per average**  
 11 **monthly unique user. Right?**  
 12 A. Yes.  
 13 **Q. And a monthly unique user, as I understand**  
 14 **it, is a single user that visits a Web site one or**  
 15 **more times in a month -- in a one-month period.**  
 16 **Is that a correct understanding?**  
 17 A. That's correct.  
 18 **Q. So if a person visits a site only once, that**  
 19 **person counts as a unique visitor. Right?**  
 20 A. Correct.  
 21 **Q. If that single user visits the Web site ten**  
 22 **times in a month, they'd still count as one unique**  
 23 **visitor for the month?**  
 24 A. Correct.  
 25 **Q. To calculate the number of unique visitors,**

Page 141

1 **you looked at data provided by Quantcast Corp.**  
 2 **Right?**  
 3 A. Wasn't provided by Quantcast, but we got it  
 4 off the Quantcast Web site, yes.  
 5 **Q. And so that was available at Quantcast.com?**  
 6 A. That's where we got the data, yes.  
 7 **Q. There's a phrase in your report that comes**  
 8 **up a couple times, "the market multiple per monthly**  
 9 **unique user." That basically assesses a dollar value**  
 10 **assigned to each monthly unique user. Right?**  
 11 A. It's the value of one unique user, yes.  
 12 **Q. Right. So the market multiple just assigns**  
 13 **a specific dollar value to that average monthly**  
 14 **unique user. Right?**  
 15 A. Well, to a monthly --  
 16 MR. VOGT: Objection to form.  
 17 THE WITNESS: -- unique user.  
 18 BY MR. BERRY:  
 19 **Q. Right. The dollar value to that monthly**  
 20 **unique user?**  
 21 A. Right.  
 22 **Q. Okay. In your view, then -- and I think**  
 23 **this is what you were saying before the break, but**  
 24 **just to refresh -- the market multiple represents the**  
 25 **amount added to a company's value for each average**

Page 142

1 **monthly unique user. Right?**  
 2 MR. VOGT: Objection to form.  
 3 THE WITNESS: Added that -- maybe -- I want  
 4 to clear this up for you, so I'm trying to understand  
 5 your question.  
 6 BY MR. BERRY:  
 7 **Q. For each average monthly unique user that is**  
 8 **added to a company's Web site, the value of that**  
 9 **Web site goes up by the market multiple. Right?**  
 10 A. By that value per monthly unique user.  
 11 **Q. Right.**  
 12 A. Yes. Yes. It's not a multiple at that  
 13 point. It'd just be the absolute amount for that one  
 14 unique user, not a -- it's not a multiple anymore.  
 15 **Q. Sorry, right, but that value represents the**  
 16 **value that would be increased -- that the Web site's**  
 17 **value would increase per each additional unique user?**  
 18 A. Correct.  
 19 **Q. And that value, the market multiple is**  
 20 **determined based on transactions involving other**  
 21 **companies. Right?**  
 22 A. Correct.  
 23 **Q. And --**  
 24 A. Other Web sites.  
 25 **Q. Right. And so for that valuation of those**

Page 143

1 **companies, you have looked at comparable Web sites.**  
 2 **Correct?**  
 3 A. So Web sites, yes. We looked at comparable  
 4 Web sites.  
 5 **Q. And then you used those valuations to**  
 6 **determine the market multiples. Right?**  
 7 A. We looked at the monthly unique user traffic  
 8 those Web sites had and looked at their valuation at  
 9 some date -- and it's in the report and I'm sure  
 10 we'll talk about it -- to determine what that  
 11 multiple per monthly unique user was.  
 12 **Q. Okay. So if I understand right, you divided**  
 13 **each company's valuation at a specific time by the**  
 14 **average of monthly unique users for the preceding**  
 15 **twelve-month period. Right?**  
 16 A. Correct.  
 17 **Q. And in the report, which is Exhibit 170, on**  
 18 **page 12, in the Web site that says -- sorry -- the**  
 19 **paragraph that says "Web site traffic fluctuates from**  
 20 **month to month"?**  
 21 A. Okay.  
 22 **Q. The next sentence says:**  
 23 **"An arm's-length buyer or**  
 24 **investor would not rely on a single**  
 25 **month's performance because vast**

Page 144

1 **fluctuations in user traffic will**  
 2 **occur with nearly every Web site."**  
 3 A. "Nearly all Web sites."  
 4 **Q. Sorry. In "nearly all Web sites." And then**  
 5 **it continues on and explains that they would look at**  
 6 **the average monthly traffic the site had over some**  
 7 **period of time, typically, twelve months. Right?**  
 8 A. Correct.  
 9 **Q. Are you aware of any arm's-length buyers**  
 10 **that have relied on average monthly traffic data for**  
 11 **valuation in buying a Web site?**  
 12 A. In purchasing a Web site? I don't know.  
 13 **Q. Have you advised any buyers using that**  
 14 **valuation method?**  
 15 A. We have.  
 16 **Q. Do you know if the sales consummated based**  
 17 **on that valuation?**  
 18 A. Again, I think we talked about this before,  
 19 typically, once our report or valuation is provided,  
 20 there's no more contact with the client after that.  
 21 So I have not seen in really any instance or  
 22 case we've worked on what happens post report.  
 23 **Q. And the same question, are you aware of any**  
 24 **arm's-length investors that have relied on average**  
 25 **monthly traffic data for the valuation?**

Page 145

1 MR. VOGT: Objection to form.  
 2 THE WITNESS: That relied -- well, again --  
 3 BY MR. BERRY:  
 4 **Q. Relied solely on average monthly traffic**  
 5 **data for valuation?**  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: Well, again, we've done work  
 8 in this space, and I know that they used our report.  
 9 But I don't know what the outcome of the negotiation  
 10 or transaction was.  
 11 BY MR. BERRY:  
 12 **Q. What the ultimate actual valuation was?**  
 13 A. I don't know what they ultimately agreed to.  
 14 **Q. In developing the market multiples, you**  
 15 **looked to find comparable companies. Right?**  
 16 A. We did.  
 17 **Q. And as I understand the report, you**  
 18 **identified six companies. Right?**  
 19 A. Correct.  
 20 **Q. In the Bleacher Report. Right?**  
 21 A. Yes.  
 22 **Q. BuzzFeed. Right?**  
 23 A. Yes.  
 24 **Q. Huffington Post?**  
 25 A. Correct.

Page 146

1 **Q. Ozy?**  
 2 A. Yes.  
 3 **Q. Grandparents.com?**  
 4 A. Yes.  
 5 **Q. And Yelp. Right?**  
 6 A. Correct.  
 7 MR. BERRY: I'd like to now mark this  
 8 exhibit, which we'll mark as Exhibit 176.  
 9 (The document referred to was  
 10 marked as Exhibit 176.)  
 11 BY MR. BERRY:  
 12 **Q. So Exhibit 176 are the five exhibits that**  
 13 **were attached to your report. Right?**  
 14 A. Correct.  
 15 **Q. And these were the exhibits that you had**  
 16 **expected to be there earlier in the day when we were**  
 17 **first looking at your report?**  
 18 A. Correct.  
 19 **Q. Turning first to Exhibit 3, this exhibit is**  
 20 **titled "Valuation Multiple Per Monthly Unique User."**  
 21 **Right?**  
 22 A. That is the title, yes.  
 23 **Q. And it basically shows a summary of your**  
 24 **work to get to the market multiples that we were**  
 25 **talking about earlier. Right?**

Page 147

1 A. That is correct.  
 2 **Q. And for each company, there's several**  
 3 **columns across the page.**  
 4 **Do you see that?**  
 5 A. I do.  
 6 **Q. Okay. And you used the data in the first**  
 7 **two columns there -- "Monthly Unique Users" and**  
 8 **"Company Value" -- to end up calculating the monthly**  
 9 **unique user. Right?**  
 10 A. Multiple. The monthly --  
 11 **Q. Sorry, yeah, monthly --**  
 12 A. -- unique user multiple, yeah.  
 13 **Q. Yeah, I apologize.**  
 14 A. Yes. Yes.  
 15 **Q. So one of these columns shows the company's**  
 16 **value?**  
 17 A. Yes.  
 18 **Q. All right. And that's -- it shows the value**  
 19 **for each of these six companies. Right?**  
 20 A. Correct.  
 21 **Q. The next column right next to it says**  
 22 **"Valuation Date." That's the date that the valuation**  
 23 **was effective. Right?**  
 24 A. Correct.  
 25 **Q. And then there's the average monthly -- the**

Page 148

1 **column says "Monthly Unique Users," but that reflects**  
 2 **the average monthly unique users based on the**  
 3 **preceding twelve months. Correct?**  
 4 A. Correct.  
 5 **Q. And I understand for a couple of these you**  
 6 **didn't have data from Quantcast. Right?**  
 7 A. Correct.  
 8 **Q. One of them, I think, was Ozy in where you**  
 9 **only had one month of data, or two?**  
 10 A. Right. We did -- it was from Quantcast.  
 11 **Q. Sorry. But you only had one month's worth,**  
 12 **not twelve-month --**  
 13 A. Right.  
 14 **Q. -- average?**  
 15 A. Right.  
 16 **Q. And then for Huffington Post, the data**  
 17 **wasn't available on Quantcast. Right?**  
 18 A. Correct.  
 19 **Q. So the column, then, that says "Monthly**  
 20 **Unique User Multiple," the value under there is equal**  
 21 **to the company's value divided by the number in the**  
 22 **monthly unique user. Right?**  
 23 A. Company value divided by monthly unique  
 24 user's column, yes.  
 25 **Q. And that results in the dollar value per**

Page 149

1 **monthly unique user. Right?**  
 2 A. Correct.  
 3 **Q. And so here in the -- that column, "Monthly**  
 4 **Unique User Multiple," the range is between \$6.25 and**  
 5 **\$41.44. Right?**  
 6 A. Correct.  
 7 **Q. The 6.25 is for BuzzFeed. Right?**  
 8 A. Yes.  
 9 **Q. And the 41.44 is for grandparents.com?**  
 10 A. That is correct.  
 11 **Q. And then going back to something I think you**  
 12 **said earlier before the break, you then added these**  
 13 **monthly unique user multiples for each company and**  
 14 **divided by 6 to come up with the average monthly**  
 15 **unique user multiple?**  
 16 A. That's how you get an average, yes.  
 17 **Q. And so, in this case, the average was**  
 18 **\$19.34?**  
 19 A. Per monthly unique user, yes.  
 20 **Q. There was nothing else that you did to**  
 21 **derive that 19.34 number. Right?**  
 22 A. I didn't actually add them up and divide it  
 23 by 6. This was done in -- in Excel, so it's an Excel  
 24 function, but it's the same exact arithmetic you  
 25 would use to get to that, yes.



Page 150

1 **Q. Okay. Why did you calculate the average?**  
 2 A. We will typically look to an average of a  
 3 comp set when coming to an opinion of value, or if  
 4 we're looking at a multiple -- if we're looking at  
 5 any comps, then we would typically look at either an  
 6 average or a median.  
 7 **Q. And because there's only six, there's not**  
 8 **much of a median here?**  
 9 A. Because there's only six, we looked at an  
 10 average rather than a median.  
 11 **Q. Okay. So then for Gawker, you looked at the**  
 12 **average monthly unique users before the video was**  
 13 **posted for a twelve-month period. Right?**  
 14 A. Correct.  
 15 **Q. And the video was posted -- I think we**  
 16 **talked about this before -- on October 4, 2012.**  
 17 **Right?**  
 18 A. Can I -- can I look at the exact date? I  
 19 don't want to say something incorrect on the record.  
 20 I apologize.  
 21 **Q. That's all right. I'll tell you that that's**  
 22 **when it was posted.**  
 23 A. All right.  
 24 **Q. You can look, but --**  
 25 A. I'm going to trust on you this one on the

Page 151

1 record here.  
 2 **Q. All right. And so you looked at the**  
 3 **twelve-month period from October 1st, 2011 through**  
 4 **September 30th, 2012 -- right? -- to get the base**  
 5 **number of Gawker's valuation before the video was**  
 6 **posted?**  
 7 A. Oh. For the twelve months prior to Octo- --  
 8 Septem- -- September 30th, 2012.  
 9 **Q. Right. So you looked from October 1, 2011**  
 10 **through September --**  
 11 A. September 30.  
 12 **Q. -- 2012?**  
 13 A. Correct.  
 14 **Q. Do you recall what -- where you drew that**  
 15 **data from? Was it from Quantcast?**  
 16 A. Quantcast.  
 17 **Q. And the way that you calculated that average**  
 18 **was to add each month's average unique users and then**  
 19 **divide by 12. Right?**  
 20 A. Correct.  
 21 **Q. And if you'd look on Exhibit 4 of**  
 22 **Exhibit 176, the average that you got for that time**  
 23 **period ended September 30th, 2012 was 11,989,092.**  
 24 **Right?**  
 25 A. Correct.

Page 152

1 **Q. All right. You then looked at a monthly**  
 2 **unique users for the twelve-month period preceding**  
 3 **when the video was removed. Right?**  
 4 A. Correct.  
 5 **Q. And it was removed in April of 2013. Right?**  
 6 A. April 25th, I believe.  
 7 **Q. Okay. That, I don't know. I don't have the**  
 8 **correct date for it, but know it was in the month of**  
 9 **April.**  
 10 A. Can I just check really fast? I'd rather --  
 11 let's be specific. Right?  
 12 Actually, it's going to be right here.  
 13 April 25th, 2013.  
 14 **Q. You have a good memory.**  
 15 A. So do you.  
 16 **Q. So you looked at the period, then, for**  
 17 **this -- the preceding twelve months of when it was**  
 18 **taken down, from May 1st, 2012 through April 30th**  
 19 **2013. Right?**  
 20 A. Correct.  
 21 **Q. And for that, you also looked at the**  
 22 **Quantcast data. Correct?**  
 23 A. We got the data from Quantcast, yes.  
 24 **Q. And, again, you calculated the average**  
 25 **monthly number of unique users by looking at each**

Page 153

1 **month between that May of 2012 and April of 2013 and**  
 2 **got the average. Right?**  
 3 A. Correct.  
 4 **Q. And the average for that also is reflected**  
 5 **on Exhibit 4 to your report, was 14,788,500 --**  
 6 **well -- 578?**  
 7 A. 578. Yeah.  
 8 **Q. So roughly 15 million --- 14.8 million?**  
 9 A. Yes.  
 10 **Q. Okay. Some period of time -- there's some**  
 11 **period of time that overlaps between these two**  
 12 **twelve-month periods. Right?**  
 13 A. Yes.  
 14 **Q. So both periods ended up counting the number**  
 15 **of average unique visitors between May 2012 and**  
 16 **September 30th, 2012. Right? Like, you looked at --**  
 17 A. I'd have to draw it out, but there is a --  
 18 there is a period of overlap.  
 19 **Q. And that period was between May of 2012 and**  
 20 **September 2012. Right?**  
 21 A. Do you have a calendar? I can write it  
 22 down. Does it -- is it pertinent to the next line of  
 23 questioning, 'cause I -- if so, I'd really like to --  
 24 **Q. Yeah, we could come back.**  
 25 A. -- just make sure --

Page 154

1 **Q. Yeah.**  
 2 A. -- you know.  
 3 **Q. We will -- may well come back to it.**  
 4 A. Sure. So we've got October 1, 2011 to  
 5 September 30th, 2012, and then here we've got May 1,  
 6 2012 to April 30, '13.  
 7 So, yeah, from May to September, May 1 to  
 8 September 30, and that's what you said?  
 9 **Q. Correct.**  
 10 A. Then you -- you have a good memory.  
 11 **Q. But if -- both periods count those average**  
 12 **uniques for that period of time. Right?**  
 13 A. Both periods look at the same data for  
 14 that -- from May 1, 2012 to September 30, 2012.  
 15 **Q. Is that in any way double counting?**  
 16 A. Absolutely not.  
 17 **Q. Why?**  
 18 A. Well, what -- what are we double counting?  
 19 **Q. Is it double counting those average unique**  
 20 **users from that month in both periods? I mean, are**  
 21 **you -- you're counting them in both calculations.**  
 22 **Right?**  
 23 A. Not -- I'm not sure what you're asking.  
 24 **Q. You're using those same set of months in**  
 25 **both each trailing twelve-month periods. Right?**

Page 155

1 A. Data from May 1, 2012 to September 30, 2012  
 2 is used in the average, the trailing twelve-month  
 3 average for both period calculations that we looked  
 4 at, yes.  
 5 **Q. And from your point of view, that doesn't**  
 6 **present any problems. Right?**  
 7 A. No.  
 8 **Q. Then going back to your calculations for**  
 9 **gawker.com, for each twelve-month period, you**  
 10 **calculated the value of gawker.com by multiplying the**  
 11 **average monthly unique users by the valuation**  
 12 **multiples that you had derived from the comps.**  
 13 **Right?**  
 14 A. Correct.  
 15 **Q. Does it matter that the valuation dates from**  
 16 **the comps are different from the date that you were**  
 17 **valuing Gawker?**  
 18 A. No.  
 19 **Q. Why not?**  
 20 A. We have done studies to show that, over a  
 21 period of time, that the multiples are not going to  
 22 have -- in fact, it's typically a fairly flat line,  
 23 especially when you're talking about such a close  
 24 period of time as these. I mean, we're within a  
 25 three-year range here on these comps, so it's a tight

Page 156

1 enough range.  
 2 Now, if it had been thirty years ago, there  
 3 probably wouldn't be Internet-based companies if  
 4 we're talking about thirty years ago, but we might  
 5 look to that as being a potential issue. But a  
 6 three-year time frame is absolutely not an issue.  
 7 **Q. So looking at Exhibit 4 to your report, the**  
 8 **low end multiple, market multiple that you used was**  
 9 **\$6.25 per unique user. Right?**  
 10 A. Correct.  
 11 **Q. And the valuation using that multiple as**  
 12 **shown on Exhibit 4, the valuation of gawker.com**  
 13 **increased from almost \$75 million to more than**  
 14 **\$92 million. Right?**  
 15 A. That is correct.  
 16 **Q. So the change in valuation was a little bit**  
 17 **more than \$17.5 million?**  
 18 A. Correct.  
 19 **Q. Flipping to Exhibit 5 to your report. You**  
 20 **used the average market multiple again from the six**  
 21 **comps that we looked at before. Right?**  
 22 A. Right.  
 23 **Q. And that average was the \$19.34 number?**  
 24 A. That's correct.  
 25 **Q. Right. And using that multiple, the**

Page 157

1 **valuation for Gawker increased from nearly**  
 2 **\$232 million to almost \$286 million. Right?**  
 3 A. That's correct.  
 4 **Q. So the change in valuation over that period**  
 5 **was over \$54 million using these valuations. Right?**  
 6 A. The increase in value of gawker.com over  
 7 that period, yes.  
 8 **Q. Was over \$54 million?**  
 9 A. Over 54 million, yes.  
 10 **Q. So based on this analysis, if Gawker were to**  
 11 **have an average of 18 million unique users each**  
 12 **month, the upper end valuation would end up being**  
 13 **like \$350 million. Right?**  
 14 MR. VOGT: Objection to form.  
 15 THE WITNESS: If they had more users at that  
 16 time?  
 17 BY MR. BERRY:  
 18 **Q. (Nods head.)**  
 19 A. Then there would have been a higher  
 20 valuation. I don't know the exact number, but yes.  
 21 **Q. So for each additional unique user, you**  
 22 **would add value equivalent to either \$6.25 cents or**  
 23 **\$19.34. Right?**  
 24 A. Correct.  
 25 **Q. Could you total -- could you calculate the**

Page 158

1 total estimated value of Gawker Media that same way  
 2 if you looked at all the different component  
 3 Web sites that we'd mentioned before, the  
 4 deadspin.com, jezebel.com?  
 5 A. Yeah, I --  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: I don't know. I haven't -- I  
 8 haven't looked at those, so I can't tell you that.  
 9 BY MR. BERRY:  
 10 Q. But based on the market approach that you've  
 11 adopted with looking at market multiples of average  
 12 monthly unique users, if Gawker Media owned a set of  
 13 Web sites, you could get the total value of  
 14 Gawker Media by aggregating the value of each of  
 15 those Web sites. Correct?  
 16 MR. VOGT: Objection to form.  
 17 THE WITNESS: Again, I don't know that it  
 18 would be that simple. I don't know -- I don't know.  
 19 I'd have to see it. I'd have to really do the  
 20 analysis to tell you if that's true or not.  
 21 BY MR. BERRY:  
 22 Q. Why would it be more complicated than what  
 23 you've done here?  
 24 A. Because I don't know if there --  
 25 MR. VOGT: Objection to form.

Page 159

1 THE WITNESS: I don't know if there are  
 2 users that are cross-pollinating between the Gawker  
 3 Web sites. I don't know. So I -- it would be a  
 4 different analysis, and I'd have to do that analysis  
 5 in order to truly answer that question with  
 6 conviction.  
 7 BY MR. BERRY:  
 8 Q. Could you look at any content-based Web site  
 9 and look at valuation using the same market  
 10 multiples?  
 11 MR. VOGT: Objection to form.  
 12 THE WITNESS: Using these --  
 13 BY MR. BERRY:  
 14 Q. Right.  
 15 A. -- market multiples?  
 16 Q. Right.  
 17 A. Potentially.  
 18 Q. Right. So if I wanted to know the value of  
 19 any Web site for a period ending April 30th, 2013, I  
 20 could use either of these two market multiples,  
 21 either the 6.25 or the 19.34, and come up with a  
 22 value for the Web site?  
 23 MR. VOGT: Objection to form.  
 24 THE WITNESS: I'd have to see the specifics,  
 25 but it is possible, yes.

Page 160

1 BY MR. BERRY:  
 2 Q. Would there be any reason that you'd use a  
 3 different analysis for a content-based Web site than  
 4 the one you used for Gawker?  
 5 MR. VOGT: Objection to form.  
 6 THE WITNESS: Again, everything in  
 7 valuation -- and I know we've touched on this -- but  
 8 it's all context specific. So I -- it could be used,  
 9 but to say a hundred percent that absolutely, I can't  
 10 answer it that way.  
 11 BY MR. BERRY:  
 12 Q. Okay. And just to be clear, on these  
 13 valuations that you did at gawker.com, that doesn't  
 14 show how much money Gawker actually made. Right?  
 15 A. No. This is value, the value of gawker.com,  
 16 not -- and remember, we -- revenue approach does not  
 17 work for content-based Web sites like Gawker. This  
 18 is not revenue. This is value.  
 19 Q. Right. So the value of gawker.com that you  
 20 calculate here is not actual money in Gawker's  
 21 pocket. Right?  
 22 A. Not unless they've sold it and put money in  
 23 their pocket, no.  
 24 Q. Okay. And these valuations don't measure  
 25 Gawker's revenue. Correct?

Page 161

1 MR. VOGT: Objection to form.  
 2 THE WITNESS: Correct.  
 3 BY MR. BERRY:  
 4 Q. It doesn't -- these valuations are not  
 5 Gawker's profits. Right?  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: This -- these valuations do  
 8 not have anything to do with revenue or profits.  
 9 BY MR. BERRY:  
 10 Q. Right. All it does is estimates the market  
 11 value of gawker.com. Correct?  
 12 MR. VOGT: Objection to form.  
 13 THE WITNESS: We are estimating the value of  
 14 gawker.com using the market approach and using market  
 15 comparables.  
 16 BY MR. BERRY:  
 17 Q. Right. And this would value what some  
 18 arm's-length buyer would pay for Gawker at a  
 19 particular moment in time. Right?  
 20 A. Correct.  
 21 MR. VOGT: Objection to form.  
 22 BY MR. BERRY:  
 23 Q. Do you know anybody who would pay  
 24 \$286 million for gawker.com as of April 30th, 2013?  
 25 MR. VOGT: Objection to form.

Page 162

1 THE WITNESS: Do I personally know anybody?  
 2 BY MR. BERRY:  
 3 **Q. Yes.**  
 4 A. I -- I haven't asked. I don't know.  
 5 **Q. Do you know anybody who would pay**  
 6 **\$92 million for gawker.com?**  
 7 MR. VOGT: Objection to form.  
 8 THE WITNESS: I haven't gone out and  
 9 marketed it and tried to sell it, so I don't know.  
 10 BY MR. BERRY:  
 11 **Q. So you don't know if there's actually a**  
 12 **buyer for gawker.com at this value. Right?**  
 13 MR. VOGT: Objection to form.  
 14 THE WITNESS: I have not done that -- I have  
 15 not taken on that task, so I don't know.  
 16 BY MR. BERRY:  
 17 **Q. This is all hypothetical. Correct?**  
 18 MR. VOGT: Objection to form.  
 19 THE WITNESS: This is, to a reasonable  
 20 degree of certainty, what the fair value, the market  
 21 value of gawker.com would be at two points in time,  
 22 taking the difference in those two points in time,  
 23 that increase, and apportioning it based on the  
 24 traffic to the Hulk video.  
 25 BY MR. BERRY:

Page 163

1 **Q. As far as you know, nobody actually offered**  
 2 **to buy gawker.com at these values. Right?**  
 3 A. I don't know if they have or haven't.  
 4 **Q. And, as far as you know, no one other than**  
 5 **you has valued gawker.com this way. Right?**  
 6 A. I only know what I know. Unless you tell me  
 7 that someone else has valued it, I don't know that  
 8 they have.  
 9 **Q. Okay. Would you recommend to somebody that**  
 10 **they buy gawker.com for \$286 million as of**  
 11 **April 30th, 2013?**  
 12 MR. VOGT: Objection to form.  
 13 THE WITNESS: It depends on the  
 14 circumstances.  
 15 BY MR. BERRY:  
 16 **Q. Well, based on the circumstances of valuing**  
 17 **the company at \$286 million as of April 30th, 2013,**  
 18 **would you recommend that somebody buy gawker.com for**  
 19 **that amount of money?**  
 20 MR. VOGT: Objection to form.  
 21 THE WITNESS: Who are we talking about  
 22 buying it?  
 23 BY MR. BERRY:  
 24 **Q. An arm's-length buyer.**  
 25 A. If there was --

Page 164

1 MR. VOGT: Objection to form.  
 2 THE WITNESS: -- an arm's-length buyer that  
 3 came to me and said I want to buy gawker.com, how much  
 4 is it worth at April 30th, 2013, I would say that the  
 5 value is between an upper end of 285.9 million and at  
 6 a lower end, 92.479 million.  
 7 BY MR. BERRY:  
 8 **Q. Would you advise that buyer to look at**  
 9 **gawker.com's balance sheet?**  
 10 MR. VOGT: Objection to form.  
 11 THE WITNESS: If -- it depends on what  
 12 they're asking me to do.  
 13 BY MR. BERRY:  
 14 **Q. If you were valuing them to buy -- if you**  
 15 **were advising them on whether to buy the company or**  
 16 **not for the values that you've assessed it at, would**  
 17 **you ask them -- would you suggest that they look at**  
 18 **the balance sheet?**  
 19 MR. VOGT: Objection to form.  
 20 THE WITNESS: Typically, when a client comes  
 21 to us and asks us for a value, we're not giving them  
 22 legal advice on how to purchase it. It's strictly  
 23 how much CONSOR, or Mr. Anderson, how much is the  
 24 value? And I would tell them that the value at  
 25 April 30th, 2013 is between, again, 92.479 million

Page 165

1 and 285.938 million.  
 2 BY MR. BERRY:  
 3 **Q. When you were getting your MBA at San Diego**  
 4 **State, did they suggest to advise buyers on prices**  
 5 **without looking at balance sheets?**  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: I don't know if there was any  
 8 class that spoke about that.  
 9 BY MR. BERRY:  
 10 **Q. Would you advise a buyer without knowing**  
 11 **what the revenue of Gawker was?**  
 12 MR. VOGT: Objection to form.  
 13 THE WITNESS: I'm sure you would look at  
 14 revenue as we looked at the revenue.  
 15 BY MR. BERRY:  
 16 **Q. Would you advise a buyer to consider buying**  
 17 **gawker.com without knowing what its profit was?**  
 18 MR. VOGT: Objection to form.  
 19 THE WITNESS: We would look at profit, but  
 20 that's not a -- again, that's not an -- an ultimate  
 21 indication, a reasonable indication of value by  
 22 looking at strictly profit or revenue. Sure, you'd  
 23 look at it as we looked at it and I looked at it,  
 24 but --  
 25 BY MR. BERRY:

Page 166

1 **Q. But it didn't factor into your analysis**  
 2 **here?**  
 3 A. But if they're going to ask me what is a  
 4 fair market value for this company, I would tell  
 5 them, again, it's between 92 million and  
 6 285.938 million, rounding here.  
 7 **Q. Do you know what kind of revenue multiplier**  
 8 **these values would mean for Gawker?**  
 9 A. I don't.  
 10 **Q. And it doesn't matter in your analysis.**  
 11 **Right?**  
 12 MR. VOGT: Objection to form.  
 13 THE WITNESS: It's -- it's not necessarily  
 14 pertinent to the analysis, no.  
 15 BY MR. BERRY:  
 16 **Q. Would it matter to an arm's-length buyer?**  
 17 MR. VOGT: Objection to form.  
 18 THE WITNESS: Would what matter?  
 19 BY MR. BERRY:  
 20 **Q. What kind of revenue multiplier they were**  
 21 **looking at?**  
 22 MR. VOGT: Same objection.  
 23 THE WITNESS: It could.  
 24 BY MR. BERRY:  
 25 **Q. Would it matter to an arm's-length investor?**

Page 167

1 MR. VOGT: Objection to form.  
 2 THE WITNESS: It could.  
 3 BY MR. BERRY:  
 4 **Q. All right. Going back to Exhibit 4. And I**  
 5 **think the analysis you did for Exhibit 4 and**  
 6 **Exhibit 5 was the same, just using different market**  
 7 **multples. Right?**  
 8 A. Correct.  
 9 **Q. Okay. So I'm just going to talk about**  
 10 **Exhibit 4 and assume, other than the numbers, that**  
 11 **the steps are the same that you went through. Right?**  
 12 A. Sure.  
 13 **Q. On Exhibit 4, there's a column labeled**  
 14 **"Trailing 12 Month Average Monthly Uniques."**  
 15 **Do you see that?**  
 16 A. Yes.  
 17 **Q. Here this shows, I think, what -- and**  
 18 **correct me if I'm wrong -- where you compared the**  
 19 **average monthly -- the number of monthly unique**  
 20 **users --**  
 21 THE REPORTER: I'm sorry. I lost some words  
 22 there. Would you mind starting over.  
 23 BY MR. BERRY:  
 24 **Q. Looking at that column "Trailing 12 Month**  
 25 **Average Monthly Uniques," you compared the average**

Page 168

1 **number of monthly unique users for the two periods,**  
 2 **the one before the video was posted and the one that**  
 3 **included the period of time that the video was**  
 4 **posted. Right?**  
 5 A. Before the period was -- before the video  
 6 was posted and after --  
 7 **Q. After.**  
 8 A. -- it was posted.  
 9 **Q. Correct.**  
 10 A. Yes.  
 11 **Q. Okay. And you basically -- here you saw**  
 12 **that there was an increase in those two numbers.**  
 13 **Right?**  
 14 A. Increase in -- there's an increase, and it's  
 15 one number we're looking at, monthly -- trailing  
 16 twelve-month average monthly means, that's one --  
 17 **Q. Number.**  
 18 A. -- number.  
 19 **Q. That's right.**  
 20 A. There was an increase in that one number at  
 21 two periods in time.  
 22 **Q. Right.**  
 23 A. Okay.  
 24 **Q. And they total -- the average monthly**  
 25 **uniques increased from roughly 14.8 million from**

Page 169

1 **almost 12 million. Right?**  
 2 A. It went from just under 12 million to  
 3 14.7 million, yes.  
 4 **Q. And so the change was roughly 2.8 million**  
 5 **unique users over that period. Right?**  
 6 A. Roughly, correct.  
 7 **Q. And that -- going back to your conversation**  
 8 **before, that increase in the number of average**  
 9 **monthly unique users is what caused the increase in**  
 10 **value that we were talking about. Right?**  
 11 A. The value of gawker.com increased as a  
 12 result of the increase in monthly unique user  
 13 traffic, yes.  
 14 **Q. Okay. And then your belief is that some**  
 15 **portion of that increase in the monthly average**  
 16 **unique users is attributable to the Hulk Hogan video.**  
 17 **Right?**  
 18 A. That is correct.  
 19 MR. VOGT: Objection to form.  
 20 MR. BERRY: What's the objection?  
 21 MR. VOGT: I don't know that it's his  
 22 belief. I have a problem with the word "belief."  
 23 THE WITNESS: My opinion.  
 24 BY MR. BERRY:  
 25 **Q. Your opinion is that some portion of that**

Page 170

1 increase -- good catch -- some portion of that  
 2 increase in monthly average of unique users is  
 3 attributable to the Hulk Hogan video. Right?  
 4 A. That is my opinion.  
 5 Q. Okay. And you then sought to determine what  
 6 that portion that was attributed to the video was.  
 7 Right?  
 8 A. We sought to determine it?  
 9 Q. Yeah. What portion of this 2.8 million was  
 10 attributable to the Hulk Hogan video, that was the  
 11 next step in your analysis. Right?  
 12 A. Right.  
 13 Q. And so on Exhibit 4, the next little chart,  
 14 shows that there were 5,357,572 unique page views of  
 15 the video. Right?  
 16 A. Correct.  
 17 Q. And you divided that number by the length of  
 18 time that the video was posted. Right?  
 19 A. Correct.  
 20 Q. And the length of time that it was posted  
 21 was 6.71 months?  
 22 A. Correct.  
 23 Q. And at that point, you concluded that an  
 24 average monthly unique views of the video was 700 --  
 25 was 798,821. Correct?

Page 171

1 A. That is correct.  
 2 Q. And that accounted -- in the next part of  
 3 that chart, that accounted for roughly 28.5 percent  
 4 of the increase of Gawker's average monthly unique  
 5 users. Right?  
 6 A. Correct.  
 7 Q. Do you recall where the number 5,357,572  
 8 came from?  
 9 A. I can tell you. That came from document 7.  
 10 We'll use my -- the code -- came from GAWKER 01148.  
 11 Q. Okay.  
 12 A. Google Analytics.  
 13 MR. BERRY: All right. So I'm going to mark  
 14 as Exhibit 177 what is referred to in your report at  
 15 document number 7, which is Bates-labeled  
 16 GAWKER 1148.  
 17 (The document referred to was  
 18 marked as Exhibit 177.)  
 19 BY MR. BERRY:  
 20 Q. So this is the document that you looked at  
 21 to derive that number. Correct?  
 22 A. Yes. This is pretty blurry, but, yes, this  
 23 was it.  
 24 Q. Okay. And so this shows that the unique  
 25 page views -- this shows that the unique page views

Page 172

1 for this page on Gawker was this 5,357,000 number.  
 2 Right?  
 3 A. 572, yes.  
 4 Q. And this is -- your understanding that this  
 5 is the number of unique views of the Hulk Hogan  
 6 video?  
 7 A. That is correct.  
 8 Q. And that understanding is what your  
 9 valuation analysis is then based on. Right?  
 10 A. Or the apportionment of the increase in  
 11 value of gawker.com is based on the, we'll call it  
 12 5.4 million unique views of the video, yes.  
 13 Q. All right. Turning back to Exhibit 5 of  
 14 the -- or, sorry, Exhibit 4 of the report. To then  
 15 measure the value to Gawker attributable to the  
 16 video, you multiplied the change in value for Gawker  
 17 during this period that the video was posted by --  
 18 sorry.  
 19 Let me start over.  
 20 A. Sure. Sure.  
 21 Q. Want to make sure that I'm --  
 22 A. No problem.  
 23 Q. To measure the value to Gawker attributable  
 24 to the video, you multiplied the change in value for  
 25 Gawker during those two twelve-month periods by the

Page 173

1 percentage increase attributable to the Hulk Hogan  
 2 video. Right?  
 3 A. It's a lot there. I'm going to make sure we  
 4 got this right. So I'm going to repeat it --  
 5 Q. Yeah, please do.  
 6 A. -- back in the correct way -- and not that  
 7 it wasn't correct, but what we looked at was the  
 8 percentage of that change in average monthly unique  
 9 users from September on 30th, 2012 to April 30th,  
 10 2013. That percentage, 28.53 percent, we applied  
 11 that percentage to the increase in value of just over  
 12 17.5 million to come to the value that was  
 13 attributable to the Hulk video.  
 14 Q. Okay. So in Exhibit 4, what you're  
 15 referring to is the last set of calculations here  
 16 that shows the change in value from Gawker being  
 17 17.5 million?  
 18 A. Right.  
 19 Q. Multiply -- figured out what 28.5 percent of  
 20 that was. Right?  
 21 A. Correct.  
 22 Q. And the number that you arrived on the low  
 23 end of the valuation was 4.995 million. Right?  
 24 A. Correct. Rounded.  
 25 Q. Rounded?

Page 174

1 A. Rounded, yeah.  
 2 **Q. On Exhibit 5 to your report, you did the**  
 3 **same calculation but for the average market multiple.**  
 4 **Right?**  
 5 A. Correct.  
 6 **Q. And there, again, in the last part of this**  
 7 **chart showed the change in value of Gawker was**  
 8 **roughly 54 million. Right?**  
 9 A. Correct.  
 10 **Q. And you found what 28.5 percent of that**  
 11 **number was. Right?**  
 12 A. 28.53, yes.  
 13 **Q. And the value, then, attributable to the**  
 14 **Hogan video at this level was 15.445 million,**  
 15 **rounded. Right?**  
 16 A. Correct.  
 17 **Q. Again, this is not money that's in Gawker's**  
 18 **pocket. Right?**  
 19 A. No.  
 20 **Q. No, it's not --**  
 21 A. No, it is not in Gawker's -- unless there's  
 22 something you want to tell me and they've sold the  
 23 company, it's in their pocket, but.  
 24 **Q. But this is just the valuation. It's not**  
 25 **dollars that are flowing to Gawker. Correct?**

Page 175

1 A. It's the value of gawker.com, right.  
 2 Well, the value of the video to gawker.com.  
 3 **Q. Right.**  
 4 **Wait, the value of the video to gawker.com**  
 5 **or the --**  
 6 A. How the --  
 7 **Q. How it affected --**  
 8 A. -- video affected the value of gawker.com.  
 9 **Q. But it's not the value that Gawker would**  
 10 **place on the video. That might be something**  
 11 **different. Right?**  
 12 MR. VOGT: Objection to form.  
 13 THE WITNESS: It's the value that gawker.com  
 14 that increased in value as a result of placing the  
 15 video on gawker.com.  
 16 BY MR. BERRY:  
 17 **Q. Okay. On this Exhibit 4 and 5, when it says**  
 18 **"change attributable to the video," does that mean**  
 19 **that the video caused the increase in value?**  
 20 A. The video was a portion of the increase in  
 21 value.  
 22 **Q. Right. But the phrase "change attributable**  
 23 **to the video," does that mean that the video caused**  
 24 **the increase in value?**  
 25 A. The video caused 28.53 percent of the

Page 176

1 increase in value.  
 2 **Q. How do you know that the video caused that**  
 3 **increase in value?**  
 4 A. Based on the traffic that went to the video.  
 5 **Q. Do you know whether the increase in average**  
 6 **monthly uniques was caused by some other factor other**  
 7 **than the video?**  
 8 A. Well, there --  
 9 **Q. For -- sorry. For just -- for this 20 --**  
 10 **sorry.**  
 11 **For the 28.5 percent that you said is**  
 12 **attributable to the video, do you know whether that**  
 13 **increase was -- might have been caused by some other**  
 14 **factor?**  
 15 A. The 28.53 percent increase is -- it is the  
 16 traffic to the video. There's no -- it's not a  
 17 question or a hypothetical. It's -- it's a simple  
 18 calculation. Right? We just walked through it. It  
 19 is 28.53 percent of the increase in traffic.  
 20 **Q. So --**  
 21 A. So there's nothing else. It's the video,  
 22 the traffic to the video. I mean, it's quite simple,  
 23 actually.  
 24 **Q. Okay. So you didn't look at any other**  
 25 **factors of what might have contributed to that**

Page 177

1 **28.5 percent number. Right?**  
 2 A. I'm not sure what you're asking there.  
 3 **Q. Whether there were other market conditions**  
 4 **that caused the increase in traffic?**  
 5 A. Again, the average traffic, the average  
 6 monthly traffic increased from September 30th, 2012  
 7 to April 30th, 2013 by almost 2.8 million monthly  
 8 unique users. That 28.53 percent, all that is is the  
 9 actual traffic. This isn't a hypothetical. This  
 10 is -- the actual traffic that went to the Hulk video  
 11 is 28.53 percent of gawker.com's increase in traffic.  
 12 **Q. Is this correlation or causation?**  
 13 MR. VOGT: Objection to form.  
 14 THE WITNESS: I'm not sure --  
 15 BY MR. BERRY:  
 16 **Q. Well, I mean, you're correlating the**  
 17 **increase in traffic to the Hogan video. You're not**  
 18 **saying that it caused, are you?**  
 19 MR. VOGT: Objection to form.  
 20 BY MR. BERRY:  
 21 **Q. Or are you saying that it's caused?**  
 22 A. I'm -- I don't know how this -- I don't know  
 23 that it has to do with this analysis here. I'm not  
 24 sure what you're asking.  
 25 **Q. The timing that you looked at, the two**

Page 178

1 **timings, you noticed an increase in average unique**  
 2 **users. Right?**  
 3 A. There was -- from September 30th, 2012 to --  
 4 I only looked at two points in time here.  
 5 **Q. Correct.**  
 6 A. So I want to just -- on the record. Right?  
 7 So between September 30th, 2012 and April 30th, 2013,  
 8 yes, there was an increase in monthly unique user  
 9 traffic, and the average over a trailing twelve-month  
 10 period was roughly 2.8 million.  
 11 **Q. And that increase was correlated to the time**  
 12 **period that the Hogan video was posted. Right?**  
 13 MR. VOGT: Objection to form.  
 14 THE WITNESS: That increase was correlated  
 15 to the time period that the Hulk video was posted?  
 16 BY MR. BERRY:  
 17 **Q. Yes.**  
 18 A. I'm not sure how that factors into this.  
 19 I'm not -- I'm not sure of the question.  
 20 **Q. All right. Why don't we move on here.**  
 21 **Based on this analysis that you did for the**  
 22 **Hogan video, could I look at the unique users for any**  
 23 **post on gawker.com and figure out how much value that**  
 24 **post added?**  
 25 MR. VOGT: Objection to form.

Page 179

1 THE WITNESS: We could do an analysis of how  
 2 much value each post added, sure.  
 3 BY MR. BERRY:  
 4 **Q. And you could walk through these same steps**  
 5 **to determine that. Right?**  
 6 A. I could do that.  
 7 **Q. You basically would then -- you'd consider**  
 8 **the number of unique viewers to a post as a**  
 9 **percentage of the unique monthly viewers during a**  
 10 **twelve-month period, and once you have that**  
 11 **percentage, you could do the multiple using the**  
 12 **market multiples you've come up with to assess the**  
 13 **change in value -- right? -- attributable to a post?**  
 14 A. I could do an analysis to figure out the  
 15 value of a post.  
 16 **Q. Okay. In your report on page 6 and page 7,**  
 17 **I think, you talk about Google Trends?**  
 18 A. Yes.  
 19 **Q. And on report -- on page 6 of the report,**  
 20 **you say that "Gawker benefited from the video by**  
 21 **receiving more than 5 million unique page views."**  
 22 **Do you see that? It's just right under**  
 23 **"Google Trends."**  
 24 A. Oh, down here. Yes.  
 25 **Q. How are you defining page views? Is that**

Page 180

1 **based on the document 7 that we looked at earlier?**  
 2 A. Right, the number of unique page views of  
 3 the video.  
 4 **Q. Okay. Do you know how Google Analytics**  
 5 **defines page view?**  
 6 A. I believe I've seen a definition at one  
 7 point in time, but do you have a definition you can  
 8 show me?  
 9 **Q. No, I'm asking do you know how Google**  
 10 **Analytics defines page views?**  
 11 A. I believe I've seen it. I could not repeat  
 12 it back to you word for word right now.  
 13 **Q. In looking at the Google Trends on page 6,**  
 14 **you explain that "Google Trends measures search**  
 15 **engine interest of a particular term over a period of**  
 16 **time." It's at the end of that first paragraph.**  
 17 A. That's correct.  
 18 **Q. Explain what that means.**  
 19 A. So Google Trends will track -- so we looked  
 20 at the search term "Gawker," just "Gawker," not  
 21 "gawker.com," just G-a-w-k-e-r, and it normalizes it.  
 22 So it takes the highest amount of search  
 23 terms for "Gawker," for example, and then whatever  
 24 that highest number is, it divides it by 100. So you  
 25 have a scale of 100. And then it tracks in

Page 181

1 comparison to before and after at any point in time  
 2 where the search term "Gawker" falls in comparison to  
 3 the peak, the highest point of that search term.  
 4 **Q. It, basically, then, like, if you look at --**  
 5 **I think this is what you're referring to -- Figure 1**  
 6 **on page 7?**  
 7 A. Yes.  
 8 **Q. It essentially shows how popular search term**  
 9 **"Gawker" is on Google at different points in time.**  
 10 **Right?**  
 11 A. Correct.  
 12 **Q. And that's what Figure 1 shows is Gawker's**  
 13 **popularity on Google as a search term over this**  
 14 **length of time?**  
 15 A. How many searches for "Gawker" were  
 16 happening on Google.  
 17 **Q. Other than print out this chart and look at**  
 18 **it, did you do anything else to analyze Google trend**  
 19 **data?**  
 20 MR. VOGT: Objection to form.  
 21 THE WITNESS: There was -- no.  
 22 BY MR. BERRY:  
 23 **Q. How does the Google Trend data factor into**  
 24 **your overall analysis of value to Gawker from posting**  
 25 **the video?**



Page 182

1 A. This is strictly a reasonableness check, if  
 2 you will, to show that the highest point in  
 3 Google Trends. So the most search activity for  
 4 "Gawker" occurred directly after the Hulk video was  
 5 posted on gawker.com.  
 6 It's an indication that -- any time a search  
 7 term has its highest, after some point in time,  
 8 there's a -- there's an indication that there's  
 9 something -- there's something of interest going on  
 10 there. Potentially something of value.  
 11 **Q. Right. So your belief, then, is that this**  
 12 **shows a spike in search for "Gawker" when it**  
 13 **published the Hulk Hogan sex tape. Right?**  
 14 A. After it published the tape, correct.  
 15 **Q. Off of Figure 1 here, there's a footnote 33**  
 16 **that refers to document 30, which --**  
 17 A. Go to my key here.  
 18 MR. BERRY: I would like to mark document 30  
 19 as an exhibit. And I think we're up to Exhibit 178.  
 20 (The document referred to was  
 21 marked as Exhibit 178.)  
 22 BY MR. BERRY:  
 23 **Q. Exhibit 178 is Google Trends data. This is**  
 24 **what you referred to as document 30 in your report.**  
 25 **Is that right?**

Page 183

1 A. I believe so, yes.  
 2 **Q. And at the top right-hand corner, there's an**  
 3 **email address that's sort of cut off, but it refers**  
 4 **to davidnoble08.**  
 5 **Is that the David Noble who helped you**  
 6 **prepare your report?**  
 7 A. That is.  
 8 **Q. And what this -- well, wait, what does this**  
 9 **chart show that is on Exhibit 178?**  
 10 A. This shows us the data points that were used  
 11 for our chart.  
 12 **Q. The data points from Exhibit 178, then, were**  
 13 **folded into Figure 1 in your report on page 7.**  
 14 **Right?**  
 15 A. Right. You can actually download the data  
 16 from Google Trends, so it's something that couldn't  
 17 be printed. But, yes, these show the data points  
 18 used for our chart. And our chart is more specific  
 19 because we actually downloaded the daily or weekly  
 20 units or data points.  
 21 MR. BERRY: Okay. I'd like to mark another  
 22 exhibit here as 179.  
 23 (The document referred to was  
 24 marked as Exhibit 179.)  
 25 BY MR. BERRY:

Page 184

1 **Q. This is a screen shot of Google Trends data**  
 2 **that mirrors your chart, but I think is shown over a**  
 3 **month period, over a longer time.**  
 4 **Do you see that?**  
 5 A. I can't --  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: I can't read the dates on it.  
 8 But is it the --  
 9 BY MR. BERRY:  
 10 **Q. The date's at the very bottom of the page.**  
 11 A. I -- yeah, the date's underneath the graph.  
 12 **Q. I think it's July 2012, January 2013,**  
 13 **July 2013, January 2014, July 2014.**  
 14 A. Okay.  
 15 **Q. What this shows is the peak period that's**  
 16 **reflected in Figure 1, the highest value for "Gawker"**  
 17 **search term occurred from October 14th to October --**  
 18 **the week of October 14th through the 20th, 2012.**  
 19 **Do you see that?**  
 20 A. Yes.  
 21 **Q. Do you know what occurred during that week?**  
 22 A. No.  
 23 **Q. Are you aware that that was the week that**  
 24 **Hulk Hogan sued Gawker?**  
 25 A. I -- I don't know.

Page 185

1 **Q. Okay. If that was the week that this spike**  
 2 **occurred and not -- and it was almost two weeks after**  
 3 **the post, would that spike be attributable to the**  
 4 **post?**  
 5 MR. VOGT: Objection to form.  
 6 THE WITNESS: Again, this is -- this is an  
 7 indication that there's some interest in the video.  
 8 This graph does not at all tie to the analysis or  
 9 valuation that was done. So I don't know that that  
 10 would have any effect at all. In fact, it would not  
 11 have any effect at all.  
 12 BY MR. BERRY:  
 13 **Q. On your valuation analysis?**  
 14 A. Correct.  
 15 **Q. But it would reflect interest in "Gawker" as**  
 16 **a search term on Google. Right?**  
 17 A. Sure.  
 18 **Q. As a -- somebody who's an expert in**  
 19 **valuation, you could assess the value of a Hulk Hogan**  
 20 **sex tape in different ways. Right?**  
 21 MR. VOGT: Objection to form.  
 22 THE WITNESS: Not sure what you mean.  
 23 BY MR. BERRY:  
 24 **Q. A Hulk Hogan sex tape is either an**  
 25 **intangible asset or intellectual property. Right?**

Page 186

1 MR. VOGT: Objection to form.  
 2 THE WITNESS: It could be seen as that, yes.  
 3 BY MR. BERRY:  
 4 **Q. Well, I mean, earlier you said it was one of**  
 5 **those two things. Right?**  
 6 A. It could be seen as that, yes.  
 7 **Q. So if you were going to value that sex tape,**  
 8 **you could do it in several different ways. Right?**  
 9 MR. VOGT: Objection to form.  
 10 THE WITNESS: If I was going to value the  
 11 sex tape?  
 12 BY MR. BERRY:  
 13 **Q. That intangible asset.**  
 14 A. I didn't value the sex tape.  
 15 **Q. I'm asking you as an expert in valuation, if**  
 16 **you were going to value the Hulk Hogan sex tape, you**  
 17 **could do it in several different ways. Correct?**  
 18 MR. VOGT: Objection to form.  
 19 THE WITNESS: There likely could be  
 20 several -- one or more than one way to do it. But,  
 21 again, I was not asked to value the sex tape, so I  
 22 don't know how exactly I would do that at this point  
 23 in time.  
 24 BY MR. BERRY:  
 25 **Q. Right. But you could use the market**

Page 187

1 **approach. Right?**  
 2 A. I would --  
 3 MR. VOGT: Objection to form.  
 4 THE WITNESS: -- look at the income, cost,  
 5 and market approach, and any derivations thereof of  
 6 those approaches, and determine based on the context,  
 7 the information available, what the appropriate  
 8 approach to take would be.  
 9 But, again, I was not asked to do that, so I  
 10 don't know specifically which approach would be taken  
 11 for doing that.  
 12 BY MR. BERRY:  
 13 **Q. Okay. Well, let's go through them.**  
 14 **For the cost approach, you would look at**  
 15 **what it would cost to buy a Hulk Hogan sex tape.**  
 16 **Right?**  
 17 MR. VOGT: Objection to form.  
 18 THE WITNESS: What it would cost to buy a  
 19 sex tape? I'm not sure what you mean by that.  
 20 BY MR. BERRY:  
 21 **Q. Well --**  
 22 MR. VOGT: Counsel --  
 23 BY MR. BERRY:  
 24 **Q. -- how would you value the cost of a -- how**  
 25 **would you value a Hulk Hogan sex tape using the cost**

Page 188

1 **approach?**  
 2 MR. VOGT: Objection to form.  
 3 Can I just have a standing objection --  
 4 MR. BERRY: Yeah, yeah, yeah.  
 5 MR. VOGT: -- to all questions about valuing  
 6 the Hulk Hogan sex tape?  
 7 MR. BERRY: Yeah.  
 8 MR. VOGT: Okay.  
 9 THE WITNESS: So how would I go about --  
 10 BY MR. BERRY:  
 11 **Q. Valuing the Hulk Hogan sex tape using the**  
 12 **cost approach?**  
 13 A. On a cost approach? Well, the cost approach  
 14 takes into account what it actually would cost to  
 15 develop that. So it would be, you'd be looking at  
 16 production costs, actor costs, how much time would go  
 17 into it. There's literally any number of variables  
 18 that would have to go into it, and I don't know  
 19 off -- off the top of my head how exactly we would go  
 20 about doing that.  
 21 **Q. How would you look at it from a market**  
 22 **approach?**  
 23 A. It would depend on the situation at hand.  
 24 **Q. Would you look at the value of other**  
 25 **similarly situated assets?**

Page 189

1 A. You could look at other similarly situated  
 2 assets.  
 3 **Q. So you might look at the value added by**  
 4 **other celebrity sex tapes?**  
 5 A. That might be one thing to look at.  
 6 **Q. You could look at how much value celebrity**  
 7 **sex tapes have added to a particular company. Right?**  
 8 A. What do you mean?  
 9 **Q. Well, you look here at value that Hulk Hogan**  
 10 **sex tape added to gawker.com. You could look and see**  
 11 **what the value added to another Web site for posting**  
 12 **a celebrity sex tape was. Right?**  
 13 A. I suppose if there was information, you  
 14 could look at that, but I -- I don't know without  
 15 having actually done it.  
 16 **Q. You could look at pornography sites as**  
 17 **comps. Right?**  
 18 A. I don't know the comparability of the Hulk  
 19 Hogan sex tape and the pornography sites.  
 20 **Q. But that's something you could do --**  
 21 **right? -- to value?**  
 22 A. If we're doing "could," I suppose anything  
 23 could happen.  
 24 **Q. You could -- if you were valuing something**  
 25 **involving Hulk Hogan, you could use him as the common**

Page 190

1 **denominator. Right?**  
 2 MR. VOGT: Objection to form.  
 3 THE WITNESS: What do you mean by that?  
 4 BY MR. BERRY:  
 5 **Q. Well, here we're talking about a Hulk Hogan**  
 6 **sex tape. Right?**  
 7 A. Is that --  
 8 **Q. Yes.**  
 9 A. Where -- you --  
 10 **Q. We're talking about -- we're talking about a**  
 11 **Hulk Hogan --**  
 12 A. Yeah.  
 13 **Q. -- sex tape. Right?**  
 14 A. Okay.  
 15 **Q. So you could use as a common denominator in**  
 16 **the market approach Hulk Hogan and see what value**  
 17 **added Hulk Hogan is for a different medium. Right?**  
 18 MR. VOGT: Objection to form.  
 19 THE WITNESS: How would you do that?  
 20 BY MR. BERRY:  
 21 **Q. Well, see how much money folks made from**  
 22 **using Hulk Hogan's likeness in other contexts.**  
 23 **Right?**  
 24 MR. VOGT: Objection to form.  
 25 THE WITNESS: For a sex tape? I don't know

Page 191

1 that he's done another sex tape.  
 2 BY MR. BERRY:  
 3 **Q. No. To get the value of this sex tape, you**  
 4 **might look at other contexts to see what the value is**  
 5 **of Hulk Hogan. Right?**  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: I'd have to see. It --  
 8 valuation is all context, and if you've looked at any  
 9 of the CLEs we've given or any of the presentations  
 10 or the articles we've written, I think many times  
 11 throughout those, the books, context is everything  
 12 when it comes to valuation.  
 13 So in your hypothetical here, I don't know.  
 14 I don't know because I haven't done it.  
 15 BY MR. BERRY:  
 16 **Q. Well, in valuing rights of publicity --**  
 17 **right? -- which you are a co-author of a book on now,**  
 18 **right? -- how do you measure rights of publicity?**  
 19 **What are different ways?**  
 20 A. There are various measures.  
 21 **Q. You might look at endorsement deals. Right?**  
 22 A. You could look at endorsement deals, Twitter  
 23 followers, Facebook likes. Any number of metrics.  
 24 **Q. How might somebody have been paid to appear**  
 25 **in a television show. You could look at that?**

Page 192

1 A. To do what?  
 2 **Q. To assess their right of publicity, the**  
 3 **value of the right of the publicity?**  
 4 A. Depending on what the value of their right  
 5 of publicity we're looking at for. It depends on the  
 6 situation. It -- it depends. But you could, yeah.  
 7 **Q. But in this analysis, you didn't look at the**  
 8 **value that Hulk Hogan added to anything other than**  
 9 **this gawker.com stuff. Right?**  
 10 MR. VOGT: Objection to form.  
 11 THE WITNESS: We were asked to look at how  
 12 gawker.com benefited from posting the video, the Hulk  
 13 Hogan video, on their Web site. So that's what we  
 14 looked at.  
 15 BY MR. BERRY:  
 16 **Q. So you didn't look at the value that was**  
 17 **added to the Jimmy Kimmel show when he was on it one**  
 18 **night. Right?**  
 19 MR. VOGT: Objection to form.  
 20 THE WITNESS: I was not asked to do that.  
 21 BY MR. BERRY:  
 22 **Q. And you didn't look at the value he added**  
 23 **when he was a host on American Gladiators. Right?**  
 24 MR. VOGT: Objection to form.  
 25 THE WITNESS: We were not asked to do that.

Page 193

1 BY MR. BERRY:  
 2 **Q. You didn't look at the added value to Viacom**  
 3 **when his reality program was on VH1. Right?**  
 4 MR. VOGT: Objection to form.  
 5 THE WITNESS: Again, we weren't asked to do  
 6 that.  
 7 BY MR. BERRY:  
 8 **Q. Do you know if any of those things were in**  
 9 **the range of what you valued the increase in Gawker**  
 10 **to here?**  
 11 MR. VOGT: Objection to form.  
 12 THE WITNESS: Having not done the analysis,  
 13 there's no way for me to answer that question.  
 14 MR. BERRY: Why don't we take a quick break  
 15 here.  
 16 THE VIDEOGRAPHER: Off the record at 2:12.  
 17 (Recess taken.)  
 18 THE VIDEOGRAPHER: We're back on the record  
 19 at 2:25.  
 20 BY MR. BERRY:  
 21 **Q. Have you ever reviewed the gawker.com**  
 22 **Web site?**  
 23 A. I've been on the Web site, yes.  
 24 **Q. Describe what kind of content's on the**  
 25 **Web site.**

Page 194

1 A. Stories, photos, some videos. Some of it  
 2 gossip related, some of it news related. General  
 3 content stories.

4 **Q. I want to talk to you about the comps that**  
 5 **you selected here. Other than the six companies that**  
 6 **you used as comps, did you consider any other**  
 7 **companies?**

8 A. Sure. We were -- we looked for as many as  
 9 we could find.

10 **Q. Which other companies did you look at?**

11 A. So we started with a screening of thousands  
 12 of Web sites and filtered it down based on -- there's  
 13 three or four basic criteria that had to be met in  
 14 order for them to be considered comparables for us.

15 One was they had to be a content-based  
 16 Web site, so not an ECommerce or a subscription-based  
 17 Web site that we talked about earlier.

18 Two, they had to generate revenues, the  
 19 majority of the revenues through advertising.

20 Three, they had to have a publicly available  
 21 valuation through a reliable source, so not just some  
 22 article placed out there in the ether. It had to be  
 23 through a -- a true valuation presented. And then  
 24 they had to have accurate monthly unique user traffic  
 25 data.

Page 195

1 So those four criteria had to be met. And  
 2 these were the only six that met that criteria.

3 **Q. Did you look at that over some period of**  
 4 **time?**

5 A. We went back as far as ten years looking for  
 6 those, or more. I don't know -- in fact, to be  
 7 honest, I don't know that we put a date filter on  
 8 there.

9 **Q. And when you ran this filter, what did you**  
 10 **filter through? Like, did you -- were you using some**  
 11 **database or how --**

12 A. We use Capital IQ.

13 **Q. What is Capital IQ?**

14 A. Capital IQ, it's an S&P company, like  
 15 S&P 500, Standard & Poor's. They -- it's an  
 16 aggregator of financial data. They track  
 17 transactions, mergers and acquisition. They have  
 18 financial records. It's got a lot of information  
 19 about businesses in general.

20 **Q. And so the process that you went through is**  
 21 **to ask Capital IQ for Web-based companies. Right?**

22 A. Correct.

23 **Q. And then applied these four filters to them?**

24 A. Not all four of those. They don't have a  
 25 filter for monthly unique user traffic. We preferred

Page 196

1 to use sites that had Quantcast data just because  
 2 that's the -- we have information for Gawker from.  
 3 So that was not a Capital IQ function.

4 **Q. Hm-hm.**

5 A. And neither is content-based Web site.

6 **Q. Does it have a coding field for**  
 7 **content-based Web sites in Capital IQ?**

8 A. As I just said, content-based Web site is  
 9 not --

10 **Q. Sorry.**

11 A. Yeah.

12 **Q. Yeah. In Capital IQ, is there a coding**  
 13 **field for Web sites?**

14 A. I believe there's something for  
 15 Internet-based businesses. I think it's called  
 16 Internet-based, but it might be Web site. I don't  
 17 remember off the top of my head.

18 **Q. But you used that as the -- an initial**  
 19 **filter?**

20 A. Correct.

21 **Q. And then from there, you made the draw on**  
 22 **content-based Web sites looking at the ones that came**  
 23 **back?**

24 A. Looking at them. If they were subscription  
 25 based, then they were removed. And if they were

Page 197

1 ECommerce sites like Amazon.com, then obviously those  
 2 were removed as well.

3 **Q. And I guess through Capital IQ, you were**  
 4 **able to get publicly available valuation data?**

5 A. Correct.

6 **Q. And how did you determine whether the**  
 7 **Web sites generated their revenue through ads?**  
 8 **Was that through Capital IQ?**

9 A. No. By looking at the Web sites and, if  
 10 necessary, going through their -- if we had to look  
 11 at a 10-K or some filing or just -- most of the  
 12 Web sites, they'll tell you how they generate their  
 13 revenue.

14 **Q. And these were the only six that came back?**

15 A. That is correct. That met all four  
 16 criteria.

17 **Q. So you weren't able to look at any companies**  
 18 **that weren't able to get financing. Right?**

19 A. We -- say that again? I'm sorry.

20 MR. VOGT: Objection to form.

21 BY MR. BERRY:

22 **Q. So, I mean, in screening through these**  
 23 **comps, if a company failed in its effort to get**  
 24 **financing, you weren't able to look at that company.**  
 25 **Right?**

Page 198

1 A. We only looked at companies that had a  
 2 valuation, a publicly available valuation. So  
 3 whether that's as a publicly traded company they have  
 4 a valuation or if there was some round of financing  
 5 or investment where there was a post-money valuation  
 6 included, so those -- that's how we got the  
 7 valuations.  
 8 **Q. But you weren't able -- there were no weak**  
 9 **performing companies that weren't able to get**  
 10 **financing in this --**  
 11 MR. VOGT: Objection to form.  
 12 BY MR. BERRY:  
 13 **Q. -- analysis?**  
 14 A. I don't know if they're weak performing or  
 15 exceptionally well performing and not getting the  
 16 financing, but if the -- if there was a valuation  
 17 that was made public, then we did not -- then  
 18 obviously we couldn't use it.  
 19 **Q. In your report, you wrote that each of those**  
 20 **companies has a comparable Web site with similar**  
 21 **monetization potential. Right?**  
 22 A. Correct.  
 23 **Q. And you believe that they have similar**  
 24 **potential because they're all content-based Web sites**  
 25 **that generate revenue from advertising. Right?**

Page 199

1 A. I believe they have the same potential --  
 2 potentially have the same monetization potential  
 3 based on the fact that they are -- their value and  
 4 ultimately their revenue is generated as a function  
 5 of having unique users that go to their sites.  
 6 **Q. But those users are only valuable to these**  
 7 **companies to the extent that that translates into**  
 8 **advertising revenue. Right?**  
 9 MR. VOGT: Objection to form.  
 10 THE WITNESS: I think we talked about that  
 11 before and that's not necessarily the case.  
 12 BY MR. BERRY:  
 13 **Q. Do all content-based Web sites that generate**  
 14 **revenue from advertising have similar monetization**  
 15 **potential?**  
 16 A. They potentially have the same monetization  
 17 potential, sure.  
 18 **Q. Why is that?**  
 19 A. It's the future monetization potential. So  
 20 it's the potential to convert those users into  
 21 dollars later on through -- whether it's through  
 22 advertising means or through some other means that --  
 23 that we're not aware of or the owners of those sites  
 24 are not aware of.  
 25 It's similar to -- you know, Facebook didn't

Page 200

1 know how they were going to generate revenue and now  
 2 they're generating revenue. So it's -- it's the  
 3 potential in the future to generate that revenue  
 4 because you have a large user base.  
 5 **Q. So the valuation of -- let me ask a**  
 6 **different way.**  
 7 **The value of a reader or user of slate.com**  
 8 **would be the same as usweekly.com. Right?**  
 9 **Like the monetization potential is the same.**  
 10 **Right?**  
 11 MR. VOGT: Objection to form.  
 12 THE WITNESS: I don't know.  
 13 BY MR. BERRY:  
 14 **Q. Is the value of a reader -- under this**  
 15 **similar monetization potential theory, would the**  
 16 **value of a reader of vanityfair.com be the same as**  
 17 **ESPN.com?**  
 18 A. It could potentially. I'd have to look at  
 19 the actual information and the circumstances to make  
 20 an absolute determination on that, but it potentially  
 21 could.  
 22 **Q. The same for like babycenter.com and**  
 23 **hollywoodreporter.com?**  
 24 A. I'm not too familiar with those sites, so I  
 25 can't answer that.

Page 201

1 **Q. How about latimes.com and tampabay.com?**  
 2 A. Possibly.  
 3 **Q. But there are differences in users. Right?**  
 4 MR. VOGT: Objection to form.  
 5 THE WITNESS: What do you mean?  
 6 BY MR. BERRY:  
 7 **Q. Well, in advertising, some users are more**  
 8 **valuable than others. Right?**  
 9 MR. VOGT: Objection to form.  
 10 THE WITNESS: I've heard that that can be  
 11 the case, yes. What specifically --  
 12 BY MR. BERRY:  
 13 **Q. So --**  
 14 A. What specifically are you referring to?  
 15 **Q. Well, let's talk about something. There**  
 16 **might be differences in location of readers. Right?**  
 17 A. For a newspaper?  
 18 **Q. For a Web site.**  
 19 A. Sure.  
 20 **Q. Yeah, so somebody -- L.A. Times derives more**  
 21 **traffic from Los Angeles than the tampabay.com.**  
 22 **Right?**  
 23 MR. VOGT: Objection to form.  
 24 THE WITNESS: I don't know. I'd have to  
 25 look at that, but I'm not going make an assumption on

Page 202

1 that.  
 2 BY MR. BERRY:  
 3 **Q. Right, but --**  
 4 A. It's possible.  
 5 **Q. It's possible. But the readership of those**  
 6 **places is -- of those Web sites is likely different**  
 7 **based on location. Right?**  
 8 A. It could be.  
 9 MR. VOGT: Objection to form.  
 10 THE WITNESS: But I don't know.  
 11 BY MR. BERRY:  
 12 **Q. You also could have differences in readers**  
 13 **based on their interest. Right?**  
 14 MR. VOGT: Objection to form.  
 15 THE WITNESS: You could.  
 16 BY MR. BERRY:  
 17 **Q. So readers of like babycenter.com might be**  
 18 **interested in pregnancy and parenting. Right?**  
 19 MR. VOGT: Objection to form.  
 20 THE WITNESS: I don't know what  
 21 babycenter.com is, but they could.  
 22 BY MR. BERRY:  
 23 **Q. Are you -- are you familiar with the**  
 24 **knot.com, the wedding?**  
 25 A. I am.

Page 203

1 **Q. Okay. So people who are interested in**  
 2 **weddings would go to the knot.com. Right?**  
 3 MR. VOGT: Objection to form.  
 4 THE WITNESS: Or people that are going to  
 5 weddings. It's not just people that are having  
 6 weddings but --  
 7 BY MR. BERRY:  
 8 **Q. But somebody who's interested --**  
 9 A. -- it's possible.  
 10 **Q. -- in weddings is going to the knot.com.**  
 11 **Right?**  
 12 MR. VOGT: Objection to form.  
 13 THE WITNESS: Interested in getting married?  
 14 BY MR. BERRY:  
 15 **Q. Interested in weddings.**  
 16 A. Just weddings in general?  
 17 **Q. Well, that's what you said. You might be**  
 18 **going to a wedding, you might be getting married.**  
 19 A. There's some -- yeah, there's some tie to a  
 20 wedding, sure.  
 21 **Q. But you're not going there to read celebrity**  
 22 **gossip, are you?**  
 23 A. I don't know if -- I don't know if the  
 24 knot.com has celebrity gossip on it.  
 25 **Q. Readers of Hollywood Reporter are folks who**

Page 204

1 **are interested in the entertainment industry. Right?**  
 2 MR. VOGT: Objection to form.  
 3 THE WITNESS: I don't read The Hollywood  
 4 Reporter, so I don't know.  
 5 BY MR. BERRY:  
 6 **Q. Okay. But different advertisers would value**  
 7 **the knot.com differently based on the interests of**  
 8 **the likely readers of that site. Right?**  
 9 MR. VOGT: Objection to form.  
 10 THE WITNESS: It's potential. It's  
 11 possible.  
 12 BY MR. BERRY:  
 13 **Q. Right. So, I mean, but that's basically how**  
 14 **advertising works. Like somebody who sells wedding**  
 15 **dresses would advertise on the knot.com. Correct?**  
 16 MR. VOGT: Objection to form.  
 17 THE WITNESS: I -- presumably. I wouldn't  
 18 know.  
 19 BY MR. BERRY:  
 20 **Q. But they wouldn't advertise on ESPN.com?**  
 21 A. I don't know.  
 22 MR. VOGT: Objection to form.  
 23 THE WITNESS: I don't know if that's true or  
 24 not.  
 25 BY MR. BERRY:

Page 205

1 **Q. Advertisers try and target their ads to a**  
 2 **particular market, don't they?**  
 3 MR. VOGT: Objection to form.  
 4 THE WITNESS: I'm not an advertising expert,  
 5 so I --  
 6 BY MR. BERRY:  
 7 **Q. But you're saying that Web sites --**  
 8 A. Probably.  
 9 **Q. -- content-based --**  
 10 A. Probably.  
 11 **Q. -- Web sites have simple --**  
 12 THE REPORTER: Hold on. There is  
 13 overtalking in the record and it will be reflected as  
 14 such and it's getting a little bit worse. One at a  
 15 time. Thank you.  
 16 MR. BERRY: You go first.  
 17 THE REPORTER: Somebody pick up with a  
 18 question.  
 19 THE WITNESS: Yeah, go ahead, you go first.  
 20 BY MR. BERRY:  
 21 **Q. Well, you're valuing -- you're saying that**  
 22 **Web sites have -- content-based Web sites have**  
 23 **similar monetization potential, but that's based on**  
 24 **advertising revenue. But you don't know anything**  
 25 **about how advertising works. Right?**

Page 206

1 MR. VOGT: Objection to form.  
 2 THE WITNESS: No, it's not just based on  
 3 advertising revenue. We talked about this.  
 4 It's -- advertising revenue is one part of  
 5 that, but it's also the future potential which could  
 6 be beyond advertising. So I just want to make that  
 7 clear.  
 8 BY MR. BERRY:  
 9 **Q. But the Web sites that you looked at as**  
 10 **comps were all -- generated their revenue principally**  
 11 **from advertising. Right?**  
 12 A. Through advertising, yes.  
 13 **Q. And the way that advertising works is that**  
 14 **advertisers try and target their ads to specific**  
 15 **markets. Right?**  
 16 MR. VOGT: Objection to form.  
 17 THE WITNESS: Again, I'm not an advertising  
 18 expert, but that's my general understanding.  
 19 BY MR. BERRY:  
 20 **Q. So they might target certain demographics.**  
 21 **Correct?**  
 22 MR. VOGT: Objection to form.  
 23 THE WITNESS: They could.  
 24 BY MR. BERRY:  
 25 **Q. Right. So did you look at whether the comps**

Page 207

1 **are actually able to monetize their unique users?**  
 2 A. What do you mean by that?  
 3 **Q. Well, when you were looking at the comps,**  
 4 **did you look at whether they were actually able to**  
 5 **derive revenue from their unique users?**  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: I'm not -- I'm not sure how --  
 8 let's look at the comps. So how would -- what  
 9 specifically are you asking? I'm not -- I'm not --  
 10 I'm not understanding the question. I apologize.  
 11 BY MR. BERRY:  
 12 **Q. For any -- for a Bleacher Report, did you**  
 13 **look at how it generates revenue from its unique**  
 14 **users?**  
 15 A. Well, all of the comps, as we discussed,  
 16 generate revenue through advertising.  
 17 **Q. Did you look at any of the comps' ad**  
 18 **inventory?**  
 19 A. Ad inventory? I don't have that data.  
 20 **Q. Do you know what ad inventory is?**  
 21 A. I don't even know what that is.  
 22 **Q. Did you look at Gawker's ad inventory?**  
 23 A. What is "ad inventory"?  
 24 **Q. Do you know what kind of ads the comps use?**  
 25 A. What kind of ads?

Page 208

1 **Q. (Nods head.)**  
 2 A. I don't know.  
 3 **Q. Do you know what kind of ads Gawker uses?**  
 4 A. I don't know.  
 5 **Q. Do you know what percentage of the comps'**  
 6 **Web pages have ads on them?**  
 7 A. I don't know.  
 8 **Q. Do you know what percentage of Gawker's Web**  
 9 **pages have ads on them?**  
 10 A. No.  
 11 **Q. Do you know how many ads per Web page the**  
 12 **comps sell?**  
 13 A. No.  
 14 **Q. Do you know how many ads per page Gawker**  
 15 **sells?**  
 16 A. No.  
 17 **Q. If you were actually interested in**  
 18 **monetizing users, wouldn't that kind of information**  
 19 **be relevant?**  
 20 MR. VOGT: Objection to form.  
 21 THE WITNESS: If I was interested in  
 22 monetizing users, I'd -- I might want to know that,  
 23 but I'm not here to monetize those users.  
 24 BY MR. BERRY:  
 25 **Q. But in figuring out the potential, you'd**

Page 209

1 **want to understand that data, too, no?**  
 2 MR. VOGT: Objection to form.  
 3 THE WITNESS: The potential, again, is based  
 4 on having a large unique user set. It's having --  
 5 it's having those monthly unique users that gives you  
 6 the potential.  
 7 BY MR. BERRY:  
 8 **Q. Regardless of the users' demographics.**  
 9 **Right?**  
 10 MR. VOGT: Objection to form.  
 11 THE WITNESS: I have not seen any data that  
 12 shows the demographics are that -- that much  
 13 different.  
 14 BY MR. BERRY:  
 15 **Q. Regardless of location of readers. Right?**  
 16 MR. VOGT: Objection to form.  
 17 THE WITNESS: Readers regardless of what?  
 18 BY MR. BERRY:  
 19 **Q. The location of where most of your readers**  
 20 **are?**  
 21 A. What is regardless?  
 22 **Q. The monetization potential.**  
 23 A. Can you ask the whole question? I'm sorry.  
 24 **Q. In your analysis, it's irrelevant where the**  
 25 **location of readers are to a Web site's monetization**

Page 210

1 **potential. Right?**  
 2 MR. VOGT: Objection to form.  
 3 THE WITNESS: This analysis stands, yes,  
 4 without that analysis that you're talking about.  
 5 BY MR. BERRY:  
 6 **Q. So you didn't consider the demographic**  
 7 **composition of the comps' users and looked to see if**  
 8 **that was similar to Gawker's users, did you?**  
 9 A. We considered demographics, but there was  
 10 nothing to show that the demographics of the  
 11 different comp sites we had based on the information  
 12 we had would change our analysis at all.  
 13 **Q. What did you look at to determine whether it**  
 14 **would affect the valuation at all?**  
 15 A. There was some demographic information on  
 16 Quantcast we looked at.  
 17 **Q. Right. And how did that factor into whether**  
 18 **the value of Gawker would change?**  
 19 A. It didn't. There was not sufficient  
 20 information or evidence that there would be any  
 21 change in our analysis based on the demographic  
 22 information.  
 23 **Q. So --**  
 24 A. Can we take a break? I'm just going to shut  
 25 this off.

Page 211

1 **Q. Okay.**  
 2 THE VIDEOGRAPHER: Okay. Let's go off the  
 3 record at 2:41.  
 4 (Off the record.)  
 5 THE VIDEOGRAPHER: Back on the record at  
 6 2:42.  
 7 BY MR. BERRY:  
 8 **Q. So in your analysis, each unique user would**  
 9 **be valued the same. Right?**  
 10 A. In this analysis that I've done?  
 11 **Q. (Nods head.)**  
 12 A. Each unique user is the same, yes.  
 13 **Q. And for these purposes, the value of a**  
 14 **Gawker unique user is assumed to be the same as a**  
 15 **Bleacher Report user. Right?**  
 16 **I mean when you're looking --**  
 17 A. No.  
 18 **Q. -- at the comps.**  
 19 A. No. That's not how we did it.  
 20 So we looked at -- if you go to page 13 of  
 21 my report, Exhibit -- whatever exhibit it is, I --  
 22 well, you know what exhibit it is. If you look at  
 23 Figure 2, we're not saying it's the same as Bleacher  
 24 because Bleacher Report has the 6.64 multiple.  
 25 Right?

Page 212

1 **Q. Right, right. No, that's a fair point.**  
 2 A. So not saying that.  
 3 **Q. But on the low end, it would have the same**  
 4 **as BuzzFeed. Right?**  
 5 A. On the low end, yeah.  
 6 **Q. And then on the average end, it'd have the**  
 7 **composite --**  
 8 A. The average --  
 9 **Q. -- average?**  
 10 A. -- of the 6.  
 11 **Q. Right.**  
 12 **Did you look at the distribution of**  
 13 **visitors' income for the comps to see if they were**  
 14 **the same as Gawker?**  
 15 A. We did not.  
 16 **Q. Do you see whether the average user of these**  
 17 **Web sites was wealthier than the average for Gawker?**  
 18 A. We did not.  
 19 **Q. Did you look at the distribution of users'**  
 20 **age for the comps to see if they were the same as**  
 21 **Gawker?**  
 22 A. We did look at some age demographics, yes.  
 23 **Q. For which sites?**  
 24 A. I believe Quantcast had information for  
 25 Bleacher Report, grandparents.com, and Gawker. I

Page 213

1 think those three.  
 2 **Q. But that didn't factor into the analysis?**  
 3 A. Well, we saw -- showed that there's no  
 4 indication that age demographics would have any  
 5 impact on the valuation. Therefore it was not a  
 6 pertinent set of data to be used that would adjust  
 7 our valuation in any way.  
 8 **Q. Did you look at whether users' educational**  
 9 **background for the comps was comparable to Gawker?**  
 10 A. We did not.  
 11 **Q. For the comps, did you research how long**  
 12 **each user spent on the site per visit?**  
 13 A. Did not have that data.  
 14 **Q. Did you research whether the users were**  
 15 **people who regularly visited the Web site?**  
 16 A. We did not have that data.  
 17 We did ask for Google Analytics data and  
 18 Vastly data from your client, but we have not  
 19 received any of that.  
 20 **Q. Right. But for the --**  
 21 A. So we'd have to see the data for Gawker in  
 22 order to compare it to data from the comps.  
 23 Otherwise, it's -- we're drawing a conclusion based  
 24 on not having, to use your analogy, apples to apples.  
 25 Right?



Page 214

1 And so we asked for that data and if we  
 2 receive it, I'd be happy to go back and reanalyze and  
 3 reassess based on that data, but we haven't -- we  
 4 haven't received it.  
 5 **Q. Did you look on Quantcast to see what the**  
 6 **distribution of each Web site's users were considered**  
 7 **addicts?**  
 8 A. I have not seen that, no. I did see  
 9 something I think on the pages you sent over on  
 10 Thursday.  
 11 **Q. Okay. But that was not considered in this**  
 12 **analysis?**  
 13 A. Not factored in.  
 14 **Q. Did you consider whether the people who were**  
 15 **visiting these Web sites only visited occasionally?**  
 16 A. No.  
 17 **Q. So you didn't look on Quantcast to determine**  
 18 **if they were passers-by?**  
 19 A. No.  
 20 **Q. For the comps, did you research how users**  
 21 **interact with the Web sites?**  
 22 A. What do you mean?  
 23 **Q. Whether they can post content?**  
 24 A. No.  
 25 **Q. Did you research how often they post**

Page 215

1 **content?**  
 2 A. No.  
 3 **Q. Did you research how many users post**  
 4 **comments on those sites?**  
 5 A. No.  
 6 **Q. For the comps, did you look at how long the**  
 7 **companies had been in existence?**  
 8 A. We did look at their -- the date that they  
 9 were started, I believe.  
 10 **Q. Did that factor into your analysis at all?**  
 11 A. No.  
 12 **Q. So did you consider whether a company was a**  
 13 **startup?**  
 14 A. No.  
 15 **Q. Did you look at the specific kinds of**  
 16 **content each of the comps posted?**  
 17 A. I looked at the content of each of the  
 18 sites, yes.  
 19 **Q. Did you look to see if the kinds of content**  
 20 **they posted were the same as Gawker?**  
 21 A. They're all content, so I did look at the  
 22 sites, yes.  
 23 **Q. Did you see if the kinds of content that**  
 24 **they posted was the same as Gawker?**  
 25 A. I'm not sure what you mean.

Page 216

1 **Q. Well, earlier you told me, I think, that**  
 2 **Gawker posts news, gossip, photos, videos. Did you**  
 3 **look to see whether these comps posted those kinds of**  
 4 **things?**  
 5 A. Yes.  
 6 **Q. Did they?**  
 7 A. To some degree, yes.  
 8 **Q. For the comps, did you look at whether the**  
 9 **average monthly unique users were increasing?**  
 10 A. We did look at historical information on  
 11 user traffic, yes.  
 12 **Q. Did you look at the rate of increase?**  
 13 A. We did look at the rate of increase.  
 14 **Q. Did that factor into your analysis at all?**  
 15 A. Not to any effect of the conclusions we've  
 16 reached.  
 17 **Q. Did you compare the rates of increase for**  
 18 **the comps to Gawker's trends for the number of users**  
 19 **that were visiting gawker.com?**  
 20 A. No.  
 21 **Q. I want to go through some of the specific**  
 22 **comps and talk about them for a couple minutes.**  
 23 A. Sure.  
 24 **Q. The Bleacher Report -- I think we'll just go**  
 25 **through the order that they're discussed in your**

Page 217

1 **report on page 12 and 13.**  
 2 A. Okay.  
 3 **Q. Bleacher Report is a sports media Web site.**  
 4 **Right?**  
 5 A. That's correct.  
 6 **Q. So what kind of content does it post?**  
 7 A. Typically sports-related content.  
 8 **Q. Like what kinds of things?**  
 9 A. They have articles on trades happening,  
 10 recaps of games, stories on players. Maybe even some  
 11 gossip on players, things happening. You know,  
 12 anything really relating to sports.  
 13 **Q. In August 2012, Turner Broadcasting System**  
 14 **bought Bleacher Report. Right?**  
 15 A. That is correct.  
 16 **Q. And the value of that deal was**  
 17 **170 million -- or sorry. Yeah, the value of that**  
 18 **deal was -- let me start over.**  
 19 **When Turner Broadcasting System bought**  
 20 **Bleacher Report, the value of that deal was**  
 21 **\$170 million. Right?**  
 22 A. Correct.  
 23 **Q. Were you involved in that transaction?**  
 24 A. No.  
 25 **Q. Did you look at any of the documents from**

Page 218

1 that transaction to see how that valuation was  
 2 reached?  
 3 A. We did not have any information from that,  
 4 no.  
 5 **Q. Do you know whether it was reached through**  
 6 **assessing average monthly unique users?**  
 7 A. I don't have that information.  
 8 **Q. So you don't know one way or the other?**  
 9 A. I don't have that information.  
 10 **Q. Do you know whether it was evaluated using**  
 11 **the income approach?**  
 12 A. I don't know that.  
 13 **Q. Did you look at Bleacher Report's balance**  
 14 **sheet?**  
 15 A. I did not.  
 16 **Q. Did you look at its income statement?**  
 17 A. I did not.  
 18 **Q. Did you review any of its financials?**  
 19 A. I don't believe we did, no.  
 20 **Q. Do you know what its revenue was at the time**  
 21 **it was sold?**  
 22 A. I do not.  
 23 **Q. Do you know what its profit was at the time**  
 24 **it was sold?**  
 25 A. I do not.

Page 219

1 **Q. Do you know whether its valuation was based**  
 2 **on an expectation of future growth?**  
 3 A. I can't know that for certain, but I can I  
 4 think safely say that most purchases are made with  
 5 the understanding that there's going to be some  
 6 future revenue or earnings generated from that.  
 7 **Q. But you don't know one way or another with**  
 8 **respect to Bleacher Report?**  
 9 A. I don't have any details pertaining to that  
 10 other than what's presented in my report.  
 11 **Q. I'm going to be asking you some questions**  
 12 **that refer to documents that are referenced in an**  
 13 **Exhibit 3 to your report.**  
 14 A. Sure.  
 15 **Q. So if you want to grab that, we can go**  
 16 **through the key, decoding all these things.**  
 17 **For Bleacher Report, the monthly unique data**  
 18 **source was document 43. Right?**  
 19 A. Yes.  
 20 MR. BERRY: I'd like to mark what I believe  
 21 is document number 43 as Exhibit 180.  
 22 (The document referred to was  
 23 marked as Exhibit 180.)  
 24 BY MR. BERRY:  
 25 **Q. The document that is now marked as**

Page 220

1 **Exhibit 180 is document 43 from your report?**  
 2 A. It looks to be, yes.  
 3 **Q. All right. If you turn to the page -- the**  
 4 **second page, this is a Quantcast printout concerning**  
 5 **Bleacher Report data. Correct?**  
 6 A. Yes.  
 7 **Q. And this would show the average number of**  
 8 **unique users over a period of time?**  
 9 A. Yes.  
 10 **Q. And the time period that you were looking at**  
 11 **was the twelve-month period preceding August 2012.**  
 12 **Right?**  
 13 A. Right.  
 14 **Q. On this chart, is it fair to say that there**  
 15 **is a steep increase during that time period?**  
 16 MR. VOGT: Objection to form.  
 17 THE WITNESS: I don't know if you'd call  
 18 that a steep increase, but it's -- it looks to be  
 19 increasing almost linearly.  
 20 BY MR. BERRY:  
 21 **Q. Linearly, meaning upward?**  
 22 A. Linearly, meaning in a straight line. I  
 23 mean, there's a slight -- a slight upwards curve to  
 24 it, but I don't know that I would call it  
 25 exceptional.

Page 221

1 MR. BERRY: I'd like to mark as document  
 2 Exhibit 181.  
 3 (The document referred to was  
 4 marked as Exhibit 181.)  
 5 BY MR. BERRY:  
 6 **Q. This is a Quantcast printout from**  
 7 **Bleacher Report that shows the time period from**  
 8 **August 1, 2011 through July 30th, 2012, which is the**  
 9 **same period that you looked at. Right?**  
 10 A. That is correct.  
 11 **Q. And how many unique visitors went to**  
 12 **Bleacher Report in August of 2011?**  
 13 A. August, looks like 12,152,540.  
 14 MR. BERRY: Now, I'd like to mark as  
 15 Exhibit 182.  
 16 (The document referred to was  
 17 marked as Exhibit 182.)  
 18 BY MR. BERRY:  
 19 **Q. Exhibit 182 is a Quantcast printout showing**  
 20 **the monthly unique users for that same period of time**  
 21 **with the data broken out for July of 2012.**  
 22 **What was the number of uniques in July of**  
 23 **2012?**  
 24 A. Twenty -- just over 25 million.  
 25 **Q. So in that twelve-month period, the number**

Page 222

1 of unique visitors to Bleacher Report more than  
 2 doubled. Right?  
 3 A. That's safe to say.  
 4 Q. You can set that aside.  
 5 A. All Bleacher Report ones?  
 6 Q. Yeah, we'll move on to BuzzFeed.  
 7 A. Okay.  
 8 Q. BuzzFeed is the second comp that you looked  
 9 at. Right?  
 10 A. Correct.  
 11 Q. It's a media company that posts 700 pieces  
 12 of content a day. Correct?  
 13 A. Sounds close to, yes.  
 14 Q. Well, that's what your report says. Right?  
 15 A. Yes.  
 16 Q. So is that right?  
 17 A. Sounds accurate and it looks accurate, so.  
 18 Q. Do you know how many pieces of content  
 19 Gawker posts each day?  
 20 A. I don't know exactly.  
 21 Q. Have you ever been on BuzzFeed's Web site?  
 22 A. I have.  
 23 Q. What kind of content does it post?  
 24 A. Entertainment, social news, news. General  
 25 content-related topics. Articles.

Page 223

1 Q. Do you know how long BuzzFeed has been in  
 2 existence?  
 3 A. I don't know exactly how many years, no.  
 4 Q. According to the report, in August 2014,  
 5 BuzzFeed received \$50 million in funding in a  
 6 Series E round of funding. Is that right?  
 7 A. That's correct.  
 8 Q. What is a Series E round of funding?  
 9 A. It's multiple rounds of funding they must  
 10 have had. And so this was a later round of funding  
 11 where they raised 50 million in capital with a post  
 12 money valuation of 850 million.  
 13 Q. And were you involved in that transaction?  
 14 A. No.  
 15 Q. And so after this funding, BuzzFeed was  
 16 valued at -- I think this is what you said -- at  
 17 \$850 million?  
 18 A. Post money valuation, yes.  
 19 Q. Did you look at any documents to see how  
 20 that valuation was reached?  
 21 A. There was no documentation as to  
 22 calculations or valuations done for that, no.  
 23 Q. Do you know whether it was reached through  
 24 assessing average monthly unique users?  
 25 A. I don't know for sure.

Page 224

1 Q. Do you know whether it was evaluated using  
 2 the income approach?  
 3 A. That, I don't know.  
 4 Q. Did you look at BuzzFeed's balance sheet?  
 5 A. No.  
 6 Q. Did you look at its income statement?  
 7 A. No.  
 8 Q. Did you review any of its financials?  
 9 A. I don't think so, no.  
 10 Q. Do you know what its revenue was at the  
 11 time?  
 12 A. I do not.  
 13 Q. Do you know what its profit was at the time?  
 14 A. I do not.  
 15 Q. Do you know whether its valuation was based  
 16 on an expectation of future growth?  
 17 A. Again, I think that any purchaser is  
 18 expecting it to grow and earn additional revenues and  
 19 profits in the future, but I don't know for certain,  
 20 no.  
 21 Q. For BuzzFeed on Exhibit 3, it says that your  
 22 source for monthly unique data source was  
 23 document 44. Do you see that?  
 24 A. Yes.  
 25 MR. BERRY: I'd like to mark as Exhibit 183

Page 225

1 this document that you're being handed.  
 2 (The document referred to was  
 3 marked as Exhibit 183.)  
 4 BY MR. BERRY:  
 5 Q. Is Exhibit 183 document number 44 from your  
 6 report?  
 7 A. Looks like it, yes.  
 8 Q. And the second page on there shows again  
 9 Quantcast data. Right?  
 10 A. Right.  
 11 Q. And this data in page 2 is a chart that  
 12 shows the number of unique users per month. Right?  
 13 A. Correct.  
 14 Q. And how would you describe the number of --  
 15 the growth of unique users prior to the time of the  
 16 valuation?  
 17 A. Prior to the time of valuation?  
 18 Q. (Nods head.) In the twelve-month -- sorry.  
 19 How would you describe the growth of unique  
 20 users in the twelve-month period preceding the  
 21 valuation?  
 22 A. So August 10th. So pretty healthy growth.  
 23 Q. Did you factor that into your analysis at  
 24 all?  
 25 A. No.

Page 226

1 MR. BERRY: I'd like to mark as Exhibit 184.  
 2 (The document referred to was  
 3 marked as Exhibit 184.)  
 4 BY MR. BERRY:  
 5 **Q. This is Quantcast data showing the average**  
 6 **number of unique users from August 2013 through**  
 7 **July 2014. That's the same period that you used?**  
 8 A. I'm not seeing through July. I'm seeing  
 9 August --  
 10 MR. BERRY: Right. Why don't we do it this  
 11 way. I'll mark as Exhibit 185.  
 12 (The document referred to was  
 13 marked as Exhibit 185.)  
 14 BY MR. BERRY:  
 15 **Q. This is Quantcast data. It's the same chart**  
 16 **with monthly unique users broken out for July 2014.**  
 17 **And 184 shows unique users as of August 2013.**  
 18 **Do you see that?**  
 19 A. This 184 shows August 1 to August 30th, and  
 20 185 shows July 1 to July 30th, 2014.  
 21 **Q. Right. It breaks out the data of unique**  
 22 **users for those two dates. Correct?**  
 23 A. Right.  
 24 **Q. But the chart itself is the same. It shows**  
 25 **the twelve-month period that you used in your**

Page 227

1 **analysis. Right?**  
 2 **It's a little hard to tell.**  
 3 A. It's hard to tell, but I'm going to take  
 4 your word for it. It looks about correct.  
 5 **Q. Okay. So in August 2013, how many unique**  
 6 **users did BuzzFeed have that month?**  
 7 A. Almost 84 million.  
 8 **Q. And looking at July 2014, how much did it**  
 9 **have?**  
 10 A. Almost 159 million.  
 11 **Q. So it had almost doubled the number of**  
 12 **unique users in a twelve-month period. Right?**  
 13 A. Not quite doubled, but almost.  
 14 Are we done with that?  
 15 **Q. Yeah, yeah.**  
 16 **Are you aware that BuzzFeed is the**  
 17 **seventh-ranked site by viewers in the United States**  
 18 **according to Quantcast?**  
 19 MR. VOGT: Objection to form.  
 20 THE WITNESS: I believe I might have seen  
 21 something to that effect.  
 22 BY MR. BERRY:  
 23 **Q. Did that factor into the value of the site**  
 24 **at all?**  
 25 A. No.

Page 228

1 **Q. Other than the fact that they have just a**  
 2 **large number of unique users, that would value into**  
 3 **any -- that would affect any site's value. Right?**  
 4 A. Sure.  
 5 **Q. The next comp you used is**  
 6 **huffingtonpost.com. Right?**  
 7 A. That is correct.  
 8 **Q. It's a media company that posts content to**  
 9 **the Web as well. Correct?**  
 10 A. It's a content-based Web site media company,  
 11 yes.  
 12 **Q. Do you know how many pieces of content it**  
 13 **posts each day?**  
 14 A. I don't.  
 15 **Q. Have you ever been on that site?**  
 16 A. I have.  
 17 **Q. What kind of content does it post?**  
 18 A. News, entertainment. I think they even have  
 19 some sports, politics. General, you know, content  
 20 regarding a lot of different topics.  
 21 **Q. In March 2011, AOL acquired Huffington Post**  
 22 **for \$295.9 million. Right?**  
 23 A. That is correct.  
 24 **Q. Were you involved in that transaction?**  
 25 A. No.

Page 229

1 **Q. Did you look at any of the deal documents**  
 2 **for that transaction to see how the valuation was**  
 3 **reached?**  
 4 A. We did not.  
 5 **Q. Do you know whether it was reached through**  
 6 **assessing average monthly unique users?**  
 7 A. I do not.  
 8 **Q. Do you know whether it was reached through**  
 9 **using the income approach?**  
 10 A. I do not.  
 11 **Q. Do you know whether it was reached based on**  
 12 **an expectation of future growth?**  
 13 A. Again, I think that the buyer is expecting  
 14 there to be future growth, revenue and profit  
 15 potential from it. But I don't know for certain.  
 16 **Q. Did you look at Huffington Post's balance**  
 17 **sheet?**  
 18 A. I do not.  
 19 **Q. Did you look at its income statement?**  
 20 A. No.  
 21 **Q. Did you review any of its financials?**  
 22 A. No.  
 23 **Q. Did you know what its -- do you know what**  
 24 **its revenue was at the time of the sale to AOL?**  
 25 A. I do not have that information in front of

Page 230

1 me.

2 **Q. Do you know what its profit was?**

3 A. I do not know.

4 **Q. Based on your report, I understand the data**

5 **about Huffington Post's monthly unique users was not**

6 **available on Quantcast. Right?**

7 A. Correct.

8 **Q. And so you used an article from**

9 **Business Insider?**

10 A. That is correct.

11 **Q. Did you do anything to verify the numbers**

12 **that were reported in Business Insider?**

13 A. Business Insider has been a fairly reputable

14 source. We've used it before. And so we took their

15 -- their monthly unique user data at face value.

16 **Q. But you did nothing to verify it?**

17 A. We looked on Quantcast, but that information

18 was not available there.

19 **Q. And so you didn't do anything to verify the**

20 **number that was reported by Business Insider?**

21 A. I'm not sure how we would verify it. We,

22 again, took the information from Business Insider

23 that we find to be a reputable source and used it.

24 **Q. Okay. And in that Business Insider**

25 **report -- well, actually, why don't we -- in -- I'll**

Page 231

1 **show you the document. We'll do it this way.**

2 **On Exhibit 3 for monthly unique data source,**

3 **it points to document 13?**

4 A. Correct.

5 **Q. Which is that Business Insider article.**

6 **Right?**

7 A. I'll look, but I'm --

8 Yes.

9 MR. BERRY: I'd like to mark that as

10 Exhibit 186.

11 (The document referred to was

12 marked as Exhibit 186.)

13 BY MR. BERRY:

14 **Q. All right. So at the bottom of the first**

15 **page -- sorry.**

16 **Exhibit 186 is document 13 that's referred**

17 **to in your report. Is that right?**

18 A. Yes.

19 **Q. On the bottom of the first page I think is**

20 **the sentence that we were talking about. It says:**

21 **"Its audience has more than**

22 **tripled from 25 million people**

23 **before the AOL deal to 84 million**

24 **at the end of October."**

25 **Do you see that? It runs on to the next**

Page 232

1 **page.**

2 A. Yes.

3 **Q. So in that -- in the time period following**

4 **the purchase, the number of unique users to**

5 **Huffington Post more than tripled. Right?**

6 A. That's correct.

7 MR. VOGT: Objection to form.

8 BY MR. BERRY:

9 **Q. The next comp that you used was ozy.com.**

10 **Right?**

11 A. Yes.

12 **Q. And that's a media company that posts**

13 **content to the Web. Right?**

14 A. That's correct.

15 **Q. Have you ever been on that site?**

16 A. I have.

17 **Q. What do you -- what kind of content does it**

18 **post?**

19 A. News. Current events.

20 **Q. Do you know how many posts it does a day?**

21 A. I don't.

22 **Q. Do you know anything about the company?**

23 A. Other than that they had a transaction and

24 when they started, no.

25 **Q. Do you know when it started?**

Page 233

1 A. Actually, I just -- I don't know exactly the

2 date that it started.

3 **Q. Do you have an idea?**

4 A. I don't.

5 **Q. Do you have a sense of whether it's a**

6 **relatively new Web site?**

7 A. It's fairly new, I believe.

8 **Q. Do you have any sense of how new?**

9 A. I don't. Sometime last year maybe.

10 **Q. Do you know what its projected ad revenue**

11 **is?**

12 A. I do not.

13 **Q. Do you know whether it projects to have**

14 **future revenue streams other than advertising?**

15 A. I do not. But that would be the potential

16 future monetization.

17 **Q. In March 2014, Ozy received \$20 million in**

18 **funding. Right?**

19 A. Yes.

20 **Q. Were you involved in that transaction?**

21 A. No.

22 **Q. And at the time of that transaction, it was**

23 **valued at \$120 million. Right?**

24 A. Post money valuation of 120 million, yes.

25 **Q. Did you look at any of the documents in that**

Page 234

1 transaction to see what that valuation was based on?

2 A. We did not have that information, no.

3 Q. Do you know whether it was reached through

4 assessing average monthly unique users?

5 A. I do not have that information.

6 Q. So you don't know?

7 A. I don't know.

8 Q. Do you know whether it was reached by

9 evaluating the income approach?

10 A. I do not know.

11 Q. Do you know whether the valuation was based

12 on expectations of future growth?

13 A. Again, I would assume that a purchaser of

14 that is going to expect there to be future growth

15 potential for revenue and earnings, but I don't have

16 that information.

17 Q. Did you look at Ozy's balance sheet?

18 A. I did not.

19 Q. Did you look at its income statement?

20 A. I did not.

21 Q. Did you review any of its financials?

22 A. I did not.

23 Q. Do you know what Ozy's revenue was at the

24 time of this funding?

25 A. I do not know.

Page 235

1 Q. Do you know what its profit was at that

2 time?

3 A. I don't know.

4 Q. For Ozy, according to Exhibit 3, footnote 2,

5 you only had one month of unique user visitor data

6 available. Right?

7 A. That is correct.

8 Q. And that was from October 2014. Is that

9 right?

10 A. Correct.

11 Q. You don't know what the unique user data was

12 for prior months. Right?

13 A. That's correct.

14 Q. On Exhibit 3, it says that the source for

15 monthly unique data was document 47. Do you see

16 that?

17 A. I do see that.

18 MR. BERRY: I'd like to go ahead and mark

19 that as Exhibit 187.

20 (The document referred to was

21 marked as Exhibit 187.)

22 BY MR. BERRY:

23 Q. Exhibit 187 is document 47 that you refer to

24 in your report?

25 A. That's correct.

Page 236

1 Q. And this document was printed on January

2 21st, 2015. Right?

3 A. Right.

4 Q. So this shows monthly uniques of -- that's

5 less than -- sorry. Sorry.

6 That was roughly three months, give or take,

7 after the -- three to four months after the funding

8 that it received?

9 A. Well, the valuation date was March 31st,

10 2014, so October would be seven months later.

11 Q. Okay. Sorry. My question was not either

12 correct or well stated. Let me ask the question I

13 meant to ask you.

14 A. Sure.

15 Q. This document was printed in January 2015.

16 Right?

17 A. That's what the date says.

18 Q. Excellent. All right. So this was three

19 months after the data was obtained for October 2014

20 that you used in the calculation of average monthly

21 uniques for Ozy. Right?

22 A. Almost three months.

23 Q. And at that point, Ozy had roughly 5 million

24 monthly unique users. Right?

25 A. Right. And by --

Page 237

1 Q. In October, two thou --

2 A. In October, correct.

3 Q. Correct. So if you flip to the second page

4 of Exhibit 187, by the end of December, it had what

5 looks to be at roughly 9 million. Correct?

6 A. Approximately, yes.

7 Q. Again, that's slightly less than -- it's

8 almost doubled the number of unique users between

9 October and December. Right?

10 A. Not quite doubled, but.

11 Q. 80 percent increase or so?

12 A. About.

13 Q. For each of those first four comps that we

14 were talking about -- Bleacher Report, BuzzFeed,

15 Huffington Post, and now ozy.com -- do you know what

16 kind of ads any of them post?

17 A. I do not.

18 Q. Do you know the value of the ads that those

19 companies post?

20 A. What do you mean by that?

21 Q. How much revenue per ad those companies

22 generate?

23 A. I do not have that information.

24 Q. The fifth company you used was

25 grandparents.com?

<p><b>Q. What is comparable between grandparents.com and gawker.com?</b></p> <p>A. They're content-based sites. They have stories, articles. They drive readers. They have users that go to their site in order to absorb</p> <p><b>Q. Grandparents.com, according to your report, serves the age 50-plus demographic market. Right?</b></p> <p>A. That's what grandparents.com states, yes.</p> <p><b>Q. In reality, though, don't most of grandparents.com's users, aren't their ages even</b></p> <p>A. They're actually even younger.</p> <p><b>Q. Where is that data from?</b></p> <p>A. From Quantcast.</p> <p><b>Q. Do you have that available?</b></p> <p>A. I don't have it in front of me.</p> <p><b>Q. Is it something that you relied on?</b></p> <p>A. It's something that I -- again, I think we mentioned this earlier, that we looked at the demographics data of the three sites that Quantcast had information for -- so that was Gawker,</p>	<p><b>Q. I'm sorry. Off of Quantcast about grandparents.com.</b></p> <p>If you turn to page 2, the top left-hand corner, there's data about the demographics of grandparents.com that shows the age distribution. Do you see that?</p> <p><b>Q. Is that the distribution that you looked at when you said that it skews younger?</b></p> <p>A. No, that's an index. That's different. I actually looked at data -- it's on Quantcast -- that shows the percentage of users that go to grandparents.com. So what percentage of each of these age groups are made of and that's the data I was referring to. It was actually a very large portion of the under 18 segment, I think it was -- I don't want to guess, but the data was on Quantcast.</p> <p>You have to click a little box. I think maybe even the "See More" box right there, I'm not sure there's a box, you click it and it drops down, and then it gives you percentages of each of the demographics. That's the data that I looked at.</p> <p><b>Q. And what does this data here show?</b></p> <p>A. This is an index, so it just shows that -- I'm not sure how they're indexing it, to tell you the</p>
<p>grandparents.com, and Bleacher Report -- and the grandparents.com demographics, according to the data on Quantcast, actually, it skews fairly young. There's actually a large position of that that's under 18 years old.</p> <p>So that's why there was no information in that demographics data that we reviewed that showed that demographics would have any effect on the analysis or valuation that we did.</p> <p>MR. BERRY: I'd like to mark as Exhibit 188. (The document referred to was marked as Exhibit 188.)</p> <p><b>Q. This is a Quantcast report for grandparents.com that was printed on March 19th that shows the distribution of unique users between January 2014 and December of 2014 with the number for December 2014 broken out separately?</b></p> <p>A. I didn't give this to you.</p> <p><b>Q. We printed that out --</b></p> <p><b>Q. -- off of grandparents.com?</b></p> <p>A. Okay. Well, off of Quantcast.</p>	<p>truth. I haven't seen this before.</p> <p>Are we done with this one?</p> <p><b>Q. For now.</b></p> <p><b>You've been to the grandparents.com Web</b></p> <p><b>Q. What kind of content does it post?</b></p> <p>A. Again, there's stories, articles. Content to be read by the user base of grandparents.com.</p> <p><b>Q. So what kind of content? What kind of</b></p> <p>A. I don't remem- -- I'm not going to guess the exact stories, but I looked through four or five or six different stories that were on there.</p> <p><b>Q. Were they the kind of stories that you'd also see on gawker.com?</b></p> <p>A. I don't know if you would or not.</p> <p>MR. BERRY: I'd like to mark this as</p> <p>(The document referred to was marked as Exhibit 189.)</p> <p>BY MR. BERRY:</p> <p><b>Q. Exhibit 189 is a printout of the home page of grandparents.com.</b></p>

<p>Q. Grandparents.com is affiliated with this American Grandparents Association. Right?</p> <p>A. I would assume there's an affiliation. There's a -- they're using the AGA logo and branding, so there's probably some partnership or agreement</p> <p>Q. Well, you looked at the 10-K, didn't you?</p> <p>Q. Isn't American Grandparents Association grandparents.com?</p> <p>They're one and the same?</p> <p>A. I'd have to look at the 10-K. Do you have</p> <p>They very well could be. I just don't remember off the top of my head if they're one and</p> <p>Q. If you'd flip to page 4 -- or, sorry, the last page on your 5 now. It says "Join Now." It's a membership organization, isn't it?</p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: They're -- they want you to join their site, sure. But it's not a subscription-based organization.</p>	<p>A. It's not different in the sense that there is content that you can get from grandparents.com directly off the Web site without having a membership.</p> <p>Q. Do you know whether gawker.com sells memberships to see certain content?</p> <p>A. I don't know if they do.</p> <p>Q. Grandparents.com is a publicly traded company. Right?</p> <p>Q. So its value changes daily?</p> <p>A. It can change daily.</p> <p>Q. As the stock value fluctuates, the value of the company fluctuates. Right?</p> <p>A. That is correct.</p> <p>Q. And according to your report, the value of grandparents.com on December 31st, 2014 is \$31,280,000. Right?</p> <p>Q. And using the Exhibit 3 for grandparents.com, the valuation source refers to</p> <p>Do you see that?</p> <p>MR. BERRY: I'd like to mark this as</p>
<p>BY MR. BERRY:</p> <p>Q. Well, it provides promotions and discounts for members. Right?</p> <p>A. They have --</p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: They have promotions and discounts, sure.</p> <p>BY MR. BERRY:</p> <p>Q. And there's certain content that's limited to members. Right?</p> <p>A. Some of the content is, yes.</p> <p>Q. Is that like Gawker?</p> <p>A. I don't know if Gawker has a membership. I don't believe they do.</p> <p>Q. Right. And before when you were telling me which comps you selected, it was ones that weren't subscription based. Right?</p> <p>A. Subscription based, not membership based.</p> <p>Q. Well, certain content of grandparents.com is off limits unless you pay a membership. Right?</p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: I don't know if that's true for how much of the content. I don't know.</p> <p>BY MR. BERRY:</p> <p>Q. But that's different than Gawker?</p>	<p>(The document referred to was marked as Exhibit 190.)</p> <p>Q. Exhibit 190 is document 46. Right?</p> <p>Q. And the value -- this is from S&amp;P Capital IQ. Right?</p> <p>Q. This is the company you mentioned earlier?</p> <p>Q. Kind of changing gears to something I meant to ask you earlier about S&amp;P Capital IQ. In the situations where there were transactions dealing with either a sale of a company or funding transactions as there were for Bleacher Report, BuzzFeed, Huffington Post, or Ozy, where does S&amp;P Capital get the information that it provides to you on those private funding transactions?</p> <p>A. Typically, it's from public filings of some sort. Investment houses, venture capital firms, sometimes they make public filings. Sometimes they make the information public.</p> <p>I don't know for certain exactly where they get the information, but it's public sources.</p>



<p>Q. Do you know where it got the information on any of the transactions that we talked about for those four companies?</p> <p>A. Again, probably from public filings of those companies or of the investors that are investing into those companies or Web sites.</p> <p>Q. But you don't know -- you don't have a specific knowledge for these four companies where S&amp;P Capital IQ got the information that's reported in the printouts that you used?</p> <p>A. I don't know specifically where S&amp;P Capital IQ got that information, but Capital IQ and S&amp;P is one of the most reputable data sources when it comes to information like this, and we -- we have to, and a lot of publicly com- -- public companies that use S&amp;P Capital IQ for information, have to rely on their data. It is -- it is sound data.</p> <p>Q. Okay. Sorry for the little detour there. I meant to ask you earlier.</p> <p>Q. Going back to grandparents.com and S&amp;P Capital IQ, so document 1 -- Exhibit 190 shows that the valuation as of December 31st, 2014 was roughly \$31.3 million. Right?</p>	<p>A. That's -- appears to be correct, yes. Or I don't know when it was printed.</p> <p>Q. Well, it says at the bottom left-hand</p> <p>A. "Date Created"?</p> <p>Q. -- "Date Created"?</p> <p>A. Yeah, I'm not sure what that means, but most</p> <p>Q. If you look on the side of that chart, it shows the total enterprise value under "Capitalization"?</p> <p>Q. The total enterprise value there is 27,260,000. Right?</p> <p>Q. So assuming this was printed on December 23rd, the value increased 10 percent in eight days?</p> <p>A. No. That's -- that information is not quite accurate for the total enterprise value.</p> <p>You see, they're mixing data from multiple points throughout the year. The reason we use December 31st, 2014 for our value of grandparents.com is because that's using -- keeping an apples and apples, not apples and oranges. Right? We're taking information from December 31st and comparing it with</p>
<p>Q. Are you familiar with Yahoo Finance?</p> <p>Q. What is Yahoo Finance?</p> <p>A. It's a Web site that has financial information on publicly traded companies, commodities, stocks, financial-related information.</p> <p>Q. Is the information on there reliable?</p> <p>A. It can be, yeah.</p> <p>MR. BERRY: Before we get to Yahoo Finance, I want to mark as Exhibit 191 another document from S&amp;P Capital IQ.</p> <p>(The document referred to was marked as Exhibit 191.)</p> <p>BY MR. BERRY:</p> <p>Q. And this I believe is document 23 in your report if you look at page 13 of the report --</p> <p>Q. -- in footnote 57.</p> <p>A. Footnote 57 is document 23, the codex.</p> <p>Q. Okay. So this was another document from S&amp;P Capital IQ that you looked at. Right?</p> <p>A. That's correct.</p> <p>Q. All right. And this was printed on December 23rd, 2014. Is that right?</p>	<p>information from December 31st.</p> <p>The reason we didn't use this date or March, as I believe you're going to show me with the Yahoo Finance information, is because they're mixing old information with current information. So current market cap with old debt and cash information, so it doesn't give you an accurate picture of the true enterprise value.</p> <p>So by looking at it at December 31st, 2014, we're comparing apple data to apple data.</p> <p>Q. And what -- explain to me what information is available on December 31st that wouldn't have been correct on December 23rd?</p> <p>A. Well, companies file 10-Ks at the end of their fiscal year, and so you're going to have accurate -- and it takes time for companies to make their filings. Typically, you know, a couple months or so. And so their December 31 financials will be complete a couple months later.</p> <p>So in the March data -- or December data here, they're likely using different debt and cash information to come up with their enterprise value calculation than they would, it -- so they're using a different date for some information than other information. Whereas if you look at the December</p>

<p>31st information that's presented, it's using December 31st information and comparing it to December 31st information.</p> <p>So it's a more accurate representation of value at that point in time.</p> <p><b>Q. Do you know if the values used in Exhibit 191 for those things that you said might change, whether they did change between December 23rd</b></p> <p>A. I don't know if they did. But -- well, they must have changed because, as you said, the values are slightly different.</p> <p><b>Q. Well, couldn't that also just be the value of the stock changing?</b></p> <p>A. It could be stock mixed with other items that go into the enterprise value.</p> <p>So that's why, to keep things consistent and to have a common denominator of time, we used December 31, 2014 as it's a more accurate representation of the value of the company.</p> <p><b>Q. Is that data also available in SEC quarterly</b></p> <p><b>Q. Did -- looking at this Exhibit 191, the share price of grandparents.com on that date was 21</b></p>	<p>MR. BERRY: Which we'll mark as Exhibit 192. (The document referred to was marked as Exhibit 192.)</p> <p>THE WITNESS: I can put this one away?</p> <p>MR. BERRY: Yeah.</p> <p><b>Q. So Exhibit 192 is a printout from Yahoo Finance from March 19th, 2015. Here in the first box under "Valuation Measures," it reports that the enterprise value as of March 19th, 2015 is 26.17 million? Do you see that?</b></p> <p><b>Q. And I guess for the reasons that you explained a couple moments ago, you feel that that enterprise value number may not be accurate. Right?</b></p> <p>A. It's not as accurate as looking at a December 31st, 2014. You'll see there's a footnote 3 next to that number there?</p> <p>A. And so that footnote 3 says: "Data derived from multiple sources or calculated by</p>
<p><b>cents. Right?</b></p> <p>A. That's correct.</p> <p><b>Q. So this is sold as an over-the-counter stock. Right?</b></p> <p>A. I believe so, yes.</p> <p><b>Q. I mean, in common parlance, when we talk --</b></p> <p>A. OTCPK, yeah.</p> <p><b>Q. Yeah, people talk about these as penny</b></p> <p><b>Q. Is the value of the stock contingent on anything that's posted on grandparents.com?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: I'm not sure what you mean by</p> <p><b>Q. Well, as the stock price changes, does it change based on any posting to grandparents.com?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: I don't know if that's true or</p> <p><b>Q. Jumping now to the Yahoo Finance.</b></p> <p>A. Oh, we're going to do Yahoo now?</p>	<p>So the multiple sources there would be, likely, and I don't -- I'm not -- I haven't seen the data, but I know through Capital IQ how it works because we actually looked at this and I thought about this before selecting December 31st as the date for the valuation, that they will draw data from an older filing and incorporate it with market information, including the current share price as of today. And so you're mixing old information with current information and it's not as accurate as taking a December 31st where I have actual filings for December 31st. So all the data necessarily go -- necessary to go into that enterprise valuation is from the same point in time.</p> <p><b>Q. Do you know what the stock price of grandparents.com was on December 31st?</b></p> <p>A. I don't know the exact stock price.</p> <p><b>Q. On March 19th -- or March 18th, according to Yahoo Finance, it was a little over 20 cents a share.</b></p> <p>A. March 19th? March 18th? Yes.</p> <p><b>Q. And, again, that would -- the value of that stock price would affect the overall valuation of the company. Correct?</b></p> <p>MR. VOGT: Objection to form.</p>

<p>THE WITNESS: The value of the stock price would have an effect on the value of the company,</p> <p>Q. So if the stock price was higher on December 31st, the valuation would be higher than on</p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: That could be true.</p> <p>Q. And the converse could be true, too. Right? If the valuation of the stock price was lower, then it might be lower, overall valuation?</p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: It could be true. There's also cash and debt that gets factored into the calculation of enterprise value. So I say it could be true 'cause I'd have to see specifically what other items are included in that.</p> <p>But it also should be noted that earnings were negative for grandparents.com. In other words, they had negative EBITDA. And this is just another reason why to do an income approach on grandparents.com, it wouldn't work. You have to do a market approach.</p>	<p>Q. Offers reviews and information on spas and salons, doesn't it?</p> <p>A. I don't know if I've looked at a spa or salon, but I'll believe you that you say that.</p> <p>Q. You can go on Yelp and see when a business is opened. Right?</p> <p>A. I believe you can, yes.</p> <p>Q. You can see where the business is located.</p> <p>Q. You can see for restaurants what's on the restaurant menu. Right?</p> <p>A. At times, yes.</p> <p>Q. You can go and see what other people thought of the business. Right?</p> <p>Q. For some restaurants, you can make reservations through Yelp. Right?</p> <p>A. I don't know for sure, but possibly.</p> <p>Q. Basically with Yelp, people go there to find places where they're going to spend their money.</p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: They go there to find the</p>
<p>Q. Hm-hm. Was any --</p> <p>A. Done with these?</p> <p>Q. Yeah. The last comp that you used was Yelp.</p> <p>Q. Tell me what Yelp is.</p> <p>A. It's a content-based Web site. Has information relating to services, restaurants, businesses, stores.</p> <p>Q. So you've been on the Yelp Web site?</p> <p>Q. Do you use Yelp in your personal life?</p> <p>Q. How is Yelp comparable to Gawker?</p> <p>A. It's a content-based site. Drives revenue through advertising. It has the potential to monetize those users in the future. Again, it's a content-based site.</p> <p>Q. Yelp offers, I guess as you said, reviews and information on restaurants. Right?</p> <p>Q. It offers reviews and information on different shops. Correct?</p>	<p>Q. When you go to Yelp, why do you go to Yelp?</p> <p>A. If I'm looking for information.</p> <p>A. A restaurant. A store.</p> <p>Q. 'Cause you're considering going there?</p> <p>A. Possibly, yes.</p> <p>Q. And you're looking to spend your money at a restaurant. Right?</p> <p>A. Could be, yes.</p> <p>Q. And you might be looking to spend your money at a store. Right?</p> <p>Q. There's no articles on Yelp, are there?</p> <p>A. I do not know that there are any articles,</p> <p>Q. There's no news content on Yelp, is there?</p> <p>A. No news -- well, I mean, reviews could be considered news of sorts. It's information. It's -- people go to Yelp to find information just as people go to gawker.com to find information.</p> <p>Q. Is there celebrity gossip on Yelp?</p> <p>A. It's a different -- different type of information. I don't think there's any celebrity</p>

<p>gossip, but there could be in the reviews on Yelp.</p> <p><b>Q. Do you know what kind of ads Yelp posts?</b></p> <p>A. I do not know.</p> <p><b>Q. Do you know the revenue that's generated by individual ads on Yelp?</b></p> <p>A. Total aggregate revenue?</p> <p><b>Q. Aggregate, individual, any way?</b></p> <p>A. I don't have the exact number, but I know that it's -- 95 percent of revenue is derived from</p> <p><b>Q. But do you know for any individual ad what</b></p> <p><b>Q. Yelp has roughly a hundred million average monthly unique users. Right?</b></p> <p><b>Q. And that's more than six times as many monthly uniques as Gawker has. Right?</b></p> <p>A. And about the same as BuzzFeed, yes.</p> <p><b>Q. Right, but does that affect valuation?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: There was no indication that the monthly unique user base or the size, whether it's a million or a hundred million, had any effect</p>	<p><b>Q. So what other variables did you use in attempting to do a regression analysis?</b></p> <p>A. We just looked at monthly unique users compared to the multiple, the monthly unique user</p> <p>Again, there's only six. You really need to have more to do a true statistical analysis of it. So the point was there was not any -- there was not sufficient information to show that the size of the company or the Web site based on monthly unique user traffic would have any effect on the valuation or on our analysis that we did.</p> <p><b>Q. Through Yelp, an advertiser could reach more people than through Gawker. Right?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: Based on the monthly unique</p> <p>A. That could be inferred from that.</p> <p><b>Q. Right. So --</b></p> <p>A. And about the same as BuzzFeed.</p> <p><b>Q. Right. Do you know whether Yelp has been around -- Yelp and BuzzFeed have been in existence for the same amount of time?</b></p>
<p>on the monthly unique user multiple.</p> <p>BY MR. BERRY:</p> <p><b>Q. What did you look at to come to that</b></p> <p>A. We tried to run a regression analysis, but there's insufficient data to show that there's any statistical inferences that can be made from that. In other words, the -- the results came back as null, that there was nothing that could be shown from it.</p> <p>So you couldn't say that a larger amount of monthly unique user traffic generates a higher or lower multiple or vice versa. There was insufficient data to prove that, just to show that it didn't really have an effect on it.</p> <p><b>Q. In the regression analysis, were you only looking at these six sites and Gawker?</b></p> <p><b>Q. What other factors did you use in the regression analysis?</b></p> <p>A. What do you mean?</p> <p><b>Q. Well, what other -- well, when you run a regression analysis, you're looking at different variables to see what the effect is on sum total here valuation. Right?</b></p>	<p>A. I don't know the exact dates that they</p> <p><b>Q. Do you know whether anything has happened at BuzzFeed over the past several years that would affect its valuation?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: They received an investment. I don't -- other than that, I don't know.</p> <p><b>Q. Yelp is a publicly traded company. Right?</b></p> <p><b>Q. And so its valuation changes each day as its stock price changes. Right?</b></p> <p><b>Q. Yelp also is one of the largest Internet companies in the country. Is that right?</b></p> <p>A. It's a large company. Large Web site.</p> <p><b>Q. It's in the top ten most visited Web sites according to Quantcast. Is that right?</b></p> <p>A. It's a -- it's a popular Web site. I don't</p> <p><b>Q. The point is --</b></p> <p>A. -- it's top ten. I -- I don't remember seeing that data.</p> <p><b>Q. Do you know whether Yelp's valuation changes</b></p>

<p>● <b>at all based on any single post?</b></p> <p>● [REDACTED]</p> <p>● <b>Q. Do you know whether the unique views for any</b></p> <p>● <b>post affects Yelp's valuation?</b></p> <p>● [REDACTED]</p> <p>● <b>Q. Do you know how many different pages there</b></p> <p>● [REDACTED]</p> <p>● [REDACTED]</p> <p>● [REDACTED]</p> <p>Can we take a quick break?</p> <p><b>Q. Yeah, why don't we take a break. It's actually a good time.</b></p> <p><b>(Recess taken.)</b></p> <p>THE VIDEOGRAPHER: Back on the record at</p> <p><b>Q. So shifting gears, during the break, I asked you to take a look at Exhibit 177, which is this Gawker 1148 which shows the page views to the Hulk Hogan video.</b></p> <p><b>Do you have that in front of you now?</b></p> <p><b>Q. Okay. This is the page that shows that the number of unique views for the Hogan post was 5,357,572. Right?</b></p> <p>A. That is correct.</p>	<p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: Nearly all of them? I'm not going to say nearly all of them. A lot of them. More occurred in that first month than in the latter</p> <p>BY MR. BERRY:</p> <p><b>Q. In the latter months, is there even an uptick on the chart that's Exhibit 177?</b></p> <p>A. An uptick? There's -- it's -- it's</p> <p><b>Q. Through October, it's declining. And then from November on, is there even any uptick in the number of views?</b></p> <p>A. I think the scaling of this graph here is going to make it difficult to say if there's any uptick. Even if that's going from ten views to twenty views, there would be an uptick, but you're not going to see that given the scaling of this</p> <p><b>Q. That's 'cause it shows that there were almost 5 million page views -- right? -- at the beginning October?</b></p> <p>A. About 5 million, so you're -- to cut down this, we're about a -- what? -- an inch of a graph here to show something like only a hundred page</p>
<p><b>Q. Do you know how those views translated into revenue for Gawker?</b></p> <p><b>Q. Do you know whether those views translated into profit for Gawker?</b></p> <p><b>Q. Do you know whether this post had any advertising on it?</b></p> <p><b>Q. Do you know whether gawker.com actually monetized these unique views?</b></p> <p><b>Q. This page also shows the distribution of when those views occurred. Right?</b></p> <p><b>Q. These views didn't happen over a 6.71-month period, did they?</b></p> <p>A. They did.</p> <p><b>Q. Nearly all of them occurred in October 2012.</b></p> <p>A. Most of them, but they did occur -- there were still small amounts that happened over that 6.71-month period.</p> <p><b>Q. Right, but they -- I mean, nearly all of them occurred in October 2012. Right?</b></p>	<p>views, it's not going to show up as a tick on -- because of the -- I mean, you understand 'cause the size of this graph. Right?</p> <p><b>Q. The distribution that's shown on Exhibit 177 is different than your -- the assumption you used in the calculations in your report. Right?</b></p> <p>MR. VOGT: Objection to form.</p> <p>THE WITNESS: The distribution over time?</p> <p><b>Q. Of views, yes.</b></p> <p>A. The -- the aggregate number of views is the same. And the distribution arithmetically makes no difference for our analysis.</p> <p>The reason we had to do it as an average over that time period is because this was the only information that I think you or Gawker presented to us on the Google Analytics and we don't have the specific data points for each of the months. But, again, arithmetically, it makes no difference to the</p> <p><b>Q. Do you know that that's the only information we provided, or was that the only information provided to you?</b></p> <p>A. About unique views?</p> <p><b>Q. (Nods head.)</b></p>

Page 266

1 A. There might have been some other  
 2 information. It would be on my doc list. Do you  
 3 have --  
 4 **Q. No, but you had said that's the only**  
 5 **information that we provided.**  
 6 A. I --  
 7 **Q. We -- is that the -- do you know that to be**  
 8 **that Gawker only provided that data or did**  
 9 **Plaintiff's attorney only give you that data?**  
 10 A. I don't know the answer to that.  
 11 **Q. Okay. So it may have been that Plaintiff's**  
 12 **attorneys only gave you that data?**  
 13 A. Again, I don't know that.  
 14 **Q. But it's fair to say that the distribution**  
 15 **of unique views was not evenly distributed over 6.71**  
 16 **months. Correct?**  
 17 A. That's correct.  
 18 **Q. So there were not 798,000-some-odd people --**  
 19 **unique visitors to this page each month over that**  
 20 **six-month period. Right?**  
 21 A. On average, there was.  
 22 **Q. Right. But nearly all of those unique views**  
 23 **happened in month 1 in October 2012. Correct?**  
 24 A. Nearly --  
 25 MR. VOGT: Objection to form.

Page 267

1 THE WITNESS: Nearly all again, that -- a  
 2 lot. The most views happened in that first month  
 3 that it was posted.  
 4 BY MR. BERRY:  
 5 **Q. Do you have any reason to think that the**  
 6 **unique users from the Hogan post continued to visit**  
 7 **Gawker again?**  
 8 A. According to Mr. Denton -- I'm going turn to  
 9 a quote on page 11 of my report.  
 10 According to Mr. Denton -- he's talking  
 11 about monthly unique users -- he says, "This is the  
 12 figure" -- and it's in bold. We bolded it:  
 13 "This is the figure that  
 14 journalists cite when judging a  
 15 site's competitive position. It's  
 16 also the metric by which  
 17 advertisers decide which sites they  
 18 will shower with dollars. Finally,  
 19 a site with plenty of genuine  
 20 uniques is one that has good growth  
 21 prospects. Each of those  
 22 first-time visitors is a potential  
 23 convert."  
 24 So I think in Mr. Denton's own words, they  
 25 are potentially converts to the site.

Page 268

1 **Q. Right. He wasn't talking about the Gawker**  
 2 **posting of the Hulk Hogan video, was he?**  
 3 A. Well, his --  
 4 MR. VOGT: Objection to form.  
 5 THE WITNESS: -- next quote that we have in  
 6 here refers to what I believe to be posts such as the  
 7 Hulk video. So he says -- again, this is Mr. Denton:  
 8 "Most of the stories that  
 9 resonate are also stories with high  
 10 page views -- with the flames that  
 11 everyone so prizes -- you have to  
 12 be even more original, even more  
 13 provocative or even more of a  
 14 hustler than usual."  
 15 So I think there, he is speaking to posts  
 16 such as the Hulk video.  
 17 BY MR. BERRY:  
 18 **Q. But was he actually talking about the**  
 19 **Hulk Hogan video?**  
 20 MR. VOGT: Objection to form.  
 21 THE WITNESS: In those quotes?  
 22 BY MR. BERRY:  
 23 **Q. Correct.**  
 24 A. Speaking directly to the Hulk video?  
 25 **Q. Yes.**

Page 269

1 A. I don't know what specifically he was  
 2 speaking to. I just know that those are his words.  
 3 **Q. Right. That was published on January 5th,**  
 4 **2010?**  
 5 A. Okay. So then it's not in relation to the  
 6 Hulk video.  
 7 **Q. Right. And what he said I believe was that**  
 8 **they had the potential to become regular viewers.**  
 9 **Right? Or something to that effect?**  
 10 A. Each of those first-time visitors is a  
 11 potential convert.  
 12 **Q. Do you know if any of the unique users for**  
 13 **the Hogan post was a convert?**  
 14 A. Again, based on Mr. Denton's own words, I  
 15 have to assume that they were hoping that they were  
 16 converts. And, again -- I think we talked about this  
 17 hours ago, but we asked for Google Analytics data and  
 18 for data from Vastly from your client and I don't  
 19 believe we have received that yet unless there's  
 20 something that I haven't been shared.  
 21 **Q. Right, you didn't ask for it. This is**  
 22 **between the plaintiff's counsel and us and the court**  
 23 **Right?**  
 24 **Yeah, I mean, he has only --**  
 25 A. I don't know --

Page 270

1 **Q. -- one way -- one way or the other to know**  
 2 **whether that data is provided or whether the court**  
 3 **ruled it to be relevant or irrelevant. Right?**  
 4 A. I haven't seen that data.  
 5 **Q. And, again, you have no reason to know one**  
 6 **way or another whether any unique viewer of the Hogan**  
 7 **post continued to be a viewer of gawker.com?**  
 8 A. There's no way without that information that  
 9 we asked for to know if that's true or not.  
 10 However, from a valuation perspective, the  
 11 data that they're going to take -- again, to use  
 12 Mr. Denton's words, "This is the figure" -- so he's  
 13 talking about monthly uniques, monthly unique users:  
 14 "This is the figure that  
 15 journalists cite when judging a  
 16 site's competitive position. It's  
 17 the metric by which advertisers  
 18 decide which sites they will shower  
 19 with dollars."  
 20 So what happens is, these sites present  
 21 their monthly user traffic -- unique user traffic  
 22 data to potential advertisers -- again, this is  
 23 Denton's words, not mine -- and that's how the  
 24 advertisers decide who they're going shower with  
 25 dollars.

Page 271

1 **Q. But you've never worked in the Web site**  
 2 **advertising business. Right?**  
 3 A. I'm not an advertising expert. I have not  
 4 worked in that business. You're correct.  
 5 **Q. And you've never gone to an advertiser to**  
 6 **try and get them to advertise on a Web site, have**  
 7 **you?**  
 8 A. I have not.  
 9 **Q. And you've never talked to Nick Denton**  
 10 **before, have you?**  
 11 A. I don't think so, no.  
 12 **Q. And you have no idea how gawker.com deals**  
 13 **with its advertisers, do you?**  
 14 A. All I know is what the quote says from  
 15 Mr. Denton.  
 16 **Q. Right. But you don't know how gawker.com**  
 17 **deals with its advertisers, do you?**  
 18 A. I don't know their specific conversations or  
 19 negotiations, no.  
 20 **Q. Do you have any reason to think that the**  
 21 **unique users for the Hogan post had not visited**  
 22 **Gawker before?**  
 23 A. I have no -- there's no indication one way  
 24 or the other without additional data.  
 25 **Q. So there may have been people who had**

Page 272

1 **visited the site before. Right?**  
 2 A. They could have been.  
 3 **Q. And they could have also been people who**  
 4 **hadn't visited the site before. Right?**  
 5 A. They could have been.  
 6 MR. BERRY: I'd like to mark as Exhibit 193.  
 7 (The document referred to was  
 8 marked as Exhibit 193.)  
 9 BY MR. BERRY:  
 10 **Q. Exhibit 193 is a Quantcast report for**  
 11 **gawker.com showing the period from October 2011**  
 12 **through September 2012.**  
 13 **This is similar to, I guess, data that you**  
 14 **looked at?**  
 15 A. I believe we looked at data similar to this,  
 16 yes.  
 17 **Q. Okay. Looking just at the period between**  
 18 **May 2012 and the end of September 2012, how would you**  
 19 **describe the trend of unique users?**  
 20 A. May -- so is May following this -- April,  
 21 May, June. Okay. So these are one-month periods?  
 22 **Q. Hm-hm.**  
 23 A. So, I'm sorry, what was your question again?  
 24 **Q. How would you describe the number of unique**  
 25 **users during that period?**

Page 273

1 A. May through and, I'm sorry again, what was  
 2 the last month?  
 3 **Q. September, the last month on here.**  
 4 A. It's increasing.  
 5 **Q. On the chart, it's the highest rate of**  
 6 **increase of any of this period. Right?**  
 7 A. I would have to calculate that. I don't  
 8 know if the October -- the October to October,  
 9 whatever that first month is, that's fairly steep.  
 10 I'd have to calcu- -- I'm not going to say it's the  
 11 highest. I can't do that. I'm sorry.  
 12 **Q. But in aggregate number of users, it's a --**  
 13 **the largest increase?**  
 14 A. In aggregate?  
 15 **Q. Yeah, the aggregate average over --**  
 16 **A. Over the seven-month period or six-month**  
 17 **period, whatever?**  
 18 **Q. Yeah, between May and September.**  
 19 A. It looks to be the largest aggregate  
 20 increase.  
 21 MR. BERRY: I'd like to mark as 194.  
 22 (The document referred to was  
 23 marked as Exhibit 194.)  
 24 BY MR. BERRY:  
 25 **Q. What Exhibit 194 is, is Quantcast data**

Page 274

1 showing average monthly unique viewers of gawker.com  
 2 from October 1st, 2011 all the way through April  
 3 2013, which is the total period of time that you were  
 4 looking at in your report.  
 5 A. Okay.  
 6 Q. Right. You had broken it into two separate  
 7 twelve-month periods, but this shows the entire  
 8 series of months.  
 9 A. Okay.  
 10 Q. In May 2012, how many unique viewers were  
 11 there at gawker.com?  
 12 A. Looks like 7.5 million in the United States.  
 13 Q. And that way -- you were looking at the U.S.  
 14 number when you were doing uniques?  
 15 A. We were looking at global, I believe.  
 16 MR. BERRY: I'd like to show you what's  
 17 marked as -- what we'll mark as Exhibit 195.  
 18 (The document referred to was  
 19 marked as Exhibit 195.)  
 20 BY MR. BERRY:  
 21 Q. Are you sure that you were looking at  
 22 global?  
 23 MR. VOGT: Objection.  
 24 THE WITNESS: I'll check that.  
 25 I'd -- I'd have to check my documents to

Page 275

1 see. I thought I -- but I think we did global.  
 2 BY MR. BERRY:  
 3 Q. Did you do global for the comps?  
 4 A. Yes.  
 5 Q. Do you know if Gawker is able to monetize  
 6 non-U.S. unique visitors?  
 7 A. I don't know why they wouldn't be able to.  
 8 Q. Do you know if other -- any of the other  
 9 Web sites monetize non-U.S. visitors that you had  
 10 used as comps?  
 11 A. They can monetize advertising.  
 12 Q. Do you know if they do?  
 13 A. I don't know for sure. But there's  
 14 certainly a value.  
 15 Q. Let me show you -- taking a look at  
 16 Exhibit 195. This is the same -- the chart showing  
 17 the same period of time.  
 18 How many unique users were there in  
 19 September 2012?  
 20 A. In the United States?  
 21 Q. Correct.  
 22 A. 12.6 million. Globally? I don't know. You  
 23 don't have it here.  
 24 Q. So just looking at United States, between  
 25 Exhibit 194 and 195, there was an increase from

Page 276

1 7.5 million, roughly, in May to 12.6 in September.  
 2 Right?  
 3 A. Where are you looking at again?  
 4 Q. Looking at 194.  
 5 A. 194, all right.  
 6 Q. Shows that in May of 2012.  
 7 A. There was 7.5 million in the U.S.  
 8 Q. And in September 2012, there were 12.6  
 9 million in the U.S. Right?  
 10 A. That's correct.  
 11 Q. So that was an increase of almost  
 12 70 percent?  
 13 A. About that.  
 14 Q. Do you know what that increase was  
 15 attributable to?  
 16 A. I do not.  
 17 Q. Do you know whether it was attributable to a  
 18 specific post?  
 19 A. I know there were other posts going on.  
 20 Q. But was this increase in traffic, that  
 21 5-million-plus people, attributable to any individual  
 22 post, as far as you know?  
 23 A. I think there was a Kate Middleton post that  
 24 happened in September.  
 25 Q. And what about in August?

Page 277

1 A. I don't remember exactly.  
 2 Q. So prior to the Hogan post, there was an  
 3 uptick of 5 million unique visitors in the period  
 4 between May to September 2012. Right?  
 5 A. Approximately.  
 6 MR. BERRY: Mark as Exhibit 195 -- oh,  
 7 sorry -- 196. Falling behind.  
 8 (The document referred to was  
 9 marked as Exhibit 196.)  
 10 THE WITNESS: Can you put these others down  
 11 for now?  
 12 BY MR. BERRY:  
 13 Q. Sure. We may come back to one of them.  
 14 Exhibit 196 is the same span of time, data  
 15 from Quantcast for gawker.com. This time with  
 16 October 2012 data broken out for unique U.S.  
 17 visitors.  
 18 The number that month was roughly  
 19 14.18 million. Right?  
 20 A. Correct.  
 21 MR. BERRY: Now mark as Exhibit 197.  
 22 (The document referred to was  
 23 marked as Exhibit 197.)  
 24 BY MR. BERRY:  
 25 Q. Exhibit 197 is that same quantcast.com data



Page 278

1 for Gawker from October 2011 all the way through  
 2 April '13 -- this time with April 2013 broken out.  
 3 Do you see that?  
 4 A. I do.  
 5 Q. And how many unique viewers were there for  
 6 gawker.com in United States in April 2013?  
 7 A. Just over 12.7 million.  
 8 Q. So there was a decrease in unique viewers  
 9 from October 2012 to April 2013. Right?  
 10 A. That is correct.  
 11 Q. Do you know what that decrease was  
 12 attributable to?  
 13 A. I do not.  
 14 Q. Looking just at Exhibit 196 with the October  
 15 data broken out.  
 16 A. Okay.  
 17 Q. The number of unique viewers dropped from  
 18 October to November. Right?  
 19 A. Yes.  
 20 Q. Do you know what that drop was due to?  
 21 A. I do not. This was one of their most  
 22 exceptional stories they ever had in terms of  
 23 traffic, so I do not know why.  
 24 MR. BERRY: I'd like to mark as 198.  
 25 (The document referred to was

Page 279

1 marked as Exhibit 198.)  
 2 BY MR. BERRY:  
 3 Q. Exhibit 198 is the same set of data from  
 4 Quantcast for Gawker showing the unique viewers each  
 5 month from October 2011 through April 2013. This  
 6 time with the unique users for November broken out.  
 7 How many unique users were there in November  
 8 2012?  
 9 A. Looks like, in the U.S., just over  
 10 9.5 million.  
 11 Q. And of all the time during the period that  
 12 you looked at, that's the greatest drop in unique  
 13 users. Correct?  
 14 A. The greatest drop on -- on -- in absolute  
 15 terms?  
 16 Q. Absolute percentage. However you want to  
 17 look at it, it's the greatest drop. Right?  
 18 A. Since when?  
 19 MR. VOGT: Objection to form.  
 20 BY MR. BERRY:  
 21 Q. During this whole period that you looked at  
 22 from October 2011 through April 2013.  
 23 A. I don't know if it's the greatest. I mean,  
 24 it could be close to it. I don't know what happened  
 25 in December to January. It's a pretty big drop

Page 280

1 there, too.  
 2 Q. But in both of those periods, there was  
 3 significant drops in the unique users to the Web site  
 4 in the U.S. for those -- between those months.  
 5 Right?  
 6 A. Traffic fluctuates with many Web sites, but  
 7 yes, there was a drop in those two periods.  
 8 Q. And the drop here was roughly 4.5 million  
 9 people. Right?  
 10 A. From where to where now?  
 11 Q. From October to November.  
 12 A. Approximately.  
 13 Q. It dropped roughly 30 percent?  
 14 A. Approximately.  
 15 Q. Do you know what caused that decline?  
 16 A. I do not.  
 17 Q. Do you know why the unique users increased  
 18 again in December?  
 19 A. I believe there was another story, large  
 20 story.  
 21 Q. Did that have anything to do with the  
 22 Hulk Hogan post?  
 23 A. It could have. I don't know.  
 24 Q. You don't know why there was an increase  
 25 from November to December. Right?

Page 281

1 A. I believe there was another large story that  
 2 came out.  
 3 Q. Did that large story have anything to do  
 4 with Hulk Hogan?  
 5 A. The story itself?  
 6 Q. Yes.  
 7 A. I don't think so.  
 8 Q. Did that increase have anything to do with  
 9 the Hulk Hogan post?  
 10 A. It could have.  
 11 Q. But you don't know?  
 12 A. I don't know.  
 13 Q. Pulling back out Exhibit 195. That shows  
 14 the breakout of unique U.S. visitors for gawker.com  
 15 in September 2012. Right?  
 16 A. That is correct.  
 17 Q. And that shows 12.6 million people?  
 18 A. Roughly, yes.  
 19 Q. Then if you look at Exhibit 197 which shows  
 20 the data broken out for April 2013, how many unique  
 21 visitors was there in April 2013?  
 22 A. Just over 12.7 million in the U.S.  
 23 Q. So September 2012 was the month before  
 24 Gawker posted the Hulk Hogan video. Right?  
 25 A. That is correct.

Page 282

1 **Q. And April 2013 was the month it took it**  
 2 **down. Right?**  
 3 A. That is correct.  
 4 **Q. So the number of users before the Hogan**  
 5 **video was posted and the number through the time the**  
 6 **video was removed, looking at these two months, was**  
 7 **almost identical?**  
 8 A. It was close.  
 9 **Q. Right. There may be a 2 percent increase?**  
 10 A. I don't know the percentage. It was close.  
 11 **Q. Going back to Exhibit 4 to your report.**  
 12 A. Do I put these away for a second?  
 13 **Q. Yes.**  
 14 **Just looking at Exhibit 4 to your report**  
 15 **which was our Exhibit 176.**  
 16 A. Okay.  
 17 **Q. Here, just going to go back to where we were**  
 18 **earlier in the day.**  
 19 A. Okay.  
 20 **Q. Here this says the total unique page views**  
 21 **of the video was 5,357,572. Right?**  
 22 A. Correct.  
 23 **Q. That's just the number of unique users who**  
 24 **visited that post. Correct?**  
 25 A. The video -- the page the video's on, yes.

Page 283

1 **Q. Those users might have looked at other pages**  
 2 **on gawker.com. Right?**  
 3 A. They could have.  
 4 **Q. They might have visited gawker.com the day**  
 5 **before the post. Right?**  
 6 A. They could have.  
 7 **Q. They might have visited gawker.com the week**  
 8 **before the post. Right?**  
 9 A. They could have.  
 10 **Q. They could have looked at gawker.com the**  
 11 **month before?**  
 12 A. They could have.  
 13 **Q. They could have looked two months before.**  
 14 **Right?**  
 15 A. They could have.  
 16 **Q. But your analysis assumes that these**  
 17 **5.3 million users are unique visitors to gawker.com,**  
 18 **new users. Right?**  
 19 A. Not --  
 20 MR. VOGT: Objection to form.  
 21 THE WITNESS: Not necessarily new users.  
 22 Again, it's -- some of them could have been new  
 23 users. But, again, to Mr. Denton's quote, each of  
 24 those first-time visitors is a potential convert.  
 25 So they're presumably hoping some of those

Page 284

1 were new users, but I don't have that data. I've  
 2 asked for that, again, but we haven't received it.  
 3 If I can't -- so I don't know either way.  
 4 BY MR. BERRY:  
 5 **Q. In your analysis, you equate unique page**  
 6 **views to this post to unique page views to Gawker.**  
 7 **Correct?**  
 8 A. To the unique users to Gawker visitors?  
 9 Yes.  
 10 **Q. Right. So you're using a unique page view**  
 11 **for this particular post and saying that that is a**  
 12 **unique page view to gawker.com as a whole. Correct?**  
 13 A. I'm not completely understanding what you're  
 14 saying there.  
 15 **Q. The Quantcast data shows the average -- it**  
 16 **is a number of unique users for a particular month.**  
 17 **Right?**  
 18 A. Correct.  
 19 **Q. So in the month of October 2012 we looked**  
 20 **at, there was roughly 14 million unique users.**  
 21 **Right?**  
 22 A. Roughly. I'd have to look again, but.  
 23 Yes, for October.  
 24 **Q. And your assumption is that the total unique**  
 25 **page views, an unique viewer from the Hogan post was**

Page 285

1 **a unique user for gawker.com for that particular**  
 2 **month. Right?**  
 3 A. So you're asking would they have been  
 4 counted as a unique -- on Quantcast, would the unique  
 5 viewers of that page be counted as a unique monthly  
 6 user of gawker.com?  
 7 **Q. Well, that's a slightly different question,**  
 8 **but you can answer that one first.**  
 9 A. Yes. They would -- they would be --  
 10 they're -- they're of the same common denominator.  
 11 **Q. Earlier in the day, you told me that the**  
 12 **unique users per month on Quantcast could view ten**  
 13 **articles. Right?**  
 14 A. They could.  
 15 **Q. But they could only view one article, too.**  
 16 **Right?**  
 17 A. They could.  
 18 **Q. Your analysis assumes that unique page views**  
 19 **for this particular post were unique visits to Gawker**  
 20 **as a whole on the Quantcast data. Right?**  
 21 MR. VOGT: Objection to form.  
 22 THE WITNESS: No, it doesn't have to be a  
 23 unique -- okay. So now I understand your question.  
 24 No, it does not have to be that one unique  
 25 viewer of the 5.4 million that saw the video is also

Page 286

1 one unique end user per Quantcast data.  
 2 BY MR. BERRY:  
 3 **Q. But in your analysis, you assume those two**  
 4 **things are the same. Right?**  
 5 MR. VOGT: Objection to form.  
 6 THE WITNESS: We assume that one unique  
 7 viewer of the video would be counted as a unique user  
 8 that's presented in the Quantcast data.  
 9 BY MR. BERRY:  
 10 **Q. Even though they're counting two different**  
 11 **things. Right?**  
 12 MR. VOGT: Objection to form.  
 13 THE WITNESS: I'm not sure. I'm not  
 14 understanding the question completely and I apologize  
 15 for that, so.  
 16 BY MR. BERRY:  
 17 **Q. That's all right.**  
 18 **Just a couple minutes ago, you said that a**  
 19 **unique viewer of the Hogan post may have looked at**  
 20 **other posts on gawker.com that month. Right?**  
 21 A. Right.  
 22 **Q. For unique user data from Comcast -- from**  
 23 **Quantcast on a monthly basis, that's one unique user.**  
 24 **Right?**  
 25 A. If they only viewed the Hulk video.

Page 287

1 **Q. And if they viewed the Hulk video and they**  
 2 **viewed fifteen other posts on gawker.com, that's**  
 3 **still one unique user on Quantcast. Right?**  
 4 A. Correct.  
 5 **Q. For the Hogan post, that's also one unique**  
 6 **viewer. Right?**  
 7 A. That's -- according to the Google analytics  
 8 data?  
 9 **Q. Right.**  
 10 A. Right.  
 11 **Q. And so your assumption is that for the**  
 12 **Quantcast data, which you used for valuation, that**  
 13 **one unique user for the Hogan post is the equivalent**  
 14 **of one unique user for the month as a whole. Right?**  
 15 MR. VOGT: Objection to form.  
 16 THE WITNESS: They would be a unique user on  
 17 Quantcast as well.  
 18 BY MR. BERRY:  
 19 **Q. For the month?**  
 20 A. Correct.  
 21 **Q. Even though they may have viewed numerous**  
 22 **articles on gawker.com?**  
 23 MR. VOGT: Objection to form.  
 24 THE WITNESS: I think Mr. Denton and Gawker  
 25 would hope they viewed other articles on gawker.com.

Page 288

1 BY MR. BERRY:  
 2 **Q. All right. Take out Exhibit 177.**  
 3 A. 178 --  
 4 **Q. I think you had it out when we started this.**  
 5 **Why don't we go off the record for a minute.**  
 6 THE VIDEOGRAPHER: Okay. Off the record at  
 7 4:31.  
 8 (Discussion held off the record.)  
 9 THE VIDEOGRAPHER: Back on the record at  
 10 4:32.  
 11 BY MR. BERRY:  
 12 **Q. All right. And so you have Exhibit 177 in**  
 13 **front of you?**  
 14 A. I do.  
 15 **Q. All right. If you turn the page to**  
 16 **Gawker 1149, this was a document attached to 1148**  
 17 **that your plaintiff's -- that Plaintiff's counsel**  
 18 **produced to us that said you had reviewed before.**  
 19 **Have you looked at this?**  
 20 A. I believe so, yes.  
 21 **Q. Okay. Do you know what it is?**  
 22 A. Looks like the rankings of the top stories  
 23 that were on gawker.com.  
 24 **Q. Okay. In 2012?**  
 25 A. Correct.

Page 289

1 **Q. And this is Google Analytics data broken**  
 2 **down just like 1148 but just for different stories.**  
 3 **Correct?**  
 4 A. That's what it looks like, yes.  
 5 **Q. And there's a column just like on page 1148,**  
 6 **the second column shows unique page views.**  
 7 **Do you see that?**  
 8 A. I do.  
 9 **Q. The third item in that column -- or, yeah,**  
 10 **the third item that's numbered in that column is the**  
 11 **Hogan post. Do you see that? Even for a minute?**  
 12 A. I do.  
 13 **Q. And as of 2012, the end of 2012, there were**  
 14 **roughly 4.878 million unique views for that post?**  
 15 **Do you see that?**  
 16 A. That looks correct.  
 17 **Q. Just beneath that entry is an article titled**  
 18 **"I Am Adam Lanza's Mother." Do you see that, number**  
 19 **4?**  
 20 A. I do.  
 21 **Q. Do you know who Adam Lanza is?**  
 22 A. I've heard the name, yes.  
 23 **Q. Do you know who he is?**  
 24 A. He was a distressed kid, I believe.  
 25 **Q. He was the boy who was the shooter in**

Page 290

1 Newtown, Connecticut, in the elementary school back  
 2 in December 2012.  
 3 A. He was distressed, yes.  
 4 Q. You recall that incident?  
 5 A. I do.  
 6 Q. That post, according to this data, had  
 7 5.394 million unique views in 2012. Right?  
 8 A. That's what this says, yes.  
 9 Q. How would you value that post?  
 10 MR. VOGT: Objection to form.  
 11 THE WITNESS: I would look at a very similar  
 12 approach that we took to valuing the Hulk video.  
 13 BY MR. BERRY:  
 14 Q. Okay. So this 5.394 number is roughly the  
 15 same as the Hogan post. Right?  
 16 MR. VOGT: Objection to form.  
 17 BY MR. BERRY:  
 18 Q. The number that you ultimately used for the  
 19 Hogan post.  
 20 A. Through December 31st, 2012?  
 21 Q. Yeah, but there's 5.394 million for Adam  
 22 Lanza's -- the Adam Lanza's mother article is roughly  
 23 the same as the 5.357 million uniques that you used  
 24 for the Hogan post. Right?  
 25 A. Yeah, I mean, we're not comparing the right

Page 291

1 time frames here, but are you asking me if 5.3  
 2 million is close to 5.4 million? The answer's yes.  
 3 Q. Okay. So based on your analysis, this post  
 4 would have added somewhere between 5 million and  
 5 \$15 million to Gawker also?  
 6 MR. VOGT: Objection to form.  
 7 THE WITNESS: I'd have to see the total  
 8 unique views that it commanded over whatever period  
 9 of time that it was up in order to make that  
 10 analysis. I haven't seen that, so I can't answer  
 11 that question.  
 12 BY MR. BERRY:  
 13 Q. So but the number of uniques would likely be  
 14 higher, then, at the end of December 2012. Right?  
 15 A. It could be.  
 16 Q. And if you were going to value it the same  
 17 way, based on your analysis, if the time periods --  
 18 one was in December 2012, one was in October 2012 --  
 19 the likely value was anywhere between 5- and  
 20 \$15 million. Right?  
 21 MR. VOGT: Objection to form.  
 22 THE WITNESS: Again, I haven't done that  
 23 analysis, so I can't say for sure.  
 24 BY MR. BERRY:  
 25 Q. Okay. Going down a little further, do you

Page 292

1 see there's one, it's number 6, "NASA's Time-Lapse  
 2 Video of Hurricane Sandy is Terrifying. Beautiful"  
 3 A. I see that.  
 4 Q. And that had a number of unique views of  
 5 roughly 1.5 million. Right?  
 6 A. 1.426.  
 7 Q. Do you see that?  
 8 A. 1.426 million?  
 9 Q. Yeah.  
 10 A. Yeah.  
 11 Q. How do you value that post?  
 12 MR. VOGT: Objection to form.  
 13 THE WITNESS: Again, I'd have to look at the  
 14 post. I'd have to see it. But it could be, using a  
 15 very similar approach methodology.  
 16 BY MR. BERRY:  
 17 Q. Right. So if you used the unique page views  
 18 and you look at the same over time, you could value  
 19 it the same way that you did for the Hogan post.  
 20 Right?  
 21 MR. VOGT: Objection to form.  
 22 THE WITNESS: Correct.  
 23 BY MR. BERRY:  
 24 Q. If you used the same sort of market  
 25 multiples, you would end up valuing this at about a

Page 293

1 million to \$3 million of added value to Gawker based  
 2 on that post?  
 3 MR. VOGT: Objection to form.  
 4 THE WITNESS: Again, I'd have to do the  
 5 analysis and look at the numbers.  
 6 BY MR. BERRY:  
 7 Q. But if this was a -- assuming that the time  
 8 period was roughly equal and you used the same market  
 9 multiples, based on the fact that there's a quarter  
 10 -- third to a quarter of the number of unique views,  
 11 the value would be a quarter to a third of the Hogan  
 12 post. Right?  
 13 MR. VOGT: Objection to form.  
 14 THE WITNESS: Again, I would have to look at  
 15 the post. I would have to do the analysis, see all  
 16 of the data, get all the information, the context,  
 17 you've been talking about the context, so I don't  
 18 know. I can't answer that question without doing  
 19 that.  
 20 BY MR. BERRY:  
 21 Q. If you -- but you could do that same  
 22 analysis for any post on Gawker in 2012. Right?  
 23 MR. VOGT: Objection to form.  
 24 THE WITNESS: I could do an analysis.  
 25 BY MR. BERRY:

Page 294

1 **Q. So in October 2012, you could look at any**  
 2 **particular post and figure out what the value is the**  
 3 **same way that you did the Hogan post. Right?**  
 4 A. I could look at --  
 5 MR. VOGT: Objection to form.  
 6 THE WITNESS: -- different posts and  
 7 determine a value.  
 8 BY MR. BERRY:  
 9 **Q. Well, you'd basically look at the unique**  
 10 **visitors to the post and assess that added value to**  
 11 **gawker.com as a whole. Right?**  
 12 MR. VOGT: Objection --  
 13 BY MR. BERRY:  
 14 **Q. It sounds like you did when --**  
 15 A. I could look at --  
 16 MR. VOGT: Objection to form.  
 17 THE WITNESS: -- the traffic --  
 18 MR. BERRY: Wait.  
 19 THE REPORTER: Hold on. Overtalking and  
 20 things are getting broken up on the record. Would  
 21 you mind starting, please.  
 22 BY MR. BERRY:  
 23 **Q. Yeah. Mr. Anderson, you might want to just**  
 24 **give Shane a chance to --**  
 25 A. All right.

Page 295

1 **Q. Yeah, he's cutting you off.**  
 2 MR. VOGT: Well, and you threw me off 'cause  
 3 you stopped and then you started asking again.  
 4 THE WITNESS: Sorry about that. I won't  
 5 talk anymore. I won't talk anymore.  
 6 MR. BERRY: I think he's going to keep  
 7 objecting to my questions, you'll keep answering my  
 8 questions, I'll keep asking questions, and we'll go  
 9 in a circle.  
 10 THE WITNESS: Fair enough.  
 11 BY MR. BERRY:  
 12 **Q. The upshot is that using your methodology,**  
 13 **you could look at and apply that methodology to any**  
 14 **particular post on gawker.com to assess the increase**  
 15 **in value attributable to that post. Right?**  
 16 A. Theoretically. I'd have to look at it and  
 17 I'd have to do the analysis. I'm not going to say  
 18 absolutely, but yes, it's possible.  
 19 **Q. Are you suggesting that your analysis is not**  
 20 **something that could be replicated?**  
 21 A. I am not.  
 22 **Q. Okay. So if I went to any other post, could**  
 23 **I replicate the value of that post by conducting the**  
 24 **same kind of analysis that you have done with the**  
 25 **Hogan post?**

Page 296

1 A. The same analysis in general, yes. But in  
 2 specifics, I don't have the specifics, so I -- I  
 3 can't say yes to the specifics.  
 4 **Q. But if I told you the monthly -- sorry.**  
 5 **If I told you the number of unique page**  
 6 **views that an article got in October 2012, you could**  
 7 **plug that value in to figure out what the increase in**  
 8 **value to Gawker as a whole would be --**  
 9 A. Right.  
 10 **Q. -- over that same period. Right?**  
 11 MR. VOGT: Objection to form.  
 12 THE WITNESS: I could use a similar analysis  
 13 to do that, yes.  
 14 BY MR. BERRY:  
 15 **Q. Isn't the sum of unique views per post**  
 16 **greater than the number of unique views per month**  
 17 **that's measured by Quantcast?**  
 18 MR. VOGT: Objection to form.  
 19 THE WITNESS: Say that again.  
 20 BY MR. BERRY:  
 21 **Q. Well, if Gawker posts a hundred articles in**  
 22 **October 2012 --**  
 23 A. Okay.  
 24 **Q. -- somebody visits the Hogan post, somebody**  
 25 **visits post A, post B, post C. Right? They count as**

Page 297

1 **one unique viewer on Quantcast. Right?**  
 2 A. Correct.  
 3 **Q. But they would count as one unique viewer to**  
 4 **Hogan, one unique viewer to post A, one unique viewer**  
 5 **to post B, one unique viewer to post C. Correct?**  
 6 A. They could, yes.  
 7 **Q. So the sum of the unique views per post far**  
 8 **exceeds the number of unique views per month that's**  
 9 **measured by Quantcast. Right?**  
 10 MR. VOGT: Objection to form.  
 11 THE WITNESS: In total, it could.  
 12 BY MR. BERRY:  
 13 **Q. Unless there were just one person who looked**  
 14 **at one post and that was the only time they visited**  
 15 **per month. Right?**  
 16 A. Correct.  
 17 **Q. And so for the -- if that were to --**  
 18 **looking -- so if your analysis, then, were applied to**  
 19 **each post for Gawker in October 2012, wouldn't the**  
 20 **value attributable to each post exceed the total**  
 21 **value of what you valued Gawker at?**  
 22 A. Not necessarily.  
 23 MR. VOGT: Objection to form.  
 24 BY MR. BERRY:  
 25 **Q. If people viewed more than one post, it**

Page 298

1 would exceed the value. Right?

2 MR. VOGT: Objection to form.

3 THE WITNESS: I would have to look at that

4 data to do that analysis.

5 BY MR. BERRY:

6 Q. If you look back at -- well, do you know how

7 many posts appeared on gawker.com in October?

8 A. I do not.

9 Q. Do you know how many posts appeared in 2012?

10 A. I do not.

11 Q. Do you know how many posts appeared in 2013?

12 A. I do not.

13 Q. Looking back at 1149, Gawker 1149, which is

14 the second page of Exhibit 177.

15 A. Okay.

16 Q. In that same column we were looking at

17 showing unique page views, the top line number says

18 687,661,729. Right?

19 A. Is -- is that a 5 or a 6? I'm not sure if

20 that's 587 or 687.

21 Q. Okay. Either way, either 587 million or

22 687 million. Right?

23 A. Yes.

24 Q. Okay. That shows the number of total unique

25 page views on gawker.com. Correct? For this 2012.

Page 299

1 A. I believe that's what that says, yes.

2 Q. You couldn't use that number in your

3 analysis, could you?

4 A. For what?

5 MR. VOGT: Objection to form.

6 BY MR. BERRY:

7 Q. To value Gawker?

8 A. No, that wouldn't make sense.

9 Q. Right, but that's the aggregate of the

10 unique views per post on gawker.com for 2012. Right?

11 A. If that's what this data says, yes.

12 Q. And that's essentially what you did for the

13 Hogan post. Right?

14 A. What?

15 MR. VOGT: Objection to form.

16 BY MR. BERRY:

17 Q. Use the unique views for an individual post

18 to value -- to determine the -- sorry.

19 You used one -- the unique views for a post

20 to assess the overall value of Gawker based on

21 average monthly uniques. Right?

22 MR. VOGT: Objection to form.

23 THE WITNESS: No. We did not use the unique

24 views of the post to assess the value of Gawker. We

25 looked at the --

Page 300

1 BY MR. BERRY:

2 Q. To assess the value of that individual post.

3 MR. VOGT: Objection to form.

4 THE WITNESS: We looked at the traffic, the

5 monthly unique user traffic to Gawker to determine

6 the value of gawker.com as it was provided through

7 Quantcast. Then using the Google Analytics data

8 here, we looked at the number of unique views of the

9 video to apportion what percentage of that increase

10 in value was from the video.

11 BY MR. BERRY:

12 Q. Okay. Looking at 1149, the unique for

13 Hogan -- the Hogan post earlier we said was roughly

14 4.878 million. Right? On the page --

15 A. Where are you?

16 Q. -- 11 -- on Gawker 1149.

17 A. Oh, the Hogan -- okay. Yes.

18 Q. All right. What percentage of the total

19 unique page views for all of 2012 were the unique

20 page views for the Hogan post?

21 A. I'd have to use a calculator, but.

22 Q. I actually have one.

23 If this is not enough, we'll break out the

24 iPhone.

25 MR. VOGT: While he's doing that can I ask a

Page 301

1 question? Is there a court record saying you guys

2 didn't have to provide Google Analytics data?

3 MS. SMITH: They subpoenaed Google and

4 Google said that they're --

5 THE REPORTER: I'm sorry. Is this on the

6 record or off the record?

7 MR. VOGT: No.

8 MS. SMITH: No, sorry. Off the record.

9 MR. VOGT: No, it's off the record.

10 THE REPORTER: Off the written record. But

11 the video is rolling.

12 MS. SMITH: Can we go off the record a

13 second?

14 THE VIDEOGRAPHER: Off the record at 4:46.

15 (Discussion held off the record.)

16 THE VIDEOGRAPHER: We're on the record at

17 4:46.

18 THE WITNESS: I'm breaking your calculator.

19 So you don't have enough decimals.

20 MS. SMITH: I don't think the iPhone has

21 enough either, but you can try.

22 THE WITNESS: Do you want me to just give

23 you a rough -- a rough --

24 BY MR. BERRY:

25 Q. Yeah.

Page 302

1 A. -- or do you want an exact down to the  
 2 millionth decimal point?  
 3 **Q. No, no, yeah. I mean, you can give me a**  
 4 **rough, rough.**  
 5 A. I'll give you a rough number.  
 6 And I'm going to do this as 587- 'cause I  
 7 don't know if that's a 5 or a 6.  
 8 **Q. Either way.**  
 9 A. I really can't tell. But I think either  
 10 way, it's going to --  
 11 I don't know what's wrong with this  
 12 calculator. Do we have another calcu- -- I'm sorry,  
 13 man, I appreciate the calculator.  
 14 MS. SMITH: You should -- if you do it the  
 15 other way, you'll get more decimal points.  
 16 THE WITNESS: I don't need that many  
 17 decimals.  
 18 MS. SMITH: Okay.  
 19 THE WITNESS: It's -- I understand what  
 20 you're trying to show.  
 21 MR. VOGT: And now we have to enter the  
 22 phone into evidence. I'm marking it.  
 23 THE WITNESS: Less than 1 percent.  
 24 BY MR. BERRY:  
 25 **Q. Right. It's about --**

Page 303

1 A. 0.83 percent. Yeah.  
 2 **Q. Okay.**  
 3 A. Thank you.  
 4 **Q. So the Hogan post accounted for 0.8 percent**  
 5 **of the unique views total that Gawker got in 2012.**  
 6 **Right?**  
 7 MR. VOGT: Objection to form.  
 8 THE WITNESS: According to this data here,  
 9 yes.  
 10 BY MR. BERRY:  
 11 **Q. But yet in your analysis, the post accounted**  
 12 **for over 5 percent of the total value of Gawker.**  
 13 **Right?**  
 14 A. Where are you getting 5 percent?  
 15 **Q. Well, if you look at Exhibit 5, the value of**  
 16 **Gawk- -- do you have Exhibit 5 to your report?**  
 17 A. I do, yeah.  
 18 **Q. The value of gawker.com attributed to the**  
 19 **video in the upper bound is \$15 million. Right?**  
 20 A. Correct.  
 21 **Q. And the total value of Gawker at that point**  
 22 **was \$286 million. Right?**  
 23 A. Approximately, correct.  
 24 **Q. So that's a little over 5 percent?**  
 25 A. A little over 5 percent.

Page 304

1 **Q. So even though it accounted for less than**  
 2 **1 percent of the total traffic, it somehow accounted**  
 3 **for over 5 percent of the total value of Gawker?**  
 4 MR. VOGT: Objection to form.  
 5 THE WITNESS: Again, it's the -- in  
 6 Mr. Denton's own words --  
 7 BY MR. BERRY:  
 8 **Q. I'm asking you in your analysis, it**  
 9 **accounted for over 5 percent of the value of**  
 10 **gawker.com.**  
 11 A. Yes. Because in Mr. Denton's own words,  
 12 "Most of the stories that resonate" -- and I'm  
 13 quoting him from page 11 of my report:  
 14 "Most of the stories that  
 15 resonate are also stories with high  
 16 page views -- with the flames that  
 17 everyone so prizes -- you have to  
 18 be more original, even more  
 19 provocative, even more of a hustler  
 20 than usual."  
 21 And, again, it's each of these first-time  
 22 visitors is a potential convert. So it's -- yes, it  
 23 does, it's over 5 percent.  
 24 **Q. What percentage of the 5.3 million people**  
 25 **who viewed the Hogan post were first-time viewers?**

Page 305

1 A. I don't have that information.  
 2 MR. VOGT: Objection to form.  
 3 THE WITNESS: Sorry.  
 4 BY MR. BERRY:  
 5 **Q. So you don't know if that fits in**  
 6 **Mr. Denton's analysis that you keep reading?**  
 7 MR. VOGT: Objection to form.  
 8 THE WITNESS: I don't have that information.  
 9 BY MR. BERRY:  
 10 **Q. So if Gawker had published the Hulk Hogan**  
 11 **post, the Adam Lanza's mother post, the Kate**  
 12 **Middleton post that had 7 million views, would we be**  
 13 **accounting for 15, 20 percent of the value of Gawker**  
 14 **with those three posts?**  
 15 MR. VOGT: Objection to form.  
 16 THE WITNESS: If we did what now?  
 17 BY MR. BERRY:  
 18 **Q. If Gawker only posted three things --**  
 19 **A. Ever?**  
 20 **Q. -- in 2012, Kate Middleton's post that you**  
 21 **mentioned, the Adam Lanza's mother post, and the**  
 22 **Hogan post, which were all 5 million, 5 million, and**  
 23 **I think 7 million -- a little more for Kate**  
 24 **Middleton -- do you think that that would account for**  
 25 **15, 20 percent of the value of Gawker?**

Page 306

1 MR. VOGT: Objection to form.  
 2 THE WITNESS: I don't know the exact  
 3 percentage that would account for. I haven't done  
 4 that analysis.  
 5 BY MR. BERRY:  
 6 **Q. Would your analysis change if the number of**  
 7 **unique views for the Hogan video was less?**  
 8 MR. VOGT: Objection to form.  
 9 THE WITNESS: The method of the analysis or  
 10 the actual numbers?  
 11 BY MR. BERRY:  
 12 **Q. Sorry. Again, it's a better question.**  
 13 **Would your conclusion change if the number**  
 14 **of unique views for the Hulk Hogan video was less?**  
 15 A. Likely it would change, yes.  
 16 **Q. If there were less unique views for the**  
 17 **video under your analysis, the added value, then,**  
 18 **would be less. Right?**  
 19 A. If less individuals, unique viewers, viewed  
 20 the video than there were, then, yes, based on the  
 21 analysis, the conclusion would be less.  
 22 **Q. So if the number of unique views of the**  
 23 **video was 2.5 million instead of 5 million plus, then**  
 24 **the added value would be cut roughly in half. Right?**  
 25 A. Roughly.

Page 307

1 **Q. If the number of unique views was 2 million,**  
 2 **then the added value would be reduced by 60 percent.**  
 3 **Right?**  
 4 A. And to correct my last statement, all else  
 5 being equal, of course.  
 6 **Q. What else -- all else being equal in your**  
 7 **analysis. Right?**  
 8 A. All else being equal in terms of monthly  
 9 unique user traffic to gawker.com.  
 10 **Q. Well, but the traffic is what it was.**  
 11 **Right? I mean --**  
 12 A. Well, I don't know. We're giving -- we're  
 13 doing hypotheticals here, so I'm just saying in that  
 14 hypothetical situation you're presenting to me, all  
 15 else equal, then, yes, it would be about half.  
 16 **Q. Right. But if the number of people who**  
 17 **viewed the video that was posted in October 2012 was**  
 18 **2.5 million and then the analysis would show that the**  
 19 **added value to Gawker would be half of what you**  
 20 **concluded. Right?**  
 21 A. If it was only in October 2012, then I don't  
 22 know that it would only be half.  
 23 **Q. That the video was posted in 2012.**  
 24 **If the number of unique views to the video**  
 25 **was 2.5 million, then the added value would be cut in**

Page 308

1 **half. Right?**  
 2 A. But not just in the month of October.  
 3 **Q. Right, distributed through April 2013.**  
 4 A. All else being equal.  
 5 **Q. Right. We changed the number from**  
 6 **5.35 million to --**  
 7 A. So let's just say --  
 8 **Q. -- 2.5 --**  
 9 A. -- exactly half. Let's say exactly half of  
 10 that.  
 11 **Q. Right. Right.**  
 12 A. And all else remained the same, then the  
 13 value would be half.  
 14 **Q. Right. And if the number of unique views of**  
 15 **the video was 2 million, then it would be reduced by**  
 16 **roughly 60 percent, the added value.**  
 17 A. If there were less -- all else remained the  
 18 same and less unique viewers viewed the video, the  
 19 value conclusion would be less.  
 20 MR. BERRY: Can we take a quick break?  
 21 THE WITNESS: Sure.  
 22 THE VIDEOGRAPHER: Off the record at 4:53.  
 23 (Recess taken.)  
 24 THE VIDEOGRAPHER: Back on the record at  
 25 5:07.

Page 309

1 BY MR. BERRY:  
 2 **Q. Earlier you had mentioned doing -- or trying**  
 3 **to do a regression analysis. Other than that and the**  
 4 **other things that we've talked about here today, have**  
 5 **you done any other analysis or attempted to do any**  
 6 **other analysis in connection with your report?**  
 7 A. Other than what's presented in the report?  
 8 **Q. (Nods head.)**  
 9 A. Just looking at the demographic information  
 10 we talked about, I think other than what was  
 11 discussed here, not that I can recall off the top of  
 12 my head, no.  
 13 **Q. Other than what we discussed here today, do**  
 14 **you have any other opinions concerning the**  
 15 **litigation?**  
 16 A. Other than what's in my report and what  
 17 we've discussed, I do not believe so.  
 18 **Q. Has anything we discussed today changed the**  
 19 **opinions that are offered in your report?**  
 20 A. Nothing has changed it. If additional data  
 21 or information is provided to me, as I state in my  
 22 report, I reserve the right to amend my analysis.  
 23 But, other than that, no.  
 24 **Q. Without getting into specific conversations**  
 25 **that you've had with counsel, did you ask for any**



Page 310

1 **additional data that was not provided to you?**  
 2 A. As I mentioned earlier, I asked for Google  
 3 Analytics data and Vastly data.  
 4 **Q. Anything else?**  
 5 A. There may have been other items. I don't  
 6 recall off the top of my head.  
 7 **Q. What data specifically did you ask for from**  
 8 **Google Analytics and Vastly?**  
 9 A. Traffic pertaining to specific users, how  
 10 they access gawker.com, where they go from  
 11 gawker.com, how often they to gawker.com, any of the  
 12 affiliate sites. So where they come from, where they  
 13 go to, how many of the -- basically any general  
 14 information that tracks any user to gawker.com.  
 15 **Q. And that's what you requested of Plaintiff's**  
 16 **counsel -- that was the only information that you**  
 17 **sought that wasn't provided to you?**  
 18 A. I don't know if that was the only  
 19 information. Again, there might have been other  
 20 items. But as I sit here right now, that's all that  
 21 I remember.  
 22 **Q. And we talked about this earlier, but you're**  
 23 **not expressing any other opinions other than on the**  
 24 **valuation of gawker.com and the change in value**  
 25 **attributable to the Hogan post. Right?**

Page 311

1 A. I am only looking at how gawker.com's value  
 2 increased and what portion of that was attributable  
 3 to the Hulk video.  
 4 **Q. And your expert opinion is that the increase**  
 5 **in the value of gawker.com as a result of Gawker**  
 6 **posting that video is between 4.995 million and**  
 7 **15.445 million. Right?**  
 8 A. Based on the data I have to date, yes.  
 9 **Q. And having testified here today, your**  
 10 **opinion remains the same. Right?**  
 11 A. Correct.  
 12 **Q. Do you anticipate doing any further**  
 13 **analysis?**  
 14 A. If it is asked of me and if it is necessary,  
 15 but I don't -- I don't know.  
 16 **Q. Do you anticipate doing any future work on**  
 17 **your opinion?**  
 18 A. Only if it's asked of me and if it's  
 19 necessary.  
 20 **Q. Why would it be necessary?**  
 21 MR. VOGT: Objection to form.  
 22 THE WITNESS: If there's additional data or  
 23 information that becomes available that I did not  
 24 have at the time I did my report.  
 25 MR. BERRY: I have no further questions.

Page 312

1 MR. VOGT: We'll read.  
 2 THE WITNESS: What's that?  
 3 MR. VOGT: You'll read a copy of your  
 4 transcript.  
 5 THE WITNESS: Oh.  
 6 MR. BERRY: You'll have an opportunity to  
 7 read it, make sure that there's nothing that's out of  
 8 whack and you can make any corrections.  
 9 THE WITNESS: When will I get that?  
 10 THE REPORTER: Our normal turnaround time is  
 11 ten business days.  
 12 MS. SMITH: It's possible that we will order  
 13 it more quickly than that, in which case we'll send  
 14 it to you as soon as we get it.  
 15 THE WITNESS: Okay. Can I get a copy of the  
 16 video, too?  
 17 MR. BERRY: Why don't we go off the record.  
 18 Do you have any questions, Shane?  
 19 MR. VOGT: No.  
 20 MR. BERRY: Okay. We're done. Thank you  
 21 again for coming today.  
 22 THE WITNESS: Thank you.  
 23 THE VIDEOGRAPHER: This concludes the  
 24 deposition of Jeff Anderson, Volume Number 1.  
 25 The original will be retained by Merrill

Page 313

1 Legal Solutions at 20750 Ventura Boulevard,  
 2 Suite 205, Woodland Hills, California.  
 3 Going off the record. The time is 5:11.  
 4 (Whereupon, at 5:11 P.M., the  
 5 videotaped deposition of JEFF  
 6 ANDERSON was adjourned.)  
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STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss.

I, JEFF ANDERSON, hereby certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2015, at \_\_\_\_\_, California.

\_\_\_\_\_  
JEFF ANDERSON

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STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss.

I, SUSAN NELSON, C.S.R. 3202, in and for the State of California, do hereby certify:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify the truth, the whole truth and nothing but the truth;

That said deposition was taken down by me stenographically at the time and place therein named, and thereafter transcribed via computer-aided transcription under my direction, and the same is a true, correct and complete transcript of said proceedings;

I further certify that I am not interested in the event of the action.

Witness my hand this 36th day of March, 2015.

\_\_\_\_\_  
Susan Nelson, C.S.R. No. 3202  
Certified Shorthand Reporter  
State of California

A			
<b>aba</b>	252:17,18 253:10	<b>addition</b>	198:25 199:8,14,22
54:1	<b>acquire</b>	93:2	201:7 204:14 205:4
<b>abbreviated</b>	66:22	<b>additional</b>	205:24,25 206:3,4,6
9:8	<b>acquired</b>	15:10 40:3 65:20	206:11,12,13,17
<b>abbreviation</b>	58:9 128:16 228:21	75:22 76:19 78:21	207:16 233:14
10:10	<b>acquisition</b>	79:1,25 142:17	255:17 258:10 263:8
<b>ability</b>	195:17	157:21 224:18	271:2,3 275:11
13:22,23 110:10	<b>acquisitions</b>	271:24 309:20 310:1	<b>advice</b>
129:11	4:23 122:15	311:22	17:11 29:6 104:10
<b>able</b>	<b>action</b>	<b>address</b>	164:22
80:15 197:4,17,18,24	315:17	59:2,8 183:3	<b>advise</b>
198:8,9 207:1,4	<b>active</b>	<b>addresses</b>	164:8 165:4,10,16
275:5,7	112:9,11	44:5	<b>advised</b>
<b>abrams</b>	<b>actively</b>	<b>adjourned</b>	144:13
2:17	27:13	132:24 313:6	<b>advisers</b>
<b>abroad</b>	<b>activity</b>	<b>adjunct</b>	35:12,17
55:17	182:3	56:22	<b>advises</b>
<b>absolute</b>	<b>actor</b>	<b>adjust</b>	24:4
142:13 200:20 279:14	188:16	94:23 96:14 213:6	<b>advising</b>
279:16	<b>actual</b>	<b>adjusted</b>	164:15
<b>absolutely</b>	39:20 43:10 68:2,5,7,9	93:11 94:10	<b>affect</b>
8:22 21:11,13 65:1	68:11,16,17,19,21	<b>adjustment</b>	13:22 210:14 228:3
101:12 122:21	69:16 70:12 79:24	95:10 97:1,9	253:23 258:20 261:5
154:16 156:6 160:9	96:14 102:17 129:5	<b>adjustments</b>	<b>affiliate</b>
295:18	145:12 160:20 177:9	93:8 94:13	310:12
<b>absorb</b>	177:10 200:19	<b>adopted</b>	<b>affiliated</b>
238:6	253:11 306:10	158:11	242:1
<b>access</b>	<b>ad</b>	<b>ads</b>	<b>affiliation</b>
310:10	207:17,19,20,22,23	197:7 205:1 206:14	242:5
<b>account</b>	233:10 237:21	207:24,25 208:3,6,9	<b>afternoon</b>
188:14 305:24 306:3	258:11	208:11,14 237:16,18	133:6
<b>accountants</b>	<b>adam</b>	258:2,5	<b>aga</b>
51:11	289:18,21 290:21,22	<b>advertise</b>	242:3,6
<b>accounted</b>	305:11,21	204:15,20 271:6	<b>age</b>
171:2,3 303:4,11	<b>add</b>	<b>advertiser</b>	212:20,22 213:4 238:9
304:1,2,9	149:22 151:18 157:22	260:13 271:5	240:5,14
<b>accounting</b>	<b>added</b>	<b>advertisers</b>	<b>agencies</b>
19:19 305:13	141:25 142:3,8 149:12	75:24 76:1 204:6	32:22
<b>accounts</b>	178:24 179:2 189:3,7	205:1 206:14 267:17	<b>ages</b>
17:11	189:10,11 190:17	270:17,22,24 271:13	238:12
<b>accurate</b>	192:8,17,22 193:2	271:17	<b>aggregate</b>
66:15 107:14 109:25	291:4 293:1 294:10	<b>advertising</b>	258:6,7 265:11 273:12
126:19 194:24	306:17,24 307:2,19	35:9 37:15,16 59:24	273:14,15,19 299:9
222:17,17 248:19	307:25 308:16	60:6 76:11 99:20	<b>aggregating</b>
249:7,16 250:4,19	<b>addicts</b>	100:25 101:6,9,11,18	158:14
	214:7	111:24 112:3 194:19	<b>aggregator</b>

195:16	259:10 260:25	265:17 269:17 287:7	161:23 162:1,5
<b>ago</b>	<b>amounts</b>	289:1 300:7 301:2	<b>anymore</b>
31:17 65:9 112:6	263:22	310:3,8	142:14 295:5,5
129:4 156:2,4 252:16	<b>analogy</b>	<b>analyze</b>	<b>aol</b>
269:17 286:18	213:24	81:14 181:18	5:18 228:21 229:24
<b>agree</b>	<b>analysis</b>	<b>analyzed</b>	231:23
73:17 93:17 94:22	13:8 26:14 63:21	60:22 63:2 84:25 85:5	<b>apart</b>
<b>agreed</b>	64:21 68:1,12 76:17	<b>anderson</b>	129:7
145:13	76:23 78:24 79:8	1:16 2:1 4:3,12,13 7:7	<b>apologize</b>
<b>agreement</b>	81:13 87:15 96:13	8:6,15 22:4 47:25	13:1 30:20 40:8 50:17
44:7 58:3 59:1 242:7	98:15 103:8 105:15	49:23 132:24 133:3	123:2 147:13 150:20
<b>agreements</b>	106:1,10,11 128:25	164:23 294:23	207:10 286:14
33:15	130:18 133:12 137:8	312:24 313:6 314:5	<b>apparently</b>
<b>ahead</b>	137:19,23 139:24	314:14	91:20
20:23 67:1 112:1	157:10 158:20 159:4	<b>andrew</b>	<b>appear</b>
205:19 235:18	159:4 160:3 166:1,10	45:12	191:24
<b>aka</b>	166:14 167:5 170:11	<b>angeles</b>	<b>appearances</b>
1:8	172:9 177:23 178:21	2:4,21 7:1,16 201:21	2:7 3:1
<b>al</b>	179:1,14 181:24	314:2 315:2	<b>appeared</b>
1:9	185:8,13 192:7	<b>annual</b>	298:7,9,11
<b>alabama</b>	193:12 198:13	38:10 124:16	<b>appearing</b>
23:8	209:24 210:3,4,12,21	<b>anson</b>	3:18
<b>alexa</b>	211:8,10 213:2	25:15 41:16 42:4 54:3	<b>appears</b>
60:13,14 61:17	214:12 215:10	55:3,22 56:20 57:5	248:1
<b>alia</b>	216:14 225:23 227:1	91:21	<b>appendix</b>
3:12 7:22	239:9 259:5,15,19,22	<b>ansons</b>	85:16
<b>alleged</b>	260:2,7,12 265:13	42:10	<b>apple</b>
38:15	283:16 284:5 285:18	<b>answer</b>	90:23,24,24 249:10,10
<b>allow</b>	286:3 291:3,10,17,23	11:7,20 12:11,13	<b>apples</b>
33:14	293:5,15,22,24	33:13,14 34:2,6 80:3	90:14,15 213:24,24
<b>allowed</b>	295:17,19,24 296:1	100:14,17,19 101:24	248:23,24,24
57:25	296:12 297:18 298:4	102:14 118:3 120:8	<b>application</b>
<b>alluded</b>	299:3 303:11 304:8	159:5 160:10 193:13	113:5
81:17	305:6 306:4,6,9,17	200:25 266:10 285:8	<b>applied</b>
<b>alpha</b>	306:21 307:7,18	291:10 293:18	173:10 195:23 297:18
123:6,21,22	309:3,5,6,22 311:13	<b>answered</b>	<b>apply</b>
<b>amazon</b>	<b>analyst</b>	84:8	88:23 295:13
53:7 197:1	18:4,4,16 25:5,7 26:2	<b>answering</b>	<b>apportion</b>
<b>amend</b>	26:3,3,8,18,20	295:7	138:13,14 300:9
137:19 309:22	<b>analysts</b>	<b>answers</b>	<b>apportioned</b>
<b>american</b>	63:25	11:16,24 104:17 291:2	83:12 130:14 138:14
192:23 242:2,11	<b>analytics</b>	<b>anticipate</b>	<b>apportioning</b>
<b>amount</b>	5:3 24:24 25:10 26:21	311:12,16	130:25 136:25 162:23
67:12 100:23,24 104:7	27:3 28:13 60:19	<b>anybody</b>	<b>apportionment</b>
141:25 142:13	62:22 63:1,11 171:12	10:25 51:12 54:3 62:4	172:10
163:19 180:22	180:4,10 213:17	106:18 115:18	<b>appraisals</b>

90:6,9	173:9 177:7 178:7	257:15,16 285:13	82:8 87:11,12,17,24
<b>appreciate</b>	272:20 274:2 278:2,2	287:22,25 296:21	88:4,14 90:13 91:19
8:16,20 63:18 84:20	278:6,9 279:5,22	<b>aside</b>	93:2,25 94:19 185:25
86:4 302:13	281:20,21 282:1	59:22 101:16,17,17	186:13
<b>approach</b>	308:3	222:4	<b>assets</b>
65:24 66:1,3,10,14,17	<b>arbitration</b>	<b>asked</b>	23:4 48:1,24 49:11
67:3,5 68:2 69:8	42:21	54:13 76:8,13 79:17	51:7,17,19 58:11
70:11,17,20,23 71:1	<b>area</b>	84:8 133:23 137:24	82:2 87:5,23 89:1,4,6
71:25 72:4,5,7,8,11	30:6 48:19	138:11,14,16,20	89:8,11 97:20 100:21
72:12 75:25 77:24	<b>arena</b>	139:1,8,13,21 162:4	131:3 188:25 189:2
78:1 79:9,11,12 80:8	74:5	186:21 187:9 192:11	<b>assigned</b>
80:10,11,11,14,23	<b>arent</b>	192:20,25 193:5	141:10
81:13,15,16,19 84:24	238:12	214:1 262:16 269:17	<b>assignment</b>
85:9 88:21 89:3,11	<b>argue</b>	270:9 284:2 310:2	31:18 87:20
92:11 94:20,24 95:4	113:24 114:1	311:14,18	<b>assigns</b>
95:7 96:22 97:17,19	<b>argued</b>	<b>asking</b>	141:12
97:25 98:18 99:17	127:8	11:15 21:19 30:15	<b>assist</b>
100:4,10 104:13	<b>arithmetic</b>	119:23 131:6 154:23	63:21
108:21 130:24 131:1	149:24	164:12 177:2,24	<b>assistance</b>
131:4,7,17,20 132:8	<b>arithmetically</b>	180:9 186:15 207:9	64:3,7
158:10 160:16	265:12,19	219:11 285:3 291:1	<b>assistant</b>
161:14 187:1,5,8,10	<b>armslength</b>	295:3,8 304:8	56:7,12,17,24
187:14 188:1,12,13	77:19,21,25 96:21	<b>asks</b>	<b>assisted</b>
188:13,22 190:16	110:1 143:23 144:9	164:21	63:24
218:11 224:2 229:9	144:24 161:18	<b>aspect</b>	<b>association</b>
234:9 254:23,25	163:24 164:2 166:16	13:11,11	242:2,11
290:12 292:15	166:25	<b>assess</b>	<b>assume</b>
<b>approaches</b>	<b>arrangement</b>	82:13,15 100:11 108:9	16:8 167:10 234:13
65:22,23 66:6 72:15	93:25	109:23 132:5,13	242:5 269:15 286:3,6
72:16,20 187:6	<b>arrived</b>	179:12 185:19 192:2	<b>assumed</b>
<b>appropriate</b>	128:21,25 129:2	294:10 295:14	211:14
70:21,23 76:4 80:11	173:22	299:20,24 300:2	<b>assumes</b>
80:11 100:3,11	<b>article</b>	<b>assessed</b>	283:16 285:18
108:21,22 125:8	54:7,19 55:7,10 91:22	94:23 164:16	<b>assuming</b>
187:7	91:24 111:20,22	<b>assesses</b>	98:3 248:16 293:7
<b>approve</b>	120:14 121:11,25	141:9	<b>assumption</b>
36:12,14	122:3 124:9 125:16	<b>assessing</b>	76:16,18 77:2,6,9
<b>approximately</b>	127:12 194:22 230:8	130:8 138:6 218:6	201:25 265:5 284:24
17:21 23:24 65:12	231:5 285:15 289:17	223:24 229:6 234:4	287:11
237:6 277:5 280:12	290:22 296:6	<b>assessment</b>	<b>assumptions</b>
280:14 303:23	<b>articles</b>	73:5,7,8 75:3	72:21
<b>april</b>	10:23 50:12,22 106:13	<b>asset</b>	<b>athletes</b>
55:7 78:10 83:9 152:5	107:4 110:16 123:15	4:17 22:23,24 24:11	54:9
152:6,9,13,18 153:1	123:16,17,18 129:7	29:7 36:13 48:2,3,12	<b>attached</b>
154:6 159:19 161:24	191:10 217:9 222:25	48:16,17,18 52:1	62:15 85:15 146:13
163:11,17 164:4,25	238:5 241:8,11	66:24 72:18 81:25	288:16

<b>attempt</b> 82:13,14	148:17 187:7 194:20 197:4 198:2 230:6,18	49:21 74:21,24 85:16 296:25 297:5	52:18 53:10 70:7,8 76:25 78:1 79:11
<b>attempted</b> 309:5	235:6 238:19 249:12 250:21 311:23	<b>babycenter</b> 200:22 202:17,21	82:7 83:13 85:2,8 87:22 95:25 96:20
<b>attempting</b> 260:2	<b>avenues</b> 60:2	<b>back</b> 9:24 12:8 13:16 15:18	97:2,7,20 101:6 104:22 105:14 106:1
<b>attest</b> 12:17	<b>average</b> 98:12 104:6 136:19	27:20 32:17 34:22 47:22 49:18,20 50:16	106:10 110:11 114:12 128:4 129:12
<b>attorney</b> 48:6 138:10 139:8 266:9	140:10 141:13,25 142:7 143:14 144:6	59:9 81:9 85:25 91:5 91:8,9 92:23 97:1,16	130:14 136:17,23 137:1 138:13,15
<b>attorneys</b> 51:10 266:12	144:10,24 145:4 147:25 148:2,14	107:3,24 108:11 118:6 123:2,4 133:5	142:20 144:16 148:2 157:10 158:10
<b>attributable</b> 83:20 131:19 132:6	149:14,16,17 150:1,2 150:6,10,12 151:17	133:20 136:21 149:11 153:24 154:3	162:23 163:16 172:9 172:11 176:4 178:21
135:22 137:15 169:16 170:3,10	151:18,22 152:24 153:2,4,15 154:11,19	155:8 167:4 169:7 172:13 173:6 180:12	180:1 187:6 194:12 196:25 199:3 202:7
172:15,23 173:1,13 174:13 175:18,22	155:2,3,11 156:20,23 157:11 158:11	193:18 195:5 196:23 197:14 211:5 214:2	202:13 204:7 205:23 206:2 209:3 210:11
176:12 179:13 185:3 276:15,17,21 278:12	167:14,19,25,25 168:16,24 169:8,15	246:21 259:8 262:13 277:13 281:13	210:21 213:23 214:3 219:1 224:15 229:11
295:15 297:20 310:25 311:2	170:2,24 171:4 173:8 174:3 176:5 177:5,5	282:11,17 288:9 290:1 298:6,13	230:4 234:1,11 243:17,18,18 251:18
<b>attribute</b> 38:3	178:1,9 212:6,8,9,16 212:17 216:9 218:6	308:24	260:10,16 262:1 269:14 291:3,17
<b>attributed</b> 131:12,23 170:6 303:18	220:7 223:24 226:5 229:6 234:4 236:20	<b>backend</b> 96:13	293:1,9 299:20 306:20 311:8
<b>attribution</b> 38:6	258:14 265:14 266:21 273:15 274:1	<b>background</b> 16:4 37:7 55:5 213:9	<b>baseline</b> 75:23
<b>audience</b> 51:9 231:21	284:15 299:21	<b>bajo</b> 2:10	<b>basic</b> 48:13 119:12 194:13
<b>august</b> 124:10 217:13 220:11 221:8,12,13 223:4	<b>averages</b> 98:9	<b>balance</b> 81:2 133:13 164:9,18	<b>basically</b> 26:10 45:19 67:8
225:22 226:6,9,17,19 226:19 227:5 276:25	<b>avoid</b> 12:11	165:5 218:13 224:4 229:16 234:17	81:19 141:9 146:23 168:11 179:7 181:4
<b>aunt</b> 124:3	<b>awarded</b> 104:15	<b>bank</b> 17:3,3,17,22,24 18:1,3	204:13 256:20 294:9 310:13
<b>author</b> 50:9,11 119:2	<b>aware</b> 41:20 104:12,20 105:8	18:17,19 22:15	<b>basis</b> 74:18 286:23
<b>authors</b> 54:4	105:12,21,23,25 106:8,22 130:17	<b>banker</b> 17:8	<b>bates</b> 39:7
<b>available</b> 60:18 80:4,7 89:1 99:5 100:16 130:22 141:5	131:10,22 132:3,12 144:9,23 184:23	<b>banking</b> 22:13	<b>bateslabeled</b> 171:15
	199:23,24 227:16	<b>bankruptcy</b> 24:9	<b>bathroom</b> 63:17
	<b>B</b>	<b>base</b> 74:9 123:14 151:4	<b>bathrooms</b> 89:23
	<b>b</b> 2:11 4:10 5:1 6:1	200:4 241:9 258:24	
		<b>based</b>	

<b>beach</b> 48:25	<b>benefited</b> 179:20 192:12	178:16 179:3 181:22 182:18,22 183:21,25 184:9 185:12,23 186:3,12,24 187:12 187:20,23 188:4,7,10 190:4,20 191:2,15 192:15,21 193:1,7,14 193:20 197:21 198:12 199:12 200:13 201:6,12 202:2,11,16,22 203:7 203:14 204:5,12,19 204:25 205:6,16,20 206:8,19,24 207:11 208:24 209:7,14,18 210:5 211:7 219:20 219:24 220:20 221:1 221:5,14,18 224:25 225:4 226:1,4,10,14 227:22 231:9,13 232:8 235:18,22 239:10,13 241:18,22 243:1,8,24 244:25 245:4 247:9,14 251:16,22 252:2,6,7 254:4,10 255:1 257:2 259:2 260:18 261:9 262:15 264:6 265:9 267:4 268:17,22 272:6,9 273:21,24 274:16,20 275:2 277:6,12,21,24 278:24 279:2,20 284:4 286:2,9,16 287:18 288:1,11 290:13,17 291:12,24 292:16,23 293:6,20 293:25 294:8,13,18 294:22 295:6,11 296:14,20 297:12,24 298:5 299:6,16 300:1 300:11 301:24 302:24 303:10 304:7 305:4,9,17 306:5,11 308:20 309:1 311:25 312:6,17,20	<b>best</b> 12:11,12 70:17 <b>better</b> 48:6 54:13 123:4 306:12 <b>beyond</b> 99:20 206:6 <b>big</b> 46:7 58:6 279:25 <b>bio</b> 22:1 47:23 <b>birmingham</b> 23:8 27:21 <b>bit</b> 12:14 16:4 32:17 81:18 84:23 137:7 156:16 205:14 <b>blast</b> 44:4 <b>bleacher</b> 5:8,9,11 145:20 207:12 211:15,23,24 212:25 216:24 217:3 217:14,20 218:13 219:8,17 220:5 221:7 221:12 222:1,5 237:14 239:1 245:16 <b>blue</b> 119:11 <b>blurry</b> 171:22 <b>board</b> 29:24 <b>bold</b> 267:12 <b>bolded</b> 267:12 <b>bollea</b> 1:4 7:7 8:1 134:2 <b>book</b> 10:20,21 45:18,19,21 50:10 53:22 54:11,12 54:15,21 55:2,21,23 55:24 56:2,4 91:21 91:25 94:4 191:17 <b>books</b>
<b>bearing</b> 79:7	<b>berry</b> 3:5 4:4 7:19,19 8:14 12:6 14:13,14 15:18 15:21,24 17:16 20:23 21:3,7 30:10,23 33:16,22 38:24 39:3 41:6,11,13,18 42:1,3 58:13,18,23 59:5,10 59:12 70:2 77:3,12 79:5,19,23 80:13,21 81:4,11 83:16 84:2,9 86:10,16 87:21 88:15 88:19,20 91:1,7,13 91:16 94:18 95:15 96:12,25 97:4,14 98:16,21 100:7 101:13 102:1,9,15,23 103:5 105:1,20,24 106:7,21 107:2,22 109:4,21 111:4,8 112:22 113:3,25 114:6,14 115:3,8,14 115:20 116:14,21 117:5,18,23 118:5,22 119:5,19 120:4,9,19 120:23 121:2,6,10,17 121:21 122:7,11,12 125:2,9,15 126:6,11 127:4,11,17,24 128:6 128:12,13 129:1,19 130:16 131:9,21 132:2,10,17,19 133:10,22 138:4,17 141:18 142:6 145:3 145:11 146:7,11 157:17 158:9,21 159:7,13 160:1,11 161:3,9,16,22 162:2 162:10,16,25 163:15 163:23 164:7,13 165:2,9,15,25 166:15 166:19,24 167:3,23 169:20,24 171:13,19 175:16 177:15,20	<b>becoming</b> 28:12 <b>beginning</b> 10:15 264:22 <b>begins</b> 7:5 <b>behalf</b> 2:2 7:25 <b>belief</b> 74:4 169:14,22,22 182:11 <b>believe</b> 9:4 15:3,6,7,17 19:23 37:4 39:11 45:3 46:19 53:20,24 54:5 55:17 57:7 60:7,8 62:6 69:3 75:10,20 80:5 85:20 111:17,21 115:7,9 119:16,17,24 123:12 152:6 180:6 180:11 183:1 196:14 198:23 199:1 212:24 215:9 218:19 219:20 227:20 233:7 243:14 247:15 249:3 251:5 256:4,7 268:6 269:7 269:19 272:15 274:15 280:19 281:1 288:20 289:24 299:1 309:17 <b>belong</b> 35:1,5,8,11,16 <b>benchmark</b> 100:20 <b>benchmarking</b> 81:24 96:23 131:4 <b>beneath</b> 289:17 <b>benefit</b> 75:12,16,18 133:24	

10:19 50:21 54:23 94:3 191:11	<b>bringing</b> 30:21	165:16	<b>called</b> 29:16 86:7 196:15
<b>border</b> 34:5	<b>broad</b> 49:23 52:5,7 54:24	<b>buzzfeed</b> 5:13,14,16 112:17	<b>calling</b> 84:3,5
<b>borrow</b> 18:12	<b>broadcasting</b> 217:13,19	145:22 149:7 212:4	<b>cant</b> 13:25 33:14 48:8
<b>bottom</b> 34:24 35:19 39:8 84:21 85:4 106:22 184:10 231:14,19 248:3	<b>broken</b> 221:21 226:16 239:18 274:6 277:16 278:2 278:15 279:6 281:20 289:1 294:20	222:6,8 223:1,5,15 224:21 227:6,16 237:14 245:17 258:19 260:22,24 261:4	102:5,10 115:13 118:3 124:6 129:25 158:8 160:9 184:5,7 200:25 219:3 273:11 284:3 291:10,23 293:18 296:3 302:9
<b>bought</b> 89:16 217:14,19	<b>brought</b> 58:8	<b>buzzfeeds</b> 222:21 224:4	
<b>boulevard</b> 7:13 313:1	<b>bubble</b> 121:23,24 122:1	<b>C</b>	<b>cap</b> 249:6
<b>bound</b> 303:19	<b>build</b> 64:5	<b>c</b> 1:25 2:5 3:15 296:25 297:5 315:4,21	<b>capital</b> 6:3,6 195:12,13,14,21 196:3,7,12 197:3,8 223:11 245:8,13,18 245:21 246:9,11,12 246:16,22 247:11,22 253:3
<b>box</b> 240:18,19,20 252:10	<b>built</b> 76:17	<b>calcu</b> 273:10 302:12	<b>capitalization</b> 6:5 248:11
<b>boy</b> 289:25	<b>bunch</b> 13:8 14:7 91:14	<b>calculate</b> 140:25 150:1 157:25 160:20 273:7	<b>care</b> 17:10
<b>branches</b> 17:18	<b>burst</b> 122:1	<b>calculated</b> 18:6 151:17 152:24 155:10 252:24	<b>case</b> 1:6 9:21 15:2,10 21:2 28:7 31:13,14,15,25 32:3,19 36:23 37:2,3 37:7,8,20,24 38:14 38:19,21 39:8 40:5 40:21,24 41:14 42:11 42:16 43:4,11,14,19 43:21 45:13,24 46:15 46:17 47:10,10,14 48:25 49:13 52:8,11 52:16,17 60:21 62:21 63:21 65:6,13,20 73:14 85:22,24 89:9 95:5,16,20 96:9 98:11 104:14 106:2 106:11 126:12 130:19 131:13,24 133:12 139:6 144:22 149:17 199:11 201:11 312:13
<b>brand</b> 34:21 53:17	<b>business</b> 5:18 17:8,12 18:10,11 24:4 45:19 53:18 55:5 109:17 230:9,12 230:13,20,22,24 231:5 256:5,8,15 271:2,4 312:11	<b>calculating</b> 147:8	
<b>branding</b> 242:6	<b>businesses</b> 195:19 196:15 255:10	<b>calculation</b> 174:3 176:18 236:20 249:23 254:17	
<b>break</b> 63:14 81:4 132:18 141:23 149:12 193:14 210:24 262:9 262:10,16 300:23 308:20	<b>buy</b> 24:10 29:7 163:2,10 163:18 164:14,15 187:15,18	<b>calculations</b> 55:9 129:5 154:21 155:3,8 173:15 223:22 265:6	
<b>breaking</b> 301:18	<b>buyer</b> 24:10 36:17 77:20,21 143:23 161:18 162:12 163:24 164:2 164:8 165:10,16 166:16 229:13	<b>calculator</b> 300:21 301:18 302:12 302:13	
<b>breakout</b> 281:14		<b>calendar</b> 153:21	
<b>breaks</b> 226:21		<b>california</b> 2:4,21 7:1,14 9:12 36:9 313:2 314:1,7 314:10 315:1,5,23	
<b>brickandmortar</b> 70:25	<b>buyers</b> 144:9,13 165:4	<b>call</b> 59:3,3,4 84:11 87:14 88:13 136:10 172:11 220:17,24	
<b>bridge</b> 17:3,22,24 18:1,3,17 18:19 22:15	<b>buying</b> 125:22 144:11 163:22		
<b>bring</b> 140:3			



<b>cases</b> 31:22 33:2 34:9 35:21 44:11,12 46:20 47:9 49:15 59:18 104:16 106:17	314:5 315:5,16	<b>chevron</b> 40:19,22,22 42:15,20 43:7	51:8,15 52:3,10 134:11 142:4 160:12 206:7
<b>cash</b> 67:18,20,21,24 81:2 113:15 115:10 249:6 249:21 254:16	<b>chairman</b> 11:5 25:13,20 41:16 92:3 94:2	<b>chip</b> 119:11	<b>clearly</b> 95:12 96:6 100:19
<b>catch</b> 170:1	<b>chairmans</b> 10:20	<b>choose</b> 98:23	<b>clem</b> 1:8 7:8 84:15 134:3
<b>categorize</b> 125:4	<b>chance</b> 294:24	<b>chose</b> 100:20	<b>cles</b> 191:9
<b>causation</b> 177:12	<b>change</b> 63:19 95:13 96:7,11 156:16 157:4 169:4 172:16,24 173:8,16 174:7 175:18,22 179:13 210:12,18,21 244:12 250:8,8 251:18 306:6,13,15 310:24	<b>circle</b> 295:9	<b>click</b> 240:18,20
<b>cause</b> 30:8,15 153:23 254:18 257:7 264:20 265:2 295:2 302:6	<b>changed</b> 112:19,23 113:2 250:11 308:5 309:18 309:20	<b>circuit</b> 1:1,1	<b>client</b> 9:14 17:25 29:9 32:1,9 54:7 59:4 144:20 164:20 213:18 269:18
<b>caused</b> 80:7 169:9 175:19,23 175:25 176:2,6,13 177:4,18,21 280:15	<b>changes</b> 95:13 137:17 244:11 251:17 261:12,13,25	<b>circumstance</b> 75:17 132:4	<b>clients</b> 29:1 31:23 59:4 60:1
<b>celebrities</b> 54:9	<b>changing</b> 245:12 250:14	<b>circumstances</b> 32:14 87:8 109:19 117:16 118:3 163:14 163:16 200:19	<b>clip</b> 86:1
<b>celebrity</b> 189:4,6,12 203:21,24 257:23,25	<b>chapter</b> 55:24,25 91:25 94:2,3 94:5	<b>cite</b> 85:12 267:14 270:15	<b>close</b> 155:23 222:13 279:24 282:8,10 291:2
<b>centers</b> 36:23 38:1	<b>characters</b> 54:9	<b>cited</b> 106:14	<b>club</b> 43:10 44:1
<b>cents</b> 157:22 251:1 253:19	<b>charge</b> 18:8	<b>claim</b> 47:11	<b>coauthor</b> 50:11 191:17
<b>century</b> 2:4,19 7:16	<b>charles</b> 2:18 11:10 12:17 14:4 14:19 15:18 63:16	<b>clara</b> 16:6	<b>cocacola</b> 27:24,25 28:2,5 71:7,9 72:8 73:18 108:12 115:15
<b>certain</b> 29:7 53:21 55:18 89:4 93:18 206:20 219:3 224:19 229:15 243:9 243:19 244:6 245:24	<b>chart</b> 88:22 170:13 171:3 174:7 181:17 183:9 183:11,18,18 184:2 220:14 225:11 226:15,24 248:9 264:8 273:5 275:16	<b>clarification</b> 85:15	<b>code</b> 171:10
<b>certainly</b> 275:14	<b>characters</b> 54:9	<b>clarify</b> 12:25 13:14	<b>codex</b> 247:19
<b>certainty</b> 162:20	<b>charge</b> 18:8	<b>clarifying</b> 41:23	<b>coding</b> 196:6,12
<b>certified</b> 315:22	<b>charles</b> 2:18 11:10 12:17 14:4 14:19 15:18 63:16	<b>clarity</b> 135:15	<b>cogent</b> 4:21 111:12,16
<b>certify</b>	<b>chart</b> 88:22 170:13 171:3 174:7 181:17 183:9 183:11,18,18 184:2 220:14 225:11 226:15,24 248:9 264:8 273:5 275:16	<b>class</b> 10:6,7,8,14,17,18 33:23 165:8	<b>cohen</b> 2:10
	<b>check</b> 64:7,17 83:7 152:10 182:1 274:24,25	<b>classes</b> 10:4	<b>collected</b> 61:24 62:4
		<b>classified</b> 87:20	<b>collecting</b> 61:21
		<b>cle</b> 51:3	<b>collection</b>
		<b>clear</b> 12:3 47:13 48:20 51:2	

101:2	251:12,18 253:16	139:11	174:23 189:7 195:14
<b>college</b>	254:21,24 257:22	<b>commodities</b>	197:23,24 198:3
16:5,24	263:10 270:7 271:12	247:6	215:12 222:11 228:8
<b>column</b>	271:16 272:11 274:1	<b>common</b>	228:10 232:12,22
147:21 148:1,19,24	274:11 277:15,25	93:12 94:10,13,24	237:24 244:9,14
149:3 167:13,24	278:6 281:14 283:2,4	95:21 96:3 97:21,22	245:10,15 250:20
289:5,6,9,10 298:16	283:7,10,17 284:12	97:25 98:2,4,17,24	253:24 254:2 260:10
<b>columns</b>	285:1,6 286:20 287:2	98:25 99:1,8,16,23	261:10,17
147:3,7,15	287:22,25 288:23	100:3,11 121:18,22	<b>companybycompany</b>
<b>com</b>	294:11 295:14 298:7	131:1,8 189:25	74:18 75:2
5:21,22,24 6:3,6,8,11	298:25 299:10 300:6	190:15 250:18 251:6	<b>companys</b>
6:13,15,17,19,21	303:18 304:10 307:9	285:10	24:16,19 68:2 72:12
53:14 82:9,15,18,21	310:10,11,11,14,24	<b>community</b>	141:25 142:8 143:13
83:5,11,25 85:1,7	311:5	118:15	147:15 148:21
87:10 109:23 113:21	<b>comcast</b>	<b>comp</b>	<b>comparability</b>
114:10 120:24 121:3	286:22	38:10 150:3 210:11	189:18
121:7,19,23,24 123:5	<b>come</b>	222:8 228:5 232:9	<b>comparable</b>
125:4,8,13 126:7,12	8:18 9:24 12:20 17:24	255:4	76:24 77:1 82:7 88:25
130:12 133:25	18:11 24:20 27:1	<b>companies</b>	89:6,12,13 90:13,23
134:12,13,18,21,24	32:17 59:9 61:12	57:12,13 59:14,22	93:9 94:8 97:20
135:8,14,18 136:4	73:9,11 95:7,22 97:8	70:11 71:24 72:10	143:1,3 145:15
137:15 138:6,13	97:13 98:4 101:2	73:25 74:2,6,9,14,14	198:20 213:9 238:2
139:2,10 141:5 146:3	107:3 149:14 153:24	79:10,10 80:23	255:15
149:9 155:9,10	154:3 159:21 173:12	108:15 109:18	<b>comparables</b>
156:12 157:6 158:4,4	179:12 249:22 259:3	112:23 113:10	82:6 89:7,9,14 98:15
160:13,15,19 161:11	277:13 310:12	118:23 119:14 120:5	161:15 194:14
161:14,24 162:6,12	<b>comes</b>	120:13 142:21 143:1	<b>compare</b>
162:21 163:2,5,10,18	13:10 23:15 104:16	145:15,18 147:19	81:25 96:23 100:21
164:3 165:17 169:11	141:7 164:20 191:12	156:3 194:5,7,10	213:22 216:17
172:11 175:1,2,4,8	246:13	195:21 197:17 198:1	<b>compared</b>
175:13,15 178:23	<b>coming</b>	198:9,20 199:7 215:7	82:22 167:18,25 260:4
180:21 182:5 189:10	8:15 14:16 26:12	237:19,21 246:3,5,6	<b>compares</b>
192:9,12 193:21	34:22 53:24 91:9	246:8,15 247:5	81:19
197:1 200:7,8,16,17	94:4 95:24 97:16	249:14,16 261:16	<b>comparing</b>
200:22,23 201:1,1,21	117:10 150:3 312:21	<b>company</b>	82:1 89:12 90:14,23
202:17,21,24 203:2	<b>commanded</b>	19:20 20:1,2 29:14	90:24 248:25 249:10
203:10,24 204:7,15	291:8	31:6,7 46:7 57:19	250:2 290:25
204:20 212:25	<b>commencing</b>	58:9 59:23 60:5	<b>comparison</b>
216:19 228:6 232:9	2:2	71:10,11,19 72:8	181:1,2
237:15,25 238:2,3,8	<b>comments</b>	73:1,3,3,10,11,13,16	<b>competitive</b>
238:10 239:1,2,15,24	215:4	73:18,21,23 74:20,21	267:15 270:16
240:2,5,13 241:4,9	<b>commercial</b>	74:24,24 76:5 98:22	<b>complete</b>
241:16,24 242:1,12	104:22,24 109:16	102:24 110:2 116:4	249:19 315:14
243:19 244:2,5,8,17	<b>commission</b>	120:3 131:12 147:2,8	<b>completely</b>
244:21 246:15,21	9:12 36:9,12,14	148:23 149:13	284:13 286:14
248:22 250:25	<b>committed</b>	163:17 164:15 166:4	<b>complicated</b>

158:22	<b>conditions</b>	27:1,2 32:20 39:11	222:25
<b>component</b>	33:20 177:3	44:16,25 45:17,24	<b>contents</b>
158:2	<b>conducting</b>	91:23 102:18 103:12	100:1 193:24
<b>composite</b>	295:23	103:22 104:5,12,19	<b>context</b>
212:7	<b>conference</b>	164:23	62:24,25 63:12 93:21
<b>composition</b>	53:17	<b>constraints</b>	99:2 100:15 103:14
210:7	<b>confidentiality</b>	93:21	160:8 187:6 191:8,11
<b>compound</b>	33:15,21 58:3 59:1	<b>consultant</b>	293:16,17
46:6,10	<b>confused</b>	19:23	<b>contexts</b>
<b>comps</b>	84:19	<b>consulted</b>	93:18,19 100:1,6
70:10,10 89:17 97:2	<b>confusing</b>	41:10	190:22 191:4
98:6 150:5 155:12,16	34:4	<b>consulting</b>	<b>contingent</b>
155:25 156:21	<b>connecticut</b>	30:8 39:21 40:25	251:11
189:17 194:4,6	290:1	41:21 106:15	<b>continued</b>
197:23 206:10,25	<b>connection</b>	<b>consumer</b>	3:1 20:8 133:8 267:6
207:3,8,15,17,24	38:13 57:16 58:15	43:9,23 49:12	270:7
208:5,12 210:7	63:6 85:21 135:13	<b>consummated</b>	<b>continues</b>
211:18 212:13,20	309:6	144:16	50:7 144:5
213:9,11,22 214:20	<b>consensual</b>	<b>contact</b>	<b>continuing</b>
215:6,16 216:3,8,18	134:3	144:20	9:9 94:9 103:25
216:22 237:13	<b>consensus</b>	<b>contained</b>	<b>continuously</b>
243:16 275:3,10	73:15,20 75:6 108:13	93:9 94:8 130:9	14:9 22:20
<b>computeraided</b>	108:25	<b>content</b>	<b>contracted</b>
315:12	<b>consent</b>	30:2 32:8 52:18,24	7:12
<b>coms</b>	37:18	53:1,2,3,4,5,9 118:15	<b>contributed</b>
81:14 136:1 164:9	<b>conservative</b>	194:3 214:23 215:1	54:6 176:25
177:11 238:12 311:1	98:11	215:16,17,19,21,23	<b>contributing</b>
<b>con</b>	<b>consider</b>	217:6,7 222:12,18,23	50:9
20:19 33:21 44:13	119:6 123:10 134:17	228:8,12,17,19	<b>contribution</b>
<b>concept</b>	134:20,23 135:1,4	232:13,17 238:7	55:22
95:19 140:7	165:16 179:7 194:6	241:7,8,10 243:9,11	<b>control</b>
<b>concerning</b>	210:6 214:14 215:12	243:19,23 244:2,6	9:12 36:9,11,14
42:16,18 220:4 309:14	<b>consideration</b>	257:18	<b>conversation</b>
<b>concluded</b>	135:7	<b>contentbased</b>	107:25 169:7
170:23 307:20	<b>considered</b>	70:3,5,8,14 71:24 74:5	<b>conversations</b>
<b>concludes</b>	74:2,11,17 87:12,23	74:9,13 75:1,7 80:12	271:18 309:24
312:23	88:3 194:14 210:9	96:19 99:7,18,24	<b>converse</b>
<b>conclusion</b>	214:6,11 257:20	100:22 101:21 103:2	254:11
70:7 213:23 259:4	<b>considering</b>	105:13 108:14,18	<b>convert</b>
306:13,21 308:19	257:7	109:1 110:4 116:7,16	102:17 199:20 267:23
<b>conclusions</b>	<b>consistent</b>	159:8 160:3,17	269:11,13 283:24
68:14 139:7 216:15	72:20 75:9 250:17	194:15 196:5,7,8,22	304:22
<b>concurrently</b>	<b>consor</b>	198:24 199:13 205:9	<b>converts</b>
19:15	20:13,14,15,17 22:3	205:22 228:10 238:4	267:25 269:16
<b>condition</b>	22:19,22 23:9,23	255:8,16,19	<b>conviction</b>
90:3	24:3,23 25:6,9,12,22	<b>contentrelated</b>	159:6

<b>copy</b> 14:21 312:3,15	170:16,19,22,25 171:1,6,21 172:7	187:4,14,15,18,24,25 188:12,13,13,14	<b>covered</b> 104:3
<b>copyright</b> 29:2 45:15,20 48:21 88:1	173:6,7,21,24 174:5 174:9,16,25 178:5 180:17 181:11	<b>costperuser</b> 128:21	<b>covers</b> 28:21
<b>copyrights</b> 23:20 32:25 34:13 51:24	182:14 185:14 186:17 195:22 196:20 197:5,15 198:22 204:15	<b>costs</b> 188:16,16	<b>crash</b> 121:15
<b>corner</b> 183:2 240:4 248:4	206:21 217:5,15,22 220:5 221:10 222:10 222:12 223:7 225:13 226:22 227:4 228:7,9	<b>couldnt</b> 99:11 109:22 183:16 198:18 250:13 259:10 299:2	<b>created</b> 20:3 248:5,6
<b>corp</b> 141:1	228:23 230:7,10 231:4 232:6,14 235:7 235:10,13,25 236:12 237:2,3,5 238:1	<b>counsel</b> 2:7 3:1 7:17 15:4 17:13 58:17 187:22 269:22 288:17 309:25 310:16	<b>criteria</b> 89:22,24 194:13 195:1 195:2 197:16
<b>corporation</b> 40:20	247:20,23 248:1,15 249:13 251:2 253:24 255:6,22,24,25 256:10,16 259:17 261:11,14 262:25 263:15 266:16,17,23 268:23 271:4 275:21	<b>count</b> 140:22 154:11 296:25 297:3	<b>crosspollinating</b> 159:2
<b>corporations</b> 34:1	276:10 277:20 278:10 279:13 281:16,25 282:3,22 282:24 284:7,12,18 287:4,20 288:25 289:3,16 292:22 297:2,5,16 298:25 303:20,23 307:4 311:11 314:7 315:14	<b>counted</b> 285:4,5 286:7	<b>currency</b> 77:15
<b>correct</b> 18:24 22:8,16 24:25 25:19,21 27:8 32:16 35:23 36:16,25 37:14 37:19 43:8,11,12,24 44:10 47:12,15,21 53:24 54:2 66:11,12 66:17 67:7,11 68:20 68:22,23 71:18 73:24 74:3 78:15 79:15 82:23 85:18 90:16,21 90:25 104:4 111:15 114:20 116:3 122:2 124:24 125:5 134:16 135:6,9,24 137:17 139:17 140:16,17,20 140:24 142:18,22 143:2,16 144:8 145:19,25 146:6,14 146:18 147:1,20,24 148:3,4,7,18 149:2,6 149:10 150:14 151:13,20,25 152:4,8 152:20,22 153:3 154:9 155:14 156:10 156:15,18,24 157:3 157:24 158:15 160:25 161:2,11,20 162:17 167:8,18 168:9 169:6,18	<b>corrections</b> 312:8	<b>counting</b> 153:14 154:15,18,19 154:21 286:10	<b>current</b> 69:14 76:3 112:8 232:19 249:5,5 253:8 253:10
	<b>correlated</b> 178:11,14	<b>country</b> 42:19 261:16	<b>currently</b> 35:1 36:20 56:13 69:22 78:2
	<b>correlating</b> 177:16	<b>counts</b> 140:19	<b>curriculum</b> 4:13
	<b>correlation</b> 177:12	<b>county</b> 1:2 314:2 315:2	<b>curve</b> 220:23
	<b>cost</b> 66:1,10,14,17,21 126:15 127:13,19,22	<b>couple</b> 20:21 29:10 57:14 87:2 92:25 107:4 110:15 128:15 141:8 148:5 216:22 249:17 249:19 252:16 286:18	<b>cushion</b> 21:2
		<b>course</b> 10:11 11:14 13:6 14:3 14:6,9 15:8 56:7,13 56:19,25 57:3,5,7,8,9 307:5	<b>customer</b> 48:23
		<b>court</b> 1:1 8:2 9:5 42:24 59:8 269:22 270:2 301:1	<b>customers</b> 17:10
		<b>cover</b> 10:22,22	<b>customs</b> 44:19 49:3
			<b>cut</b> 12:10 183:3 264:23 306:24 307:25
			<b>cutting</b> 295:1
			<b>cuva</b> 2:10
			<b>cv</b> 39:11 41:7 44:12 48:25
			<b>cycle</b> 108:2,12

<b>D</b>			
<b>d</b>	310:1,3,3,7 311:8,22	44:4	<b>defines</b>
3:15 4:1	<b>database</b>	<b>deals</b>	62:13,14 72:25 180:5
<b>daily</b>	9:13 36:3,4,5,15 43:20	130:2 191:21,22	180:10
183:19 244:11,12	44:3,6,8 48:17 88:7,8	271:12,17	<b>defining</b>
<b>damages</b>	195:11	<b>dealt</b>	119:3 179:25
38:14 55:8 104:15	<b>databases</b>	29:14	<b>definitely</b>
138:1,7,11	23:21 32:25 34:20	<b>debt</b>	58:4
<b>data</b>	49:16	249:6,21 254:16	<b>definition</b>
36:5 60:22,25 61:7,9	<b>date</b>	<b>december</b>	73:2 114:25 180:6,7
61:12,21,25 62:10,22	7:9 36:5 65:10 83:9	237:4,9 239:17,18	<b>defy</b>
64:5,14 68:3,24	143:9 147:22,22	244:17 246:23	118:16
79:25 80:6 81:24	150:18 152:8 155:16	247:25 248:16,22,25	<b>degree</b>
105:7 141:1,6 144:10	195:7 215:8 233:2	249:1,9,12,13,18,20	16:9,11 18:21 19:5,9
144:25 145:5 147:6	236:9,17 248:5,6	249:25 250:2,3,8,9	19:11 113:20 118:21
148:6,9,16 151:15	249:2,24 250:25	250:19 252:19 253:5	119:4,17,20,24 120:2
152:22,23 154:13	253:5 311:8	253:11,12,16 254:6	162:20 216:7
155:1 181:19,23	<b>dates</b>	279:25 280:18,25	<b>demographic</b>
182:23 183:10,12,15	83:6 155:15 184:7,10	290:2,20 291:14,18	210:6,15,21 238:9
183:17,20 184:1	184:11 226:22 261:1	<b>decide</b>	309:9
194:25 195:16 196:1	<b>daulerio</b>	267:17 270:18,24	<b>demographics</b>
197:4 207:19 209:1	7:21,24	<b>decided</b>	206:20 209:8,12 210:9
209:11 213:6,13,16	<b>david</b>	18:20	210:10 212:22 213:4
213:17,18,21,22	64:2 183:5	<b>decimal</b>	238:24 239:2,7,8
214:1,3 219:17 220:5	<b>davidnoble08</b>	302:2,15	240:4,22
221:21 224:22 225:9	183:4	<b>decimals</b>	<b>demonstration</b>
225:11 226:5,15,21	<b>day</b>	136:8 301:19 302:17	51:25
230:4,15 231:2 235:5	15:8 21:21 99:9 140:8	<b>deck</b>	<b>denominator</b>
235:11,15 236:19	146:16 222:12,19	45:18	95:21 97:21,22,25
238:17,24 239:2,7	228:13 232:20	<b>decline</b>	98:2,4,17,24,25 99:1
240:4,11,14,17,22,23	261:12 282:18 283:4	280:15	99:8,17,23 100:3,12
246:13,17,17 248:20	285:11 314:8 315:18	<b>declining</b>	190:1,15 250:18
249:10,10,20,20	<b>days</b>	264:10,11	285:10
250:21 252:23 253:3	15:11 248:17 312:11	<b>decode</b>	<b>denton</b>
253:6,12 259:6,13	<b>deadspin</b>	86:5	7:20,24 267:8,10
261:24 265:18 266:8	134:21 158:4	<b>decoder</b>	268:7 271:9,15
266:9,12 269:17,18	<b>deal</b>	111:9	287:24
270:2,4,11,22 271:24	59:16,16 60:1 217:16	<b>decoding</b>	<b>dentons</b>
272:13,15 273:25	217:18,20 229:1	219:16	267:24 269:14 270:12
277:14,16,25 278:15	231:23	<b>decrease</b>	270:23 283:23 304:6
279:3 281:20 284:1	<b>dealer</b>	278:8,11	304:11 305:6
284:15 285:20 286:1	36:7	<b>defendant</b>	<b>department</b>
286:8,22 287:8,12	<b>dealers</b>	46:22 47:7,8 139:18	26:23 61:23
289:1 290:6 293:16	36:6	<b>defendants</b>	<b>depend</b>
298:4 299:11 300:7	<b>dealing</b>	1: [REDACTED]:5	118:2 188:23
301:2 303:8 309:20	90:19 245:15	<b>defies</b>	<b>depending</b>
	<b>dealoftheday</b>	118:24	192:4

<b>depends</b> 24:9 64:8 99:2 100:15 109:19 163:13 164:11 192:5,6	79:13 142:20 <b>determines</b> 76:25 <b>determining</b> 100:2 <b>detour</b> 246:18 <b>develop</b> 64:15 188:15 <b>developing</b> 64:15 145:14 <b>development</b> 66:23 <b>diagram</b> 51:20 <b>dictate</b> 77:17 <b>didnt</b> 38:5 52:16 63:9 66:10 66:13 68:11,15 90:9 134:14,17,20,23 135:1,4 148:6 149:22 166:1 176:24 186:14 192:7,16,22 193:2 199:25 210:6,19 213:2 214:17 230:19 239:19 242:9 249:2 259:13 263:16 269:21 301:2 <b>diego</b> 10:13 16:19 18:22 19:7 20:9 56:10 165:3 <b>difference</b> 51:18 82:24 83:15 162:22 265:13,19 <b>differences</b> 97:2,9 201:3,16 202:12 <b>different</b> 31:19 41:24 49:5 50:20 60:2 61:5 62:9 70:15 71:17 95:17 99:3 114:8 131:15,16 139:24 155:16 158:2 159:4 160:3 167:6	175:11 181:9 185:20 186:8,17 190:17 191:19 200:6 202:6 204:6 209:13 210:11 228:20 240:10 241:14 243:25 244:1 249:21,24 250:12 255:24 257:24,24 259:22 262:6 265:5 285:7 286:10 289:2 294:6 <b>differently</b> 72:1 204:7 <b>difficult</b> 88:23 89:4 264:15 <b>difficulties</b> 89:2 <b>difficulty</b> 113:9,11 <b>direct</b> 25:25 26:25 43:9,23 49:12 100:13 <b>direction</b> 64:4,8 315:13 <b>directly</b> 100:23 111:19 118:3 182:4 244:3 268:24 <b>director</b> 24:24 25:10 26:21 28:12 <b>disclosed</b> 40:14,15 41:3,5,6 42:4 43:16 <b>discounted</b> 67:12 <b>discounts</b> 243:2,7 <b>discuss</b> 51:13 53:18 54:17 57:1 110:22 <b>discussed</b> 54:22 207:15 216:25 309:11,13,17,18 <b>discusses</b> 65:22 87:4 88:21 92:11	<b>discussion</b> 55:9 87:14,22 88:13 125:3 133:19 288:8 301:15 <b>disposal</b> 23:3 <b>distressed</b> 289:24 290:3 <b>distributed</b> 266:15 308:3 <b>distribution</b> 212:12,19 214:6 239:16 240:5,8 263:13 265:4,8,12 266:14 <b>district</b> 42:22 <b>divide</b> 149:22 151:19 <b>divided</b> 143:12 148:21,23 149:14 170:17 <b>divides</b> 180:24 <b>dividing</b> 48:5 <b>division</b> 27:4,10 <b>divisions</b> 27:2 <b>doc</b> 266:2 <b>document</b> 20:24 21:5,8 39:1,4 62:16 85:13 86:6,12 86:14,17 91:3,17 110:25 111:6,12,14 122:4,5,8,13,16,24 146:9 171:9,15,17,20 180:1 182:16,18,20 182:24 183:23 219:18,21,22,25 220:1 221:1,3,16 224:23 225:1,2,5 226:2,12 231:1,3,11 231:16 235:15,20,23
--	---	--	---

236:1,15 239:11 241:20 244:22 245:2 245:5 246:22 247:10 247:12,15,19,21 252:3 272:7 273:22 274:18 277:8,22 278:25 288:16 <b>documentation</b> 223:21 <b>documents</b> 14:21 15:1,3,5,11,14 39:5 80:15,19,24 85:16,20,21,23 91:14 110:18 129:8 217:25 219:12 223:19 229:1 233:25 274:25 <b>doesnt</b> 66:14 108:17 127:21 128:3,20,24 155:5 160:13 161:4 166:10 249:7 256:2 285:22 <b>doing</b> 11:12 12:8 18:5,12 20:17,19 28:17,24 30:3 38:8 57:22 60:5 64:11,14 65:20 77:6 88:7 90:19 98:18 187:11 188:20 189:22 274:14 293:18 300:25 307:13 309:2 311:12 311:16 <b>dollar</b> 141:9,13,19 148:25 <b>dollars</b> 67:17 69:16 78:21 100:25 125:18,24 126:13 174:25 199:21 267:18 270:19,25 <b>domain</b> 135:8 <b>dont</b> 10:21 11:7 12:21,24 15:17 21:4 24:22 30:25 32:11,13 33:10	33:19 34:2,6,16 38:23 40:15 41:4 44:18 45:7 46:8 47:5 48:10 53:20 54:16,20 55:11,18 57:9,10,25 58:11,16,24 59:6,15 59:21,25 60:7,11,12 60:19 61:14,18 62:25 63:12 64:12,12 65:10 65:16,18,21 73:2,7 73:14 74:23 78:23 79:21 80:2,5,19 81:4 90:6 91:8 92:4 97:13 99:15 100:13,16,17 101:23 102:3,7,13 104:8,17 105:4,6,18 106:4,17,19,25 108:4 108:8 111:4 112:13 114:25 115:17 119:2 119:9,22 120:7,7,7 120:22 123:9,20 129:5,17 130:21 131:5 132:1,1,16 138:8,11 144:12 145:9,13 150:19 152:7,7 157:20 158:7 158:17,18,18,24 159:1,3 160:24 162:4 162:9,11,15 163:3,7 165:7 166:9 169:21 177:22,22 178:20 184:25 185:9 186:22 187:10 188:18 189:14,18 190:25 191:13,14 193:14 195:6,7,24 196:16 198:14 200:12 201:24 202:10,20 203:23,23 204:3,4,21 204:23 205:2,24 207:19,21 208:2,4,7 218:7,8,9,12,19 219:7,9 220:17,24 222:20 223:3,25 224:3,9,19 226:10 228:14 229:15	230:25 232:21 233:1 233:4,9 234:6,7,15 235:3,11 238:11,20 240:17 241:12,17 242:16 243:13,14,22 243:23 244:7 245:24 246:7,7,11 248:2 250:10 251:20 253:2 253:17 256:3,19 257:25 258:8,13 261:1,8,8,20,23 262:5,10 265:17 266:10,13 269:1,18 269:25 271:11,16,18 273:7 275:7,13,22,23 277:1 279:23,24 280:23,24 281:7,11 281:12 282:10 284:1 284:3 288:5 293:17 296:2 301:19,20 302:7,11,16 305:1,5 305:8 306:2 307:12 307:21 310:5,18 311:15,15 312:17 <b>donziger</b> 40:20 <b>dot</b> 121:19,23,24 <b>double</b> 154:15,18,19 <b>doublecheck</b> 72:23 <b>doubled</b> 222:2 227:11,13 237:8 237:10 <b>download</b> 183:15 <b>downloaded</b> 183:19 <b>draft</b> 64:19 <b>dramatically</b> 121:12 <b>draw</b> 153:17 196:21 253:6 <b>drawing</b>	213:23 <b>dresses</b> 204:15 <b>drew</b> 151:14 <b>drink</b> 63:17 <b>drinks</b> 71:14,17 <b>drive</b> 101:14,15 238:5 <b>driven</b> 53:4 <b>driver</b> 99:19,21 <b>drives</b> 53:6 100:25 101:9,10 101:11,11 110:4 255:16 <b>drop</b> 278:20 279:12,14,17 279:25 280:7,8 <b>dropped</b> 121:12 278:17 280:13 <b>drops</b> 240:20 280:3 <b>drove</b> 8:18 <b>due</b> 83:25 278:20 <b>duly</b> 8:7 315:7 <hr/> <b>E</b> <hr/> <b>e</b> 4:1,10 5:1 6:1 223:6,8 <b>earlier</b> 10:15 13:15,16 25:17 35:24 39:6 57:11,14 63:6 87:6,23 103:17 104:2 110:15 125:3 140:2,8 146:16,25 149:12 180:1 186:4 194:17 216:1 238:23 245:10,13 246:19 282:18 285:11
--	---	---	--

300:13 309:2 310:2 310:22	<b>effort</b> 66:23 197:23	<b>entire</b> 26:23 34:10 274:7	<b>et</b> 1:9
<b>early</b> 9:4,4	<b>eight</b> 39:15,19 40:2 44:22 49:7,8,8 248:17	<b>entirely</b> 83:4	<b>ether</b> 194:22
<b>earn</b> 79:1 114:23,24 224:18	<b>either</b> 53:19 57:15 88:2 128:4 150:5 157:22 159:20,21 185:24 236:11 245:15 284:3 298:21,21 301:21 302:8,9	<b>entities</b> 32:22,22 33:7,9,20,24 33:25 76:24 77:1	<b>evaluate</b> 51:23,23 76:13
<b>earned</b> 138:19	<b>email</b> 34:20 44:3,4,5 183:3	<b>entry</b> 289:17	<b>evaluated</b> 218:10 224:1
<b>earning</b> 69:17	<b>email</b> 34:20 44:3,4,5 183:3	<b>equal</b> 148:20 293:8 307:5,6 307:8,15 308:4	<b>evaluating</b> 234:9
<b>earnings</b> 67:7 74:16,21 75:4 113:13,21 114:10,17 115:4,7 219:6 234:15 254:20	<b>elementary</b> 290:1	<b>equate</b> 284:5	<b>evenly</b> 266:15
<b>easier</b> 12:14	<b>embellish</b> 28:1,5	<b>equation</b> 124:5	<b>event</b> 315:17
<b>east</b> 2:4,19 7:16	<b>employed</b> 105:15	<b>equivalent</b> 157:22 287:13	<b>events</b> 232:19
<b>easy</b> 89:9	<b>employees</b> 103:22	<b>errors</b> 64:7,17	<b>evidence</b> 210:20 302:22
<b>ebay</b> 128:16	<b>employer</b> 10:25	<b>escalating</b> 118:13	<b>exact</b> 63:12 73:2 83:6 90:20 112:13 115:17 149:24 150:18 157:20 241:13 253:17 258:8 261:1 302:1 306:2
<b>ebit</b> 95:8	<b>ended</b> 14:11 151:23 153:14	<b>especially</b> 155:23	<b>exactly</b> 24:22 30:3 45:7 61:14 65:16 95:5 115:13,18 137:5,9 186:22 188:19 222:20 223:3 233:1 245:24 277:1 308:9,9
<b>ebitda</b> 95:8 254:22	<b>endorsement</b> 191:21,22	<b>espn</b> 53:14 200:17 204:20	<b>examination</b> 4:2 8:12 133:8
<b>ecommerce</b> 53:7 194:16 197:1	<b>engaged</b> 60:21 62:21 134:2	<b>esq</b> 2:11,18 3:5,12	<b>examined</b> 8:8 315:6
<b>economics</b> 16:12	<b>engagement</b> 62:17,19	<b>essentially</b> 26:12 181:8 299:12	<b>example</b> 52:15,21 70:9 71:7 89:15 102:22 180:23
<b>ecuador</b> 42:18,19,19,20	<b>engagements</b> 43:1,3	<b>establish</b> 82:2	<b>examples</b> 28:19 29:10 39:15 48:15 52:8,11 105:19
<b>education</b> 103:25	<b>engine</b> 180:15	<b>established</b> 124:13,20,24 125:5,10	<b>exceed</b> 297:20 298:1
<b>educational</b> 213:8	<b>english</b> 27:23	<b>establishment</b> 53:17	<b>exceeds</b> 297:8
<b>effect</b> 78:24 185:10,11 216:15 227:21 239:8 254:2 258:25 259:14 259:23 260:11 269:9	<b>enter</b> 302:21	<b>estate</b> 90:6,9 109:17 131:3	
<b>effective</b> 147:23	<b>enterprise</b> 248:10,13,19 249:8,22 250:16 252:11,17 253:13 254:17	<b>estimate</b> 81:21	
<b>effectively</b> 82:25	<b>entertainment</b> 204:1 222:24 228:18	<b>estimated</b> 158:1	
		<b>estimates</b> 161:10	
		<b>estimating</b> 161:13	



<b>excel</b> 149:23,23	241:23 244:20 245:1 245:3,5 246:22	271:3 311:4	216:14 225:23 227:23
<b>excellent</b> 236:18	247:10,13 250:7,24 252:2,4,8 262:17	<b>experts</b> 23:15 137:20	<b>factored</b> 214:13 254:16
<b>exceptional</b> 220:25 278:22	264:8 265:4 272:6,8 272:10 273:23,25	<b>explain</b> 23:6 27:15 38:7 100:18,19 124:3 125:13 137:8 180:14 180:18 249:11	<b>factors</b> 113:12 176:25 178:18 259:18
<b>exceptionally</b> 198:15	274:17,19 275:16,25 277:6,9,14,21,23,25 278:14 279:1,3 281:13,19 282:11,14 282:15 288:2,12 298:14 303:15,16	<b>explained</b> 11:10 124:6 252:16	<b>factual</b> 47:16
<b>excerpt</b> 91:20		<b>explains</b> 127:23 144:5	<b>failed</b> 197:23
<b>excerpts</b> 84:14	<b>exhibits</b> 14:8 21:15,17 140:2,3 146:12,15	<b>explanation</b> 48:13	<b>fair</b> 49:14 58:20 128:12 162:20 166:4 212:1 220:14 266:14 295:10
<b>excited</b> 12:10	<b>existence</b> 115:22 215:7 223:2 260:24	<b>explicit</b> 81:18	<b>fairly</b> 51:24 155:22 230:13 233:7 239:3 273:9
<b>exclusivity</b> 93:22,23	<b>expect</b> 67:9 234:14	<b>explicitly</b> 127:21	<b>fall</b> 48:19
<b>executed</b> 314:8	<b>expectation</b> 219:2 224:16 229:12	<b>exploitation</b> 4:16 86:7	<b>falling</b> 277:7
<b>exhibit</b> 4:12,13,15,17,20,22 4:24,24,24 5:3,5,6,8 5:9,11,13,14,16,18 5:21,22,24 6:3,6,8,11 6:13,15,17,19,21 20:25 21:4,6 34:23 38:25 39:2 86:11,15 86:17 87:4 88:17 91:1,4,18 111:5,7,10 118:6 122:7,9,14,16 143:17 146:8,8,10,12 146:19,19 151:21,22 153:5 156:7,12,19 167:4,5,6,10,13 170:13 171:14,18 172:13,14 173:14 174:2 175:17 182:19 182:19,21,23 183:9 183:12,22,24 211:21 211:21,22 219:13,21 219:23 220:1 221:2,4 221:15,17,19 224:21 224:25 225:3,5 226:1 226:3,11,13 231:2,10 231:12,16 235:4,14 235:19,21,23 237:4 239:10,12 241:19,21	<b>expectations</b> 234:12	<b>expressing</b> 137:25 138:18,21 139:4 310:23	<b>falls</b> 181:2
	<b>expected</b> 146:16	<b>extensive</b> 22:11	<b>familiar</b> 62:9,17 91:24,25 200:24 202:23 247:1
	<b>expecting</b> 224:18 229:13	<b>extensively</b> 103:23	<b>fanbased</b> 32:8
	<b>experience</b> 22:7,12,14 39:15 57:12 60:24 61:2,4 80:22	<b>extent</b> 59:8 84:6 199:7	<b>far</b> 17:11 31:9,9 69:23 72:11 163:1,4 195:5 276:22 297:7
	<b>experiences</b> 57:18	<b>extracting</b> 109:3	
	<b>expert</b> 4:12 9:19 10:11 23:13 24:17,20 26:16,19 28:14,25 30:8,12 31:12 35:21 37:23 39:15,20,22 40:3,9 40:24 41:1,12,14,15 41:21,21 42:5,11 43:5,11,13 49:4,5,22 58:19 63:6,20 65:2,6 73:10 136:3 185:18 186:15 205:4 206:18	<b>F</b>	
		<b>face</b> 230:15	<b>fargo</b> 17:3,7,20 18:1 22:15
		<b>facebook</b> 191:23 199:25	<b>fast</b> 115:24 152:10
		<b>fact</b> 47:16 94:3 109:1 115:1 155:22 185:10 195:6 199:3 228:1 293:9	<b>fastest</b> 112:7
		<b>factor</b> 68:11,13,15 166:1 176:6,14 181:23 210:17 213:2 215:10	<b>feel</b> 63:17 92:15 252:16
			<b>feels</b> 123:4
			<b>fellow</b> 25:16

<b>felt</b> 66:14	267:18	98:5 110:20,21 129:16 129:22 245:21	<b>fluctuated</b> 24:2
<b>field</b> 196:6,13	<b>finance</b> 4:16 6:8 19:10,19,23 22:4 86:8 123:24 247:1,3,9 249:4 251:23 252:9,25 253:19	<b>first</b> 8:7 16:3 20:24 31:25 36:1 47:23 56:16 78:14 81:22 88:22 92:13 93:1 103:6 107:4 111:2,2,23 112:2,3 118:7 140:6 146:17,19 147:6 180:16 205:16,19 231:14,19 237:13 252:10 264:4 267:2 273:9 285:8	<b>fluctuates</b> 143:19 244:13,14 280:6
<b>fifteen</b> 287:2	<b>finances</b> 68:22	<b>firsttime</b> 267:22 269:10 283:24 304:21,25	<b>fluctuations</b> 144:1
<b>fifth</b> 237:24	<b>financial</b> 17:11 18:4 25:4,7 26:2 26:2,7,18,20 35:12 35:17 68:3 79:24 80:6 106:15 195:16 195:18 247:4	<b>fiscal</b> 249:15	<b>flying</b> 8:16
<b>fifty</b> 85:19	<b>financialrelated</b> 247:6	<b>fits</b> 305:5	<b>focus</b> 23:4
<b>fighting</b> 45:11	<b>financials</b> 6:4 68:11 69:3,4,6 80:25,25 115:7 218:18 224:8 229:21 234:21 249:18	<b>five</b> 15:11 19:25 21:16 25:25 26:4 44:21 104:20 106:9 112:6 136:16 146:12 241:13	<b>focused</b> 135:7
<b>figure</b> 59:2 74:24 124:2,3 128:20 178:23 179:14 181:5,12 182:15 183:13 184:16 211:23 267:12,13 270:12,14 294:2 296:7	<b>financing</b> 29:4,5 197:18,24 198:4,10,16	<b>flagging</b> 67:1	<b>folded</b> 183:13
<b>figured</b> 18:7 102:2 173:19	<b>finding</b> 64:14	<b>flames</b> 268:10 304:16	<b>folks</b> 12:10 27:12 28:6 33:23 190:21 203:25
<b>figuring</b> 101:25 124:5 208:25	<b>findings</b> 4:25	<b>flat</b> 155:22	<b>followed</b> 131:12,24
<b>file</b> 41:14 249:14	<b>fine</b> 33:16 123:4	<b>flip</b> 21:10 237:3 242:19	<b>followers</b> 191:23
<b>filed</b> 41:11,15	<b>finish</b> 12:12	<b>flipping</b> 86:19 156:19	<b>following</b> 65:19 107:7 121:11 232:3 272:20
<b>files</b> 250:22	<b>finished</b> 12:11	<b>florida</b> 1:2 2:14 43:10,25 44:4	<b>follows</b> 8:8
<b>filig</b> 48:10 197:11 253:7	<b>firm</b> 11:5 22:23,24 111:17 129:24	<b>flow</b> 67:18,20,21,24 81:2 98:5	<b>footnote</b> 85:13 86:5 122:5,17 182:15 235:4 247:18 247:19 252:19,22
<b>filings</b> 245:20,22 246:4 249:17 253:11	<b>firms</b>	<b>flowing</b> 174:25	<b>footnotes</b> 110:17
<b>fill</b> 20:4,5		<b>flows</b> 113:16 115:10	<b>foregoing</b> 314:7 315:7
<b>filled</b> 104:9			<b>forget</b> 85:19
<b>filter</b> 195:7,9,10,25 196:19			<b>form</b> 24:14 69:20 76:22 77:8 79:3,16,22 80:9 80:17 83:3,22 84:3 85:23 87:18 88:6 94:15 95:1 96:2,18 97:3,11 98:7,19 100:5 101:7,22 102:6 102:12,20 103:3
<b>filtered</b> 194:12			
<b>filters</b> 195:23			
<b>finally</b>			

104:23 105:17,22 106:3,12,24 107:20 108:23 109:14 112:20,25 113:22 114:2,11,21 115:5,11 115:16 116:11,18 117:1,14,21 118:1,20 119:1,8,21 120:6,16 121:14 124:25 125:6 125:11 126:3,9 127:6 127:15,20 128:2,9,23 129:14 130:10,20 131:14,25 132:7,15 138:2,9 141:16 142:2 145:1,6 157:14 158:6 158:16,25 159:11,23 160:5 161:1,6,12,21 161:25 162:7,13,18 163:12,20 164:1,10 164:19 165:6,12,18 166:12,17 167:1 169:19 175:12 177:13,19 178:13,25 181:20 184:6 185:5 185:21 186:1,9,18 187:3,17 188:2 190:2 190:18,24 191:6 192:10,19,24 193:4 193:11 197:20 198:11 199:9 200:11 201:4,9,23 202:9,14 202:19 203:3,12 204:2,9,16,22 205:3 206:1,16,22 207:6 208:20 209:2,10,16 210:2 220:16 227:19 232:7 242:22 243:5 243:21 251:13,19 253:25 254:8,14 256:24 258:22 260:15 261:6 264:1 265:7 266:25 268:4 268:20 279:19 283:20 285:21 286:5 286:12 287:15,23 290:10,16 291:6,21	292:12,21 293:3,13 293:23 294:5,16 296:11,18 297:10,23 298:2 299:5,15,22 300:3 303:7 304:4 305:2,7,15 306:1,8 311:21 <b>formas</b> 81:3 <b>forth</b> 12:8 84:7 85:25 <b>forthcoming</b> 55:21 <b>forward</b> 135:12 <b>found</b> 174:10 <b>foundational</b> 47:16 <b>four</b> 19:25 25:25 26:4 60:10 194:13 195:1 195:23,24 197:15 236:7 237:13 241:13 246:3,8 <b>fraction</b> 70:12 <b>frame</b> 93:23 156:6 <b>frames</b> 291:1 <b>free</b> 63:17 92:15 <b>frequently</b> 93:11 94:9,23 <b>front</b> 9:11 108:4,8 129:17 229:25 238:20 262:20 288:13 <b>full</b> 36:5 64:25 71:4 75:4 80:25 92:13 93:1 103:6 107:8 <b>function</b> 149:24 196:3 199:4 <b>fund</b>	36:1 40:8 49:9,12 <b>fundamental</b> 119:3 <b>fundamentals</b> 118:18,25 119:7,12 120:1 <b>funding</b> 223:5,6,8,9,10,15 233:18 234:24 236:7 245:16,19 <b>funds</b> 39:24 <b>funny</b> 13:1 <b>further</b> 76:14 113:15 137:22 291:25 311:12,25 315:16 <b>future</b> 67:6,9,15,24 69:12,12 75:22,23 101:1,10,16 101:19 102:8 114:3 114:22 115:10 116:22 127:8 199:19 200:3 206:5 219:2,6 224:16,19 229:12,14 233:14,16 234:12,14 255:18 311:16	303:16 <b>gawker</b> 1:8,9 5:6 6:11,13,15 6:17,19,21 7:20,23 39:8 66:15 75:12,16 75:18 76:4,6,9 77:5,6 77:22,22 78:1,4,6,16 78:20 79:1,14,25 81:14 82:9,15,17,18 82:21 83:5,11,25 84:14 85:1,7 87:10 107:19 108:3,6 109:23 113:21 114:10 115:21 125:4 125:8,13 126:7,12 127:5 130:12 133:24 133:25 134:1,12,13 134:14 135:2,8,12,14 135:15,18,18 136:1,4 136:4 137:15 138:6 138:13,19 139:2,5,10 139:11 150:11 155:9 155:10,17 156:12 157:1,6,10 158:1,12 158:14 159:2 160:4 160:13,14,15,17,19 161:11,14,18,24 162:6,12,21 163:2,5 163:10,18 164:3,9 165:11,17 166:8 169:11 171:10,16 172:1,11,15,16,23,25 173:16 174:7,25 175:1,2,4,8,9,13,15 177:11 178:23 179:20 180:20,20,21 180:21,23 181:2,9,15 181:24 182:4,5,12 184:16,24 185:15 189:10 192:9,12 193:9,21 196:2 208:3 208:14 210:18 211:14 212:14,17,21 212:25 213:9,21 215:20,24 216:2,19 222:19 238:3,25
<b>G</b>			
		<b>gambling</b> 9:12 36:6,9,11,14 <b>game</b> 58:20 <b>games</b> 217:10 <b>gaming</b> 36:1 39:24 40:8 49:9 49:12 <b>gamut</b> 23:19 28:22 <b>garbled</b> 12:21 <b>gauge</b> 107:14 126:19 <b>gawk</b>	

<p>241:16 243:12,13,25 244:5 255:15 257:22 258:18 259:16 260:14 262:18 263:2 263:5,10 265:16 266:8 267:7 268:1 270:7 271:12,16,22 272:11 274:1,11 275:5 277:15 278:1,6 279:4 281:14,24 283:2,4,7,10,17 284:6,8,12 285:1,6 285:19 286:20 287:2 287:22,24,25 288:16 288:23 291:5 293:1 293:22 294:11 295:14 296:8,21 297:19,21 298:7,13 298:25 299:7,10,20 299:24 300:5,6,16 303:5,12,18,21 304:3 304:10 305:10,13,18 305:25 307:9,19 310:10,11,11,14,24 311:1,5,5 <b>gawker0114801149</b> 5:4 <b>gawker2473624738</b> 5:10 <b>gawker2473924741</b> 5:12 <b>gawker2474224744</b> 5:15 <b>gawker2474524747</b> 5:17 <b>gawker2474824752</b> 5:25 <b>gawker2475324755</b> 5:23 <b>gawker2475624757</b> 6:10 <b>gawker2477624778</b> 6:12 <b>gawker2480624808</b> 6:14 <b>gawker2481824820</b></p>	<p>6:16 <b>gawker2482124823</b> 6:18 <b>gawker2482424826</b> 6:22 <b>gawker2483924841</b> 6:20 <b>gawker2484224843</b> 4:14 <b>gawker24847</b> 5:7 <b>gawker2484824856</b> 4:19 <b>gawkers</b> 68:11,15,17 83:2 115:10 151:5 160:20 160:25 161:5 171:4 174:17,21 181:12 207:22 208:8 210:8 216:18 <b>gears</b> 63:19 245:12 262:16 <b>gene</b> 1:4 7:7 <b>general</b> 36:23 37:11 38:1 47:2 57:16 64:7 75:6 89:10 97:24 108:13 108:15,25 116:4,6 119:24,24 131:7 194:2 195:19 203:16 206:18 222:24 228:19 296:1 310:13 <b>generally</b> 62:13,19 75:21 89:2 90:12 116:9 117:17 122:2 124:14 125:23 <b>generate</b> 194:18 197:12 198:25 199:13 200:1,3 207:16 237:22 <b>generated</b> 79:2,14,18 101:5 197:7 199:4 206:10 219:6 258:4 <b>generates</b></p>	<p>78:2 207:13 259:11 <b>generating</b> 69:15,22 200:2 <b>gentlemen</b> 28:3 <b>genuine</b> 267:19 <b>geographical</b> 93:21 <b>getting</b> 17:14 19:5 25:17 34:7 41:9 58:25 73:22 165:3 198:15 203:13 203:18 205:14 294:20 303:14 309:24 <b>give</b> 14:21 17:11 21:1 28:19 29:10 48:14,15 52:21 86:1 91:5,8 102:21 236:6 239:19 249:7 266:9 294:24 301:22 302:3,5 <b>given</b> 9:7 11:2,6 99:5 191:9 264:18 <b>gives</b> 83:10 209:5 240:21 <b>giving</b> 11:16 29:9 164:21 307:12 <b>gizmodo</b> 134:18 <b>gladiators</b> 192:23 <b>global</b> 274:15,22 275:1,3 <b>globally</b> 275:22 <b>glossary</b> 62:15 <b>gnc</b> 9:22,23 37:12,21 38:11,12 40:5,7 47:20 <b>go</b></p>	<p>12:8 13:5,9,16 16:5,15 16:18,20 20:23 27:13 27:16,17 28:3 29:4 29:20 51:24,25 54:24 63:16 66:5 81:6 83:17 84:10 91:14 92:23 99:16 100:24 107:24 110:21,21 112:1 116:7,16,23 117:2,7 129:5 132:20 133:15 137:6,7 139:23 182:17 187:13 188:9,16,18 188:19 199:5 203:2 205:16,19,19 211:2 211:20 214:2 216:21 216:24 219:15 235:18 238:6 240:12 250:16 253:12,13 256:5,14,20,23,25 257:3,3,21,22 282:17 288:5 295:8 301:12 310:10,13 312:17 <b>god</b> 28:21 <b>goes</b> 108:11 142:9 <b>going</b> 11:12 13:8 14:15,16 16:1,3 20:23 21:25 23:6 25:2 27:20 30:5 30:6 38:6,24 47:22 49:18,19 56:13 57:9 58:18 59:1 67:2 72:9 72:11 77:25 80:14 85:25 86:1,10 87:1 92:24 95:12 96:20 98:8,13 108:24 110:6 116:24 119:14 125:12 131:17 133:11 135:11 136:21 137:4 139:23 149:11 150:25 152:12 155:8,21 166:3 167:4,9 169:7 171:13 173:3,4 182:9</p>
---	--	--	---

<p>186:7,10,16 197:10 200:1 201:25 203:4 203:10,18,21 210:24 219:5,11 227:3 234:14 241:12 246:21 249:3,15 251:24 256:21 257:7 264:3,15,16,18 265:1 267:8 270:11,24 273:10 276:19 282:11,17 291:16,25 295:6,17 302:6,10 313:3</p> <p><b>good</b> 12:15 14:4 51:20,24 69:17 152:14 154:10 170:1 262:11 267:20</p> <p><b>google</b> 5:3,5,6 62:22 63:1,11 171:12 179:17,23 180:4,9,13,14,19 181:9,13,16,18,23 182:3,23 183:16 184:1 185:16 213:17 265:17 269:17 287:7 289:1 300:7 301:2,3 301:4 310:2,8</p> <p><b>gossip</b> 194:2 203:22,24 216:2 217:11 257:23 258:1</p> <p><b>goto</b> 121:7</p> <p><b>government</b> 32:21 33:7,7,24,25</p> <p><b>governmental</b> 32:22 34:3</p> <p><b>grab</b> 63:17 219:15</p> <p><b>graduate</b> 16:13,15,18,20,24 19:5,9</p> <p><b>graduated</b> 16:14,24 20:9,15</p> <p><b>graduating</b> 20:11</p> <p><b>grandparents</b></p>	<p>5:22,24 6:3,6,8 146:3 149:9 212:25 237:25 238:2,8,10,12 239:1 239:2,15,24 240:2,5 240:13 241:4,9,24 242:1,2,11,12 243:19 244:2,8,17,21 246:21 248:22 250:25 251:12,18 253:16 254:21,24</p> <p><b>graph</b> 184:11 185:8 264:14 264:19,24 265:3</p> <p><b>gray</b> 48:19</p> <p><b>great</b> 13:20</p> <p><b>greater</b> 117:6 296:16</p> <p><b>greatest</b> 279:12,14,17,23</p> <p><b>group</b> 36:2</p> <p><b>groups</b> 27:7 240:14</p> <p><b>grow</b> 224:18</p> <p><b>growing</b> 112:7</p> <p><b>growth</b> 37:25 38:1,2,3,9,10,10 38:17 47:19 68:9,21 71:4 73:3 75:8 96:15 108:2,13,16 109:2 117:19,24 219:2 224:16 225:15,19,22 229:12,14 234:12,14 267:20</p> <p><b>guess</b> 11:3,14 39:5 60:19 73:6 75:9 81:17 86:5 112:15 115:24 135:10 197:3 240:17 241:12 252:15 255:20 272:13</p> <p><b>guys</b></p>	<p>15:4 301:1</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>h</b> 4:10 5:1 6:1</p> <p><b>hadnt</b> 272:4</p> <p><b>half</b> 24:18 28:15 306:24 307:15,19,22 308:1,9 308:9,13</p> <p><b>hand</b> 100:15 188:23 315:18</p> <p><b>handed</b> 21:8 39:4 91:18 111:10 122:13 225:1</p> <p><b>handled</b> 17:10</p> <p><b>happen</b> 189:23 263:16</p> <p><b>happened</b> 120:15,24 121:3 261:3 263:22 266:23 267:2 276:24 279:24</p> <p><b>happening</b> 117:24 181:16 217:9 217:11</p> <p><b>happens</b> 104:8 144:22 270:20</p> <p><b>happy</b> 13:1 214:2</p> <p><b>hard</b> 29:22 89:6 106:18 227:2,3</p> <p><b>harder</b> 2:17,18 12:5 14:12 15:20 20:25</p> <p><b>hasnt</b> 114:19</p> <p><b>hate</b> 10:21 112:15</p> <p><b>hats</b> 19:21</p> <p><b>havent</b> 10:22 73:12 80:2,3 87:19,19 102:3 158:7</p>	<p>158:8 162:4,8 163:3 191:14 214:3,4 241:1 253:2 269:20 270:4 284:2 291:10,22 306:3</p> <p><b>head</b> 22:25 24:5 35:14 54:20 55:16 59:15,21 61:19 70:19 74:12 80:18,20 85:14 100:8 116:10 123:23 130:5 157:18 188:19 196:17 208:1 211:11 225:18 242:17 265:25 309:8,12 310:6</p> <p><b>header</b> 124:11</p> <p><b>headphone</b> 29:14</p> <p><b>healthy</b> 225:22</p> <p><b>heard</b> 60:14 62:20 95:9 105:10 121:24 201:10 289:22</p> <p><b>heather</b> 1:8 7:8 84:15 134:3</p> <p><b>held</b> 25:1 42:24 133:19 288:8 301:15</p> <p><b>hell</b> 64:9</p> <p><b>help</b> 12:7 18:13 20:4 23:3 28:9,22 51:21 56:25 64:5,9,9 82:6</p> <p><b>helped</b> 41:19 58:10 63:23 64:13,14 85:23 183:5</p> <p><b>helping</b> 20:21 42:7 64:15,17</p> <p><b>hes</b> 33:14 56:21 58:21,25 123:12 126:1,24 127:25 128:7,10</p>
---	---	---	---

191:1 267:10 270:12 295:1,6 300:25	289:11 290:15,19,24 292:19 293:11 294:3 295:25 296:24 297:4 299:13 300:13,13,17 300:20 303:4 304:25 305:10,22 306:7,14 310:25	1:5 66:16 75:12 76:21 82:16 83:1,20,25 84:3,5,11,12,15 87:16 130:9,25 137:16 138:15,25 162:24 169:16 170:3 170:10 172:5 173:1 173:13 177:10 178:15 182:4,13 184:24 185:19,24 186:16 187:15,25 188:6,11 189:9,18,25 190:5,11,16,17,22 191:5 192:8,12 262:19 268:2,7,16,19 268:24 269:6 280:22 281:4,9,24 286:25 287:1 290:12 305:10 306:14 311:3	221:1,14 224:25 226:1 231:9 235:18 239:10 241:18 242:14 244:25 254:18 272:6 273:10 273:21 274:16,25,25 278:24 284:22 291:7 292:13,14 293:4 295:16,17 300:21
<b>high</b> 268:9 304:15	<b>hogans</b> 190:22	<b>hundred</b> 44:20 65:14 117:19,20 160:9 258:14,25 264:25 296:21	<b>idea</b> 67:15 90:12 233:3 271:12
<b>higher</b> 72:2 116:13 119:15 157:19 254:5,6 259:11 291:14	<b>hold</b> 9:14 25:9 26:4 91:7 205:12 294:19	<b>hundreds</b> 59:18	<b>identical</b> 90:18 98:14 282:7
<b>highest</b> 180:22,24 181:3 182:2 182:7 184:16 273:5 273:11	<b>hollywood</b> 203:25 204:3	<b>hurricane</b> 292:2	<b>identified</b> 42:4 43:11 145:18
<b>hills</b> 7:13 313:2	<b>hollywoodreporter</b> 200:23	<b>hustler</b> 268:14 304:19	<b>ill</b> 11:10,15 12:11 14:7 14:20 21:19,22 29:8 86:23 91:12,22 140:3 150:21 226:11 230:25 231:7 256:4 274:24 295:8 302:5
<b>hire</b> 18:1	<b>home</b> 241:23	<b>hypothetical</b> 162:17 176:17 177:9 191:13 307:14	<b>im</b> 7:25 11:9 12:24,25 16:3 17:5,13,13 20:23 21:2,2,24 28:23 29:19 30:5,5 30:11 31:9 33:20 38:24 41:8,20 49:19 49:24 57:25 60:3 61:4,15,17,22 63:10 63:14 74:10,11 82:11 84:13 85:10 86:1,10 86:19 87:1 88:5,7,18 91:25 92:9,24 93:22 95:9 97:6 102:13,21 105:5,23 108:8,24 111:1,1,2 113:1 114:9,16 116:19 121:20 123:15 124:3 125:12 126:22 131:17,18 133:11 135:12,13,15 136:21 137:24 138:3,10,23 139:7,8,23 142:4
<b>historical</b> 6:4 216:10	<b>homes</b> 82:6	<b>hypotheticals</b> 307:13	
<b>history</b> 112:8	<b>honest</b> 195:7	<hr/> <b>I</b> <hr/>	
<b>hmhm</b> 39:10 57:17 86:9 113:7 196:4 252:21 255:2 260:19 272:22	<b>honestly</b> 47:5	<b>id</b> 12:16 17:21 24:18 25:17 55:1,1 66:5 74:24 80:18 91:1 92:12 115:6 117:16 146:7 152:10 153:17 153:23 158:19,19 159:4,24 183:21 191:7 200:18 201:24 208:22 214:2 219:20	
<b>hockey</b> 43:10 44:1	<b>hope</b> 5:18 123:4 287:25		
<b>hogan</b> 1:5 66:16 75:12 76:21 78:4 79:2,14 82:16 83:1,20,25 84:3,5,11 84:11,12,12,15 87:16 130:9,25 137:16 138:25 169:16 170:3 170:10 172:5 173:1 174:14 177:17 178:12,22 182:13 184:24 185:19,24 186:16 187:15,25 188:6,11 189:9,19,25 190:5,11,16,17 191:5 192:8,13 262:19,23 267:6 268:2,19 269:13 270:6 271:21 277:2 280:22 281:4,9 281:24 282:4 284:25 286:19 287:5,13	<b>hoping</b> 269:15 283:25		
	<b>host</b> 192:23		
	<b>hour</b> 129:4		
	<b>hours</b> 65:12 269:17		
	<b>house</b> 82:4 89:16 90:2		
	<b>houses</b> 89:16,17,20 106:16 245:21		
	<b>huffington</b> 5:19 145:24 148:16 228:21 229:16 230:5 232:5 237:15 245:17		
	<b>huffingtonpost</b> 228:6		
	<b>hulk</b>		

143:9 150:25 154:23 165:13 167:9,18,21 171:13 172:21 173:3 173:4 177:2,14,22,23 178:18,19,19 180:9 186:15 187:19 197:19 200:24 201:25 205:4 206:17 207:7,7,9,9,10 208:23 209:23 210:24 215:25 219:11 226:8,8 227:3 230:21 231:7 240:1 240:19,25 241:12 248:7 251:14 253:2 257:4 264:2 267:8 271:3 272:23 273:1 273:10,11 284:13 286:13,13 295:17 298:19 301:5,18 302:6,12,22 304:8,12 307:13	<b>income</b> 65:24 67:2,5,6 68:1 69:8,14,22 70:11,17 70:20,22,25 71:25 72:4,5,8,10 75:25 76:4 77:4,10,16,23 78:2 79:12 80:8,14 80:23 81:2 84:24 93:14 94:11,14,25 95:9 96:1,5,6,14,20 97:10 102:17 103:2 187:4 212:13 218:11 218:16 224:2,6 229:9 229:19 234:9,19 254:23	280:17 311:2	249:24,25 250:1,2,3 253:8,9,10 255:9,21 255:23 256:1 257:1,4 257:20,21,22,25 260:9 265:16,21,22 266:2,5 270:8 293:16 305:1,8 309:9,21 310:14,16,19 311:23
<b>image</b> 37:10,13 139:15	<b>incorporate</b> 253:7	<b>index</b> 240:10,24	<b>infoseek</b> 120:20
<b>images</b> 53:5	<b>incorrect</b> 150:19	<b>indexing</b> 240:25	<b>infringing</b> 139:19
<b>impact</b> 213:5	<b>increase</b> 75:13,14,19,20 76:7 82:15 83:11,12,19,24 85:1,7 117:8,9,12,20 117:25 130:11 131:11,18,23 132:5 133:25 135:21 136:4 136:25 137:15 138:5 138:12 142:17 157:6 162:23 168:12,14,14 168:20 169:8,9,12,15 170:1,2 171:4 172:10 173:1,11 175:19,20 175:24 176:1,3,5,13 176:15,19 177:4,11 177:17 178:1,8,11,14 193:9 216:12,13,17 220:15,18 237:11 273:6,13,20 275:25 276:11,14,20 280:24 281:8 282:9 295:14 296:7 300:9 311:4	<b>individual</b> 63:23 258:5,7,11 276:21 299:17 300:2	<b>initial</b> 196:18
<b>impacted</b> 139:2	<b>incorporate</b> 253:7	<b>individuals</b> 306:19	<b>initially</b> 82:8,11,20
<b>implicit</b> 31:22 139:3	<b>increase</b> 75:13,14,19,20 76:7 82:15 83:11,12,19,24 85:1,7 117:8,9,12,20 117:25 130:11 131:11,18,23 132:5 133:25 135:21 136:4 136:25 137:15 138:5 138:12 142:17 157:6 162:23 168:12,14,14 168:20 169:8,9,12,15 170:1,2 171:4 172:10 173:1,11 175:19,20 175:24 176:1,3,5,13 176:15,19 177:4,11 177:17 178:1,8,11,14 193:9 216:12,13,17 220:15,18 237:11 273:6,13,20 275:25 276:11,14,20 280:24 281:8 282:9 295:14 296:7 300:9 311:4	<b>industries</b> 70:16,18,23,24,25 72:3	<b>inquiry</b> 30:6
<b>implies</b> 116:12	<b>incorporate</b> 253:7	<b>industry</b> 22:6,13 59:16 71:2,8 71:10,13,14,16,19 72:6 74:1 75:2 90:8 113:14 204:1	<b>insider</b> 5:18 230:9,12,13,20 230:22,24 231:5
<b>important</b> 89:13	<b>increase</b> 75:13,14,19,20 76:7 82:15 83:11,12,19,24 85:1,7 117:8,9,12,20 117:25 130:11 131:11,18,23 132:5 133:25 135:21 136:4 136:25 137:15 138:5 138:12 142:17 157:6 162:23 168:12,14,14 168:20 169:8,9,12,15 170:1,2 171:4 172:10 173:1,11 175:19,20 175:24 176:1,3,5,13 176:15,19 177:4,11 177:17 178:1,8,11,14 193:9 216:12,13,17 220:15,18 237:11 273:6,13,20 275:25 276:11,14,20 280:24 281:8 282:9 295:14 296:7 300:9 311:4	<b>inferences</b> 259:7	<b>instance</b> 109:19 117:15 131:11 131:22 144:21
<b>inception</b> 112:5	<b>incorporate</b> 253:7	<b>inferred</b> 260:20	<b>instances</b> 34:7 59:13 61:12 106:9 109:16
<b>inch</b> 264:24	<b>increase</b> 75:13,14,19,20 76:7 82:15 83:11,12,19,24 85:1,7 117:8,9,12,20 117:25 130:11 131:11,18,23 132:5 133:25 135:21 136:4 136:25 137:15 138:5 138:12 142:17 157:6 162:23 168:12,14,14 168:20 169:8,9,12,15 170:1,2 171:4 172:10 173:1,11 175:19,20 175:24 176:1,3,5,13 176:15,19 177:4,11 177:17 178:1,8,11,14 193:9 216:12,13,17 220:15,18 237:11 273:6,13,20 275:25 276:11,14,20 280:24 281:8 282:9 295:14 296:7 300:9 311:4	<b>information</b> 43:9,23 49:13 60:16 60:17 93:9 94:8 99:1 99:4 100:16 106:19 187:7 189:13 195:18 196:2 200:19 208:18 210:11,15,20,22 212:24 216:10 218:3 218:7,9 229:25 230:17,22 234:2,5,16 237:23 238:25 239:6 245:18,23,25 246:1,9 246:12,14,16 247:5,6 247:7 248:18,25 249:1,4,5,5,6,11,22	<b>institute</b> 51:3,8,15 52:3,10
<b>incident</b> 290:4	<b>incorporate</b> 253:7	<b>information</b> 43:9,23 49:13 60:16 60:17 93:9 94:8 99:1 99:4 100:16 106:19 187:7 189:13 195:18 196:2 200:19 208:18 210:11,15,20,22 212:24 216:10 218:3 218:7,9 229:25 230:17,22 234:2,5,16 237:23 238:25 239:6 245:18,23,25 246:1,9 246:12,14,16 247:5,6 247:7 248:18,25 249:1,4,5,5,6,11,22	<b>instructed</b> 10:1
<b>included</b> 168:3 198:6 254:19	<b>incorporate</b> 253:7	<b>information</b> 43:9,23 49:13 60:16 60:17 93:9 94:8 99:1 99:4 100:16 106:19 187:7 189:13 195:18 196:2 200:19 208:18 210:11,15,20,22 212:24 216:10 218:3 218:7,9 229:25 230:17,22 234:2,5,16 237:23 238:25 239:6 245:18,23,25 246:1,9 246:12,14,16 247:5,6 247:7 248:18,25 249:1,4,5,5,6,11,22	<b>instrument</b> 17:12
<b>including</b> 253:8	<b>incorporate</b> 253:7	<b>information</b> 43:9,23 49:13 60:16 60:17 93:9 94:8 99:1 99:4 100:16 106:19 187:7 189:13 195:18 196:2 200:19 208:18 210:11,15,20,22 212:24 216:10 218:3 218:7,9 229:25 230:17,22 234:2,5,16 237:23 238:25 239:6 245:18,23,25 246:1,9 246:12,14,16 247:5,6 247:7 248:18,25 249:1,4,5,5,6,11,22	<b>insufficient</b> 44:6 259:6,12
	<b>incorporate</b> 253:7	<b>information</b> 43:9,23 49:13 60:16 60:17 93:9 94:8 99:1 99:4 100:16 106:19 187:7 189:13 195:18 196:2 200:19 208:18 210:11,15,20,22 212:24 216:10 218:3 218:7,9 229:25 230:17,22 234:2,5,16 237:23 238:25 239:6 245:18,23,25 246:1,9 246:12,14,16 247:5,6 247:7 248:18,25 249:1,4,5,5,6,11,22	<b>intangible</b> 4:17 48:1,2,3,12,16,17 48:18,24 49:11 51:7 51:17 52:1 87:5,10 87:12,17,22,24 88:4 88:8,13 91:19 185:25 186:13
	<b>incorporate</b> 253:7	<b>information</b> 43:9,23 49:13 60:16 60:17 93:9 94:8 99:1 99:4 100:16 106:19 187:7 189:13 195:18 196:2 200:19 208:18 210:11,15,20,22 212:24 216:10 218:3 218:7,9 229:25 230:17,22 234:2,5,16 237:23 238:25 239:6 245:18,23,25 246:1,9 246:12,14,16 247:5,6 247:7 248:18,25 249:1,4,5,5,6,11,22	<b>intangibles</b> 88:24
	<b>incorporate</b> 253:7	<b>information</b> 43:9,23 49:13 60:16 60:17 93:9 94:8 99:1 99:4 100:16 106:19 187:7 189:13 195:18 196:2 200:19 208:18 210:11,15,20,22 212:24 216:10 218:3 218:7,9 229:25 230:17,22 234:2,5,16 237:23 238:25 239:6 245:18,23,25 246:1,9 246:12,14,16 247:5,6 247:7 248:18,25 249:1,4,5,5,6,11,22	<b>intell</b> 48:20

<b>intellec</b> 23:10	<b>investing</b> 246:5	<b>issue</b> 156:5,6	<b>join</b> 242:20,24
<b>intellectual</b> 22:23,24 23:2,3,4,11 23:12,16,17,19 24:10 24:14 32:24 48:4,20 50:5,12,25 51:6,14 51:16,18 52:1 57:4 59:17 87:13,25 88:4 88:9,14 131:2 185:25	<b>investment</b> 106:15,15 118:17,24 119:3,6,11 120:1 198:5 245:21 261:7	<b>itd</b> 51:21 142:13 212:6	<b>joined</b> 12:5
<b>intend</b> 12:21	<b>investmentrelated</b> 123:6,17	<b>item</b> 289:9,10	<b>joining</b> 22:3
<b>interact</b> 214:21	<b>investments</b> 105:13	<b>items</b> 40:2 250:15 254:19 310:5,20	<b>jolla</b> 8:17,19
<b>interest</b> 180:15 182:9 185:7,15 202:13	<b>investor</b> 77:19,25 143:24 166:25	<b>ive</b> 10:21 11:2 21:8 57:22 59:18 60:14 61:8 62:8 76:11 94:1 106:14 111:10 121:24 137:18 180:6 180:11 193:23 201:10 211:10 256:3 284:1 289:22	<b>journal</b> 53:9 55:12
<b>interested</b> 92:10 202:18 203:1,8 203:13,15 204:1 208:17,21 315:16	<b>investors</b> 124:1 144:24 246:5	<b>j</b>	<b>journalists</b> 267:14 270:15
<b>interests</b> 204:7	<b>involve</b> 47:14 49:11,15 63:9	<b>J</b>	<b>judging</b> 267:14 270:15
<b>international</b> 42:21	<b>involved</b> 28:13 36:1 47:10 58:16 217:23 223:13 228:24 233:20	<b>james</b> 123:8	<b>judicial</b> 1:1
<b>internet</b> 60:22,25 61:7,21,25 79:10 111:23 112:3,6 112:12,19 113:10 118:14,14 120:2,5 261:15	<b>involves</b> 24:17	<b>january</b> 10:16 184:12,13 236:1 236:15 239:17 269:3 279:25	<b>judkins</b> 3:19 7:11
<b>internetbased</b> 72:10 89:8 108:15 119:14 156:3 196:15 196:16	<b>involving</b> 37:8,10 58:7 142:20 189:25	<b>jason</b> 9:22,22 36:22 46:24 47:9	<b>july</b> 184:12,13,13 221:8,21 221:22 226:7,8,16,20 226:20 227:8
<b>interpose</b> 30:5	<b>ip</b> 23:22 24:15 28:9 29:5 29:16 34:10,18,19 50:3,24 55:8 56:7 86:7	<b>jeff</b> 1:16 2:1 4:3,12,13 7:6 8:6 132:23 133:2 312:24 313:5 314:5 314:14	<b>jumping</b> 12:13 139:7 251:23
<b>interrupt</b> 12:9	<b>iphone</b> 300:24 301:20	<b>jefferson</b> 56:8,9	<b>june</b> 54:7 272:21
<b>intrinsic</b> 124:7	<b>ipo</b> 4:15	<b>jemal</b> 3:19 7:11	<b>justify</b> 77:23
<b>invasion</b> 139:12	<b>iq</b> 6:3,6 195:12,13,14,21 196:3,7,12 197:3,8 245:8,13 246:9,12,12 246:16,22 247:11,22 253:3	<b>jezebel</b> 134:24 158:4	<b>K</b>
<b>inventory</b> 19:20 207:18,19,20,22 207:23	<b>irrelevant</b> 209:24 270:3	<b>jimmy</b> 192:17	<b>kate</b> 276:23 305:11,20,23
	<b>isnt</b> 177:9 242:11,21 296:15	<b>job</b> 12:14 26:22	<b>keep</b> 58:24 250:17 295:6,7 295:8 305:6
			<b>keeping</b> 248:23
			<b>key</b> 99:19,21 101:3,4 110:3 135:11 182:17 219:16
			<b>kid</b> 289:24
			<b>killing</b> 123:3
			<b>kimmel</b>



192:17	106:4,17 111:20	260:23 261:1,3,8,21	289:18 290:22,22
<b>kind</b>	112:11 114:15,25	261:25 262:2,3,5,6	305:11,21
18:9 20:1 24:8 28:24	115:18,21 119:2,10	263:1,4,7,10 265:21	<b>large</b>
29:10 30:1 32:7 36:2	119:22 120:8,15,22	266:7,10,13 269:1,2	4:22 29:13 58:7,9
36:4,8 37:1 40:16	120:24 121:3,7 123:8	269:12,25 270:1,5,9	75:14,18 122:15
45:6 48:13 60:17,24	123:9 124:9,19 129:2	271:14,16,18 273:8	124:22,24 200:4
61:2,6 63:3,5,19 66:5	130:21 131:5 132:1,1	275:5,7,8,12,13,22	209:4 228:2 239:4
66:8 67:1 71:17	132:8,16 138:11	276:14,17,19,22	240:15 261:17,17
72:23 83:17 101:5	144:12,16 145:8,9,13	278:11,20,23 279:23	280:19 281:1,3
105:15 106:1,10	152:7,8 154:2 157:20	279:24 280:15,17,23	<b>largely</b>
107:5 123:16 130:18	158:7,17,18,18,24	280:24 281:11,12	11:17
135:10,11 166:7,20	159:1,3,18 160:7	282:10 284:3 288:21	<b>larger</b>
193:24 207:24,25	161:23 162:1,4,5,9	289:21,23 293:18	32:21 124:13,19 125:4
208:3,18 217:6	162:11,15 163:1,3,4	298:6,9,11 302:7,11	125:10 259:10
222:23 228:17	163:6,6,7 165:7	305:5 306:2 307:12	<b>largest</b>
232:17 237:16 241:7	166:7 169:21 176:2,5	307:22 310:18	261:15 273:13,19
241:10,10,15 245:12	176:12 177:22,22	311:15	<b>lasted</b>
258:2 295:24	180:4,9 184:21,25	<b>knowhow</b>	52:3
<b>kinds</b>	185:9 186:22 187:10	23:21 48:22	<b>late</b>
28:20 80:23 215:15,19	188:18 189:14,18	<b>knowing</b>	9:3,17
215:23 216:3 217:8	190:25 191:13,14	165:10,17	<b>latimes</b>
<b>kinja</b>	193:8 195:6,7 198:14	<b>knowledge</b>	201:1
135:4	199:25 200:1,12	246:8	<b>launch</b>
<b>knew</b>	201:24 202:10,20	<b>knowledgeable</b>	121:3
104:17	203:23,23 204:4,18	64:25	<b>lauren</b>
<b>knot</b>	204:21,23 205:24	<b>knowledged</b>	45:13
202:24 203:2,10,24	207:20,21,24 208:2,3	123:12	<b>law</b>
204:7,15	208:4,5,7,8,11,14,22	<b>known</b>	51:2,8,15 52:3,10 56:8
<b>know</b>	211:22 217:11 218:5	1:5	56:9
11:7,15,22 19:7 23:7	218:8,10,12,20,23	<b>koch</b>	<b>laws</b>
24:12,19,22 28:6	219:1,3,7 220:17,24	3:4,11 7:19,23	314:6
29:15 30:25 31:9	222:18,20 223:1,3,23		<b>lawyer</b>
32:11,12,13 33:10	223:25 224:1,3,10,13	<b>L</b>	55:3
34:2,6 38:21,23	224:15,19 228:12,19	<b>l</b>	<b>leave</b>
40:15 41:4 42:17	229:5,8,11,15,23,23	3:12,13 201:20	18:19 59:6,11
44:18 48:5 53:20	230:2,3 232:20,22,25	<b>la</b>	<b>lectured</b>
54:16 55:2,11,14,18	233:1,10,13 234:3,6	8:17,19	50:2,24
55:19 57:10,25 58:10	234:7,8,10,11,23,25	<b>labeled</b>	<b>left</b>
59:19,25 60:7,13	235:1,3,11 237:15,18	167:13	20:12 107:6
63:11,15 64:6,12,17	241:17 243:13,22,23	<b>lack</b>	<b>lefthand</b>
65:16,18,21 73:7,14	244:5,7 245:24 246:1	113:12,21 114:10,25	240:3 248:3
74:20,23 78:23 79:21	246:7,11 248:2	<b>lacking</b>	<b>legal</b>
80:2,19 87:1 91:9	249:17 250:6,10	115:1	7:12 8:3 48:7,11
92:4 94:1 99:15	251:20 253:3,15,17	<b>lanza</b>	103:25 139:7 164:22
100:13,17 101:23	256:3,19 257:16	289:21	313:1
102:3,14 104:8,18	258:2,3,4,8,11	<b>lanzas</b>	<b>lend</b>

18:7	220:19,21,22	<b>location</b>	275:15 279:17
<b>lending</b>	<b>list</b>	201:16 202:7 209:15	281:19 284:22
113:8,11	34:23 39:15 80:19	209:19,25	290:11 292:13,18
<b>length</b>	85:16 266:2	<b>logo</b>	293:5,14 294:1,4,9
170:17,20 181:14	<b>listed</b>	28:7 242:6	294:15 295:13,16
<b>lengthy</b>	93:8	<b>logos</b>	298:3,6 303:15
136:13	<b>listen</b>	34:21	<b>looked</b>
<b>level</b>	51:12	<b>long</b>	61:9,17 62:6,8,16,22
174:14	<b>lists</b>	10:17 17:20 18:17	63:1 68:24 69:3
<b>levine</b>	34:20 48:23 120:12	20:6 25:1 44:2 52:2	78:25 79:4 80:24
3:4,11 7:19,22	<b>literally</b>	115:21 213:11 215:6	82:20 83:5 85:21
<b>liable</b>	188:17	223:1	92:5 130:11 141:1
139:6,19	<b>literature</b>	<b>longer</b>	143:1,3,7,8 145:15
<b>license</b>	131:6	184:3	150:9,11 151:2,9
24:13 28:4	<b>litigate</b>	<b>look</b>	152:1,16,21 153:16
<b>licensed</b>	32:6	55:1 66:20 68:2,5,7,9	155:3 156:21 158:2,8
27:19 66:19	<b>litigation</b>	70:9 76:6,9 78:16	165:14,23,23 171:20
<b>licensee</b>	14:10 21:9 29:20 30:8	79:17 82:5,17 90:2,4	173:7 177:25 178:4
28:1	30:24 31:20 32:12	92:23 93:21 98:14	180:1,19 191:8
<b>licensees</b>	36:10 38:22 39:16	99:13 100:2 108:5	192:14 194:8 198:1
27:14,16,17	57:16 103:15 104:15	111:25 120:10	206:9 210:7,16
<b>licensing</b>	309:15	138:20 139:21 144:5	211:20 215:17 221:9
23:3,13 26:11 27:4,9	<b>litigations</b>	150:2,5,18,24 151:21	222:8 230:17 238:23
28:10,18 44:19 49:3	59:19	154:13 156:5 159:8,9	240:8,11,22 241:13
50:4,25 54:8,11,12	<b>little</b>	164:8,17 165:13,19	242:9 247:22 253:4
54:15 93:10,20,25	11:11 12:10,14 16:4	165:23 176:24	256:3 260:3 272:14
<b>licensor</b>	20:16 21:1 34:6 39:7	178:22 181:4,17	272:15 279:12,21
27:17 28:2	65:9 81:18 84:23	187:4,14 188:21,24	283:1,10,13 284:19
<b>licensors</b>	114:7 137:7 156:16	189:1,3,5,6,9,10,14	286:19 288:19
27:14	170:13 205:14 227:2	189:16 191:4,21,22	297:13 299:25 300:4
<b>life</b>	240:18 246:18	191:25 192:7,11,16	300:8
255:13	253:19 291:25	192:22 193:2 194:10	<b>looking</b>
<b>likeness</b>	303:24,25 305:23	195:3 197:10,17,24	34:23 70:8 76:3 82:3,9
37:11 190:22	<b>llc</b>	200:18 201:25	82:24,25 83:19 86:23
<b>likes</b>	1:8	206:25 207:4,8,13,17	89:17 90:14 95:11
191:23	<b>llp</b>	207:22 210:13	97:22,24 105:15
<b>limited</b>	2:17 3:4,11	211:22 212:12,19,22	113:4 122:25 125:21
243:9	<b>loan</b>	213:8 214:5,17 215:6	131:18 138:23
<b>limits</b>	18:13 29:16	215:8,15,19,21 216:3	146:17 150:4,4
243:20	<b>loans</b>	216:8,10,12,13	152:25 156:7 158:11
<b>line</b>	17:10 18:6,9,10 90:10	217:25 218:13,16	165:5,22 166:21
30:13 47:23 48:5 85:5	105:25 106:9	223:19 224:4,6 229:1	167:24 168:15
88:22 106:22 118:7	<b>local</b>	229:16,19 231:7	180:13 188:15 192:5
153:22 155:22	53:12	233:25 234:17,19	195:5 196:22,24
220:22 298:17	<b>located</b>	242:14 247:16 248:9	197:9 207:3 211:16
<b>linearly</b>	256:8	249:25 259:3 262:17	220:10 227:8 249:9

250:24 252:18 257:4 257:9,12 259:16,22 272:17 274:4,13,15 274:21 275:24 276:3 276:4 278:14 282:6 282:14 297:18 298:13,16 300:12 309:9 311:1	8:20 67:16 <b>man</b> 302:13 <b>manage</b> 26:25 <b>management</b> 19:20 22:23,24 <b>manager</b> 22:4 <b>manufacturer</b> 27:25 28:4 <b>march</b> 1:17 2:3 7:2,9 228:21 233:17 236:9 239:15 249:2,20 252:9,12 253:18,18,21,21 254:7 315:18 <b>margin</b> 93:13 94:11,14,25 96:4 <b>margins</b> 95:25 <b>mark</b> 20:24 21:4,20 38:24 86:2,10 91:1 111:4 122:7 146:7,8 171:13 182:18 183:21 219:20 221:1,14 224:25 226:1,11 231:9 235:18 239:10 241:18 244:25 247:10 252:2 272:6 273:21 274:17 277:6 277:21 278:24 <b>marked</b> 21:6 39:2 86:15 91:4 111:7 122:9 146:10 171:18 182:21 183:24 219:23,25 221:4,17 225:3 226:3 226:13 231:12 235:21 239:12 241:21 245:3 247:13 252:4 272:8 273:23 274:17,19 277:9,23 279:1	<b>market</b> 3:6 66:3 69:19,21,25 70:13 71:25 72:2,6,7 72:12,13 76:24 78:1 79:9,11 80:10 81:15 81:16,19 82:5,25 85:2,8,9 88:21 89:3 89:10 92:11 94:20,23 95:4,7,22,24 96:22 97:7,17,19,20,25 98:18 99:17 100:3,10 104:6 106:16 108:21 110:1,22 121:15 125:21 131:4 136:17 138:25 140:7,10 141:8,12,24 142:9,19 143:6 145:14 146:24 156:8,20 158:10,11 159:9,15,20 161:10 161:14,14 162:20 166:4 167:6 174:3 177:3 179:12 186:25 187:5 188:21 190:16 205:2 238:9 249:6 253:7 254:25 292:24 293:8 <b>marketbased</b> 96:23 <b>marketed</b> 162:9 <b>marketing</b> 34:20 37:16 44:3 <b>marketplace</b> 127:14 <b>markets</b> 69:24 206:15 <b>marking</b> 14:8,8 302:22 <b>married</b> 203:13,18 <b>mart</b> 48:25 <b>masters</b> 18:20,21 19:1 <b>materials</b> 56:25 130:1,17	<b>matter</b> 7:7 9:8 36:2,8,22 37:1 40:11,16 42:6 108:18 108:19 155:15 166:10,16,18,25 <b>matters</b> 39:19 <b>mature</b> 70:24 71:3,7,11,13,14 71:18,19 72:3,6,8,25 73:2,11,13,16,16,18 73:23 74:2,6,8,11,14 75:3,4,7 108:12 113:13 <b>maximizing</b> 107:25 <b>maximum</b> 74:15 107:25 <b>mba</b> 19:12 73:22,23 165:3 <b>mean</b> 17:9 23:1 26:24 27:15 27:23 29:23 41:6 42:13 48:11 53:2 57:13 59:6 61:1 74:19 78:19 87:3 93:22 94:16 104:25 109:6 112:16 114:24 116:19 127:16 128:14 130:6 138:3 154:20 155:24 166:8 175:18,23 176:22 177:16 185:22 186:4 187:19 189:8 190:3 197:22 201:5 204:13 207:2 211:16 214:22 215:25 220:23 237:20 251:6,14 257:19 259:20 263:24 265:2 269:24 279:23 290:25 302:3 307:11 <b>meaning</b> 34:3,11 41:24 81:1 220:21,22 <b>means</b>
<hr/> <b>M</b> <hr/>			
<b>m</b> 1:18 2:3 4:5 7:3 132:22 133:1 313:4 <b>majority</b> 69:9 108:25 194:19 <b>making</b>			

26:25 67:20,21 77:14 119:10 124:19 168:16 180:18 199:22,22 248:7	<b>mention</b> 54:20 55:1 63:13 107:5	157:5,8,9,11,13 161:24 162:6 163:10 163:17 164:5,6,25 165:1 166:5,6 168:25 169:1,2,3,4 170:9 172:12 173:12,17,23 174:8,14 177:7 178:10 179:21 217:17,21 221:24 223:5,11,12,17 227:7 227:10 228:22 231:22,23 233:17,23 233:24 236:23 237:5 246:24 252:12 258:14,16,25,25 264:21,23 274:12 275:22 276:1,7,9 277:3,19 278:7 279:10 280:8 281:17 281:22 283:17 284:20 285:25 289:14 290:7,21,23 291:2,2,4,5,20 292:5 292:8 293:1,1 298:21 298:22 300:14 303:19,22 304:24 305:12,22,22,23 306:23,23 307:1,18 307:25 308:6,15 311:6,7	184:2
<b>meant</b> 236:13 245:12 246:19	<b>mentioned</b> 35:24 39:6 53:22 57:14 97:16 110:15 122:3 140:2 158:3 238:23 245:10 305:21 309:2 310:2		<b>misappropriation</b> 139:15
<b>measure</b> 66:15 119:16 134:14 160:24 172:15,23 191:18	<b>mentions</b> 35:20 56:6 128:14		<b>mischaracterizes</b> 84:7
<b>measured</b> 133:25 134:11 135:21 136:18 296:17 297:9	<b>menu</b> 256:12		<b>mischaracterizing</b> 114:16
<b>measures</b> 180:14 191:20 252:11	<b>mergers</b> 195:17		<b>missing</b> 21:15
<b>mechanisms</b> 93:23	<b>merrill</b> 7:12 8:3 312:25		<b>mix</b> 45:25
<b>media</b> 1:8,9 4:20 7:20,24 30:2 35:5,11,13 57:12,13,19 58:6,20 59:14,22 111:13 112:23 118:15,23 120:13 135:2,15 158:1,12,14 217:3 222:11 228:8,10 232:12	<b>met</b> 74:21 194:13 195:1,2 197:15		<b>mixed</b> 250:15
<b>median</b> 98:10 150:6,8,10	<b>method</b> 144:14 306:9		<b>mixing</b> 248:20 249:4 253:9
<b>medias</b> 134:15	<b>methodologies</b> 54:25 88:10 113:6		<b>mockup</b> 52:17
<b>medications</b> 13:21	<b>methodology</b> 103:23 131:13,24 132:4,13 292:15 295:12,13		<b>model</b> 37:21,22 38:4 64:5,15
<b>medium</b> 112:8 190:17	<b>metric</b> 267:16 270:17		<b>modeling</b> 26:9
<b>meet</b> 23:12	<b>metrics</b> 4:22 122:14 191:23		<b>models</b> 37:10,13
<b>members</b> 243:3,10	<b>michael</b> 3:5		<b>mogul</b> 58:6
<b>membership</b> 242:21 243:13,18,20 244:4	<b>middleton</b> 276:23 305:12,24		<b>mom</b> 23:7 27:20
<b>memberships</b> 22:1 34:24 244:6	<b>middletons</b> 305:20		<b>moment</b> 161:19
<b>memory</b> 152:14 154:10	<b>mike</b> 7:19		<b>moments</b> 252:16
	<b>million</b> 112:9,14,17,18 125:18 125:24 126:5,8,13 128:17,20 136:9,10 136:11,15,16 153:8,8 156:13,14,17 157:2,2	<b>millionth</b> 302:2	<b>mon</b> 76:19
		<b>mind</b> 167:22 294:21	<b>monetization</b> 24:15 69:13 75:22 76:1,7,20 101:1,10 101:16,19 114:4,19 114:22 116:22 127:8 198:21 199:2,14,16 199:19 200:9,15 205:23 209:22,25 233:16
		<b>mine</b> 270:23	<b>monetize</b> 76:10,14 77:7 101:20 207:1 208:23 255:18 275:5,9,11
		<b>minimum</b> 98:12	
		<b>minute</b> 122:19 288:5 289:11	
		<b>minutes</b> 15:22 52:4,23 216:22 286:18	
		<b>mirell</b> 2:17	
		<b>mirrors</b>	

<p>275:5,9,11  <b>monetized</b>  78:17 80:1 102:5,10  263:11  <b>monetizing</b>  208:18,22  <b>money</b>  18:12 23:11,12 67:8  67:15 77:14 160:14  160:20,22 163:19  174:17 190:21  223:12,18 233:24  256:21 257:9,12  <b>monitor</b>  7:10 133:6  <b>month</b>  19:6 53:25 140:15,22  140:23 143:20,20  148:9 152:8 153:1  154:20 157:12  167:14,24 184:3  225:12 227:6 235:5  264:4 266:19,23  267:2 273:2,3,9  277:18 279:5 281:23  282:1 283:11 284:16  284:19 285:2,12  286:20 287:14,19  296:16 297:8,15  308:2  <b>monthly</b>  96:9,10 97:23 103:13  110:11 129:12  136:18,19,23,24  140:11,13 141:8,10  141:13,15,19 142:1,7  142:10 143:7,11,14  144:6,10,25 145:4  146:20 147:7,8,10,11  147:25 148:1,2,19,22  148:23 149:1,3,13,14  149:19 150:12 152:1  152:25 155:11  158:12 167:14,19,19  167:25 168:1,15,16  168:24 169:9,12,15</p>	<p>170:2,24 171:4 173:8  176:6 177:6,7 178:8  179:9 194:24 195:25  209:5 216:9 218:6  219:17 221:20  223:24 224:22  226:16 229:6 230:5  230:15 231:2 234:4  235:15 236:4,20,24  258:15,18,24 259:1  259:11 260:3,4,10,16  267:11 270:13,13,21  274:1 285:5 286:23  296:4 299:21 300:5  307:8  <b>months</b>  143:25 144:7 148:3,11  151:7,18 152:17  154:24 170:21  235:12 236:6,7,10,19  236:22 249:17,19  264:5,7 265:18  266:16 274:8 280:4  282:6 283:13  <b>mortgage</b>  22:12 90:8  <b>mortgages</b>  90:10  <b>mother</b>  289:18 290:22 305:11  305:21  <b>move</b>  13:12 19:6 178:20  222:6  <b>moving</b>  14:16  <b>multiple</b>  72:14,16 95:8,8,8,9,11  95:17,18,18,23,24  96:5,7 97:7,20 104:6  107:16 109:5,7,8,11  109:12,25 110:2,11  124:11,24 125:7,13  126:21 129:12,16  136:18,24 140:7,10  141:8,12,24 142:9,12</p>	<p>142:14,19 143:11  146:20 147:10,12  148:20 149:4,15  150:4 156:8,8,11,20  156:25 174:3 179:11  211:24 223:9 248:20  252:23 253:1 259:1  259:12 260:4,5  <b>multiples</b>  85:2,8 95:10 103:14  106:17 110:23  119:15 143:6 145:14  146:24 149:13  155:12,21 158:11  159:10,15,20 167:7  179:12 292:25 293:9  <b>multiplied</b>  172:16,24  <b>multiplier</b>  108:20 109:23 166:7  166:20  <b>multiply</b>  173:19  <b>multiplying</b>  155:10  <b>multitude</b>  109:13  <b>mumble</b>  12:19</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>n</b>  3:13 4:1  <b>name</b>  29:15 45:10 58:7 64:1  123:15 129:22,23,23  139:15 289:22  <b>named</b>  40:9 49:22 315:6,11  <b>names</b>  29:9 58:9 60:1 61:18  <b>nasas</b>  292:1  <b>nature</b>  31:18 37:5,23 40:23  42:10 43:5,19</p>	<p><b>nearly</b>  115:19 144:2,3,4  157:1 263:19,24  264:2,3 266:22,24  267:1  <b>necessarily</b>  63:9 101:8 166:13  199:11 253:12  283:21 297:22  <b>necessary</b>  26:11,11 137:24  197:10 253:13  311:14,19,20  <b>need</b>  11:20 12:7 21:22  32:23 59:8 64:9  80:15 89:11 260:6  302:16  <b>needed</b>  44:8  <b>needs</b>  17:12 36:12,14  <b>negative</b>  254:21,22  <b>negotiate</b>  28:4  <b>negotiation</b>  145:9  <b>negotiations</b>  271:19  <b>neighborhood</b>  89:18  <b>neither</b>  68:19 196:5  <b>nelson</b>  1:24 2:5 8:3 315:4,21  <b>net</b>  93:13 94:11,14,25  95:8,25 96:4,5  <b>network</b>  5:13,14,16 36:7  <b>never</b>  90:18 98:13,13,13  271:1,5,9  <b>new</b>  5:20 15:1 42:23,25</p>
---	---	--	---

43:4 94:4 233:6,7,8 283:18,21,22 284:1	<b>noticed</b> 178:1	<b>numbers</b> 44:15 95:12 108:4,7 117:6 167:10 168:12 230:11 293:5 306:10	177:13,19 178:13,25 181:20 184:6 185:5 185:21 186:1,9,18 187:3,17 188:2,3 190:2,18,24 191:6 192:10,19,24 193:4 193:11 197:20 198:11 199:9 200:11 201:4,9,23 202:9,14 202:19 203:3,12 204:2,9,16,22 205:3 206:1,16,22 207:6 208:20 209:2,10,16 210:2 220:16 227:19 232:7 242:22 243:5 243:21 251:13,19 253:25 254:8,14 256:24 258:22 260:15 261:6 264:1 265:7 266:25 268:4 268:20 274:23 279:19 283:20 285:21 286:5,12 287:15,23 290:10,16 291:6,21 292:12,21 293:3,13,23 294:5,12 294:16 296:11,18 297:10,23 298:2 299:5,15,22 300:3 303:7 304:4 305:2,7 305:15 306:1,8 311:21	
<b>newly</b> 50:10	<b>november</b> 264:12 278:18 279:6,7 280:11,25	<b>numerous</b> 103:12 287:21		
<b>news</b> 194:2 216:2 222:24,24 228:18 232:19 257:18,19,20	<b>null</b> 259:8	<b>nutrition</b> 36:23 37:11 38:1		
<b>newspaper</b> 53:12 58:7,14 201:17	<b>number</b> 7:5,6 14:19,22 15:20 21:2 23:25 39:7,21 39:22 40:7,19,19,19 44:11 45:23 48:25 85:13 86:11 88:24 89:20,23 91:2 99:8 112:13 116:7,16,23 117:3,10 138:15 140:25 148:21 149:21 151:5 152:25 153:14 156:23 157:20 167:19 168:1 168:15,17,18,20 169:8 170:17 171:7 171:15,21 172:1,5 173:22 174:11 177:1 179:8 180:2,24 188:17 191:23 216:18 219:21 220:7 221:22,25 225:5,12 225:14 226:6 227:11 228:2 230:20 232:4 237:8 239:17 252:17 252:20 258:8 262:23 264:13 265:11 272:24 273:12 274:14 277:18 278:17 282:4,5,23 284:16 289:18 290:14,18 291:13 292:1,4 293:10 296:5 296:16 297:8 298:17 298:24 299:2 300:8 302:5 306:6,13,22 307:1,16,24 308:5,14 312:24	<hr/> <b>O</b> <hr/>		
<b>newtown</b> 290:1		<b>object</b> 11:17		
<b>nicholson</b> 123:8 124:12 126:16		<b>objecting</b> 295:7		
<b>nick</b> 7:20,24 271:9		<b>objection</b> 30:6 69:20 76:22 77:8 79:3,16,22 80:9,17 83:3,22 84:3 87:18 88:6 94:15 95:1 96:2 96:16,18 97:3,11 98:7,19 100:5 101:7 101:22 102:6,12,20 103:3 104:23 105:17 105:22 106:3,12,24 107:20 108:23 109:14 112:20,25 113:22 114:2,11,21 115:5,11,16 116:11 116:18 117:1,14,21 118:1,20 119:1,8,21 120:6,16,21,25 121:4 121:8,14 124:25 125:6,11 126:3,9 127:1,6,15,20 128:2 128:9,23 129:14 130:10,20 131:14,25 132:7,15 138:2,9 141:16 142:2 145:1,6 157:14 158:6,16,25 159:11,23 160:5 161:1,6,12,21,25 162:7,13,18 163:12 163:20 164:1,10,19 165:6,12,18 166:12 166:17,22 167:1 169:19,20 175:12		
<b>night</b> 192:18				
<b>nine</b> 40:6 49:4				
<b>nineties</b> 111:21				
<b>noble</b> 64:2,3,11 65:5,15 183:5				
<b>nods</b> 22:25 24:5 35:14 55:16 70:19 85:14 100:8 116:10 123:23 130:5 157:18 208:1 211:11 225:18 265:25 309:8				
<b>nonexpert</b> 28:20				
<b>nonu</b> 275:6,9				
<b>noon</b> 132:24				
<b>normal</b> 312:10				
<b>normalizes</b> 180:21				
<b>north</b> 2:12				
<b>noted</b> 137:18 254:20	<b>numbered</b> 289:10		<b>obtained</b> 236:19	
			<b>obviously</b> 13:7 45:10 197:1 198:18	
			<b>occasionally</b> 214:15	
			<b>occur</b> 144:2 263:21	
			<b>occurred</b> 121:25 182:4 184:17 184:21 185:2 263:14 263:19,25 264:4	
			<b>octo</b>	

151:7	85:25 86:13,21 87:3	<b>ones</b>	<b>organization</b>
<b>october</b>	87:4,8,16 88:16	57:23 196:22 222:5	35:8,11,16 242:21,25
78:6 150:16 151:3,9	89:10 90:5 92:2,6,19	243:16	<b>organizations</b>
154:4 184:17,17,18	93:5,17 94:7,21 95:2	<b>ongoing</b>	35:1,5
231:24 235:8 236:10	96:3 97:15 103:9	36:20 37:3	<b>original</b>
236:19 237:1,2,9	107:10 110:6 111:4	<b>online</b>	268:12 304:18 312:25
263:19,25 264:11,22	111:16,22 112:19	4:20 111:13 118:15,23	<b>otcpk</b>
266:23 272:11 273:8	113:8 115:9 122:23	120:13	251:7
273:8,8 274:2 277:16	122:24 125:16,25	<b>opened</b>	<b>outcome</b>
278:1,9,14,18 279:5	127:12 137:4,25	256:6	145:9
279:22 280:11	141:22 143:12,21	<b>operator</b>	<b>outcomes</b>
284:19,23 291:18	147:6 150:1,11 152:7	7:11	104:16
294:1 296:6,22	153:10 160:12,24	<b>opinion</b>	<b>outline</b>
297:19 298:7 307:17	163:9 167:9 168:11	13:12 65:3 68:14,18	57:1
307:21 308:2	168:23 169:14 170:5	69:5 74:8 85:24	<b>outside</b>
<b>offered</b>	171:11,24 173:14	133:24 136:3 137:14	104:19
163:1 309:19	175:17 176:24	137:25 138:6,18,21	<b>overall</b>
<b>offering</b>	179:16 180:4 183:21	138:24 139:4,11,14	181:24 253:23 254:13
29:7 137:11,14 138:24	184:14 185:1 187:13	139:18 150:3 169:23	299:20
<b>offers</b>	188:8 190:14 203:1	169:25 170:4 311:4	<b>overarching</b>
255:20,23 256:1	204:6 211:1,2 214:11	311:10,17	48:3
<b>office</b>	217:2 222:7 227:5	<b>opinions</b>	<b>overlap</b>
54:6	230:24 236:11	84:7 137:11,13,20	20:17 153:18
<b>officer</b>	239:21,23,25 241:25	309:14,19 310:23	<b>overlaps</b>
35:3	246:18 247:21 252:1	<b>opportunities</b>	153:11
<b>official</b>	262:22 266:11 269:5	76:2	<b>overseen</b>
19:22	272:17,21 274:5,9	<b>opportunity</b>	120:2
<b>oh</b>	278:16 282:16,19	312:6	<b>overtalking</b>
8:20 21:11 30:11 40:8	285:23 288:6,21,24	<b>opposed</b>	205:13 294:19
49:10 85:6 120:17	290:14 291:3,25	53:6,8	<b>overthecounter</b>
122:21 151:7 179:24	295:22 296:23	<b>opposing</b>	251:3
246:20 251:24 277:6	298:15,21,24 300:12	137:20	<b>overvalued</b>
300:17 312:5	300:17 302:18 303:2	<b>opted</b>	120:5
<b>okay</b>	312:15,20	44:6	<b>overview</b>
8:2 9:5,16,24 11:8	<b>old</b>	<b>oral</b>	52:5,7
12:4 13:20 14:24	239:5 249:5,6 253:9	11:24	<b>owned</b>
15:8,18,21 16:3	<b>older</b>	<b>orally</b>	158:12
20:23 21:3,23 22:17	238:13 253:7	12:3	<b>owners</b>
27:20 30:20,22 31:11	<b>olive</b>	<b>orange</b>	199:23
31:25 33:23 34:22	9:22,23 36:22 46:24	90:24	<b>ozy</b>
38:7 39:14 40:2	47:10,13	<b>oranges</b>	5:21 146:1 148:8
41:17,19,22 42:10	<b>once</b>	248:24	232:9 233:17 235:4
44:24 45:8,12 47:1	11:9 97:5 140:18	<b>order</b>	236:21,23 237:15
50:1,16,18 55:3 58:5	144:19 179:10	159:5 194:14 213:22	245:17
60:21 67:1,4 68:15	<b>onemonth</b>	216:25 238:6 291:9	<b>ozys</b>
81:6 84:2,10,20 85:6	140:15 272:21	312:12	234:17,23

<b>P</b>			
<b>p</b>	<b>panthers</b>	77:22 161:18,23 162:5 243:20	<b>percentages</b>
2:10 4:5 6:3,6 132:22	43:10,25 44:4		240:21
133:1 195:14,15	<b>paper</b>	<b>payment</b>	<b>perfect</b>
245:7,13,18 246:9,11	14:7 86:1	93:23	17:15 89:5
246:12,16,22 247:11	<b>paragraph</b>	<b>pe</b>	<b>performance</b>
247:22 313:4	21:25 47:23 49:22	119:12	143:25
<b>page</b>	92:13 93:1,22 103:7	<b>peak</b>	<b>performed</b>
4:2,11 5:2 6:2 13:3	107:7,8 109:7 110:7	181:3 184:15	47:25
21:23,24 34:23,24	113:4,5 118:7 120:11	<b>penalty</b>	<b>performing</b>
35:19,20 39:14 47:22	120:11 125:20	314:6	198:9,14,15
49:19 50:16,17,19,19	143:19 180:16	<b>pending</b>	<b>period</b>
56:6 62:14,14 67:3	<b>parenting</b>	42:22	117:11 140:15 143:15
75:11 84:22,22 85:3	202:18	<b>pennsylvania</b>	144:7 150:13 151:3
85:4 86:1,6 88:16,18	<b>park</b>	3:8	151:23 152:2,16
88:21 92:14 93:1,3,4	2:4,19 7:16	<b>penny</b>	153:10,11,18,19
103:6 107:5,8 111:23	<b>parlance</b>	251:8	154:12 155:3,9,21,24
112:2 113:4 118:7	121:18,22 251:6	<b>people</b>	157:4,7 159:19 168:3
120:10 122:4 143:18	<b>parower</b>	19:24 23:23 25:9,22	168:5 169:5 172:17
147:3 170:14 171:25	45:12,13	25:24 26:4 27:9	178:10,12,15 179:10
171:25 172:1 179:16	<b>part</b>	63:21 121:18,22	180:15 184:3,15
179:16,19,21,25	11:19 20:10 22:9	203:1,4,5 213:15	195:3 220:8,10,11,15
180:2,5,10,13 181:6	32:20,23 56:2 57:22	214:14 231:22 251:8	221:7,9,20,25 225:20
183:13 184:10	68:13,17 87:20 92:8	256:14,20 257:21,21	226:7,25 227:12
208:11,14 211:20	92:12 110:6 124:6	260:14 266:18	232:3 263:17,23
217:1 220:3,4 225:8	171:2 174:6 206:4	271:25 272:3 276:21	265:15 266:20
225:11 231:15,19	<b>particular</b>	280:9 281:17 297:25	272:11,17,25 273:6
232:1 237:3 240:3	28:10 64:11 118:16	304:24 307:16	273:16,17 274:3
241:5,23 242:19,20	161:19 180:15 189:7	<b>peoples</b>	275:17 277:3 279:11
247:16,17 262:18,22	205:2 284:11,16	26:1	279:21 291:8 293:8
263:13 264:21,25	285:1,19 294:2	<b>percent</b>	296:10
266:19 267:9 268:10	295:14	44:20 117:11,13,19,20	<b>periods</b>
282:20,25 284:5,6,10	<b>particularly</b>	160:9 171:3 173:10	153:12,14 154:11,13
284:12,25 285:5,18	135:12	173:19 174:10	154:20,25 168:1,21
288:15 289:5,6	<b>partnership</b>	175:25 176:11,15,19	172:25 272:21 274:7
292:17 296:5 298:14	242:7	177:1,8,11 237:11	280:2,7 291:17
298:17,25 300:14,19	<b>parts</b>	248:17 258:9 276:12	<b>perjury</b>
300:20 304:13,16	139:24	280:13 282:9 302:23	314:6
<b>paged</b>	<b>passersby</b>	303:1,4,12,14,24,25	<b>person</b>
10:21	214:18	304:2,3,9,23 305:13	140:18,19 297:13
<b>pages</b>	<b>patent</b>	305:25 307:2 308:16	<b>personal</b>
1:10 15:4 92:11 208:6	27:18 29:2,13 40:17	<b>percentage</b>	255:13
208:9 214:9 262:6	46:1,5,5,10,12,13	24:16,19 28:13 173:1	<b>personally</b>
283:1	48:21	173:8,10,11 179:9,11	28:23,24 33:3 39:20
<b>paid</b>	<b>patents</b>	208:5,8 240:12,13	57:21 60:4 61:10
191:24	23:20 34:15,16 51:23	279:16 282:10 300:9	64:19,21 99:11
	<b>pay</b>	300:18 304:24 306:3	102:19 104:3 105:8



106:8 123:9 162:1	7:15 175:10 315:11	180:7 181:1,3 182:2	179:15 185:3,4
<b>persons</b>	<b>placed</b>	182:7 186:22 212:1	214:23,25 215:3
37:17 64:1	194:22	236:23 250:5 253:14	217:6 222:23 223:11
<b>perspective</b>	<b>places</b>	260:8 261:22 302:2	223:18 228:17,21
119:10 270:10	202:6 256:21	303:21	232:5,18 233:24
<b>pertained</b>	<b>placing</b>	<b>points</b>	237:15,16,19 241:7
37:25	175:14	13:10 81:24 130:12	245:17 262:1,4,23
<b>pertaining</b>	<b>plain</b>	131:16 162:21,22	263:7 267:6 269:13
15:2 219:9 310:9	27:23	178:4 181:9 183:10	270:7 271:21 276:18
<b>pertains</b>	<b>plaintiff</b>	183:12,17,20 231:3	276:22,23 277:2
94:5	1:6 2:9 8:1 43:22	248:21 265:18	280:22 281:9 282:24
<b>pertinent</b>	46:22,23,23 47:4,4,5	302:15	283:5,8 284:6,11,25
153:22 166:14 213:6	47:5,8	<b>politics</b>	285:19 286:19 287:5
<b>pharmaceutical</b>	<b>plaintiffs</b>	228:19	287:13 289:11,14
20:2 74:1	138:7 139:15,19 266:9	<b>poors</b>	290:6,9,15,19,24
<b>pharmacies</b>	266:11 269:22	195:15	291:3 292:11,14,19
20:3	288:17,17 310:15	<b>popular</b>	293:2,12,15,22 294:2
<b>pharmacy</b>	<b>plan</b>	181:8 261:20	294:3,10 295:14,15
22:5	15:11 45:19 65:19	<b>popularity</b>	295:22,23,25 296:15
<b>phase</b>	<b>planning</b>	181:13	296:24,25,25,25
75:8 108:13,16 109:2	137:22	<b>pornography</b>	297:4,5,5,7,14,19,20
<b>philadelphia</b>	<b>play</b>	189:16,19	297:25 299:10,13,17
3:8	97:13	<b>portfolio</b>	299:19,24 300:2,13
<b>phone</b>	<b>players</b>	29:13 32:24 34:10,18	300:20 303:4,11
9:8 302:22	217:10,11	34:21	304:25 305:11,11,12
<b>photos</b>	<b>please</b>	<b>portfolios</b>	305:20,21,22 310:25
194:1 216:2	7:17 8:4,10 92:15	34:19	<b>posted</b>
<b>phrase</b>	173:5 294:21	<b>portion</b>	78:4,6,14 83:1 84:1
77:18 109:5 141:7	<b>pleasure</b>	92:10 169:15,25 170:1	130:13 135:25
175:22	92:22	170:6,9 175:20	150:13,15,22 151:6
<b>pick</b>	<b>plenty</b>	240:16 311:2	168:2,4,6,8 170:18
14:16,20 205:17	267:19	<b>position</b>	170:20 172:17
<b>picking</b>	<b>plug</b>	25:1 239:4 267:15	178:12,15 182:5
81:12 107:6	296:7	270:16	215:16,20,24 216:3
<b>picture</b>	<b>plus</b>	<b>possible</b>	251:12 267:3 281:24
249:7	306:23	72:15,16 93:7 159:25	282:5 305:18 307:17
<b>piece</b>	<b>pocket</b>	202:4,5 203:9 204:11	307:23
23:22 24:13 64:5	78:21 160:21,23	295:18 312:12	<b>posting</b>
66:18 137:7,7	174:18,23	<b>possibly</b>	75:12 78:17 82:16,18
<b>pieces</b>	<b>point</b>	201:2 256:19 257:8,14	82:21,22 83:20 134:1
14:7 222:11,18 228:12	12:23 63:14 74:11,13	<b>post</b>	136:5 181:24 189:11
<b>pinellas</b>	86:22 93:12 94:10,13	5:19 79:14 130:2,4,8	192:12 251:18 268:2
1:2	94:24 96:4 97:16	130:18 131:12,19,24	311:6
<b>pitch</b>	116:2 128:12,14	132:6,11,14 144:22	<b>postmoney</b>
45:18,21	129:7 130:1 137:23	145:24 148:16	198:5
<b>place</b>	142:13 155:5 170:23	178:23,24 179:2,8,13	<b>posts</b>

84:14 99:9 216:2 222:11,19 228:8,13 229:16 230:5 232:12 232:20 258:2 268:6 268:15 276:19 286:20 287:2 294:6 296:21 298:7,9,11 305:14	125:16 <b>prepare</b> 56:25,25 183:6 <b>prepared</b> 14:25 21:9 43:13 63:20 64:21 <b>preparing</b> 15:16 26:10 69:7 <b>prescription</b> 17:6 <b>prescriptions</b> 20:4,5 <b>present</b> 52:2 67:5,13,18,20,22 155:6 270:20 <b>presentation</b> 57:1 <b>presentations</b> 50:21 52:3,10 103:24 191:9 <b>presented</b> 69:5 108:7 194:23 219:10 250:1 265:16 286:8 309:7 <b>presenting</b> 307:14 <b>presents</b> 77:11 <b>preserve</b> 11:18 <b>pressed</b> 106:18 <b>presumably</b> 37:17 204:17 283:25 <b>pretty</b> 19:25 171:22 225:22 279:25 <b>previous</b> 107:24 <b>previously</b> 56:4 103:19 <b>price</b> 55:7 66:22 93:8 94:8 107:13 120:12 125:23 126:18 128:5 250:25 251:17 253:8	253:15,17,23 254:1,5 254:12 261:13 <b>prices</b> 165:4 <b>pricetoearnings</b> 119:12 <b>pricing</b> 4:20 111:13 <b>primarily</b> 26:17 <b>primary</b> 75:12,16 <b>principally</b> 59:24 60:6 206:10 <b>principle</b> 94:7 <b>print</b> 181:17 <b>printed</b> 183:17 236:1,15 239:15,22 247:24 248:2,16 <b>printout</b> 5:3,5,6,8,9,11,13,14 5:16,21,22,24 6:7,9 6:11,13,15,17,19,21 220:4 221:6,19 241:23 252:8 <b>printouts</b> 246:10 <b>prior</b> 22:3 62:17,19 82:21 100:19 151:7 225:15 225:17 235:12 277:2 315:6 <b>privacy</b> 139:12 <b>private</b> 33:25 34:5 57:24 59:18,19 63:9 103:15 134:2 245:19 <b>prizes</b> 268:11 304:17 <b>pro</b> 81:3 <b>probably</b>	51:21 63:15,15 64:13 131:1,8 156:3 205:8 205:10 242:7 246:4 <b>problem</b> 169:22 172:22 <b>problems</b> 155:6 <b>proceedings</b> 12:5 315:15 <b>process</b> 16:1 195:20 <b>produced</b> 15:5 39:6 288:18 <b>product</b> 30:7 <b>production</b> 45:4,6,9 188:16 <b>products</b> 27:18 53:8 <b>professional</b> 34:25 123:11 <b>professionally</b> 1:4 <b>professionals</b> 35:6,9 51:11 107:9 110:9 129:10 <b>professor</b> 56:21,22 <b>profit</b> 5:19 93:13 94:11,14 94:25 95:25 96:4,6 138:19 165:17,19,22 218:23 224:13 229:14 230:2 235:1 263:5 <b>profits</b> 68:7,19 97:9,12 161:5 161:8 224:19 <b>program</b> 16:22 19:1,7,13 193:3 <b>projected</b> 233:10 <b>projections</b> 18:6 81:3 <b>projects</b> 27:1 233:13
---	--	---	---

<b>promised</b> 44:5	268:13	23:14 29:5,8 31:20	144:23 159:5 176:17
<b>promotions</b> 243:2,6	<b>public</b> 34:5 41:7 105:4 106:6	37:15 85:15 87:13	178:19 193:13
<b>properly</b> 125:14	106:19,20 112:5	88:12 104:22,24	205:18 207:10
<b>properties</b> 48:4	129:5 198:17 245:20	211:13	209:23 236:11,12
<b>property</b> 23:2,4,5,11,12,16,18	245:22,23,25 246:4	<b>put</b> 27:25 28:4 58:19	272:23 285:7,23
23:19 24:11,14 32:24	246:15	67:17 91:10 124:8	286:14 291:11
48:20 50:5,12,25	<b>publication</b> 91:18 121:11 129:23	134:7 160:22 195:7	293:18 301:1 306:12
51:6,14,17,18 52:1	<b>publications</b> 22:2	252:5 277:10 282:12	<b>questioning</b> 153:23
57:4 59:17 87:13,25	<b>publicity</b> 23:21 37:2,8 38:14	<b>putting</b> 55:7 63:22 66:23	<b>questions</b> 11:15,20 12:20 15:25
88:4,9,14 131:2	47:11,14 53:23 54:23	<hr/> <b>Q</b> <hr/>	30:13 33:14 86:22
185:25	56:1 139:20 191:16	<b>qualifications</b> 49:21	92:25 188:5 219:11
<b>proportionally</b> 117:3	191:18 192:2,3,5	<b>qualify</b> 13:14	295:7,8,8 311:25
<b>proprietary</b> 66:18	<b>publicly</b> 70:10 109:18 120:12	<b>quantcast</b> 6:11,13,15,17,19,21	312:18
<b>prospects</b> 267:21	130:22 194:20 197:4	61:17 62:2,3,10	<b>quick</b> 21:10 81:4 92:16
<b>protected</b> 48:11	198:2,3 244:8 246:15	141:1,3,4,5 148:6,10	193:14 262:9 308:20
<b>protection</b> 48:7,7,8,11	247:5 261:10	148:17 151:15,16	<b>quickly</b> 12:18 116:25 117:24
<b>provocative</b> 304:19	<b>published</b> 50:10,22 53:23 54:1	152:22,23 196:1	117:25 312:13
<b>prove</b> 259:13	54:10 55:14 56:4	210:16 212:24 214:5	<b>quietly</b> 12:19
<b>provide</b> 15:10 44:5 64:3 66:15	120:14 122:1 182:13	214:17 220:4 221:6	<b>quite</b> 89:9 176:22 227:13
76:19 110:1 133:24	182:14 269:3 305:10	221:19 225:9 226:5	237:10 248:18
301:2	<b>publisher</b> 55:20	226:15 227:18 230:6	<b>quote</b> 267:9 268:5 271:14
<b>provided</b> 44:9 47:16 63:7 141:1	<b>publishes</b> 54:15 55:19	230:17 238:18,24	283:23
141:3 144:19 265:22	<b>pulling</b> 281:13	239:3,14,25 240:1,11	<b>quotes</b> 268:21
265:23 266:5,8 270:2	<b>purchase</b> 31:19 32:5 36:12	240:17 261:19	<b>quoting</b> 304:13
300:6 309:21 310:1	164:22 232:4	272:10 273:25	<hr/> <b>R</b> <hr/>
310:17	<b>purchased</b> 44:3	277:15,25 279:4	<b>r</b> 1:25 2:5 315:4,21
<b>provides</b> 62:11 75:23 243:2	<b>purchaser</b> 224:17 234:13	284:15 285:4,12,20	<b>raised</b> 223:11
245:18	<b>purchases</b> 219:4	286:1,8,23 287:3,12	<b>ran</b> 19:19 195:9
<b>providing</b> 32:15	<b>purchasing</b> 32:9 144:12	287:17 296:17 297:1	<b>random</b> 14:22
<b>provocative</b>	<b>purpose</b> 98:20 103:7	297:9 300:7	<b>range</b> 149:4 155:25 156:1
	<b>purposes</b>	<b>quarter</b> 293:9,10,11	193:9
		<b>quarterly</b> 250:21	
		<b>quasi</b> 32:22 33:7,24 34:3	
		<b>question</b> 12:13,25,25 54:14	
		100:14 102:14 114:7	
		132:11 137:5 142:5	

<b>rankings</b> 288:22	<b>realized</b> 71:5 73:3 74:15 114:4	81:8 132:25 193:17 262:12 308:23	241:20 245:2 247:12 252:3 272:7 273:22 274:18 277:8,22 278:25
<b>rapidly</b> 116:17	<b>really</b> 9:11 24:14 28:21	<b>recognized</b> 110:9 129:10	<b>referring</b> 22:14 84:13 86:6 93:24 110:17 111:2 173:15 181:5 201:14 240:15
<b>rarely</b> 89:1	29:23 51:11 54:8,23	<b>recommend</b> 163:9,18	<b>refers</b> 86:7 95:23 103:19 110:17 125:17 182:16 183:3 244:21 268:6
<b>rate</b> 216:12,13 273:5	59:3 64:8 65:18	<b>reconvened</b> 133:3	<b>refinance</b> 82:5
<b>rates</b> 38:10 68:9,21 216:17	81:23 92:9 93:20	<b>record</b> 11:18 12:2 81:7,9 92:3 132:20 133:15,17,19 133:20 136:22 150:19 151:1 178:6 193:16,18 205:13 211:3,4,5 262:13 288:5,6,8,9 294:20 301:1,6,6,8,9,10,12 301:14,15,16 308:22 308:24 312:17 313:3	<b>reflect</b> 185:15
<b>ratio</b> 97:21 119:13	144:21 152:10	<b>recorded</b> 12:1	<b>reflected</b> 75:11 153:4 184:16 205:13
<b>ratios</b> 98:3	153:23 158:19	<b>records</b> 195:18	<b>reflects</b> 65:2 148:1
<b>reach</b> 112:9 260:13	217:12 238:15	<b>recruited</b> 17:25	<b>refresh</b> 141:24
<b>reached</b> 73:12 75:4 114:19	259:14 260:6 302:9	<b>redevelop</b> 66:20,21	<b>regarding</b> 36:6 133:24 228:20
216:16 218:2,5	<b>reanalyze</b> 214:2	<b>reduced</b> 307:2 308:15	<b>regardless</b> 209:8,15,17,21
223:20,23 229:3,5,8	<b>reason</b> 13:25 65:5 66:13 76:3	<b>refer</b> 121:18,22 219:12 235:23	<b>regression</b> 259:5,15,19,22 260:2 309:3
229:11 234:3,8	160:2 248:21 249:2	<b>reference</b> 93:12 94:10,13,24 96:3	<b>regular</b> 269:8
<b>read</b> 10:19,22,23 64:6 92:2	254:23 265:14 267:5	<b>referenced</b> 219:12	<b>regularly</b> 213:15
92:4,9,14,16 122:19	270:5 271:20	<b>referred</b> 21:5 25:16 39:1 86:11 86:14 91:3 111:6,11 122:5,8,17 146:9 171:14,17 182:20,24 183:23 219:22 221:3 221:16 225:2 226:2 226:12 231:11,16 235:20 239:11	<b>regard</b> 30:7,13 194:2,2
123:19 135:21 184:7	<b>reasonable</b> 162:19 165:21		<b>relating</b> 217:12 255:9
203:21 204:3 241:9	<b>reasonableness</b> 182:1		<b>relation</b> 117:3 269:5
312:1,3,7	<b>reasons</b> 12:23 252:15		<b>relations</b> 134:3
<b>reader</b> 200:7,14,16	<b>reassess</b> 214:3		<b>relationships</b> 48:23
<b>readers</b> 201:16 202:12,17	<b>recall</b> 10:24 14:11 43:4		
203:25 204:8 209:15	45:16,24 46:2 54:20		
209:17,19,25 238:5	54:21 57:10 59:15		
<b>readership</b> 202:5	60:5,9,11 62:25		
<b>reading</b> 64:16 305:6	64:11 129:20 151:14		
<b>reads</b> 92:3	171:7 290:4 309:11		
<b>real</b> 21:10 90:6,9 92:16	310:6		
109:16 115:23 131:3	<b>recaps</b> 217:10		
<b>reality</b> 193:3 238:11	<b>receive</b> 214:2		
<b>realize</b> 13:13	<b>received</b> 75:18 82:18,18 213:19		
	214:4 223:5 233:17		
	236:8 261:7 269:19		
	284:2		
	<b>receiving</b> 179:21		
	<b>recess</b>		

<b>relatively</b> 233:6	64:6,10,19,22,25 65:2,22 67:3 68:14	91:22	259:8
<b>relevant</b> 208:19 270:3	69:5,7 75:11 77:19	<b>representation</b> 250:4,20	<b>retained</b> 26:19 31:12 32:3
<b>reliable</b> 194:21 247:7	81:12 82:12,14 83:7	<b>representing</b> 7:20,23 37:20	39:20 40:20 43:11,21
<b>reliance</b> 118:17,24	83:18 84:7,21 85:16	<b>represents</b> 141:24 142:15	44:16 46:21 65:8
<b>relied</b> 144:10,24 145:2,4 238:21	86:11,18 103:6	<b>reputable</b> 230:13,23 246:13	312:25
<b>rely</b> 143:24 246:16	110:24 111:10,11	<b>requested</b> 310:15	<b>retention</b> 40:14
<b>remain</b> 113:2	112:16 115:23 122:4	<b>requirement</b> 15:10	<b>retentions</b> 49:4,5
<b>remained</b> 308:12,17	122:17 130:2 134:6	<b>research</b> 26:3,13 64:14 213:11 213:14 214:20,25 215:3	<b>revenue</b> 24:20 37:25 38:2,9,16 47:18 59:24 60:3,6 68:5,16,17 74:16 75:24 76:12 77:23 79:1,14,18 95:7,12 95:12,13 96:5,6,14 96:20 97:9,12 101:5 107:13,15,19 108:1,3 108:5,10,19,20 109:5 109:7,8,9,10,10,11 109:12,13,22,25 124:11,23 125:7,13 126:18,20,25 127:5,9 160:16,18,25 161:8 165:11,14,14,22 166:7,20 197:7,13 198:25 199:4,8,14 200:1,2,3 205:24 206:3,4,10 207:5,13 207:16 218:20 219:6 224:10 229:14,24 233:10,14 234:15,23 237:21 255:16 258:4 258:6,9,12 263:2
<b>remains</b> 311:10	135:21 137:12,13,18	<b>reservations</b> 256:18	
<b>remem</b> 241:12	137:21 139:23 141:7	<b>reserve</b> 137:18 309:22	
<b>remember</b> 34:17 45:7 46:8 47:6 59:21 61:14,18 63:12 64:12 65:10 123:20 160:16 196:17 242:17 261:23 277:1 310:21	143:9,17 144:19,22 145:8,17,20 146:13 146:17 153:5 156:7 156:19 171:14 172:14 174:2 179:16 179:19,19 182:24 183:6,13 198:19 207:12 211:15,21,24 212:25 216:24 217:1 217:3,14,20 219:8,10 219:13,17 220:1,5 221:7,12 222:1,5,14 223:4 225:6 230:4,25 231:17 235:24 237:14 238:8 239:1 239:14 244:16 245:17 247:16,16 265:6 267:9 272:10 274:4 282:11,14 303:16 304:13 309:6 309:7,16,19,22 311:24	<b>resonate</b> 268:9 304:12,15	
<b>reminds</b> 13:15	<b>reported</b> 1:23 230:12,20 246:9	<b>resources</b> 53:18	
<b>removed</b> 83:10,10 152:3,5 196:25 197:2 282:6	<b>reporter</b> 8:2,4 91:10 121:20 167:21 203:25 204:4 205:12,17 294:19 301:5,10 312:10 315:22	<b>respect</b> 31:12 219:8	
<b>repeat</b> 12:24 173:4 180:11	<b>reports</b> 25:25 26:9,13 104:10 218:13 252:11	<b>respond</b> 137:19	
<b>replicate</b> 295:23	<b>represent</b> 7:18 27:14,17 36:17	<b>responsibilities</b> 26:22	
<b>replicated</b> 295:20		<b>responsible</b> 61:20,22,22	
<b>report</b> 4:12 5:8,9,11 13:11 15:1,16 21:9,14,17 25:12,13,22 34:22 40:13 41:12,14,15,20 42:11 43:5,13 47:22 49:18 56:6 63:20,22		<b>restaurant</b> 256:12 257:6,10	
		<b>restaurants</b> 255:9,21 256:11,17	
		<b>result</b> 136:4 169:12 175:14 311:5	
		<b>resulted</b> 134:1	
		<b>results</b> 72:9 104:10 148:25	

288:18	122:5,18 125:17,18	192:18,23 193:3	286:20,21,24 287:3,6
<b>reviews</b>	126:1,2,8,13,25	195:21 197:18,25	287:9,10,14 288:2,12
255:20,23 256:1	127:25 128:1 130:9	198:21,25 199:8	288:15 290:7,15,24
257:19 258:1	131:10 132:6,17	200:8,10 201:3,8,16	290:25 291:14,20
<b>revise</b>	134:4,5,12,15 135:2	201:22 202:3,7,13,18	292:5,17,20 293:12
137:19	135:5,8,23 136:6,8	203:2,11 204:1,8,13	293:22 294:3,11,25
<b>revisit</b>	136:12,14,19,22	205:25 206:11,15,25	295:15 296:9,10,25
13:17	137:5,12,16,19,23	209:9,15 210:1,17	297:1,9,15 298:1,18
<b>rewritten</b>	138:1,7,19,25 139:6	211:9,15,25 212:1,1	298:22 299:9,10,13
94:3	139:12,16,19,20,22	212:4,11 213:20,25	299:21 300:14,18
<b>rewrote</b>	140:11,19 141:2,10	217:4,14,21 219:18	302:25 303:6,13,19
94:4	141:12,14,19,21	220:3,12,13 221:9	303:22 306:18,24
<b>right</b>	142:1,9,11,15,21,25	222:2,9,14,16 223:6	307:3,7,11,16,20
9:14 16:2 17:14 19:22	143:6,12,15 144:7	225:9,10,12 226:10	308:1,3,5,11,11,14
20:15 21:9,16,18	145:15,18,20,22	226:21,23 227:1,12	309:22 310:20,25
24:24 26:6 27:6	146:5,13,21,25 147:9	228:3,6,22 230:6	311:7,10
30:19,19 34:11 35:22	147:18,19,21,23	231:6,14,17 232:5,10	<b>righthand</b>
37:2,8 38:14,24	148:6,10,13,15,17,22	232:13 233:18,23	183:2
39:12 41:8,8,8 42:1,7	149:1,5,7,21 150:13	235:6,9,12 236:2,3	<b>rights</b>
45:22 46:11 47:10,14	150:17,21,23 151:2,4	236:16,18,21,24,25	23:20 50:6,25 53:22
49:7,12,16 56:23	151:9,19,24 152:1,3	237:9 238:9 240:19	54:23 56:1 191:16,18
57:9 59:5 60:4 64:10	152:5,11,12,19 153:2	242:2 243:3,10,15,17	<b>robotics</b>
65:6,23 66:16 67:6,8	153:12,16,20 154:12	243:20 244:9,14,18	20:3,4
67:10,13,17,21,23	154:22,25 155:6,13	245:5,8 246:24	<b>role</b>
68:3,5,7,9,16,19,25	156:9,14,21,22,25	247:22,24,25 248:12	47:13 56:23
71:9,10,12,17,21	157:2,5,13,23 159:14	248:14,24 251:1,4	<b>roles</b>
72:1,3,4,20 73:9,13	159:16,18 160:14,19	252:17 253:20	26:5
73:19,23 74:2 75:13	160:21 161:5,10,17	254:11 255:5,21	<b>rolling</b>
75:17,25 76:14,17	161:19 162:12 163:2	256:6,9,12,15,18,22	301:11
77:4,7,14,24 78:4,9	163:5 166:11 167:4,7	257:10,13 258:15,18	<b>rooms</b>
78:14,18,22 79:2,13	167:11 168:4,13,19	258:20 259:24	89:21
80:1,4,8 81:15,22	168:22 169:1,5,10,17	260:14,21,23 261:10	<b>rough</b>
82:1,3,9,16 83:2,4,8	170:3,7,11,12,15,18	261:13,16,19 262:24	301:23,23 302:4,4,5
83:17,17,21 85:12,22	171:5,13 172:2,9,13	263:14,20,24,25	<b>roughly</b>
86:8,10 87:6,11 88:1	173:2,4,18,20,23	264:21 265:3,6	65:10 89:20 136:15
88:4 89:3,12,15,18	174:4,8,11,15,18	266:20,22 268:1	153:8 168:25 169:4,6
89:21,23 90:3,7,15	175:1,3,11,22 176:18	269:3,7,9,21,23	171:3 174:8 178:10
90:17,19,20 91:17	177:1 178:2,6,12,20	270:3 271:2,16 272:1	236:6,23 237:5
92:20 94:19 95:16	179:5,13,22 180:2,12	272:4 273:6 274:6	246:24 258:14 276:1
96:15 97:2,10,15,21	181:10 182:11,13,25	276:2,5,9 277:4,19	277:18 280:8,13
98:1,6,23 101:6	183:14,15 185:16,20	278:9,18 279:17	281:18 284:20,22
102:10 108:22	185:25 186:5,8,25	280:5,9,25 281:15,24	289:14 290:14,22
109:24 110:24,25	187:1,16 189:7,12,17	282:2,9,21 283:2,5,8	292:5 293:8 300:13
112:2,14,17 114:7,18	189:21 190:1,6,13,17	283:14,18 284:10,17	306:24,25 308:16
115:4,24 116:2 117:7	190:23 191:5,17,18	284:21 285:2,13,16	<b>round</b>
117:20 121:13 122:4	191:21 192:2,3,4,9	285:20 286:4,11,17	136:9 198:4 223:6,8

<p>223:10  <b>rounded</b>                  173:24,25 174:1,15  <b>rounding</b>                  166:6  <b>rounds</b>                  223:9  <b>ruled</b>                  270:3  <b>run</b>                  26:23 46:20 259:5,21  <b>runs</b>                  231:25  <b>rx</b>                  17:6 73:21  <b>rxsafe</b>                  17:4 18:25 19:8,18,24                  20:6,12,17,20,21                  22:7</p> <hr/> <p style="text-align: center;"><b>S</b></p> <hr/> <p><b>s</b>                  1:25 2:5 4:10 5:1 6:1,3                  6:6 195:14,15 245:7                  245:13,18 246:9,11                  246:12,16,22 247:11                  247:22 274:13 275:6                  275:9 276:7,9 277:16                  279:9 280:4 281:14                  281:22 315:4,21  <b>safe</b>                  17:6 222:3  <b>safely</b>                  219:4  <b>sake</b>                  135:16  <b>sale</b>                  23:3,13 36:12,15                  93:10 94:19,20 105:2                  127:19 229:24                  245:15  <b>sales</b>                  81:23 93:13 94:8,11                  94:12,14,17,25 95:6                  95:25 96:4 105:2,6                  144:16</p>	<p><b>salon</b>                  256:4  <b>salons</b>                  256:2  <b>san</b>                  10:13 16:19 18:22                  19:7 20:9 56:10                  165:3  <b>sandy</b>                  292:2  <b>santa</b>                  16:6  <b>saw</b>                  168:11 213:3 285:25  <b>saying</b>                  12:24 75:10 95:3                  127:25 128:7,10                  139:4 141:23 177:18                  177:21 205:7,21                  211:23 212:2 284:11                  284:14 301:1 307:13  <b>says</b>                  22:2,10 39:8 41:11                  47:24 50:1,8 54:12                  88:22 91:19 93:6                  103:10,21 107:11                  110:7 111:22 112:2,4                  113:8 118:11 120:11                  125:18 127:3 128:4                  128:15 143:18,19,22                  147:21 148:1,19                  175:17 222:14                  224:21 231:20                  235:14 236:17                  242:20 248:3 252:22                  267:11 268:7 271:14                  282:20 290:8 298:17                  299:1,11  <b>scale</b>                  180:25  <b>scaling</b>                  264:14,18  <b>scenes</b>                  42:8  <b>schachter</b>                  45:13</p>	<p><b>school</b>                  16:6,15,18,20,25 56:8                  56:9 290:1  <b>schultz</b>                  7:20,23  <b>schulz</b>                  3:4,11  <b>science</b>                  115:17  <b>screen</b>                  184:1  <b>screening</b>                  194:11 197:22  <b>seak</b>                  10:8,9  <b>search</b>                  5:5 180:14,20,22                  181:2,3,8,13 182:3,6                  182:12 184:17                  185:16  <b>searches</b>                  181:15  <b>sec</b>                  250:21  <b>second</b>                  32:3 33:23 36:22                  39:14 50:1 95:21                  107:8 113:8 120:11                  122:3 125:20 133:16                  220:4 222:8 225:8                  237:3 282:12 289:6                  298:14 301:13  <b>secret</b>                  48:9  <b>secrets</b>                  23:21 48:22  <b>section</b>                  49:21,22 57:7 126:15  <b>sections</b>                  50:20  <b>sector</b>                  59:17 118:16  <b>securitize</b>                  29:16  <b>see</b>                  39:7,17 49:24 50:14</p>	<p>54:19,19 74:24 78:16                  79:25 80:15 85:10                  93:15 107:17 108:5                  110:13,19 113:17                  115:6 117:16 119:14                  120:17 124:17                  125:19 126:22,23                  128:18 136:2 147:4                  158:19 159:24                  167:15 179:22 184:4                  184:19 189:10                  190:16,21 191:4,7                  210:7 212:13,16,20                  213:21 214:5,8                  215:19,23 216:3                  218:1 223:19 224:23                  226:18 229:2 231:25                  234:1 235:15,17                  240:6,19 241:16                  244:6,23 248:20                  252:13,19 254:18                  256:5,8,11,14 259:23                  264:18 275:1 278:3                  289:7,11,15,18 291:7                  292:1,3,7,14 293:15  <b>seed</b>                  46:7  <b>seeds</b>                  45:24  <b>seeing</b>                  226:8,8 261:24  <b>seek</b>                  124:1  <b>seeking</b>                  123:6  <b>seekingalpha</b>                  123:5  <b>seen</b>                  70:6 71:15 76:11 80:2                  80:3 99:10 105:10                  123:15 129:15                  144:21 180:6,11                  186:2,6 209:11 214:8                  227:20 241:1 253:2                  270:4 291:10  <b>segment</b></p>
---	--	--	--

240:16	<b>separate</b>	83:1,20 84:3,6,12,12	265:1 274:16 275:15
<b>seized</b>	43:1 274:6	138:25 182:13	302:20 307:18
42:19	<b>separately</b>	185:20,24 186:7,11	<b>showed</b>
<b>select</b>	21:19 26:19 239:18	186:14,16,21 187:15	174:7 213:3 239:7
98:17	<b>septem</b>	187:19,25 188:6,11	<b>shower</b>
<b>selected</b>	151:8	189:4,7,10,12,19	267:18 270:18,24
194:5 243:16	<b>september</b>	190:6,13,25 191:1,3	<b>showing</b>
<b>selecting</b>	83:6,8 151:4,8,10,11	<b>sexual</b>	14:7 15:9,21 221:19
99:16 253:5	151:23 153:16,20	134:3	226:5 272:11 274:1
<b>sell</b>	154:5,7,8,14 155:1	<b>shane</b>	275:16 279:4 298:17
24:11 27:18 29:3,8	173:9 177:6 178:3,7	2:11 7:25 11:9,17	<b>shown</b>
162:9 208:12	272:12,18 273:3,18	14:21 58:18 63:15	156:12 184:2 259:9
<b>seller</b>	275:19 276:1,8,24	84:2 294:24 312:18	265:4
24:11 36:18,19	277:4 281:15,23	<b>share</b>	<b>shows</b>
<b>selling</b>	<b>series</b>	250:25 253:8,19	105:7 146:23 147:15
53:8 125:22	11:15 223:6,8 274:8	<b>shared</b>	147:18 167:17
<b>sells</b>	<b>serve</b>	269:20	170:14 171:24,25
204:14 208:15 244:5	56:11	<b>sheet</b>	173:16 181:8,12
<b>semester</b>	<b>served</b>	81:2 164:9,18 218:14	182:12 183:10
56:16	56:7	224:4 229:17 234:17	184:15 209:12 221:7
<b>seminar</b>	<b>server</b>	<b>sheets</b>	225:8,12 226:17,19
50:20	99:13	165:5	226:20,24 236:4
<b>seminars</b>	<b>serves</b>	<b>shifting</b>	239:16 240:5,12,24
53:16	238:9	262:16	246:22 248:10
<b>send</b>	<b>service</b>	<b>shooter</b>	262:18,22 263:13
312:13	27:18 62:5	289:25	264:20 274:7 276:6
<b>senior</b>	<b>services</b>	<b>shops</b>	281:13,17,19 284:15
25:4,7 26:2,7,18,20	24:17,20 26:16 28:14	255:24	289:6 298:24
63:25	63:7 255:9	<b>short</b>	<b>shut</b>
<b>sense</b>	<b>session</b>	44:2	210:24
12:22 21:3 59:6 61:23	4:5	<b>shorthand</b>	<b>sic</b>
66:25 95:14 99:5	<b>set</b>	315:22	71:16
112:21 118:17,24	15:3,14 19:7 52:4 58:9	<b>shortly</b>	<b>side</b>
127:9 233:5,8 244:1	84:7 98:14 100:10	14:23 121:25	40:22 43:16 47:6
299:8	140:10 150:3 154:24	<b>shot</b>	48:12 97:1 248:9
<b>sent</b>	158:12 173:15 209:4	184:1	<b>significant</b>
15:4 214:9	213:6 222:4 279:3	<b>shoulder</b>	280:3
<b>sentence</b>	<b>setting</b>	17:14	<b>similar</b>
22:9 49:20 50:1 85:12	59:22	<b>show</b>	72:9 81:21,24 82:1,6
93:6 95:23 103:19,21	<b>seven</b>	14:20 15:11 51:21	198:20,23 199:14,25
104:3 107:11 111:2,3	44:22,22 236:10	69:24 155:20 160:14	200:15 205:23 210:8
112:4 113:8,17 118:8	<b>sevenmonth</b>	180:8 182:2 183:9,17	272:13,15 290:11
136:20 143:22	273:16	191:25 192:17	292:15 296:12
231:20	<b>seventhranked</b>	210:10 220:7 231:1	<b>similarly</b>
<b>sentences</b>	227:17	240:23 249:3 259:6	188:25 189:1
51:1	<b>sex</b>	259:13 260:9 264:25	<b>simple</b>



158:18 176:17,22 205:11 <b>simplicity</b> 136:7 <b>single</b> 130:2,4,18 131:12,23 132:6,11 140:14,21 143:24 262:1 <b>sit</b> 310:20 <b>site</b> 29:2,19,25 30:1,2,4 31:1,3,6,8,10,13,19 31:25 32:5,7,8,10,15 32:19 35:16 39:12 48:18 52:9,11,14 53:2,3,3,6,12,19 59:22 60:16 63:10 69:10,16,24,25 70:1 70:14 74:5,13 75:1 77:10 80:12 82:19 83:2,21 87:10 91:23 93:25 96:21 99:14,18 99:24 100:22,22,24 101:3,6,21 102:4 103:1,2 104:5,7,13 104:21 105:3,14 107:19 108:9,17,18 108:19 112:23 116:7 116:15,16,24 117:11 117:12 122:15 123:7 124:24 125:5,10 126:10 127:5,18,22 128:1 129:17 130:3 130:24 131:16,18 132:9 134:1,2,12 135:14 136:1 137:1 138:12 140:14,18,21 141:4 142:8,9 143:18 143:19 144:2,6,11,12 159:8,19,22 160:3 189:11 192:13 193:22,23,25 194:16 194:17 196:5,8,16 198:20 201:18 204:8 213:12,15 217:3	222:21 227:17,23 228:10,15 232:15 233:6 238:6 242:24 244:3 247:4 255:8,11 255:16,19 260:10 261:17,20 267:19,25 271:1,6 272:1,4 280:3 <b>sites</b> 23:22 31:23 32:20,23 33:1,6 34:21 51:22 52:18,24 53:1 54:18 54:22 55:10 57:6,15 58:14,16,19 61:8 63:7 69:13,22 70:4,5 70:9 72:10 74:9 75:7 96:20 99:7,19 101:25 103:13 105:13 106:1 107:12,15 108:14,15 109:1 110:5,10,22,23 124:13,20,22 125:17 125:23 126:4,17,20 126:24 127:13 129:11 134:15 135:2 142:16,24 143:1,3,4 143:8 144:3,4 158:3 158:13,15 159:3 160:17 189:16,19 194:12 196:1,7,13,22 197:1,7,9,12 198:24 199:5,13,23 200:24 202:6 205:7,11,22,22 206:9 209:25 210:11 212:17,23 214:6,15 214:21 215:4,18,22 228:3 238:4,24 246:6 259:16 261:18 267:15,17 270:16,18 270:20 275:9 280:6 310:12 <b>sitting</b> 129:20 132:3 <b>situated</b> 188:25 189:1 <b>situation</b> 31:1,11 36:1 99:6	100:15 104:12,21 106:23 132:12 188:23 192:6 307:14 <b>situations</b> 32:18 35:25 44:16 105:9,12 245:14 <b>six</b> 44:21 47:7 145:18 147:19 150:7,9 156:20 194:5 195:2 197:14 241:14 258:17 259:16 260:6 <b>sixmonth</b> 266:20 273:16 <b>sixth</b> 1:1 <b>size</b> 89:25 99:13 258:24 260:9 265:3 <b>skews</b> 239:3 240:9 <b>slate</b> 200:7 <b>slide</b> 17:15 <b>slight</b> 220:23,23 <b>slightly</b> 99:3 120:1 237:7 250:12 285:7 <b>small</b> 4:23 19:25 70:12 92:10 122:15 263:22 <b>smaller</b> 125:17,22 126:4 <b>smith</b> 3:12 7:22,22 301:3,8 301:12,20 302:14,18 312:12 <b>social</b> 30:2 222:24 <b>soft</b> 71:14 <b>software</b> 66:18,21 71:16 <b>sold</b>	66:19 104:7 128:1 138:22 160:22 174:22 218:21,24 251:3 <b>solely</b> 23:4 105:14 135:22 145:4 <b>solicit</b> 27:13 <b>solutions</b> 7:12 8:3 313:1 <b>somebody</b> 24:13 32:4 44:16 67:8 67:23 73:11 163:9,18 185:18 191:24 201:20 203:8 204:14 205:17 296:24,24 <b>someones</b> 29:7 <b>somethings</b> 124:7 <b>soon</b> 312:14 <b>sorry</b> 17:5,13 21:24 28:23 30:11,13 37:6 39:9 40:5,8 44:13 54:13 82:10,13 85:4 87:9 88:18 97:17 101:17 114:9 116:5 121:20 122:16 142:15 143:18 144:4 147:11 148:11 167:21 172:14,18 176:9,10 196:10 197:19 209:23 217:17 225:18 231:15 236:5 236:5,11 240:1 242:19 246:18 272:23 273:1,11 277:7 295:4 296:4 299:18 301:5,8 302:12 305:3 306:12 <b>sort</b> 95:24 183:3 245:21 292:24
---	---	--	--

<b>sorts</b> 60:20 257:20	152:11 160:8 183:18 206:14 215:15	<b>standing</b> 123:2 188:3	<b>step</b> 63:16 83:18 139:24,24 170:11
<b>sought</b> 170:5,8 310:17	216:21 246:8 265:18 271:18 276:18	<b>stands</b> 210:3	<b>steps</b> 167:11 179:4
<b>sound</b> 246:17	309:24 310:9	<b>start</b> 14:22 20:14 21:1 44:14 86:22 97:18 102:25 172:19 217:18	<b>stock</b> 120:15 121:7 244:13 250:14,15 251:4,11 251:17 253:15,17,23 254:1,5,12 261:13
<b>sounds</b> 12:15 47:9 134:5 222:13,17 294:14	<b>specifically</b> 34:8 45:16 46:2,8 58:21 64:13 84:25 85:5 93:24 94:2 119:22 129:20 139:23 187:10 201:11,14 207:9 246:11 254:18 269:1 310:7	<b>started</b> 19:1,8 20:15 22:19 194:11 215:9 232:24 232:25 233:2 261:2 288:4 295:3	<b>stocks</b> 119:11 121:12 247:6 251:9
<b>source</b> 194:21 219:18 224:22 224:22 230:14,23 231:2 235:14 244:21	<b>specifics</b> 41:9 60:1,8,11 106:25 131:6 159:24 296:2,2 296:3	<b>starting</b> 14:10 46:24 84:23 167:22 294:21	<b>stopped</b> 295:3
<b>sources</b> 61:15,16 245:25 246:13 252:24 253:1	<b>speeches</b> 22:1 50:20 53:16	<b>starts</b> 49:23 93:1 103:7 107:8 113:5 118:8	<b>store</b> 20:5 37:12 38:1,3,10 38:16 47:19 257:6,13
<b>southern</b> 42:22	<b>spend</b> 133:13 256:21 257:9 257:12	<b>startup</b> 19:20 215:13	<b>stores</b> 37:11,13 255:10
<b>spa</b> 256:3	<b>spent</b> 213:12	<b>state</b> 7:18 16:19 18:23 20:9 111:23 112:3 113:14 165:4 309:21 314:1,6 315:1,5,23	<b>stories</b> 53:5 194:1,3 217:10 238:5 241:8,13,14,15 268:8,9 278:22 288:22 289:2 304:12 304:14,15
<b>space</b> 29:14,23 45:9 102:16 118:14 123:13 145:8	<b>spike</b> 182:12 185:1,3	<b>stated</b> 129:4 236:12	<b>story</b> 44:2 280:19,20 281:1 281:3,5
<b>span</b> 277:14	<b>spitfire</b> 45:3,4 47:7	<b>statement</b> 81:2,3 93:17 114:13 114:15,17 127:2 129:8 218:16 224:6 229:19 234:19 307:4	<b>straight</b> 220:22
<b>spas</b> 256:1	<b>spoke</b> 28:3 51:3,19 57:11 61:8 165:8	<b>states</b> 55:17 227:17 238:10 274:12 275:20,24 278:6	<b>stream</b> 69:15 76:4 77:4,11,16 78:2
<b>space</b> 29:14,23 45:9 102:16 118:14 123:13 145:8	<b>spoken</b> 50:2,24 94:1	<b>statistical</b> 259:7 260:7	<b>streams</b> 233:14
<b>span</b> 277:14	<b>sports</b> 217:3,12 228:19	<b>stayed</b> 23:25	<b>street</b> 2:12 3:6,13 53:9
<b>spas</b> 256:1	<b>sportsrelated</b> 217:7	<b>steep</b> 220:15,18 273:9	<b>strict</b> 33:21
<b>speak</b> 11:17 106:14,16	<b>ss</b> 314:2 315:2	<b>stenographically</b> 315:11	<b>strictly</b> 38:9 105:16 137:21 164:22 165:22 182:1
<b>speaker</b> 29:14	<b>stack</b> 91:10,12,13		<b>studies</b> 19:16 52:8 155:20
<b>speaking</b> 62:12 93:20 117:17 119:17 268:15,24 269:2	<b>stage</b> 38:21		<b>studio</b>
<b>speaks</b> 131:6	<b>standard</b> 195:15		
<b>specific</b> 29:10 30:6 35:13 46:5 46:5 52:8,16 54:24 62:25 64:5,9 65:10 73:7 92:12 98:5 101:23 105:18 106:17 109:19 117:16 133:12 141:13 143:13			

<p>45:4,6  <b>study</b>                      52:11  <b>stuff</b>                      34:18 58:25 192:9  <b>stumbleupon</b>                      128:16 129:3  <b>subject</b>                      33:15 58:2,25  <b>subpoenaed</b>                      301:3  <b>subscription</b>                      53:10 196:24 243:17                      243:18  <b>subscriptionbased</b>                      194:16 242:25  <b>subsequent</b>                      94:3  <b>subsequently</b>                      130:25  <b>substances</b>                      13:22  <b>sue</b>                      43:25  <b>sued</b>                      184:24  <b>sufficient</b>                      88:24 210:19 260:9  <b>sufficiently</b>                      64:24  <b>suggest</b>                      164:17 165:4  <b>suggesting</b>                      295:19  <b>suite</b>                      2:13,20 3:7,14 7:13                      313:2  <b>sullivan</b>                      3:4,11 7:19,23  <b>sum</b>                      67:25 259:23 296:15                      297:7  <b>summary</b>                      4:25 146:23  <b>support</b>                      39:16 129:8</p>	<p><b>suppose</b>                      189:13,22  <b>supposed</b>                      44:7  <b>sure</b>                      9:25 11:2,9,13,23 12:2                      13:2,4,18 14:18                      15:23 18:14 21:12,22                      29:1,20 37:16 42:2,2                      44:20 53:13,15 55:2                      55:20 60:3 61:4,15                      61:17 62:1 63:10,14                      66:7,8 71:22 72:6,19                      72:21,24 74:11 79:10                      82:4,11 86:21,24,25                      88:5 89:6,11,13 90:1                      92:17 94:16 95:9                      97:6 98:2 99:1                      102:13,21 105:5                      113:1,20 115:1,12,12                      116:19 133:17                      135:17,17 136:22                      137:9,10 138:3                      139:25 140:5 143:9                      153:25 154:4,23                      165:13,22 167:12                      172:20,20,21 173:3                      177:2,14,24 178:18                      178:19 179:2 185:17                      185:22 187:19 194:8                      199:17 201:19                      203:20 207:7 215:25                      216:23 219:14                      223:25 228:4 230:21                      236:14 240:20,25                      242:24 243:7 246:20                      248:7 251:10,14                      254:3 256:19 259:25                      274:21 275:13                      277:13 286:13                      291:23 298:19                      308:21 312:7  <b>susan</b>                      1:24 2:5 8:3 11:21                      12:16 315:4,21  <b>susans</b></p>	<p>12:14  <b>swear</b>                      8:4  <b>sworn</b>                      8:7 315:7  <b>syngenta</b>                      45:23 46:7  <b>synonymous</b>                      31:6 87:15 88:14  <b>system</b>                      217:13,19</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>t</b>                      4:10 5:1 6:1  <b>table</b>                      58:8 91:11  <b>tags</b>                      125:23  <b>take</b>                      8:23 10:6,14 11:10                      17:10 24:3 63:14                      64:24 72:14,16 81:4                      92:14 111:24 120:10                      122:19 125:3 132:18                      187:8 193:14 210:24                      227:3 236:6 262:9,10                      262:17 270:11 288:2                      308:20  <b>taken</b>                      2:2 10:4 38:18 81:8                      134:5 152:18 162:15                      187:10 193:17                      262:12 308:23                      315:10  <b>takes</b>                      41:24 180:22 188:14                      249:16  <b>talk</b>                      9:24 12:18,19 13:12                      16:3 23:17 51:5,16                      51:17,22 53:1 57:5                      83:18 116:22 133:11                      139:22 140:4,6                      143:10 167:9 179:17                      194:4 201:15 216:22</p>	<p>251:6,8 295:5,5  <b>talked</b>                      13:11,14,16,17 25:17                      39:22,23 49:5 51:1                      63:6 87:6 103:17,18                      104:2 140:7 144:18                      150:16 194:17                      199:10 206:3 246:2                      269:16 271:9 309:4                      309:10 310:22  <b>talking</b>                      13:1,9 23:18 30:11                      40:18 52:9 64:10                      67:2 75:25 84:24                      99:7 102:22 109:20                      113:9 117:17 126:1                      126:24 133:14                      135:12,13,15 146:25                      155:23 156:4 163:21                      169:10 190:5,10,10                      210:4 231:20 237:14                      267:10 268:1,18                      270:13 293:17  <b>talks</b>                      50:7 65:24 66:3  <b>tampa</b>                      2:12,14  <b>tampabay</b>                      201:1,21  <b>tangible</b>                      51:18 131:2  <b>tape</b>                      83:1,20 84:4,6,12,12                      138:25 182:13,14                      185:20,24 186:7,11                      186:14,16,21 187:15                      187:19,25 188:6,11                      189:10,12,19 190:6                      190:13,25 191:1,3  <b>tapes</b>                      189:4,7  <b>target</b>                      205:1 206:14,20  <b>task</b>                      64:9 76:15 162:15  <b>taught</b></p>
--	--	---	--

10:25 57:10 103:23 104:2	180:23 278:22 279:15 307:8	90:16 91:17 94:4,5,5 95:4,10 96:14 98:9	187:5
<b>teach</b>	<b>terrifying</b>	98:14 99:10 101:24 104:4,11 114:4	<b>theres</b>
52:18,24 57:3	292:2	119:16 123:4 124:8 126:1 127:2 128:12	20:16 23:24 26:4
<b>teaches</b>	<b>terry</b>	131:19 133:13 135:6 135:9 136:14 137:5	34:23 39:7,14 40:6
56:19	1:4 7:7 8:1	138:16 140:17 141:6 147:18,22 149:16	48:19 49:7,22 50:19
<b>teaching</b>	<b>tested</b>	150:21,21 154:8 156:24 157:3 158:20	51:2 52:22 53:4 54:5
56:7,11,17,24	72:22	165:20,20 168:16,19 174:17 180:17	57:7 61:14,18 62:14
<b>team</b>	<b>testified</b>	181:12 183:3 184:15 189:20 192:13 196:2	64:8 65:5 66:19
57:22	8:8 9:5,18 11:8 35:20	198:3,6 199:11 203:17 204:13,23	71:16 73:25 77:10
<b>tech</b>	38:9,16 42:6,25	205:23 206:18 211:19 212:1 217:5	83:14 85:16 89:5
121:12	311:9	222:3,14 223:7 226:7 231:16 232:6,12,14	96:13 97:8 98:8
<b>technique</b>	<b>testify</b>	235:13,25 236:4,17 237:7 238:10 239:4,6	115:9,12,18 118:8
52:20,22	9:13,16 13:23,25	240:10,10,14,22 243:9,22,25 246:9	120:10 131:5 136:20
<b>techniques</b>	64:25 65:5 139:13	247:23 248:1,18,23 250:1,17 251:2,12,20	141:7 144:20 147:2
4:18 10:1 11:1 54:25	315:8	258:4,17 264:8,16,20 265:4,21 266:4,17	147:25 150:7,7,9
91:20	<b>testifying</b>	270:9,23 273:9 276:10 279:12	153:10 162:11
<b>technology</b>	10:2,5,19,20,23 11:1	282:23 285:7 286:8 286:17,23 287:2,5,7	167:13 168:14
20:2 22:5 74:1	41:21	289:4,10 290:8 296:17 297:8 298:20	174:21 176:16,21
<b>television</b>	<b>testimony</b>	299:1,9,11,12 302:7 303:24 310:15,20	182:8,8,8,9,15 183:2
191:25	9:7,8 23:13 25:18	312:7	185:7 188:17 193:13
<b>tell</b>	31:21 37:5,24,25		194:12 196:14
11:11 13:16 29:25	47:17		203:19,19 213:3
33:19 37:6 46:21	<b>text</b>		219:5 220:23 239:4
86:23 92:6 115:25	21:25		240:4,20 241:8 242:5
131:7 150:21 158:8	<b>thank</b>		242:6,7 243:9 252:19
158:20 163:6 164:24	8:15,20 17:15 30:21		254:15 257:15,18,25
166:4 171:9 174:22	86:3 92:7,21 122:22		258:21 259:6,6 260:6
197:12 227:2,3	135:17 205:15 303:3		264:9,15 269:19
240:25 255:7 302:9	312:20,22		270:8 271:23 275:13
<b>telling</b>	<b>thanks</b>		289:5 290:21 292:1
111:1 243:15	41:23 134:10		293:9 311:22 312:7
<b>tells</b>	<b>thats</b>		<b>theyll</b>
11:19	15:12 17:15 18:22,24		14:21 27:17 29:3,6
<b>ten</b>	22:8,16 23:12,14		197:12
23:24 109:9 124:15	25:19 26:3 27:19		<b>theyre</b>
140:21 195:5 261:18	30:7,22 33:3,16		28:10 33:19 34:4 45:9
261:23 264:16	36:20,25 37:19 39:24		46:7 47:7 52:4 68:13
285:12 312:11	40:1 42:24,25 43:8		73:13 75:7 90:18
<b>term</b>	44:9 45:10 47:12		98:12 99:3 119:16
180:15,20 181:2,3,8	48:13 49:14,14 52:24		164:12 166:3 198:14
181:13 182:7 184:17	53:22,24 54:12 55:14		198:24 200:2 215:21
185:16	57:8,8 59:2 66:18,22		216:25 238:4,14
<b>terms</b>	67:7 68:20 69:5		240:25 242:6,13,17
62:9,12,15,18,20	73:14 77:1 78:15		242:23 248:20 249:4
67:13 84:13 123:24	83:4,7,8 88:9 90:2,13		249:21,23 256:21
			270:11,24 283:25

285:10,10 286:10 301:4 <b>theyve</b> 12:10 74:15 160:22 174:22 <b>thing</b> 12:16 63:13 81:20,22 89:5 92:15 140:6 189:5 <b>things</b> 15:9,13 20:22 22:17 40:6 48:13 81:21 82:25 87:2 90:5,20 103:18 113:1,19 186:5 193:8 216:4 217:8,11 219:16 250:7,17 286:4,11 294:20 305:18 309:4 <b>think</b> 10:15 21:14 26:3 33:19 35:24 40:1,10 46:4,12 48:14 51:2 52:4,21 54:11 57:8 58:12,16,20 59:10 62:15 73:17,20 74:10 75:6,10 77:18 83:15 84:22 87:14 88:13 101:24 106:18 107:7 108:14 110:16 111:11 114:3,7,16 115:12 129:4 133:13 137:18 139:3 141:22 144:18 148:8 149:11 150:15 167:5,17 179:17 181:5 182:19 184:2,12 191:10 196:15 199:10 213:1 214:9 216:1,24 219:4 223:16 224:9,17 228:18 229:13 231:19 238:22 240:16,18 257:25 264:14 265:16 267:5 267:24 268:15 269:16 271:11,20 275:1 276:23 281:7	287:24 288:4 295:6 301:20 302:9 305:23 305:24 309:10 <b>third</b> 47:23 118:7 289:9,10 293:10,11 <b>thirdparty</b> 107:9 110:8 129:9 <b>thirty</b> 156:2,4 <b>thomas</b> 56:8,9 <b>thou</b> 237:1 <b>thought</b> 30:11 253:4 256:14 275:1 <b>thousands</b> 194:11 <b>three</b> 20:7 24:21 26:5 31:17 35:21 50:20 60:10 65:22,23 124:15 194:13,20 213:1 236:6,7,18,22 238:24 305:14,18 <b>threeyear</b> 155:25 156:6 <b>threw</b> 295:2 <b>thursday</b> 15:6 214:10 <b>tick</b> 265:1 <b>tie</b> 185:8 203:19 <b>tied</b> 100:23 <b>tight</b> 155:25 <b>time</b> 7:9 9:1 11:11,16,16 12:18 13:7 14:25 16:23 19:4 22:19 24:1 28:13,16 52:23 69:9,9 73:22 81:7	86:24 92:14 93:23 106:6 111:24 117:11 118:10,12 130:12 131:16 132:21 133:6 133:14 143:13 144:7 151:22 153:10,11 154:12 155:21,24 156:6 157:16 161:19 162:21,22 168:3,21 170:18,20 178:4,11 178:15 180:7,16 181:1,9,14 182:6,7 184:3 186:23 188:16 195:4 205:15 218:20 218:23 220:8,10,15 221:7,20 224:11,13 225:15,17 229:24 232:3 233:22 234:24 235:2 249:16 250:5 250:18 253:14 260:25 262:11 265:8 265:15 274:3 275:17 277:14,15 278:2 279:6,11 282:5 291:1 291:9,17 292:18 293:7 297:14 311:24 312:10 313:3 315:11 <b>timelapse</b> 292:1 <b>timepieces</b> 46:15 <b>times</b> 8:25 33:6,8,24 50:23 109:9,10,10 124:15 124:16 140:15,22 141:8 191:10 201:20 256:13 258:17 <b>timing</b> 177:25 <b>timings</b> 178:1 <b>tips</b> 11:2,6 25:17 <b>title</b> 19:22 24:23 25:8,9,20 146:22	<b>titled</b> 111:13 122:14 146:20 289:17 <b>titles</b> 26:1 <b>today</b> 7:11 8:3,15 11:12 13:19,23 14:1,6 15:1 15:8 65:19 67:21,22 67:24,25 79:10,11 114:5 129:21 132:3 133:14 253:9 309:4 309:13,18 311:9 312:21 <b>today's</b> 7:9 67:17 <b>told</b> 18:1 63:15 216:1 285:11 296:4,5 <b>tools</b> 88:10 <b>top</b> 50:19 54:20 59:15,20 61:19 74:12 80:18,20 91:19 93:22 110:6 183:2 188:19 196:17 240:3 242:17 261:18 261:23 288:22 298:17 309:11 310:6 <b>topic</b> 50:3 <b>topics</b> 52:6 222:25 228:20 <b>total</b> 157:25 158:1,13 168:24 248:10,13,19 258:6 259:23 274:3 282:20 284:24 291:7 297:11,20 298:24 300:18 303:5,12,21 304:2,3 <b>touched</b> 53:20 160:7 <b>touches</b> 23:11 <b>touching</b>
---	--	---	--

97:15	<b>train</b>	216:18	312:10
<b>track</b>	14:16,17	<b>trial</b>	<b>turner</b>
60:16 180:19 195:16	<b>training</b>	9:9,10,11	217:13,19
<b>tracks</b>	10:11	<b>tried</b>	<b>turning</b>
180:25 310:14	<b>transact</b>	162:9 259:5	35:19 84:21 118:6
<b>trade</b>	77:1	<b>tripled</b>	146:19 172:13
23:21 48:9,22 67:24	<b>transacting</b>	231:22 232:5	<b>twelve</b>
<b>traded</b>	72:13	<b>true</b>	116:2 144:7 148:3
70:10 109:18 120:13	<b>transaction</b>	69:25 70:3,13 96:24	151:7 152:17
198:3 244:8 247:5	28:10 57:25 58:11,15	113:19 118:19	<b>twelvemonth</b>
261:10	96:22 145:10 217:23	119:18,20,23,25	143:15 148:12 150:13
<b>trademark</b>	218:1 223:13 228:24	158:20 194:23	151:3 152:2 153:12
29:2 42:12,13,15,21	229:2 232:23 233:20	204:23 243:22 249:7	154:25 155:2,9
43:6,7 45:1,2 46:1,4	233:22 234:1	251:20 254:9,11,15	168:16 172:25 178:9
46:12,17,18 48:21	<b>transactional</b>	254:18 260:7 270:9	179:10 220:11
49:2,2 55:12	23:14 26:15,17 28:17	314:7 315:14	221:25 225:18,20
<b>trademarks</b>	28:18 29:1,11 30:12	<b>truly</b>	226:25 227:12 274:7
23:20 32:25 34:11,12	30:18	88:25 89:5 159:5	<b>twenty</b>
42:20 51:23 55:8	<b>transactions</b>	<b>trust</b>	109:9 120:12 221:24
<b>trades</b>	24:4,8 32:21 36:6	150:25	264:17
217:9	59:19 63:9 66:19	<b>truth</b>	<b>twitter</b>
<b>traditional</b>	81:20,23 88:25 93:10	241:1 315:8,8,9	191:22
4:17 91:19 113:5	94:9,12,17 103:16	<b>truthfully</b>	<b>two</b>
<b>traffic</b>	129:6 142:20 195:17	13:23,25	17:21 19:6 20:7,7
52:19 60:22,25 61:7,9	245:15,16,19 246:2	<b>try</b>	22:17 24:2 25:2 27:6
61:21,25 69:14,24	<b>transcribed</b>	12:8 23:6 52:22 61:4	27:11 28:3 31:17
75:13,14,19,21 77:7	315:12	90:12 205:1 206:14	32:18 33:8,23 34:9
78:21 79:1,25 83:13	<b>transcript</b>	271:6 301:21	35:21 40:18 43:1,3
99:18,21,25 100:23	11:22 12:2,7 312:4	<b>trying</b>	46:23 49:11 53:16
101:3,4,9,15,20	315:14	15:20 74:10 83:23	54:5 78:3,11,12,13
110:3 117:9 130:14	<b>transcription</b>	90:22 102:16 124:2,3	87:14 90:20 109:6,10
137:2,2 143:7,19	315:13	124:7 142:4 302:20	129:7 130:12 131:16
144:1,6,10,25 145:4	<b>translated</b>	309:2	147:7 148:9 153:11
162:24 169:13 176:4	78:20 263:1,4	<b>tshirt</b>	159:20 162:21,22
176:16,19,22 177:4,5	<b>translates</b>	27:25 28:1,4,5	168:1,12,21 172:25
177:6,9,10,11,17	199:7	<b>tuesday</b>	177:25 178:4 185:2
178:9 194:24 195:25	<b>traveled</b>	1:17 2:3 7:2	186:5 194:18 226:22
201:21 216:11	46:13	<b>turkel</b>	237:1 274:6 280:7
259:11 260:11	<b>trek</b>	2:10	282:6 283:13 286:3
270:21,21 276:20	8:21	<b>turn</b>	286:10
278:23 280:6 294:17	<b>trend</b>	5:19 21:23 49:18,20	<b>twoday</b>
300:4,5 304:2 307:9	181:18,23 272:19	50:16 86:6 88:16	10:18
307:10 310:9	<b>trends</b>	100:25 103:2 115:23	<b>twoyear</b>
<b>trailing</b>	5:5 55:8 179:17,23	139:22 220:3 240:3	16:22 19:13,14
154:25 155:2 167:14	180:13,14,19 182:3	267:8 288:15	<b>type</b>
167:24 168:15 178:9	182:23 183:16 184:1	<b>turnaround</b>	26:10 93:2 257:24

<b>types</b> 59:17	209:1 230:4 265:2 285:23 302:19	221:11,20 222:1 223:24 224:22	<b>university</b> 16:7,19
<b>typical</b> 36:10 53:11 104:11	<b>understanding</b> 51:21 140:16 172:4,8	225:12,15,19 226:6 226:16,17,21 227:5	<b>unpredictability</b> 113:15 115:10,13,19
<b>typically</b> 48:5 51:10 66:17	206:18 207:10 219:5 284:13 286:14	227:12 228:2 229:6 230:5,15 231:2 232:4	<b>update</b> 39:25
70:24 72:7 89:19	<b>undertake</b> 68:1	234:4 235:5,11,15 236:24 237:8 239:16	<b>upper</b> 157:12 164:5 303:19
104:9 105:4 144:7,19	<b>undertook</b> 106:2	258:15,24 259:1,11 260:3,4,10,16 262:3	<b>upshot</b> 295:12
150:2,5 155:22	<b>undervalue</b> 69:9 96:21	262:23 263:11 265:24 266:15,19,22	<b>uptick</b> 264:8,9,12,16,17
164:20 217:7 245:20	<b>undervalues</b> 76:5	267:6,11 269:12 270:6,13,21 271:21	277:3
249:17	<b>unfortunately</b> 100:13 118:4	272:19,24 274:1,10 275:6,18 277:3,16	<b>upward</b> 220:21
<b>U</b>	<b>unique</b> 62:13 95:18,21 96:9	278:5,8,17 279:4,6,7 279:12 280:3,17	<b>upwards</b> 220:23
<b>u</b>	96:10 97:8,23 98:23	281:14,20 282:20,23 283:17 284:5,6,8,10	<b>use</b> 37:10 38:3 52:14,16
274:13 276:7,9 277:16	100:20 102:4,17	284:12,16,20,24,25 285:1,4,4,5,12,18,19	52:22 63:12 66:11,13
279:9 280:4 281:14	103:13 104:6,22	285:23,24 286:1,6,7 286:19,22,23 287:3,5	69:6 70:20,25 71:24
281:22	105:16 110:12 116:7	287:13,14,16 289:6 289:14 290:7 291:8	71:24 72:3,5,6 77:19
<b>uhhuh</b>	116:12,24 117:3,8,10	292:4,17 293:10 294:9 296:5,15,16	80:7,12 84:13 88:10
11:25	129:13 136:18,19,23	297:1,3,4,4,5,7,8 298:17,24 299:10,17	96:5,22 97:25 98:2,9
<b>uhuh</b>	136:24 137:2 140:11	299:19,23 300:5,8,12 300:19,19 303:5	98:10 99:8 100:10
11:25	140:13,19,22,25	306:7,14,16,19,22 307:1,9,24 308:14,18	109:16,17,22 110:22
<b>ult</b>	141:9,10,11,14,17,20	<b>uniques</b> 154:12 167:14,25	124:23 125:8,12
41:22	142:1,7,10,14,17	168:25 176:6 221:22	131:17 149:25
<b>ultimate</b>	143:7,11,14 146:20	236:4,21 258:18	159:20 160:2 171:10
76:17 145:12 165:20	147:7,9,12 148:1,2	267:20 270:13	186:25 189:25
<b>ultimately</b>	148:20,22,23 149:1,4	274:14 290:23	190:15 195:12 196:1
81:14 82:2,12,14	149:13,15,19 150:12	291:13 299:21	198:18 207:24
83:18,23 99:20 101:4	151:18 152:2,25	<b>united</b> 55:17 227:17 274:12	213:24 246:15
136:3 145:13 199:4	153:15 154:19	275:20,24 278:6	248:21 249:2 255:13
290:18	155:11 156:9 157:11	<b>units</b> 183:20	259:18 260:1 270:11
<b>umbrella</b>	157:21 158:12		296:12 299:2,17,23
48:3	167:19 168:1 169:5,9		300:21
<b>uncertainty</b>	169:12,16 170:2,14		<b>useful</b> 102:4
113:13	170:24 171:4,24,25		<b>user</b> 53:6 75:13,14,19,21
<b>undergraduate</b>	172:5,12 173:8 177:8		77:7 79:1 95:18 97:8
16:6	178:1,8,22 179:8,9		103:13 107:13 110:2
<b>underneath</b>	179:21 180:2 194:24		117:9 126:15,18
184:11	195:25 199:5 207:1,5		127:14,19,22 128:5
<b>understand</b>	207:13 209:4,5 211:8		129:16 136:24,24
8:16 11:18 12:24	211:12,14 216:9		
24:23 31:21 58:22	218:6 219:17 220:8		
66:9,10 71:22 84:16			
84:17 95:2 130:23			
133:23 135:20 137:9			
140:1,9,13 142:4			
143:12 145:17 148:5			

137:2 140:11,13,14 140:21 141:9,10,11 141:14,17,20 142:1,7 142:10,14,17 143:7 143:11 144:1 146:20 147:9,12 148:20,22 149:1,4,13,15,19 156:9 157:21 169:12 178:8 194:24 195:25 200:4,7 209:4 211:8 211:12,14,15 212:16 213:12 216:11 230:15 235:5,11 241:9 258:24 259:1 259:11 260:4,10 270:21,21 285:1,6 286:1,7,22,23 287:3 287:13,14,16 300:5 307:9 310:14	230:5 232:4 234:4 236:24 237:8 238:6 238:12 239:16 240:12 255:18 258:15 260:3,17 267:6,11 269:12 270:13 271:21 272:19,25 273:12 275:18 279:6,7,13 280:3,17 282:4,23 283:1,17,18,21,23 284:1,8,16,20 285:12 310:9	107:9 110:8,21 111:13,16,17 113:6 116:13 118:23 122:14 123:10 128:21 129:2,9,16 131:2 142:25 143:8 143:13 144:11,14,17 144:19,25 145:5,12 146:20 147:22,22 151:5 155:11,15 156:11,12,16 157:1,4 157:12,20 159:9 160:7 172:9 173:23 174:24 185:9,13,19 186:15 191:8,12 194:21,23 197:4 198:2,2,4,5,16 200:5 210:14 213:5,7 218:1 219:1 223:12,18,20 224:15 225:16,17,21 229:2 233:24 234:1 234:11 236:9 239:9 244:21 246:23 252:10 253:6,13,23 254:6,12,13 258:20 259:24 260:11 261:5 261:12,25 262:4 265:20 270:10 287:12 310:24	72:11,18 74:15 76:25 77:5,10,13,13,15,16 77:23,25 81:14,21,25 82:2,7,13,15,17,21 82:22 83:1,5,11,12 83:19,24 85:1,7 94:23 95:13 96:8,11 96:24 97:7,20 98:4 99:19,22 100:23 101:10,11,15 102:8 102:11 104:14 107:15 109:9,13,23 110:1,4,10 116:4,6 116:15,23 117:2,7,9 117:12,20,25 121:12 124:5,7 126:20 128:5 129:11,17 130:8,12 130:14 131:11,19,23 132:5,5,9,13 133:25 134:12,14,17,20,23 135:1,4,7,22 136:4 136:17,24,25 137:1 137:15 138:5,12,12 138:25 139:1,2,9,9 141:9,11,13,19,25 142:8,10,15,16,17,19 147:8,16,18 148:20 148:21,23,25 150:3 155:10 157:6,22 158:1,13,14 159:18 159:22 160:15,15,18 160:19 161:11,13,17 162:12,20,21 164:5 164:21,24,24 165:21 166:4 169:10,11 172:11,15,16,23,24 173:11,12,16 174:7 174:13 175:1,2,4,8,9 175:13,14,19,21,24 176:1,3 178:23 179:2 179:13,15 181:24 182:10 184:16 185:19 186:7,10,14 186:16,21 187:24,25 188:24 189:3,6,9,11 189:21 190:16 191:3
<b>users</b> 75:23 76:7,10,14,20 95:22 96:9,10 97:23 98:23 101:2 102:17 103:2 110:12 112:10 112:11,17 116:8,12 116:16,24 117:4,10 128:4 129:13 135:13 136:18,19 138:15 143:14 147:7 148:1,2 148:24 150:12 151:18 152:2,25 154:20 155:11 157:11,15 158:12 159:2 167:20 168:1 169:5,9,16 170:2 171:5 173:9 177:8 178:2,22 199:5,6,20 201:3,7 207:1,5,14 208:18,22,23 209:5,8 210:7,8 212:19 213:8 213:14 214:6,20 215:3 216:9,18 218:6 220:8 221:20 223:24 225:12,15,20 226:6 226:16,17,22 227:6 227:12 228:2 229:6	<b>uses</b> 208:3 <b>usual</b> 268:14 304:20 <b>usweekly</b> 200:8	<b>valuationrelated</b> 123:18 <b>valuations</b> 26:9 44:13 48:1 59:14 60:5 63:7 106:5,20 118:13 143:5 157:5 160:13,24 161:4,7 198:7 223:22 <b>value</b> 18:13 23:15 24:12 28:6,9 29:3,5,8 31:19 32:4,15,25 33:1 38:2 42:20 44:8,17 46:14 51:16,22 52:18 58:10 58:14 66:15 67:6,13 67:18,20,22 69:14,17 69:23,25,25 70:12,13	<b>V</b>
	<b>v</b> 40:20 <b>val</b> 139:2 <b>valuable</b> 75:21 199:6 201:8 <b>valuation</b> 4:15,18,21,22 9:13 23:2,13 24:24 25:10 26:10,21,23 27:3 28:12 29:19,25 36:3 36:13 38:5 40:17 42:12 43:6,20 44:18 44:21,21,22,23 45:13 45:15 50:4,13,24 51:6,10,13 52:9,12 52:14 53:18,19 54:17 54:24 55:8 56:8 57:4 57:16 58:8,19 59:23 61:23 63:4,5 65:23 72:19 73:10 83:9,14 86:7 88:2,8,8,11 91:20 92:12 97:13 99:3 103:24 104:9 105:5,14 106:16		



191:4 192:3,4,8,16 192:22 193:2 199:3 200:7,14,16 204:6 210:18 211:13 217:16,17,20 227:23 228:2,3 230:15 237:18 244:11,13,13 244:16 245:7 248:10 248:13,17,19,22 249:8,22 250:5,13,16 250:20 251:11 252:11,17 253:22 254:1,2,17 275:14 290:9 291:16,19 292:11,18 293:1,11 294:2,7,10 295:15,23 296:7,8 297:20,21 298:1 299:7,18,20,24 300:2,6,10 303:12,15 303:18,21 304:3,9 305:13,25 306:17,24 307:2,19,25 308:13 308:16,19 310:24 311:1,5	80:12,22 81:20 94:19 96:19 98:22 109:17 109:18 110:23 113:9 130:2,24 131:15,18 155:17 163:16 164:14 188:5,11 189:24 191:16 205:21 290:12 292:25	78:4,6,17 79:2 82:16 82:19,21,22 83:6,10 83:13,25 84:11,12 87:16 88:2 130:9,13 130:15,25 133:6 134:2 135:22,25 136:2,5 137:1,3,16 138:16,19,22 139:2,9 150:12,15 151:5 152:3 162:24 168:2,3 168:5 169:16 170:3,6 170:10,15,18,24 172:6,12,16,17,24 173:2,13 174:14 175:2,4,8,10,15,18 175:19,20,23,23,25 176:2,4,7,12,16,21 176:22 177:10,17 178:12,15,22 179:20 180:3 181:25 182:4 185:7 192:12,13 262:19 268:2,7,16,19 268:24 269:6 281:24 282:5,6,21,25 285:25 286:7,25 287:1 290:12 292:2 300:9 300:10 301:11 303:19 306:7,14,17 306:20,23 307:17,23 307:24 308:15,18 311:3,6 312:16	313:5 <b>view</b> 49:23 124:23 125:1 141:22 155:5 180:5 284:10,12 285:12,15 <b>viewed</b> 286:25 287:1,2,21,25 297:25 304:25 306:19 307:17 308:18 <b>viewer</b> 270:6,7 284:25 285:25 286:7,19 287:6 297:1 297:3,4,4,5 <b>viewers</b> 100:20,24 101:2 102:4 104:6 105:16 179:8,9 227:17 269:8 274:1 274:10 278:5,8,17 279:4 285:5 304:25 306:19 308:18 <b>viewership</b> 95:18 105:5 <b>views</b> 62:14,14 170:14,24 171:25,25 172:5,12 179:21,25 180:2,10 262:3,18,23 263:1,4 263:11,14,16 264:13 264:16,17,21 265:1 265:10,11,24 266:15 266:22 267:2 268:10 282:20 284:6,6,25 285:18 289:6,14 290:7 291:8 292:4,17 293:10 296:6,15,16 297:7,8 298:17,25 299:10,17,19,24 300:8,19,20 303:5 304:16 305:12 306:7 306:14,16,22 307:1 307:24 308:14 <b>violation</b> 38:15,15 <b>visit</b> 213:12 267:6
<b>vanityfair</b> 200:16 <b>variable</b> 98:5 <b>variables</b> 188:17 259:23 260:1 <b>variation</b> 85:9 <b>variations</b> 98:9 <b>various</b> 50:5,25 61:14 109:15 191:20 <b>vast</b> 69:9 143:25 <b>vastly</b> 213:18 269:18 310:3,8 <b>ventura</b> 7:13 313:1 <b>venture</b> 245:21 <b>verify</b> 230:11,16,19,21 <b>versa</b> 259:12 <b>versus</b> 7:7 9:22,23 36:22 43:9 45:12 48:8 <b>vhl</b> 193:3 <b>viacom</b> 193:2 <b>vice</b> 259:12 <b>video</b> 7:10,11,15 12:1,1 66:16 75:13 76:21	<b>videographer</b> 3:19 7:5 8:2,10 17:13 58:17 81:6,9 132:20 133:5,17,20 193:16 193:18 211:2,5 262:13 288:6,9 301:14,16 308:22,24 312:23 <b>videos</b> 53:5 194:1 216:2 282:25 <b>videotape</b> 7:6 <b>videotaped</b> 1:15 2:1 132:23 133:2		

<p><b>visited</b>  213:15 214:15 261:18  271:21 272:1,4  282:24 283:4,7  297:14</p> <p><b>visiting</b>  214:15 216:19</p> <p><b>visitor</b>  140:19,23 235:5</p> <p><b>visitors</b>  104:22 135:13 140:25  153:15 212:13  221:11 222:1 266:19  267:22 269:10 275:6  275:9 277:3,17  281:14,21 283:17,24  284:8 294:10 304:22</p> <p><b>visits</b>  140:14,18,21 285:19  296:24,25</p> <p><b>vitae</b>  4:13</p> <p><b>vogt</b>  2:11 7:25,25 30:5,22  33:11,13,17 40:25  41:3,8,17,24 58:2,5  58:22,24 59:7 69:20  76:22 77:8 79:3,16  79:22 80:9,17 83:3  83:22 84:5 87:18  88:6,18 94:15 95:1  96:2,16,18 97:3,11  98:7,19 100:5 101:7  101:22 102:6,12,20  103:3 104:23 105:17  105:22 106:3,12,24  107:20 108:23  109:14 112:20,25  113:22 114:2,11,21  115:5,11,16 116:11  116:18 117:1,14,21  118:1,20 119:1,8,21  120:6,16,21,25 121:4  121:8,14 122:10  124:25 125:6,11  126:3,9 127:1,6,15</p>	<p>127:20 128:2,9,23  129:14 130:10,20  131:14,25 132:7,15  132:18 138:2,9  141:16 142:2 145:1,6  157:14 158:6,16,25  159:11,23 160:5  161:1,6,12,21,25  162:7,13,18 163:12  163:20 164:1,10,19  165:6,12,18 166:12  166:17,22 167:1  169:19,21 175:12  177:13,19 178:13,25  181:20 184:6 185:5  185:21 186:1,9,18  187:3,17,22 188:2,5  188:8 190:2,18,24  191:6 192:10,19,24  193:4,11 197:20  198:11 199:9 200:11  201:4,9,23 202:9,14  202:19 203:3,12  204:2,9,16,22 205:3  206:1,16,22 207:6  208:20 209:2,10,16  210:2 220:16 227:19  232:7 242:22 243:5  243:21 251:13,19  253:25 254:8,14  256:24 258:22  260:15 261:6 264:1  265:7 266:25 268:4  268:20 274:23  279:19 283:20  285:21 286:5,12  287:15,23 290:10,16  291:6,21 292:12,21  293:3,13,23 294:5,12  294:16 295:2 296:11  296:18 297:10,23  298:2 299:5,15,22  300:3,25 301:7,9  302:21 303:7 304:4  305:2,7,15 306:1,8  311:21 312:1,3,19</p>	<p><b>voiceidentify</b>  7:17</p> <p><b>volume</b>  7:5 312:24</p> <p><b>vs</b>  1:7 4:22 122:15</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>w</b>  3:13</p> <p><b>wait</b>  46:24 86:24 175:4  183:8 294:18</p> <p><b>walk</b>  179:4</p> <p><b>walked</b>  176:18</p> <p><b>wall</b>  53:9</p> <p><b>want</b>  9:3,17 13:2,13,18  18:11 20:7 25:2 29:3  29:4,6 31:17 45:18  45:25 46:9 58:24  60:19 63:14,16 65:9  66:20 71:22 77:16  83:7 86:21,24 90:2  92:8,9,14,23 107:3  111:24 140:6 142:3  150:19 164:3 172:21  174:22 178:6 194:4  206:6 208:22 209:1  216:21 219:15  240:17 242:23  247:10 279:16  294:23 301:22 302:1</p> <p><b>wanted</b>  18:20 27:25 29:15,20  32:5 107:4 159:18</p> <p><b>wanting</b>  24:10,11,12</p> <p><b>wants</b>  24:13 51:12</p> <p><b>warned</b>  12:16</p> <p><b>washington</b>  3:15</p>	<p><b>wasnt</b>  80:4 87:20 128:11,25  138:14 141:3 148:17  173:7 268:1 310:17</p> <p><b>watch</b>  135:25</p> <p><b>way</b>  61:5 70:15 72:23 88:2  91:15 114:16 124:8  128:8,11 151:17  154:15 158:1 160:10  163:5 173:6 186:20  193:13 200:6 206:13  213:7 218:8 219:7  226:11 231:1 258:7  270:1,1,6,8 271:23  274:2,13 278:1 284:3  291:17 292:19 294:3  298:21 302:8,10,15</p> <p><b>ways</b>  76:6,9 185:20 186:8  186:17 191:19</p> <p><b>weak</b>  198:8,14</p> <p><b>wealthier</b>  212:17</p> <p><b>web</b>  23:22 29:2,19,25 30:1  30:2,3 31:1,3,6,8,10  31:13,19,23,25 32:5  32:7,8,10,15,19,20  32:23 33:1,6 34:21  35:16 39:12 48:18  51:22 52:9,11,14,18  52:24 53:1,2,3,3,6,12  53:19 54:18,22 55:10  57:6,15 58:14,16,19  59:22 60:16 61:8  63:7,10 69:10,13,16  69:22,24,25 70:1,4,5  70:9,14 71:24 72:10  74:5,9,13 75:1,7  77:10 80:12 82:19  83:2,21 87:10 91:23  93:25 96:20 99:7,14</p>
---	--	--	---

99:18,19,24 100:22 100:22,24 101:6,21 101:25 102:4 103:1,2 103:12 104:5,7,13,21 105:2,13,14 106:1 108:14,14,17,18 109:1 110:4,10,22,23 112:23 116:7,15,16 116:24 117:12 122:15 123:7 124:13 124:20,24 125:5,10 125:17,22 126:4,10 127:13,18,22 128:1 129:11,17 130:3,24 131:16,18 132:9 134:1,2,12,15 135:2 135:14 136:1 137:1 138:12 140:14,21 141:4 142:8,9,16,24 143:1,3,4,8,18,19 144:2,3,4,11,12 158:3,13,15 159:3,8 159:19,22 160:3,17 189:11 192:13 193:22,23,25 194:12 194:16,17 196:5,7,8 196:13,16,22 197:7,9 197:12 198:20,24 199:13 201:18 202:6 205:7,11,22,22 206:9 208:6,8,11 209:25 212:17 213:15 214:6 214:15,21 217:3 222:21 228:9,10 232:13 233:6 241:4 244:3 246:6 247:4 255:8,11 260:10 261:17,18,20 271:1,6 275:9 280:3,6	4:23 <b>wed</b> 158:3 213:21 <b>wedding</b> 202:24 203:18,20 204:14 <b>weddings</b> 203:2,5,6,10,15,16 <b>week</b> 39:6 40:10 184:18,21 184:23 185:1 283:7 <b>weekly</b> 183:19 <b>weeks</b> 185:2 <b>wells</b> 17:3,7,20 18:1 22:15 <b>went</b> 16:6,24 17:22 18:22 20:13 83:13 130:14 137:2 138:15 167:11 169:2 176:4 177:10 195:5,20 221:11 295:22 <b>weston</b> 25:15 41:16 54:3 91:21 <b>weve</b> 13:10,17 14:8 29:13 49:5 52:16,17 61:9 61:17 62:6 63:1,1,2 63:11 70:5 94:2 103:18 144:22 145:7 154:4,5 160:7 191:9 191:10 216:15 230:14 309:4,17 <b>whack</b> 312:8 <b>whats</b> 73:15,16 99:4 137:12 169:20 219:10 256:11 274:16 302:11 309:7,16 312:2 <b>whos</b> 185:18 203:8	<b>wife</b> 89:16 <b>willing</b> 67:23 77:18,21 <b>wipo</b> 4:15 86:8 <b>wish</b> 51:20 100:14 104:17 <b>witness</b> 2:1 4:2 8:4 10:2,5 11:1 15:11,23 24:17,20 28:14 33:12,18 41:2 41:4 42:2 58:4,6 69:21 76:23 77:9 79:4,17 80:10,18 83:4,23 86:13 87:19 88:7 91:5,12,15 94:16 95:2 96:3,17 96:19 97:12 98:8,20 100:6 101:8,23 102:7 102:13,21 103:4 104:24 105:18,23 106:4,13,25 107:21 108:24 109:15 112:21 113:1,23 114:3,12,22 115:6,12 115:17 116:12,19 117:2,15,22 118:2,21 119:2,9,22 120:7,17 120:22 121:1,5,9,15 125:1,7,12 126:4,10 127:2,7,16,21 128:3 128:10,24 129:15 130:11,21 131:15 132:1,8,16 138:3,10 141:17 142:3 145:2,7 157:15 158:7,17 159:1,12,24 160:6 161:2,7,13 162:1,8 162:14,19 163:13,21 164:2,11,20 165:7,13 165:19 166:13,18,23 167:2 169:23 175:13 177:14 178:14 179:1 181:21 184:7 185:6 185:22 186:2,10,19	187:4,18 188:9 190:3 190:19,25 191:7 192:11,20,25 193:5 193:12 199:10 200:12 201:5,10,24 202:10,15,20 203:4 203:13 204:3,10,17 204:23 205:4,19 206:2,17,23 207:7 208:21 209:3,11,17 210:3 220:17 227:20 242:23 243:6,22 251:14,20 252:5 254:1,9,15 256:25 258:23 260:16 261:7 264:2 265:8 267:1 268:5,21 274:24 277:10 283:21 285:22 286:6,13 287:16,24 290:11 291:7,22 292:13,22 293:4,14,24 294:6,17 295:4,10 296:12,19 297:11 298:3 299:23 300:4 301:18,22 302:16,19,23 303:8 304:5 305:3,8,16 306:2,9 308:21 311:22 312:2,5,9,15 312:22 315:6,18 <b>woman</b> 23:7 <b>wont</b> 15:21 92:6 295:4,5 <b>woodland</b> 7:13 313:2 <b>word</b> 92:4,4 114:25 169:22 180:12,12 227:4 <b>words</b> 109:6 125:12 135:11 167:21 254:21 259:8 267:24 269:2,14 270:12,23 304:6,11 <b>wore</b> 19:21
---	--	--	--

<p><b>work</b>  17:2,24 18:25 20:6,8  20:18,19 23:23 24:17  26:10,12,15,17 27:4  27:9 28:17,20,24,25  29:1,11,18,19,23  30:7,12,16 31:12  32:21 33:3 40:3,24  57:15,19,24 59:23  61:6,10 63:3,4,5  65:20 70:17 72:23  104:19 145:7 146:24  160:17 254:24  311:16</p> <p><b>worked</b>  17:1,3 19:2,4,15,24  22:20 59:18 65:12  73:21 102:16,18,24  103:1 111:18 144:22  271:1,4</p> <p><b>working</b>  17:17 61:6</p> <p><b>works</b>  95:5 204:14 205:25  206:13 253:3</p> <p><b>workshop</b>  4:15 86:8</p> <p><b>world</b>  55:12</p> <p><b>worried</b>  41:9</p> <p><b>worse</b>  205:14</p> <p><b>worth</b>  54:8 125:18 126:13  148:11 164:4</p> <p><b>wouldnt</b>  79:7 108:18 125:4  156:3 204:17,20  208:18 249:12  254:24 275:7 297:19  299:8</p> <p><b>wound</b>  32:15</p> <p><b>wrap</b>  20:21</p>	<p><b>write</b>  56:2 129:16 153:21</p> <p><b>writes</b>  124:12 126:16</p> <p><b>writing</b>  26:9 64:18</p> <p><b>written</b>  10:20 50:3,24 91:21  111:20,21 124:9  191:10 301:10</p> <p><b>wrong</b>  167:18 302:11</p> <p><b>wrote</b>  26:13 55:22,24 84:24  198:19</p> <hr/> <p style="text-align: center;"><b>X</b></p> <hr/> <p><b>x</b>  4:1,10 5:1 6:1 128:5</p> <p><b>xoom</b>  120:24</p> <p><b>xyz</b>  127:21</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>yahoo</b>  6:8 247:1,3,9 249:4  251:23,24 252:9,25  253:19</p> <p><b>yard</b>  89:25</p> <p><b>yeah</b>  8:18,20 11:3 14:13  20:10,22 27:22 30:14  30:17 33:12 39:24  40:9 44:22 47:3,3,12  49:10 54:11 81:24  83:15 86:21 90:11  91:8,13 92:18 111:1  118:11 132:19 134:9  134:9 136:14 137:5  147:11,12,13 153:7  153:24 154:1,7 158:5  170:9 173:5 174:1  184:11 188:4,4,4,7  190:12 192:6 196:11</p>	<p>196:12 201:20  203:19 205:19 212:5  217:17 222:6 227:15  227:15 238:16  242:10 247:8 248:7  251:7,8,25 252:6  255:4 262:10 269:24  273:15,18 289:9  290:21,25 292:9,10  294:23 295:1 301:25  302:3 303:1,17</p> <p><b>year</b>  5:20 10:16 16:13  18:18 28:20,25 29:12  51:4 65:9 233:9  248:21 249:15</p> <p><b>years</b>  17:21 20:7 24:21 25:2  31:17 35:21 60:10  78:3,11,12,14 103:11  104:20 106:9 112:6  116:2 156:2,4 195:5  223:3 239:5 261:4</p> <p><b>yelp</b>  146:5 255:4,7,11,13  255:15,20 256:5,18  256:20 257:3,3,15,18  257:21,23 258:1,2,5  258:14 260:13,23,24  261:10,15 262:7</p> <p><b>yelps</b>  261:25 262:4</p> <p><b>yield</b>  72:9,11</p> <p><b>york</b>  42:23,25 43:4</p> <p><b>youd</b>  21:20 49:18 57:14  68:2,5,7,9 72:14,16  90:8 98:10 110:15  151:21 160:2 165:22  179:7 188:15 208:25  220:17 241:15  242:19 294:9</p> <p><b>youll</b>  11:16,20 39:7 67:16</p>	<p>252:19 295:7 302:15  312:3,6</p> <p><b>young</b>  239:3</p> <p><b>youngblood</b>  46:15,19</p> <p><b>younger</b>  238:14 240:9</p> <p><b>youre</b>  14:15 28:16 46:24  48:9 53:7 64:24 75:9  81:20 82:1,3,9 86:23  89:12 90:14,14,19,22  90:23 94:19 95:3,6  95:11 96:7 97:19,24  98:3,6 99:6 102:22  105:21 106:22  108:11,12 110:16  119:14,23 122:24  131:6 137:11,14,22  137:25 138:6,18,21  138:24 139:4,4  154:21,23,24 155:23  173:14 177:2,16,17  177:24 181:5 203:21  205:7,21,21 210:4  211:16 225:1 249:3  249:15 253:9 257:7,9  259:22 264:17,23  271:4 284:10,13  285:3 302:20 307:14  310:22</p> <p><b>youtube</b>  124:21,22</p> <p><b>youve</b>  8:23 11:8 24:1 28:20  29:11 35:20 39:4  48:22 50:23 51:14  56:16 62:2 63:7 92:2  95:9 97:8 126:7  158:10,23 164:16  179:12 191:8 241:4  255:11 271:1,5,9  293:17 309:25</p> <p><b>yup</b>  122:6</p>
--	---	---	--

<b>Z</b>			
<b>0</b>	16:21 81:7,10 151:23 267:9 300:16 304:13 313:3,4	136:6,10,11,15,16 153:8 174:14 291:5 291:20 303:19 305:13,25 311:7	35:19 50:17,19 157:11 239:5 240:16 277:19
<b>000</b>	<b>111</b> 4:20	<b>152</b> 221:13	<b>180</b> 5:8 219:21,23 220:1
<b>000someodd</b>	<b>1148</b> 171:16 262:18 288:16 289:2,5	<b>159</b> 227:10	<b>181</b> 5:9 221:2,4
<b>01148</b>	<b>1149</b> 288:16 298:13,13 300:12,16	<b>167</b> 20:25	<b>182</b> 5:5,11 221:15,17,19
<b>07</b>	<b>117</b> 21:23	<b>17</b> 21:24 34:23 47:22 49:20 50:16 156:17 173:12,17 252:12	<b>183</b> 5:6,13 224:25 225:3,5
<b>08</b>	<b>12</b> 132:21,22 143:18 151:19 167:14,24 169:1,2 193:16 217:1 221:13 275:22 276:1 276:8 278:7 281:17 281:22	<b>170</b> 4:12 21:1,4,6,8 34:23 143:17 217:17,21	<b>184</b> 5:14 226:1,3,17,19
<b>09</b>	<b>120</b> 233:23,24	<b>170some</b> 15:4	<b>185</b> 5:16 226:11,13,20
<b>092</b>	<b>12012447ci011</b> 1:7	<b>171</b> 4:13 5:3 38:25 39:2,5	<b>186</b> 5:18 231:10,12,16
<b>1</b>	<b>122</b> 4:22	<b>172</b> 4:15 86:11,15,17 87:4 88:17	<b>187</b> 5:21 235:19,21,23 237:4
4:24 7:6,6 14:10 39:22 40:7 47:4 118:7 126:5 133:1,6,18,21 151:9 154:4,5,7,14 155:1 181:5,12 182:15 183:13 184:16 211:21 221:8 226:19,20 246:22 266:23 292:5,6,8 302:23 304:2 312:24	<b>13</b> 154:6 211:20 217:1 231:3,16 247:16,17 278:2	<b>173</b> 4:17 91:2,4,18	<b>188</b> 5:22 239:10,12
<b>10</b>	<b>1315</b> 1:10	<b>174</b> 4:20 111:5,7,10 118:6 122:10	<b>189</b> 5:24 241:19,21,23
1:18 2:3 7:3,10 248:17	<b>133</b> 4:5	<b>175</b> 4:22 122:7,9,14	<b>1899</b> 3:13
<b>100</b>	<b>135</b> 112:17	<b>176</b> 4:24 146:8,10,12 151:22 282:15	<b>18th</b> 253:18,21 254:7
2:12 180:24,25	<b>136</b> 258:16	<b>177</b> 5:3 171:14,18 262:17 264:8 265:4 288:2,12 298:14	<b>19</b> 149:18,21 156:23 157:23 159:21
<b>1001</b>	<b>14</b> 153:5,8 168:25 169:3 277:19 284:20	<b>178</b> 5:5 182:19,21,23 183:9,12 288:3	<b>190</b> 6:3 245:1,3,5 246:22
3:7	<b>146</b> 4:24	<b>179</b> 5:6 183:22,24	<b>1900</b> 2:13
<b>10k</b>	<b>14th</b> 184:17,18	<b>18</b>	<b>191</b> 6:6 247:10,13 250:7 250:24
197:11 242:9,14	<b>15</b>		<b>19103</b> 3:8
<b>10ks</b>			<b>192</b> 6:8 252:2,4,8
249:14			<b>1925</b> 2:3,19 7:16
<b>10th</b>			<b>193</b> 6:11 272:6,8,10
225:22			<b>194</b>
<b>11</b>			

6:13 273:21,23,25 275:25 276:4,5 <b>195</b> 6:15 274:17,19 275:16 275:25 277:6 281:13 <b>196</b> 6:17 277:7,9,14 278:14 <b>197</b> 6:19 277:21,23,25 281:19 <b>198</b> 6:21 278:24 279:1,3 <b>1999</b> 112:19,24 <b>19th</b> 239:15 252:9,12 253:18,21 <b>1st</b> 151:3 152:18 274:2	16:21 <b>2009ish</b> 19:3 <b>2010</b> 16:21 269:4 <b>2011</b> 20:16 151:3,9 154:4 221:8,12 228:21 272:11 274:2 278:1 279:5,22 <b>2012</b> 78:7 83:8 150:16 151:4,8,12,23 152:18 153:1,15,16,19,20 154:5,6,14,14 155:1 155:1 173:9 177:6 178:3,7 184:12,18 217:13 220:11 221:8 221:21,23 263:19,25 266:23 272:12,18,18 274:10 275:19 276:6 276:8 277:4,16 278:9 279:8 281:15,23 284:19 288:24 289:13,13 290:2,7,20 291:14,18,18 293:22 294:1 296:6,22 297:19 298:9,25 299:10 300:19 303:5 305:20 307:17,21,23 <b>2013</b> 9:3 55:7 78:10 83:9 108:6 152:5,13,19 153:1 159:19 161:24 163:11,17 164:4,25 173:10 177:7 178:7 184:12,13 226:6,17 227:5 274:3 278:2,6 278:9 279:5,22 281:20,21 282:1 298:11 308:3 <b>2014</b> 9:4,4,17 54:7 108:3 184:13,13 223:4 226:7,16,20 227:8 233:17 235:8 236:10	236:19 239:17,17,18 244:17 246:23 247:25 248:22 249:9 250:19 252:19 <b>2015</b> 1:17 2:3 7:2,9 236:2 236:15 252:9,12 314:9 315:18 <b>202</b> 3:16 <b>2031600</b> 2:22 <b>205</b> 7:13 313:2 <b>20750</b> 7:12 313:1 <b>20th</b> 184:18 <b>21</b> 4:12 86:6 250:25 <b>215</b> 3:9 <b>219</b> 5:8 <b>21st</b> 236:2 <b>22</b> 88:16,19 <b>221</b> 5:9,11 <b>225</b> 5:13 <b>226</b> 5:14,16 <b>23</b> 247:15,19 <b>231</b> 5:18 <b>232</b> 157:2 <b>235</b> 5:21 <b>239</b> 5:22 <b>23rd</b> 247:25 248:17 249:13	250:8 <b>24</b> 1:17 2:3 7:2 <b>241</b> 5:24 <b>245</b> 6:3 <b>247</b> 6:6 <b>24842</b> 39:9 <b>24th</b> 7:9 <b>25</b> 149:4,7 156:9 157:22 159:21 193:19 221:24 231:22 <b>252</b> 6:8 <b>25th</b> 152:6,13 <b>26</b> 252:12 <b>260</b> 248:14 <b>27</b> 124:10 248:14 <b>272</b> 6:11 <b>273</b> 6:13 <b>274</b> 6:15 <b>277</b> 6:17,19 <b>278</b> 6:21 <b>28</b> 39:9 171:3 173:10,19 174:10,12 175:25 176:11,15,19 177:1,8 177:11 <b>280</b> 244:18 <b>285</b> 164:5 165:1 166:6
---	--	--	---

164:5 165:1 166:6 <b>286</b> 157:2 161:24 163:10 163:17 303:22 <b>29</b> 81:7 <b>295</b> 228:22	<b>33602</b> 2:14 <b>34</b> 149:18,21 156:23 157:23 159:21 <b>35</b> 85:13 86:5 308:6 <b>350</b> 157:13 <b>357</b> 170:14 171:7 172:1 262:24 282:21 290:23 <b>36th</b> 315:18 <b>37</b> 110:17 132:21,22 <b>38</b> 110:17 122:5 <b>39</b> 4:13 122:17 <b>394</b> 290:7,14,21	292:6,8 <b>43</b> 112:9,14,18 219:18,21 220:1 <b>44</b> 149:5,9 224:23 225:5 <b>4432199</b> 2:15 <b>445</b> 136:6,10 174:14 311:7 <b>46</b> 244:22 245:5 301:14 301:17 <b>47</b> 235:15,23 <b>479</b> 164:6,25	3:16 <b>50plus</b> 238:9 <b>52</b> 110:18,25 111:12 <b>53</b> 110:18,25 122:4,5,6 122:16,24 173:10 174:12 175:25 176:15,19 177:8,11 308:22 <b>54</b> 157:5,8,9 174:8 <b>540</b> 221:13 <b>57</b> 247:18,19 <b>572</b> 170:14 171:7 172:3 262:24 282:21 <b>578</b> 153:6,7 <b>58</b> 262:14 <b>587</b> 298:20,21 302:6 <b>5millionplus</b> 276:21 <b>5th</b> 269:3
<hr/> <b>3</b> <hr/>	<hr/> <b>4</b> <hr/>	<hr/> <b>5</b> <hr/>	<hr/> <b>6</b> <hr/>
<b>3</b> 39:21 40:19 47:4 49:19 56:6 92:11 120:10 146:19 219:13 224:21 231:2 235:4,14 244:20 246:24 252:19,22 262:14 283:17 291:1 293:1 304:24 <b>30</b> 151:11 154:6,8,14 155:1 182:16,18,24 280:13 <b>30th</b> 83:6,8,9 151:4,8,23 152:18 153:16 154:5 159:19 161:24 163:11,17 164:4,25 173:9,9 177:6,7 178:3,7,7 221:8 226:19,20 <b>31</b> 244:18 246:24 249:18 250:19 288:7 <b>31st</b> 236:9 244:17 246:23 248:22,25 249:1,9,12 250:1,2,3,9 252:19 253:5,11,12,16 254:6 290:20 <b>32</b> 288:10 <b>3202</b> 1:25 2:5 315:4,21 <b>33</b> 182:15	<b>41</b> 149:5,9 211:3 <b>42</b> 81:10 211:6 <b>424</b> 2:22 <b>426</b>	<b>50</b> 85:13 86:6,12,17 117:11,13 223:5,11 238:13 <b>500</b> 153:5 195:15 <b>5081125</b>	<b>60</b> 307:2 308:16 <b>64</b> 211:24 <b>65yearold</b>

23:7	303:1		
<b>661</b>	<b>84</b>		
298:18	227:7 231:23		
<b>687</b>	<b>850</b>		
298:18,20,22	223:12,17		
<hr/>	<b>86</b>		
7	4:15		
<hr/>	<b>878</b>		
45:23 47:7 169:3	289:14 300:14		
171:9,15 179:16	<hr/>		
180:1 181:6 183:13	9		
274:12 276:1,7 278:7	<b>9</b>		
281:22 305:12,23	84:22 103:6 107:5,8		
<b>70</b>	122:4 164:5 228:22		
276:12	237:5 279:10		
<b>700</b>	<b>90</b>		
170:24 222:11	52:4,23		
<b>71</b>	<b>90067</b>		
170:21 266:15	2:21		
<b>71month</b>	<b>91</b>		
263:16,23	4:17		
<b>729</b>	<b>92</b>		
298:18	156:14 162:6 164:6,25		
<b>75</b>	166:5		
128:17,20 156:13	<b>938</b>		
<b>788</b>	165:1 166:6		
153:5	<b>95</b>		
<b>798</b>	258:9		
170:25 266:18	<b>9889773</b>		
<hr/>	3:9		
8	<b>989</b>		
4:4 44:11,15 46:20	151:23		
47:8 67:3 75:11	<b>995</b>		
84:22 85:4 153:8	136:5,9 173:23 311:6		
168:25 169:4 170:9			
177:7 178:10 303:4			
<b>80</b>			
237:11			
<b>800</b>			
2:20			
<b>813</b>			
2:15			
<b>821</b>			
170:25			
<b>83</b>			