

# EXHIBIT 5

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

TERRY GENE BOLLEA professionally  
known as HULK HOGAN,

Plaintiff,

vs.

Case No. 12012447CI-011

GAWKER MEDIA, LLC, et al.,

Defendants.

**DEFENDANTS' DEPOSITION  
DESIGNATIONS FOR BRETT GOLDENBERG**

Defendants Gawker Media, LLC, Nick Denton, and A.J. Daulerio, through their undersigned counsel, hereby serve their designations from the February 18, 2016 deposition of third-party witness Brett Goldenberg that they intend to offer as testimony, via video or otherwise, in their case-in-chief. In addition, Defendants intend to offer as evidence the exhibits identified in the designated deposition testimony.

Depending on the nature of the testimony and evidence offered by plaintiff Terry Bollea in his case-in-chief, Defendants reserve the right not to offer the testimony reflected in the following deposition designation and to designate additional deposition testimony for rebuttal.

<b>Deposition of Brett Goldenberg, February 18, 2016</b> <b>Page: Line</b>	<b>Objections, If Any</b>
<b>Page 4:1 - 4:10</b> 1 In the year two thousand sixteen (2016), on this 2 eighteenth (18th) day of February, PERSONALLY CAME AND 3 APPEARED: 4 5 BRETT GOLDENBERG, date of birth being January 14, 6 1986, residing at 5012 Jean Briand, Montreal, Quebec 7 H3W 1T7; 8 9 WHO, after having made a Solemn Affirmation, doth 10 depose and say as follows:	

**Page 7:7 – 9:2**

7 Q- Who is your employer?

8 A- So it's MindGeek Canada Enterprises, which is  
9 9219-1568 Canada Inc.

10 Me ANTHONY PENHALE

11 in-house counsel, MindGeek:

12 Quebec.

13 A- Sorry, excuse me, Quebec Inc.

14 Mr. MIKE BERRY:

15 Q- Is that the address or the name of the company?

16 A- That's the name of the company.

17 Q- And what is your... for short, can we just call it

18 MindGeek Canada?

19 A- MindGeek Canada, yeah.

20 Q- What is your title with MindGeek Canada?

21 A- So my title is director of product management.

22 Q- And what are your responsibilities as director of

23 product management?

24 A- So my responsibilities are I manage a team of

25 product managers that implement features into Web

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1 sites, I manage the marketing team, as well as a

2 data and analytics team.

3 Q- Does MindGeek Canada operate a Web site called

4 "Pornhub"?

5 A- No, we provide services to the company that

6 does.

7 Q- What services do you provide?

8 A- So, similar to what I just explained, so product

9 management services, marketing services, data

10 analytics. Those are the ones that I'm familiar

11 with.

12 Q- What is Pornhub?

13 A- So Pornhub is a video-sharing platform that, you

14 know, specializes in adult... adult content.

15 Q- And by "adult content", do you mean pornography?

16 A- Yes.

17 Q- Can somebody... from your responsibilities with

18 MindGeek Canada then, you are familiar with the

19 content on Pornhub? Is that right?

20 A- I do not directly oversee the content, but I am

21 familiar with it.

22 Q- Can somebody watch pornography for free at

23 Pornhub?

24 A- Yes.

25 Q- How much pornography can somebody watch for free

<p>Page 9  1 on Pornhub?  2 A- As much as they want.</p>	
<p><b>Page 9:10 – 11:10</b>  10 Q- Are you familiar with a video that’s posted on  11 Pornhub that’s titled, “Kim Kardashian Sex Tape  12 with Ray J”?  13 A- Yes, I am familiar.  14 Q- Is that video posted on Pornhub?  15 A- Yes.  16 Q- I’d like to go ahead and mark Defendants’ Trial  17 Exhibit 574, which is a screenshot from a Web  18 page. Would you mind showing the witness  19 Defendants’ Exhibit 574? It’s a screenshot that,  20 at the top, says, “Kim Kardashian Sex Tape With  21 Ray Jay-Pornhub.com”.  22 Exhibit 574  23 A- All right, I have it.  24 Q- Are you familiar with this Web page?  25 A- Yes.  Page 10  1 Q- What is it?  2 A- This is a video page, and the video would be, “Kim  3 Kardashian Sex Tape With Ray J”, as it’s titled  4 there.  5 Q- And this is a Web page that is on Pornhub,  6 correct?  7 A- Correct.  8 Q- Is there a video that’s posted on this Web page?  9 A- It’s not visible in the screenshot, but yes, there  10 would be a video there.  11 Q- So, if I understand what you’re saying, if a  12 person went to this Web page, there would be a  13 video posted on...  14 A- Correct.  15 Q- ... this Web page? What is that video?  16 A- So that is the “Kim Kardashian Sex Tape With Ray  17 J”.  18 Q- Are you familiar with the video that’s posted on  19 this page?  20 A- Yes, I’m familiar with it.  21 Q- How long is the video that’s posted on this page?  22 A- I don’t know the exact length.  23 Q- Can you approximate?  24 A- It’s around...  25</p>	

<p>Page 11  1 Mr. SHANE VOGT  2 on behalf of the Plaintiff:  3 Objection.  4 A- ... five (5) minutes long.  5 Mr. MIKE BERRY:  6 Q- What is contained on that video?  7 A- There would be sexual acts with Kim Kardashian and  8 Ray J.  9 Q- Does the video include graphic sexual content?  10 A- Yes.</p>	
<p><b>Page 11:24 – 13:2</b>  24 Q- Does the video show Kim Kardashian performing oral  25 sex?  Page 12  1 A- Yes.  2 Q- Does the video show Kim Kardashian receiving oral  3 sex?  4 A- Yes.  5 Q- Does the video show Kim Kardashian having sexual  6 intercourse?  7 A- Yes.  8 Q- Is the video in colour?  9 A- Yes.  10 Q- Does it include close-up images of Ms.  11 Kardashian’s vagina?  12 A- I don’t know.  13 Q- Does it include close-up images of Ray J’s penis?  14 A- Yes.  15 Q- Does it include close-up images of Ray J and Ms.  16 Kardashian engaging in oral sex?  17 A- Yes.  18 Q- Does it include close-up images of Ray J and Ms.  19 Kardashian during sexual intercourse?  20 A- Yes.  21 Q- How much does Pornhub charge people to watch the  22 video that’s posted on the Web page that’s marked  23 as Defendants’ Trial Exhibit 574?  24 A- Nothing.  25 Q- I’d like to mark as Defendants’ Trial Exhibit 272,  Page 13  1 a video that is approximately five (5) minutes  2 long.</p>	

**Page 13:21 – 17:4**

21 Q- Mr. Goldenberg, you've had an opportunity to  
22 review the video on Defendants' Trial Exhibit 272?

23 A- Yes.

24 Q- What was on that video?

25 A- There were sexual acts between Kim Kardashian and  
Page 14

1 Ray J.

2 Q- Did it appear to be substantially similar to the  
3 video that's posted on the Web page that we looked  
4 at previously?

5 A- Yes, to my knowledge.

6 Q- Did you notice any differences?

7 A- To my knowledge, no.

8 Q- Looking at the video, does it refresh your  
9 recollection of whether there were close-up images  
10 of Ms. Kardashian's vagina?

11 A- Yes, there were.

12 Q- There were images...

13 A- Yes.

14 Q- ... of her vagina?

15 A- Yes.

16 Q- Going back to the screenshot of the Web page  
17 that's been marked as Defendants' Exhibit 574...

18 A- M'hm. Yes.

19 Q- ... looking at that screenshot, there's a line  
20 midway through the first page that says "Views";  
21 do you see that?

22 A- Yes, I do.

23 Q- What does "Views" mean on this Web page?

24 A- That means how many times the page was loaded.

25 Q- How many times the Web page was loaded or the  
Page 15

1 video?

2 A- The Web page.

3 Q- I'll represent to you that this screenshot was  
4 made on or about March eighteenth (18th), two  
5 thousand and fifteen (2015). How many views of  
6 this Web page were there as of that date?

7 A- A hundred and five million seven hundred and  
8 seventy-one thousand a hundred and nineteen  
9 (105,771,119).

10 Q- Do you know how many people actually watched the  
11 video?

12 A- I don't know how many would be unique views.

13 Q- Do you know how many people of those views would

<p>14 have actually watched the video?  15 A- The full video?  16 Q- Or any aspect of it.  17 A- I would... I don't know the exact amount. Someone  18 could have loaded the page and left without  19 watching it.  20 Q- Does the video automatically play when the page is  21 loaded?  22 A- Yes, it does.  23 Q- Next to the portion of the Web page that says  24 "Views", right next to it it has the word "From".  25 Do you see that?  Page 16  1 A- Yes.  2 Q- And next to the word "From", it says "Vivid  3 Celebs".  4 A- Yes.  5 Q- Do you see that?  6 A- Yes.  7 Q- What does that mean?  8 A- That means the username or the channel that  9 uploaded the video.  10 Q- Can you explain what you mean by that?  11 A- So, when a video is uploaded to Pornhub, the  12 username is displayed there. If it's official...  13 Q- And here...  14 A- Sorry, if it's an official channel, then it will  15 say the channel name instead, which in this case  16 it is.  17 Q- What is the Vivid Celebs official channel?  18 A- That would be the channel that Vivid uploads  19 videos to.  20 Q- So on this page, if I understand what you're  21 saying correctly... I apologize. Does this mean  22 that Vivid Celebs uploaded the video that appears  23 on this Web page?  24 A- Yes.  25 Q- On the video itself, does Vivid's name appear?  Page 17  1 A- Yes, there's a watermark.  2 Q- And that watermark appears throughout the video,  3 right?  4 A- Right.</p>	
<p><b>Page 18:1 – 18:4</b>  1 Somebody can watch this... somebody can  2 watch this video on Pornhub's Web page without</p>	

<p>3 paying any money, correct? 4 A- Yes, correct.</p>	
<p><b>Page 19:23 – 20:2</b> 23 Q- And I think you said MindGeek Canada does not 24 operate the Web site Pornhub; is that correct? 25 A- No, we provide services. Page 20 1 Q- Do you know which company operates Pornhub? 2 A- MG Freesites.</p>	
<p><b>Page 48:3 – 49:6</b> 3 Q- If you look underneath the video box, there's a 4 "Subscribe" button. 5 A- Yes. 6 Q- What does that "Subscribe" button do? 7 A- So, if you were to make a free account on Pornhub, 8 you can sign up with an e-mail and a username and 9 password, and then you could subscribe to channels 10 or users, and then you'll be... you'll see future 11 uploads in your stream when you log in. 12 Q- And does that cost anything, to subscribe to user 13 channels? 14 A- No. 15 Q- And then the boxes of videos that are down on the 16 bottom of the page... 17 A- Yes. 18 Q- ... what are those? 19 A- Those are related videos. 20 Q- And are those related videos that have been posted 21 by the same user? 22 A- Some of them could be, but they're not all... I 23 have no way to tell if they're all from that same 24 user. 25 Q- And what would happen if a visitor clicked on one Page 49 1 of those videos, down underneath the "Video" box 2 we've been talking about? 3 A- It would go to another video page, like the one 4 we're looking at. 5 Q- There would be another video page on Pornhub? 6 A- Correct.</p>	
<p><b>Page 51:6 – 53:10</b> 6 Q- Mr. Vogt had asked you about the "Subscribe" 7 button. 8 A- Yes. 9 Q- On Defendants' Exhibit 574, you see the 10 "Subscribe" button that he asked you about?</p>	



11 A- Yes.  
12 Q- Next to that there's a number; what is that  
13 number?  
14 A- That number is the total subscribers that Vivid  
15 Celebs has.  
16 Q- And what is that number on this page?  
17 A- Oh, sorry. It's fifteen thousand and ninety-nine  
18 (15,099).  
19 Q- So, of... and that's the number of subscribers to  
20 the Vivid Celebs page on Pornhub?  
21 A- Correct. The channel, not page, the Vivid Celebs  
22 channel.  
23 Q- Mr. Vogt had asked you about the videos underneath  
24 the Kim Kardashian sex tape.  
25 A- Yes.

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1 On Defendants' Exhibit 574, if somebody were to  
2 click on the first video, they would see the  
3 Kendra Wilkinson sex tape? Is that right?  
4 A- Based on what I see here, that's the title, they  
5 would see that, yes, "Kendra Wilkinson Exposed Sex  
6 Tape".  
7 Q- What would happen if they pressed the video next  
8 to that?  
9 A- They would be taken to a video titled, "Tila  
10 Tequila Lesbian Sex Tape".  
11 Q- And the one next to that?  
12 A- "Tila Tequila Lesbian Raw Sex Tape".  
13 Q- And there's a video underneath the Kendra  
14 Wilkinson sex tape; what would they be taken to if  
15 they clicked on that?  
16 A- I believe you're referring to "Chyna's New Porno".  
17 Q- And each of those videos could be viewed on the  
18 Pornhub Web site?  
19 Mr. SHANE VOGT:  
20 Objection to form.  
21 A- Correct.  
22 Mr. MIKE BERRY:  
23 Q- Could each of those four (4) videos that we just  
24 discussed be viewed on the Pornhub Web site?  
25  
Page 53  
1 Mr. SHANE VOGT:  
2 Objection to form.  
3 A- Yes, as far as my knowledge at the time of the  
4 screenshot, yes.

<p>5 Mr. MIKE BERRY:  6 Q- Would anybody have to pay to watch those four (4)  7 videos on Pornhub?  8 Mr. SHANE VOGT:  9 Objection to form.  10 A- No.</p>	
<p><b>Page 54:8 – 54:19</b>  8 Q- And on that screenshot, it also has “Montana  9 Fishburne Exposed Sex Tape”; do you see that?  10 A- Yes.  11 Q- Is that a Vivid video as well?  12 A- Yes, I can see the watermark.  13 Q- Is that something that’s available on Pornhub’s  14 Web site?  15 A- Right now, I... I can’t tell you for certain, but  16 at the time of the screenshot, definitely.  17 Q- And somebody could watch that Montana Fishburne  18 video for free on Pornhub, is that right?  19 A- Correct.</p>	
<p><b>Page 56:17 – 56:21</b>  17 You believe that  18 Vivid has the rights to post the Kim Kardashian  19 video on Pornhub, is that correct?  20 A- Yes. I mean, to my knowledge, I believe that they  21 would have the rights to, to post that.</p>	

Dated: February 26, 2016

Respectfully submitted,

THOMAS & LOCICERO PL

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26th day of February, 2016, I caused a true and correct copy of the foregoing to be served via electronic mail on the following counsel of record:

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