

EXHIBIT 3

UNREDACTED VERSION OF DOCUMENT SOUGHT TO BE LODGED UNDER SEAL

1 SUPERIOR COURT OF CALIFORNIA

2 COUNTY OF SAN MATEO

3
4 SIX4THREE, LLC, a Delaware
5 limited liability company,

6 Plaintiff,

7 v.

Case No. CIV 533328

8 FACEBOOK, INC., a Delaware
9 corporation and DOES 1
through 50, inclusive,

10 Defendants.
11 _____

12
13
14 ***CONFIDENTIAL***

15 Deposition of SIMON CROSS

16 London, England

17 Wednesday, October 25, 2017
18
19
20
21

22 Reported By:
23 Leah Willersdorf,
24 ACR, MBIVR, QRR2,
International Participating
Member NCRA.

25 Job No. 10037047

1 spell it I can spell it for you, but it will require
2 me to get out my phone.

3 Q. That's all right. It's not that
4 important. Is that a he or a she?

5 A. It's a he.

6 Q. Did you report to him for the whole time
7 you were the partner engineer?

8 A. Yes. There was a period between me moving
9 from being a partner engineer -- in between being a
10 partner engineer to becoming a strategic partner
11 manager, there was a period of around six months where
12 I was, I guess, technically a developer advocate for
13 Facebook. My duties were essentially the same, but in
14 that six-month period I reported to a different
15 person.

16 Q. Who was the different person?

17 A. A man called James Pearce.

18 Q. Do you recall when the six-month period
19 was?

20 A. Not precisely from memory, no.

21 Q. When is your best memory of when it was
22 approximately?

23 A. Around late 2012, so probably Q4 2012 at
24 some point.

25 Q. Was one of your duties as either a partner

1 engineer or developer advocate going to conferences
2 and making presentations?

3 A. That's correct.

4 Q. About how many of those conferences would
5 you attend and make presentations at?

6 A. In the period I was developer advocate,
7 something around 20 to 30, but I can't be certain.

8 Q. And these are all around the world?

9 A. Yes.

10 Q. Just briefly describe, what did you do at
11 all these developer conferences?

12 A. My role is to help developers understand
13 how the Facebook Platform worked and the types of
14 applications they could build on that platform.

15 Q. When you held those roles from 2010 to
16 2013, did you have people reporting to you?

17 A. There was a period of around six months
18 when I was developer advocate where I had one person
19 reporting to me, but otherwise, no.

20 Q. All right. Who was the person who
21 reported to you when you were developer advocate?

22 A. A man named Conor Treacy.

23 Q. Could you spell his last name for the
24 record?

25 A. T-r-e-a-c-y.

1 **Q. How did you become aware that it was**
2 **possible to develop an app on the Facebook Platform?**

3 A. Around 2007, 2008, there was a lot of talk
4 about -- in the media and in the tech community about
5 Facebook's Platform.

6 **Q. What do you recall hearing about it?**

7 A. I recall understanding that you were able
8 to build applications that lived inside Facebook on
9 the web and that those applications would have access
10 to certain information about people in order to
11 provide a social experience.

12 **Q. What kinds of information did you learn**
13 **that these applications would have access to?**

14 A. I don't remember the full range of
15 information that the applications had access to at
16 that time, but it certainly included the information
17 about people who chose to use those applications.

18 **Q. Do you recall any of the types of**
19 **information you could have access to?**

20 A. You can have access to some of the
21 information about that person's friends and that
22 person's own interests.

23 **Q. Did Facebook, to your knowledge, encourage**
24 **developers to develop applications on the Facebook**
25 **Platform?**

1 A. Facebook certainly encouraged developers
2 to build applications on the Facebook Platform, yes.

3 **Q. What kinds of things did Facebook do, to**
4 **your knowledge, to encourage developers to build**
5 **applications on its platform?**

6 MS. MILLER: Objection; lacks foundation,
7 calls for speculation.

8 THE WITNESS: I don't recall what Facebook
9 was specifically suggesting to developers they build.
10 BY MR. GODKIN:

11 **Q. You don't recall anything?**

12 A. Nothing specific.

13 **Q. What about later? What about 2009/2010**
14 **time frame up until the time you joined Facebook as an**
15 **employee?**

16 A. Facebook had a vision that if applications
17 were social, they would be more valuable to people and
18 better, and that I remember being the overriding theme
19 of their view at that time.

20 **Q. What did you understand Facebook meant by**
21 **using the word "social"?**

22 A. That when you used an application, you
23 would be able to see some of your friends who also
24 used that application and interact with them in some
25 way.

1 **represented to developers that they would have a level**
2 **competitive playing field to build their businesses?**

3 MS. MILLER: Objection; lacks foundation,
4 calls for speculation.

5 THE WITNESS: I don't recall understanding
6 or hearing that message.

7 BY MR. GODKIN:

8 **Q. Okay. All right. Now let's focus on when**
9 **you actually joined the company, starting in 2010.**

10 **At that time, did Facebook encourage developers**
11 **to build applications on the platform?**

12 MS. MILLER: Objection; lacks foundation,
13 calls for speculation.

14 THE WITNESS: Typically, when a company
15 has a developer platform, it will ask -- suggest
16 developers build applications for it.

17 BY MR. GODKIN:

18 **Q. And was that true in the case of Facebook?**

19 MS. MILLER: Same objections.

20 THE WITNESS: I was part of an
21 organization that would have suggested to developers
22 that they build on the Facebook Platform, yes.

23 BY MR. GODKIN:

24 **Q. And why, to your knowledge, did Facebook**
25 **suggest to developers that they should build**

1 joined the company in September of 2010.

2 Did you represent to the public that developers
3 would have access to the Full Friends List?

4 MS. MILLER: Objection; asked and
5 answered.

6 BY MR. GODKIN:

7 Q. You can answer.

8 A. If access to a user's Full Friends List
9 was available at that time, I would likely have
10 represented to developers that that was available at
11 that time.

12 Q. Did you represent to developers that they
13 would have access to Friends Permissions?

14 A. If the Friends Permissions were available
15 at that time, I would have likely represented to
16 developers that those permissions were available at
17 that time.

18 Q. Did you represent to developers that they
19 would have access to the News Feed API?

20 A. If the News Feed API was available at that
21 point, I would have represented to developers that
22 they would have access to the News Feed API.

23 Q. Do you know when the News Feed API became
24 available?

25 MS. MILLER: Objection; asked and

1 entire document at that time.

2 Q. When you joined the company in September
3 of 2010 and were speaking with partners and speaking
4 at developer conferences and the like, did you ever
5 speak about the Statement of Rights and
6 Responsibilities?

7 A. When you're working with developers, you
8 make it clear to them that by integrating with
9 Facebook's Platform, they are agreeing to certain
10 terms and conditions, which include the SRR, yes.

11 Q. Did you encourage them to read it?

12 A. We would generally have made sure that
13 developers were aware that those documents were what
14 they were agreeing to when they build against the
15 Facebook Platform.

16 Q. Did you make them aware that they would
17 have to click through or click-indicate their
18 agreement to the document when they became a
19 developer?

20 A. Every developer -- my understanding at
21 that time was that in order to be classified as a
22 developer, to build an application, you would have had
23 to click through and agree to that document.

24 Q. Did Facebook require platform developers
25 to have an end-user license agreement for their own

1 counting applications or people or companies,
2 for example.

3 Q. All right. Let's say you're counting
4 applications. Approximately how many were there in
5 2014?

6 A. I don't have a way of giving you an
7 estimate of that number.

8 Q. What about if you're counting people?

9 A. I can say it's probably more than a
10 hundred thousand, but I couldn't give you an accurate
11 sense of what that number actually was.

12 Q. All right.

13 A. I don't recall.

14 Q. To your knowledge and understanding, did
15 Facebook benefit from having all of these third-party
16 application developers developing apps on the Facebook
17 Platform?

18 MS. MILLER: Objection; lacks foundation,
19 calls for speculation and vague.

20 THE WITNESS: I don't have insight into
21 the specific benefits of Facebook -- I can't speak on
22 behalf of Facebook overall at this point. I know
23 that --

24 BY MR. GODKIN:

25 Q. Okay -- go ahead. Finish your answer.

1 A. My personal view is that I was involved in
2 building applications that, because they were
3 integrated with the Facebook Platform, were better for
4 people.

5 **Q. Were they better for Facebook?**

6 A. Facebook is -- when people find value in
7 using Facebook or using applications that are
8 integrated with Facebook, my personal view is that
9 that's likely good for developers, good for people,
10 and good for Facebook.

11 **Q. In what ways was it good for Facebook?**

12 A. People -- my personal view, again, is that
13 people would potentially use Facebook more and use the
14 applications that were integrated with Facebook more.

15 **Q. Did it help the company grow?**

16 MS. MILLER: Objection; lacks foundation,
17 calls for speculation.

18 THE WITNESS: I don't have a way of
19 answering that question in particular.

20 BY MR. GODKIN:

21 **Q. Did you ever make representations at a**
22 **developer conference about how applications were**
23 **helping Facebook?**

24 A. I remember talking to developers about how
25 Facebook was helping developers grow.

1 A. We were talking about Facebook Login.

2 **Q. What is Facebook Login?**

3 A. Facebook Login is the product that
4 application developers can implement to allow somebody
5 to log in to the app with two taps instead of a
6 standard registration flow.

7 **Q. When Facebook announced that the Full**
8 **Friends List, Friends Permissions, News Feed APIs were**
9 **being removed, do you recall whether it stated that**
10 **these APIs were being removed because they were rarely**
11 **used?**

12 MS. MILLER: Objection; compound, vague.

13 THE WITNESS: I don't recall that.

14 BY MR. GODKIN:

15 **Q. To your knowledge -- strike that.**

16 **Were those APIs -- the Full Friends List,**
17 **Friends Permissions, and News Feed APIs, would you**
18 **characterize those as "rarely used" by developers?**

19 A. I wouldn't count them as rarely used.
20 I also wouldn't count them as universally or heavily
21 used.

22 **Q. Do you know, can you approximate how many**
23 **developers used those APIs?**

24 A. What do you mean by the term "developer"?

25 **Q. Third-party application developers who**

1 **were developing apps or have apps on the platform.**

2 A. Help me understand. Do you mean
3 applications or do you mean people or do you mean
4 companies?

5 **Q. Let's say applications.**

6 A. It would have been some thousand-number of
7 applications. I don't recall the specific number. It
8 would have depended upon which permissions were being
9 accessed.

10 **Q. So more than a thousand, less than a**
11 **hundred thousand?**

12 A. That range seems somewhat reasonable to
13 me. I don't recall the specific numbers.

14 **Q. Could it have been more than a hundred**
15 **thousand?**

16 A. It's possible it could have been more than
17 a hundred thousand. I don't know the specifics.

18 **Q. When Facebook announced that these APIs**
19 **were being -- would no longer be available, did it use**
20 **the term "removed" or "deprecated"?**

21 MS. MILLER: Objection; compound, vague.

22 THE WITNESS: I remember us using a range
23 of terms to describe how we would implement these
24 changes.

25 ///

1 **available, did Facebook ever prevent certain companies**
2 **from accessing them for competitive reasons?**

3 MS. MILLER: Objection; lacks foundation,
4 calls for speculation, vague.

5 THE WITNESS: Can you help me understand
6 what you mean?

7 BY MR. GODKIN:

8 **Q. Yes. Did Facebook ever decide that for**
9 **certain companies, it was not going to make those**
10 **permissions available because Facebook was concerned**
11 **about the applications being competitive with**
12 **Facebook?**

13 MS. MILLER: Objection; lacks foundation,
14 calls for speculation, vague.

15 THE WITNESS: It's possible that that may
16 have happened. I don't recall being involved in any
17 specific decisions to remove particular permissions
18 from particular applications. That wasn't my role at
19 the time.

20 BY MR. GODKIN:

21 **Q. After these permissions were removed in**
22 **April 2015, did Facebook permit companies to use them**
23 **on a whitelist basis?**

24 MS. MILLER: Objection; compound, calls
25 for speculation, lacks foundation.

1 THE WITNESS: It's likely that some
2 applications may have had access to some of that
3 information, either on a temporary basis or on a
4 longer-term basis.

5 MR. GODKIN: I'm going to ask the court
6 reporter to hand you Exhibit No. 1.

7 THE WITNESS: Could I take a bathroom
8 break at this point?

9 MR. GODKIN: Yes. Let's take a
10 five-minute break.

11 (Off the record at 1:14 p.m.)

12 (On the record at 1:20 p.m.)

13 (Cross Exhibit 1 marked for
14 identification.)

15 BY MR. GODKIN:

16 **Q. Can you identify Exhibit No. 1, Mr. Cross?**

17 A. Exhibit No. 1 appears to be a blog post
18 from our developer website.

19 **Q. And the website was referred to --**
20 **or strike that.**

21 **What is Operation Developer Love?**

22 A. "Operation Developer Love" is a term that
23 is used by us, by Facebook, at the time, by the
24 Facebook developer team at the time to refer to a
25 range of activities about improving the developer

1 experience on the Facebook Platform.

2 Q. Was the purpose of Operation Developer
3 Love to encourage developers to invest time and money
4 making applications on the Facebook Platform?

5 A. No.

6 MS. MILLER: Objection; lacks foundation,
7 calls for speculation.

8 Go ahead.

9 THE WITNESS: No. No. Operation
10 Developer Love was entirely focused on making the
11 people who are developing for the Facebook Platform
12 happy to be doing so.

13 BY MR. GODKIN:

14 Q. Do you see on the left side -- strike
15 that.

16 This appears to have been written by Sean
17 Quinlan and there's a date of May 22, 2013 on the
18 left.

19 Do you see that?

20 A. I do see that.

21 Q. Then there is a column "Developer News"
22 immediately under the date.

23 Do you see that?

24 A. I see that.

25 Q. Then there is a reference to an archive

1 with dates going back to 2011.

2 Do you see that?

3 A. I see that.

4 Q. Do you know what type of information was
5 included in the archive?

6 MS. MILLER: Objection; lacks foundation,
7 vague as to time.

8 THE WITNESS: Typically, a blog doesn't
9 have an archive as such. A blog just is a record of
10 all of the blog posts posted on that blog over time.

11 BY MR. GODKIN:

12 Q. Do you know whether this archive included
13 blog posts from the various years that are listed
14 there?

15 MS. MILLER: Objection; lacks foundation.

16 THE WITNESS: It's likely that there would
17 have been articles for some of those years, yes.

18 BY MR. GODKIN:

19 Q. Were these articles written by Facebook
20 employees?

21 MS. MILLER: Objection; lacks foundation.

22 THE WITNESS: The majority --

23 BY MR. GODKIN:

24 Q. If you know.

25 A. The majority of articles on this blog

1 would have been written by Facebook employees. It's
2 conceivable that some of the articles may have been
3 written by others, but I have no specific knowledge of
4 this system or this process.

5 **Q. All right. Do you know how many posts**
6 **were written approximately each year, from 2011**
7 **through to 2017?**

8 MS. MILLER: Objection; lacks foundation.

9 THE WITNESS: I have no idea.

10 BY MR. GODKIN:

11 **Q. To your knowledge, did Facebook ever post**
12 **on its developer website before April of 2015 that**
13 **the Full Friends List, Friends Permissions, or**
14 **News Feed APIs were going to be completely removed**
15 **from the Facebook Platform?**

16 A. My understanding is that the changes to
17 the Facebook Platform were announced on April 30,
18 2015.

19 **Q. And so the answer to my question is no?**

20 A. My understanding is that the changes to
21 the platform that you're referring to were announced
22 on April 30, 2015.

23 **Q. That's not my question, Mr. Cross.**

24 **My question was, to your knowledge did Facebook**
25 **ever post on its developer website, before April 2015,**

1 **that it was going to be removing the Full Friends**
2 **List, Friends Permissions, and News Feed APIs from the**
3 **platform?**

4 A. I think I answered that question
5 originally.

6 **Q. What's the answer now; yes or no?**

7 MS. MILLER: Objection; lacks -- asked and
8 answered.

9 THE WITNESS: My understanding is that
10 before April 30, 2015, that was the first moment that
11 the changes you're referring to were announced.
12 Therefore, my understanding is that they were not
13 announced before that on the blog.

14 BY MR. GODKIN:

15 **Q. To your knowledge, did any of the posts on**
16 **the Facebook Developer website, before the**
17 **announcement was made, continue to encourage**
18 **developers to use the Full Friends List, Friends**
19 **Permissions and/or News Feed APIs?**

20 MS. MILLER: Objection; compound, vague as
21 to time, lacks foundation.

22 THE WITNESS: I don't have specific
23 knowledge of every blog post ever posted on that blog.
24 It's possible that the blog post referred to the
25 features that were available in the API at the time

1 number.

2 BY MR. GODKIN:

3 **Q. All right. Facebook also hosted training**
4 **events for developers, correct?**

5 A. We would have held events that helped
6 people understand what they could do with the Facebook
7 Platform, but those would have taken many forms.

8 **Q. All right. What kinds of forms did those**
9 **events take?**

10 A. If you could -- like, if I was working
11 with a particular company, then I may have visited
12 that company's office and helped them understand what
13 they could build against the Facebook API. That
14 might be considered by some to be a training session.

15 Occasionally we might publish a video on the
16 Internet which was a tutorial into how to use these
17 APIs. That might be considered a training session.
18 It depends on the definition of "a training session."

19 **Q. All right. What was the reason that**
20 **Facebook hosted these events?**

21 MS. MILLER: Objection; lacks foundation.

22 THE WITNESS: My role was often to help
23 developers understand what they could/could not build
24 on the Facebook Platform using the features available
25 at that time.

1 educational seminars.

2 Q. So was Facebook providing education to
3 third parties about how to develop applications on the
4 Platform?

5 A. That would have been the purpose of this
6 event, yes.

7 Q. And in the hackathon portion of it, were
8 they actually allowed to work on applications at the
9 event itself?

10 A. If developers -- we created a space for
11 developers to work on things. If they wanted to do
12 so, then they absolutely could.

13 Q. Did Facebook employees assist developers
14 in developing their apps at these events?

15 A. We would have had people who would have
16 helped developers if they had questions, that is
17 correct.

18 Q. I think you said this was part of a --
19 the World Hack was -- strike that.

20 The World Hack took place in more than one
21 location; is that right?

22 A. There were a number of events that make up
23 the World Hack series, yes.

24 Q. Did they all take place in 2012?

25 A. I don't recall exactly when they all took

1 place. They were around the period 2012, 2013.

2 Q. Did you attend all of them?

3 A. I did not.

4 Q. Do you know how many there were?

5 A. I don't recall the specific number. It
6 was likely less than 20, likely more than five, but
7 I don't recall the specific number.

8 Q. And how many did you attend?

9 A. I recall attending something like five or
10 six of these events.

11 Q. So these were around the world, as the
12 name would imply?

13 A. That's correct.

14 Q. Do you know how many developers attended
15 each event approximately?

16 A. The number of developers attending these
17 events would vary between 40 and 150 typically.
18 Something like that. It very much depends on the
19 city.

20 Q. Turn to page 2C, if you would.

21 A. I am.

22 Q. This is, again, a photograph or a
23 screenshot of you, correct?

24 A. The younger, slimmer me, yes.

25 Q. You were explaining to the attendees what

1 **of your speech, October 2012?**

2 A. It was likely accurate, depending on how,
3 like -- depending on how that number was calculated.

4 **Q. Turn to the next page, 2E. Do you have**
5 **that page in front of you?**

6 A. 2E, yes.

7 **Q. Is it correct that on this portion of your**
8 **talk, you indicated that a key part of the Facebook**
9 **Platform was for apps to be able to share stories with**
10 **Facebook and for Facebook to drive traffic to apps?**

11 MS. MILLER: Objection; compound.

12 I'm also going to object to this exhibit
13 to the extent it's just a set of selected screenshots
14 from a talk without any of the actual video, audio, or
15 transcript of the talk.

16 You can answer.

17 THE WITNESS: That's what the logo
18 suggests, and it matches my recollection of why
19 developers were interested in building for the
20 Facebook Platform.

21 BY MR. GODKIN:

22 **Q. When you talked about driving traffic,**
23 **were you referring, at least in part, to being able to**
24 **publish actions to the News Feed or the Wall?**

25 MS. MILLER: Objection; misstates the

1 document.

2 THE WITNESS: Typically, developers would
3 build applications that gave people who use them tools
4 to share content and information back to Facebook.
5 Facebook would make that -- would sometimes make that
6 information or those posts visible to a person's
7 friends, and sometimes those friends would click on
8 the stories and would either land on the app
9 developer's website or sometimes in the developer's
10 app itself.

11 BY MR. GODKIN:

12 Q. Were those features important to enable
13 the applications to gain more users and to grow in
14 popularity?

15 MS. MILLER: Objection; lacks foundation,
16 calls for speculation.

17 THE WITNESS: My understanding is that one
18 of the reasons why developers build for the Facebook
19 Platform is that it would help them reach new
20 audiences.

21 BY MR. GODKIN:

22 Q. Turn to the next page, please, 2F. Is it
23 correct that at this portion of your speech, you were
24 discussing a number of different platforms, including
25 iOS that's reflected here? Do you see that?

1 screenshot would have been to help developers
2 understand that if somebody published a run to
3 Facebook and somebody saw that in News Feed and
4 clicked on it and did not have the Endomondo app
5 installed, then Facebook would direct the user to the
6 App Store to download the Endomondo app.

7 BY MR. GODKIN:

8 Q. Okay. Turn to the next page, 2K. Do you
9 have that in front of you?

10 A. I do.

11 Q. In this screenshot, is it true that you
12 represented to developers that in the last 30 days
13 Facebook had sent users to a native App Store
14 150 million times?

15 A. That's what the text seems to suggest.

16 Q. Do you recall that that's what you said to
17 the developers who attended?

18 A. It's likely that if that was on the slide,
19 I may have said those words or something to that
20 effect.

21 Q. What did you mean by "native App Store"?

22 A. My understanding is that "native
23 App Store" refers to Google Play and the Apple
24 App Store.

25 Q. Was the purpose of this slide that you

1 **showed developers to represent to the developers that**
2 **they could potentially grow their app businesses by**
3 **using the platform?**

4 A. I think that is a fair representation of
5 what we were -- what we would have suggested to
6 developers and what developers would have understood
7 some of the value of the Facebook Platform being to
8 them.

9 **Q. Did the developers have to purchase**
10 **advertising in order to do that?**

11 A. No.

12 **Q. Do you understand what the phrase "organic**
13 **distribution" means?**

14 A. I would love to understand what you think
15 it means.

16 **Q. Well, do you have an understanding? I'm**
17 **more interested in what your understanding is, not my**
18 **understanding. Is it a term you've used?**

19 A. It's a term I've heard before. I have a
20 personal definition for what it means.

21 **Q. What is that?**

22 A. My personal definition, as I understand
23 it, is that that is the distribution an app developer
24 may get from a person's friend -- from somebody
25 sharing information to Facebook that results in a

1 referral or a click to an app developer.

2 Q. Were you, by showing this slide and making
3 this talk at this point in time, telling developers
4 that by using the Facebook Platform, their apps could
5 grow organically as opposed to having to pay for
6 marking and advertising and the like?

7 MS. MILLER: Objection; compound.

8 THE WITNESS: I don't recall the specifics
9 of what I said. The slide does not suggest that that
10 stack refers to organic or paid distribution.

11 BY MR. GODKIN:

12 Q. All right. If you turn to the next
13 page, 2L. Do you have that in front of you?

14 A. I do.

15 Q. The slide behind you says:

16 "So, what's the Facebook Platform for?"

17 And then:

18 "For developers - it's a global growth
19 machine."

20 Do you see that?

21 A. That's what the slide says, yes.

22 Q. Did you use that term, "global growth
23 machine," in your talk?

24 A. If it's on the slide, it's possible that
25 I would have said those words.

1 **Q. Possible or probable and likely?**

2 A. You can make up a definition of
3 "probability" yourself.

4 **Q. What did you mean by "global growth**
5 **machine"?**

6 A. At the time, Facebook was a product, an
7 application used in many countries in the world, and
8 if developers enabled the people who used their apps
9 to share content to Facebook, then it's possible that
10 they would have been able to reach an audience outside
11 of the territory where they built their application.

12 **Q. Turn to the next page, 2M. Do you see**
13 **that in front of you?**

14 A. I do.

15 **Q. It appears behind you that you were**
16 **discussing building, distributing, and promoting apps**
17 **on the Platform?**

18 A. That's what those three words on the slide
19 are, yes.

20 **Q. What did you mean by "distribute"?**

21 A. My recollection of what the term
22 "distribute" meant in this context was the ability for
23 apps that gave their people that used them the power
24 to share information to Facebook could potentially
25 grow the number of people using that application.

1 **Q. Turn to the next page, 2N.**

2 A. Yes.

3 THE WITNESS: I'm really sorry, can I just
4 pop to the bathroom again?

5 (Off the record at 1:52 p.m.)

6 (On the record at 1:54 p.m.)

7 BY MR. GODKIN:

8 **Q. So do you have exhibit -- 2N in front of**
9 **you?**

10 A. That's right.

11 **Q. Do you recall that this was a slide that**
12 **you showed the audience at the Moscow event?**

13 A. I recall this being a slide I would have
14 shown, yes.

15 **Q. Is it correct that you were walking**
16 **developers through different components of the**
17 **Facebook Platform?**

18 A. Part of the value of an event like this to
19 developers is that they can begin to understand how
20 the Facebook Platform works and its various components
21 and how they fit together.

22 **Q. One of the components is Open Graph, which**
23 **is at the bottom left there.**

24 **Do you see that?**

25 A. I see that on the slide, yes.

1 **Q. What did you mean by "Open Graph"?**

2 A. My recollection of the term "Open Graph"
3 was a phrase that Facebook used at the time to define
4 a way of apps sharing structured -- sorry -- of people
5 using apps, and those apps able to share structured
6 information back to Facebook about people's activity
7 in those apps.

8 **Q. You included some different buckets there,**
9 **including places, events, photos, friends, et cetera.**

10 **Do you see that?**

11 A. I see those on the slide.

12 **Q. Then turn to the next page, 20. Do you**
13 **see that?**

14 A. I do, yes.

15 **Q. Is it true that on this slide you were**
16 **demonstrating to developers how to query the Full**
17 **Friends List at the code level?**

18 A. I --

19 MS. MILLER: And I'll object that this
20 exhibit is blurry.

21 THE WITNESS: Yes, this exhibit's pretty
22 blurry. What it seems to suggest is I was showing the
23 developers how to call the friends edge of the Graph
24 API.

25 ///

1 BY MR. GODKIN:

2 Q. Am I correct that you're looking at -- do
3 you see on the left there, it says "Graph API" and
4 then "FQL Query"?

5 A. I do see that.

6 Q. Immediately under that, it says "Get" and
7 there's a dropdown menu there?

8 A. I do see that.

9 Q. Then immediately to the right, do you see
10 the "slash, friends" after some numbers, correct?

11 A. I do see that. Well, those numbers are my
12 Facebook user ID.

13 Q. All right. So you were demonstrating how
14 to query your friends list, correct?

15 MS. MILLER: Objection; asked and
16 answered.

17 THE WITNESS: I was demonstrating how to
18 call the friends edge of the Graph API.

19 BY MR. GODKIN:

20 Q. And by calling the friends edge of the
21 Graph API, what does that do for a developer?

22 A. What that edge returns depends today on
23 the version of the Graph API they're calling.

24 Q. At the time you made this demonstration,
25 what did it accomplish?

1 A. My recollection is that calling the
2 friends edge of the Graph API would have returned an
3 array of objects, and those objects would represent
4 all of the friends that the calling user had on
5 Facebook.

6 Well, actually, not all of the friends. Up to
7 all of the friends.

8 **Q. And explain the reason for that**
9 **qualification.**

10 A. The Facebook Platform has always included
11 settings for people who could opt out of having their
12 information admitted by the API. So it's possible and
13 has always been possible, to my understanding, that an
14 API such as this would not necessarily return the
15 user's complete Friend List.

16 **Q. Because some of the friends might have**
17 **opted out, correct?**

18 A. That's correct.

19 **Q. Turn to the next page, 2P. You're**
20 **continuing your demonstration here, correct?**

21 A. It seems so.

22 **Q. And you're showing developers all the**
23 **different kinds of data they can access about a user's**
24 **friends, and that's the dropdown menu that we see on**
25 **the left there?**

1 MS. MILLER: Objection; misstates the
2 document.

3 THE WITNESS: What this document shows is
4 that I was most likely showing developers some of the
5 information they could access about an app using a
6 person's friends.

7 BY MR. GODKIN:

8 Q. And the information includes things like
9 music, notes, locations, and photos, correct?

10 A. Actually, I just want to re-answer the
11 previous question. It's unclear from this document
12 whether or not I am actually showing the access to an
13 app-using person's friends' photos or the app-using
14 person's photos. It's not clear to me from this
15 screenshot which of those it is. Just to be clear.

16 Q. All right. Then if you turn to the next
17 page, 2Q.

18 A. That's correct.

19 Q. Were you walking the developers through
20 the process of requesting different permissions here?

21 MS. MILLER: Objection.

22 THE WITNESS: It appears that that's the
23 case, but from -- mostly from memory, that photo is
24 extremely blurry, but it's likely that that represents
25 me showing developers the permissions that were

1 grantable via the API at that time.

2 BY MR. GODKIN:

3 Q. Was one of the permissions grantable
4 manage_friendslists?

5 A. It's possible that that permission was
6 listed at the time. I just want to refer to my
7 previous answer, my previous statement, that, like,
8 that permission is often misrepresented as to its
9 behavior and value and use.

10 Q. Misrepresented by whom?

11 A. There have been cases where I have had to
12 explain to developers that that permission does not
13 refer to the Friends List.

14 Q. What does it do? What does it --

15 MS. MILLER: Objection; asked and
16 answered.

17 THE WITNESS: I think I answered that
18 question earlier. Facebook had at the time the
19 concept of Friends Lists as distinct from the Friend
20 List.

21 BY MR. GODKIN:

22 Q. Okay.

23 A. And this permission allowed an application
24 to manage the user's Friends Lists. I'm sorry if
25 that's pedantic. I want to make sure I'm accurate for

1 the record.

2 Q. Do you have 2R in front of you?

3 A. Yes.

4 Q. Did you then walk developers through the
5 publish_actions permissions?

6 A. It's likely that that permission was
7 something we surfaced to developers, yes.

8 Q. What did the publish_actions permission
9 do?

10 A. It allowed the -- the publish_actions
11 permission is a permission that a user could grant an
12 application. Once granted, it would allow that
13 application to publish Open Graph actions back to
14 Facebook.

15 Q. And -- strike that.

16 Turn, if you would, to the next page, 2S.

17 A. Yes.

18 Q. There is a reference at the top of this
19 slide, behind you, to SDK. Do you see that?

20 A. I do.

21 Q. What is an SDK?

22 A. An SDK is a package of software that helps
23 a developer to interact or integrate with a
24 third-party API.

25 Q. Is it related to an iPhone app?

1 A. One of those SDKs was for iOS. It's
2 represented by the second icon from the left.

3 **Q. Okay. Were you explaining to developers**
4 **that they could build their apps and they would work**
5 **on different platforms, including the iPhone?**

6 A. We were representing to developers that
7 there was an SDK that Facebook provided for developers
8 on these various platforms, and that SDK would help
9 them interact with a Facebook Platform; for example,
10 granting permissions and calling API methods.

11 **Q. And it would help them access all of the**
12 **data that we've been discussing previously about this**
13 **exhibit?**

14 A. These SDKs help developers call the API.

15 **Q. Turn to the next page.**

16 A. Yes.

17 **Q. It appears to be two different people**
18 **speaking at this presentation. Do you know who they**
19 **are?**

20 MS. MILLER: I'll just object that this is
21 a compound exhibit. This appears to be a different
22 video with different dates.

23 THE WITNESS: Yes, that's a good point.
24 This appears to be a different video. I cannot tell
25 from the screenshot who these people are with complete

1 certainty.

2 BY MR. GODKIN:

3 **Q. Well, on the left side of the page, it**
4 **says it was originally recorded at the Facebook World**
5 **Hack Moscow, September 2012. Isn't that the same**
6 **event that the previous slides were recorded at?**

7 A. It appears to be a video from the same
8 event, yes.

9 **Q. But you don't know who these people are?**

10 A. I said I cannot identify them with
11 complete certainty.

12 **Q. Is one of them Conor Treacy?**

13 A. It's possible.

14 **Q. Do you recall attending a presentation**
15 **made by Mr. Treacy and another person at the same**
16 **event in Moscow?**

17 A. At these events, I have a varying range of
18 responsibilities. So it's possible, potentially even
19 likely, that I wasn't actually even physically present
20 for this talk. I was dealing with my other duties at
21 the event.

22 **Q. All right. Turn to the next page, 2U.**

23 A. Yes.

24 **Q. Do you see that in front of you?**

25 A. I do.

1 Q. You see the screenshot there is "Select
2 Permissions" and there is a reference to "Friends Data
3 Permissions" in the middle that's highlighted?

4 A. I do.

5 Q. And then all of the Friends Permissions
6 appear underneath it?

7 A. This is a set of the Friends Permissions
8 that were available at the time, yes.

9 Q. Is the friends_photos one of the
10 permissions that's listed here? Friends_photos in
11 the middle column?

12 A. I can see that, yes.

13 Q. So if I was a developer of an app and
14 I checked that box, what would that do for me in my
15 app?

16 MS. MILLER: Objection; vague.

17 THE WITNESS: Developers don't grant
18 permissions; users grant permissions.

19 BY MR. GODKIN:

20 Q. All right. So if I'm understanding, you
21 are saying this is a page where a user would check one
22 or more of these boxes if he or she wanted to,
23 correct?

24 MS. MILLER: Objection; lacks foundation.

25 He has already testified he doesn't know

1 whether or not he attended this presentation.

2 BY MR. GODKIN:

3 **Q. Let me back up then.**

4 **Did you ever see this dropdown menu on the**
5 **Facebook Developer website in your capacity as the**
6 **person who trains people in how to use it?**

7 A. This screenshot represents a tool that
8 I am familiar with, yes.

9 **Q. All right. So based on your familiarity**
10 **with it, these boxes would be checked by a user of**
11 **Facebook or by a developer of an app on the Facebook**
12 **Platform?**

13 A. So I need to be clear here. This is a
14 tool that helps developers understand how to access
15 the API. When using this tool, the person is both a
16 developer and a user; so they are developing
17 applications, but by using this tool, they are
18 essentially granting this tool access to their own
19 information.

20 **Q. So if I am a user of Facebook but not a**
21 **developer of an app on Facebook, would I ever have to**
22 **see this screen and check something off?**

23 A. No. This tool, to my knowledge, is only
24 available to people who are classified as -- users who
25 are classified as developers.

1 **Q. All right. So if a user who is classified**
2 **as a developer checked the friends_photos box, what**
3 **would that do for him or her?**

4 MS. MILLER: Objection; vague, lacks
5 foundation.

6 THE WITNESS: This tool is about helping
7 developers understand what information is available
8 via the Graph API.

9 BY MR. GODKIN:

10 **Q. Do I understand correctly that these are**
11 **permissions that the developer could check off, some**
12 **or all of them if he or she wanted to?**

13 A. Again, this tool is a tool for developers
14 to understand what information may be available via
15 the Graph API. By using this tool, they are granting
16 the permissions against their own account.

17 **Q. All right. So if the developer checked**
18 **off the friends_photos permission, what would that**
19 **accomplish for the developer?**

20 MS. MILLER: Objection; asked and
21 answered.

22 THE WITNESS: The developer would then be
23 able to see, via this tool, a representation of the
24 information that's available via the Graph API on
25 behalf of the application, granted that permission on

1 their account.

2 BY MR. GODKIN:

3 **Q. Do users of Facebook have any way of**
4 **preventing developers from accessing their photos if**
5 **they wanted to prevent it?**

6 MS. MILLER: Objection; vague as to time.

7 BY MR. GODKIN:

8 **Q. At the time that this presentation was**
9 **made in 2012.**

10 A. My recollection is that there were two
11 mechanisms in place. The first --

12 **Q. What were the two?**

13 A. The first mechanism was that a user, when
14 they logged into an application, was able to grant the
15 permissions or choose to not grant the permissions.

16 **Q. What was the second?**

17 A. As a user of Facebook, there were settings
18 in your account that prevented -- that allowed you to
19 prevent your information being admitted to
20 applications by friends of yours who use those
21 applications and granted the Friends Permissions.

22 **Q. So any user, if he or she wanted to, could**
23 **prevent people from seeing their photos in the same**
24 **time frame, correct?**

25 A. My recollection is that there was a way

1 for people to choose for their information to not be
2 admitted via the API if a friend of theirs had granted
3 a Friends Permission.

4 Q. Have you ever heard of a section of
5 Facebook's Privacy page called "Apps Others Use"?

6 A. That is familiar to me.

7 Q. Is that what you have just referred to in
8 your previous couple of answers, about how a user
9 would prevent people who are developing apps from
10 accessing things like photos if they wanted to?

11 A. That's my understanding of what that set
12 of settings was for.

13 Q. Turn to the next page, if you would. At
14 2V, as in Victor.

15 Does this page refresh your recollection as to
16 whether you were in attendance while these two
17 gentlemen were making the presentation?

18 A. It doesn't refresh my recollection. This
19 is a slide presentation I have seen before. It was
20 likely given at other talks as well. I don't recall
21 being there necessarily when this was presented in
22 Moscow on the dates specified.

23 Q. Do you recall being present at any of
24 these world events at which this slide was presented?

25 A. It's likely that I was -- I have been at

1 events where this slide was presented, yes.

2 Q. All right. Do you recall that when this
3 slide was presented, what was represented was that the
4 Open Graph was available across a range of different
5 platforms?

6 A. That's one of the things this slide
7 represents.

8 Q. Including native iOS apps, or native apps
9 on the iPhone?

10 A. By referring to "native apps" here, in
11 general that means iOS and Android.

12 Q. All right. Turn to the next page, 2W.
13 That's you in the picture, is it not?

14 A. It's that younger, slimmer me again.

15 Q. Right. Is this another presentation that
16 you made or video that you recorded that was put on
17 the Facebook website?

18 MS. MILLER: Objection; compound, lacks
19 foundation.

20 THE WITNESS: This slide seems to
21 represent a video that I recall being involved in
22 producing that was uploaded to YouTube.

23 BY MR. GODKIN:

24 Q. It indicates that it was from the Facebook
25 Open Graph series. Do you see that?

1 A. It suggests that this video is helping
2 developers to help them build their first Open Graph
3 application.

4 **Q. Do you recall that Facebook had a series**
5 **of videos that it put on its developer website called**
6 **the Open Graph Series?**

7 A. I guess you could characterize it as an
8 Open Graph series. It was a number of videos that
9 I was involved in producing, which, together, you
10 could frame as a series.

11 **Q. All right. Well, it says "from Facebook**
12 **Open Graph Series." Do you see that?**

13 A. That's what it says.

14 **Q. It says it was published on February 28,**
15 **2013. Do you see that?**

16 A. That doesn't look correct to me. I can't
17 see the date and time in this printout. It's too
18 fuzzy.

19 **Q. Maybe you have a worse copy than I am**
20 **looking at here, so I apologize for that.**

21 **In any event, was the purpose of this video for**
22 **you to train developers on building apps on the Open**
23 **Graph?**

24 A. My recollection is that this video was
25 about helping developers how to build their first Open

1 Graph application against Facebook's APIs.

2 Q. Understanding that you can't read the
3 date, do you recall when this was published on
4 YouTube?

5 A. I don't recall. I remember it being in
6 either 2012 or 2013. Some of these slides make it
7 look like it was 2012. Some of them make it look like
8 it was 2013.

9 I don't recall the specific date, I'm afraid.

10 Q. All right. Turn to the next page, 2X.

11 A. Got it.

12 Q. That's a screenshot from the same video,
13 is it not?

14 A. It --

15 MS. MILLER: Objection; lacks foundation.

16 THE WITNESS: It's hard to guarantee that.
17 It looks like it probably is.

18 BY MR. GODKIN:

19 Q. And you were talking about designing your
20 Timeline aggregations?

21 A. That's what the slide says that the
22 presenter was talking about; again, presuming if I was
23 the presenter of that slide.

24 Q. Do you recall presenting a slide in which
25 it's stated, "design your Timeline aggregations"?

1 A. It seems reasonable that that's a slide
2 I would have presented.

3 **Q. What did you mean by "design your Timeline**
4 **aggregations"?**

5 A. My understanding is that Timeline
6 aggregations were a way for developers to curate the
7 information that they had published -- that their
8 users had published to Facebook on those users'
9 timelines.

10 **Q. And did that help the -- was the intent**
11 **for that to help the developer's application grow its**
12 **number of users?**

13 MS. MILLER: Objection; lacks foundation,
14 calls for speculation.

15 THE WITNESS: Developers use Timeline
16 aggregations for a number of reasons.

17 BY MR. GODKIN:

18 **Q. Including to help grow their number of**
19 **applications?**

20 MS. MILLER: Same objections.

21 THE WITNESS: That may have been one of
22 the reasons that developers use Timeline aggregations.

23 BY MR. GODKIN:

24 **Q. Turn to the next page of 2Y. Do you have**
25 **that open in front of you?**

1 A. Yes.

2 Q. Do you have it in front of you?

3 A. Yes. Sorry. Yes, 2Y.

4 Q. Do you recognize who this person is on the
5 video?

6 MS. MILLER: I'll just state for the
7 record, this, again, appears to be a separate video.

8 THE WITNESS: Yes. This appears to be a
9 separate video. I do recognize the gentleman.

10 BY MR. GODKIN:

11 Q. Who is it?

12 A. I recall that to be Jason Clark.

13 Q. And do you recall -- strike that.

14 Can you read on the document? It says on the
15 bottom left: "As presented at Facebook Mobile
16 Developer Day" in November 2012?

17 A. I can see those words, yes.

18 Q. What was the Facebook Mobile Developer
19 Day, if you know?

20 A. My recollection is that it was an event
21 where we invited mobile developers to spend time with
22 us and help them understand how to integrate their
23 mobile applications with the Facebook Platform and
24 Facebook Mobile SDKs.

25 Q. Where did that event take place?

1 A. I recall there being potentially a number
2 of Facebook Mobile Developer Days. I remember the
3 first being in Facebook's Menlo Park headquarters.

4 **Q. Do you recall attending some or all of**
5 **these?**

6 A. I do not recall attending the Facebook
7 Mobile Developer Day.

8 **Q. Did Facebook publish this on its developer**
9 **website on March 1, 2013?**

10 MS. MILLER: Lacks foundation.

11 THE WITNESS: I can't speak for Facebook,
12 and the picture is blurry. It looks like this video
13 was uploaded to YouTube.

14 BY MR. GODKIN:

15 **Q. Did Facebook Developer website have access**
16 **to videos, mainly videos of this nature that could be**
17 **clicked on by developers who wanted to watch them?**

18 MS. MILLER: Objection; vague as to time,
19 and compound.

20 THE WITNESS: It's possible that these
21 videos were embedded on the Facebook Developer
22 website, although I cannot be sure which ones, where,
23 or when.

24 BY MR. GODKIN:

25 **Q. Turn to the next page, 2Z.**

1 A. Yes.

2 Q. Now what is being depicted on this page,
3 this screenshot?

4 A. It's hard to discern from the image. My
5 recollection is that this was part of a slide that
6 represented the connections between people.

7 Q. All right. Turn to the next page, 2AA.

8 A. Yes.

9 Q. On page 2AA, there is a screenshot and the
10 highlighted item is "Post Photo." Do you see that?

11 A. I think so.

12 Q. Was the person who made this presentation
13 explaining to developers how to use their app to post
14 photos in the app or on the --

15 MS. MILLER: Objection; lacks foundation.

16 THE WITNESS: This seems to be a still
17 from a screenshot at an event which I don't think
18 I was present at. So it's hard for me to know exactly
19 what was being discussed.

20 BY MR. GODKIN:

21 Q. All right. Do you recognize what is
22 depicted on this screenshot, the page which says "Post
23 Status Update," "Post Photos," "Pick Some Friends,"
24 et cetera?

25 A. To me, this slide represents a screenshot

1 of a computer. That computer is showing X code and on
2 that -- and inside X code is what probably is an
3 application. It's unclear to me if that's exactly
4 what it is. Even if it is, it's unclear to me whose
5 application is actually being shown here. I wasn't at
6 the event, as far as I recall.

7 **Q. Turn to the next page, 2AB.**

8 A. Yes.

9 **Q. Do you --**

10 A. I want to call out again this seems like a
11 different video published on a different day.

12 **Q. This indicates that it was published on**
13 **June 20, 2013, correct?**

14 A. Again, I can't see that from the exhibit
15 in front of me.

16 **Q. All right. What is shown here, though, is**
17 **a page of your computer? Do you see your picture**
18 **there and your name, Simon Cross?**

19 MS. MILLER: Objection; lacks foundation.

20 THE WITNESS: It looks like this is a
21 screenshot that was taken from a website that I was
22 logged into. I can't determine from this exhibit if
23 this was, like, a video that I was presenting, but it
24 seems to represent a screenshot of a website that
25 I was logged into.

1 BY MR. GODKIN:

2 Q. Well, if I represent to you that the audio
3 of this particular presentation is your voice, does
4 that refresh your recollection as to whether you ever
5 made this presentation and had it posted on YouTube
6 for access to developers?

7 MS. MILLER: I'll just say objection;
8 lacks foundation.

9 Your representation can't refresh his
10 recollection, but --

11 MR. GODKIN: Ms. Miller, a fig leaf can be
12 used to refresh recollections, so I disagree with you
13 on that.

14 BY MR. GODKIN:

15 Q. But you can answer the question.

16 A. I cannot guarantee what this exhibit in
17 front of me actually represents. It is reasonable,
18 possible, likely that this is a video that I helped
19 produce. I just want to be clear that, like, it's
20 not -- I cannot a hundred percent guarantee that
21 that's what I'm seeing in front of me. It's likely.

22 Q. All right. Turn to the next page,
23 page 2AC. Do you have that in front of you?

24 A. I do.

25 Q. Were you explaining to developers how to

1 **access a user's Full Friends List?**

2 MS. MILLER: Objection; lacks foundation.

3 THE WITNESS: What I see here is a
4 screenshot that shows that I am demonstrating --
5 again, assuming it's me demonstrating it -- that an
6 application --

7 BY MR. GODKIN:

8 **Q. That's still your picture in the upper**
9 **right, is it not?**

10 A. It is my picture in the upper right.
11 I want to be clear that that doesn't necessarily mean
12 that this is a video that I am presenting. It's
13 possible that somebody else presented the video using
14 screenshots or video that I had recorded. I just want
15 to be clear that that's -- you know, with this piece
16 of paper in front of me, those caveats exist.

17 **Q. All right.**

18 A. Again, assuming that this is a video that
19 I am presenting, what the screenshot seems to show to
20 me is that I am demonstrating to the viewer how an
21 application would access the public profile and friend
22 list, which are the words written on the page.

23 **Q. At the time in 2013, was that the Full**
24 **Friends List?**

25 A. Again, it's possible. Like, at the time

1 my recollection is that that API would have
2 returned -- would have included friends who had not
3 used the app, but the term "Full Friends List," as
4 I think you mean it, is potentially misleading given
5 that it's possible that that API call did not include
6 every friend of that user on Facebook because of the
7 opt-outs we discussed earlier.

8 Q. All right. Turn to the next page, 2AD.

9 A. Yes.

10 Q. Do you see that in front of you?

11 A. I do.

12 Q. Do you see the "Get" query on that page?

13 A. I do.

14 Q. Then the boxes that are checked underneath
15 it?

16 A. I do.

17 Q. Do you recall demonstrating how a
18 developer could utilize this portion of the developer
19 website?

20 MS. MILLER: Objection; lacks foundation.

21 THE WITNESS: It seems reasonable to me
22 that that's what this represents.

23 BY MR. GODKIN:

24 Q. Is it accurate that under "Picture," there
25 is a check mark for height and a check mark for width?

1 **Do you see that?**

2 A. That's what I see in front of me.

3 **Q. Does that allow the developer to format**
4 **the size of the photo that is going to appear, in this**
5 **case to be 200 pixels high and 100 pixels wide?**

6 A. This seems to represent to me that you
7 could specify the height and width of the profile
8 picture that the API was going to return to represent
9 the people returned by this API.

10 **Q. Why did Facebook allow developers to**
11 **specify the height and width of the profile picture?**

12 MS. MILLER: Objection; lacks foundation.

13 THE WITNESS: My understanding is that
14 developers built applications on various platforms and
15 made use of these assets in various ways, and it was
16 valuable to them to specify the size and aspect ratio
17 of the images that they would want to show in their
18 applications.

19 BY MR. GODKIN:

20 **Q. Then if you turn to the next page, 2AE.**
21 **Do you see that?**

22 A. Yes.

23 **Q. Is this an example of you showing the**
24 **developers a photo of one of your friends that is 200**
25 **pixels high and 100 pixels wide?**

1 MS. MILLER: Objection; lacks foundation.

2 THE WITNESS: This document shows an image
3 of a person. It may have been a friend of mine. It's
4 hard to tell; it's blurry. And it may be 200-by-100
5 pixels. Again, it's hard to tell, but that's a
6 reasonable suggestion of what this depicts.

7 BY MR. GODKIN:

8 Q. Turn to the next page, 2AF, if you would.

9 A. Yes.

10 Q. Is it fair to say that here you were
11 demonstrating to developers how to publish to the News
12 Feed?

13 MS. MILLER: Objection; lacks foundation.

14 THE WITNESS: This suggests to me that
15 I was showing developers how to publish a story, on
16 behalf of one of their users, to Facebook.

17 BY MR. GODKIN:

18 Q. And the message that you were using as
19 part of your demonstration of the Graph API is
20 "awesome" followed by two exclamation points?

21 MS. MILLER: Objection; lacks foundation.

22 THE WITNESS: I'm surprised they didn't
23 use three exclamation points, or one. But yes, it
24 looks like lower case T, "the Graph API is awesome" --
25 (Reporter interruption.)

1 longer?

2 MS. MILLER: Objection; incomplete
3 hypothetical, lacks foundation.

4 THE WITNESS: I can't answer that question
5 directly. It's possible that some applications --
6 like my personal understanding is that it is possible
7 that some applications were built to rely/expect
8 access to such information, and it is a developer's
9 decision whether or not they believe that experience
10 or that application to be viable in a world where that
11 information -- where access to that information cannot
12 be expected.

13 BY MR. GODKIN:

14 Q. So are you saying that you are aware that
15 there were some applications that would simply not
16 function any longer as a result of these changes?

17 MS. MILLER: Same objections, and
18 misstates the witness's testimony.

19 THE WITNESS: I'm not saying that.
20 I would refer back to what I previously said. It is
21 possible that application developers may have built
22 applications that relied on access -- that expected
23 access to information from a person -- an app user's
24 friends. It is a developer's decision whether or not
25 they perceive that application to be viable in a world

1 where they don't have -- where they cannot expect
2 access to that information.

3 We at Facebook knew that there would be
4 some applications -- some developers who would make
5 the determination themselves that their apps were no
6 longer viable.

7 MR. GODKIN: All right. Let's take
8 another short break at this point. About five
9 minutes, if that's okay.

10 THE WITNESS: Sure.

11 (Off the record at 2:46 p.m.)

12 (On the record at 2:55 p.m.)

13 MR. GODKIN: Back on the record. I'm
14 going to ask the reporter to mark Cross Exhibit 3.
15 For the record, this has Facebook's Bates numbers
16 01206324 through 328.

17 (Cross Exhibit 3 marked for
18 identification.)

19 BY MR. GODKIN:

20 Q. I've had placed in front of you Exhibit 3,
21 which is a series of emails or messages from the
22 January 2011 time frame. I really wanted to focus you
23 on the last page of the exhibit, if you can turn to
24 that.

25 Do you recognize this page as a screen from the

1 **Facebook website at about the date of this exhibit,**
2 **2011?**

3 MS. MILLER: Objection; lacks foundation.

4 THE WITNESS: I can't confirm the date or
5 time range when this screenshot was taken. It does
6 seem to me -- it does look to me to be a dialogue
7 which would have been part of the Facebook website at
8 one time which allowed people to control the
9 information that was made available to apps, games,
10 and websites if their friends used them.

11 BY MR. GODKIN:

12 **Q. Just so that I'm clear, this is for apps**
13 **that a particular user had not installed, correct?**

14 MS. MILLER: Objection; lacks foundation.

15 THE WITNESS: Not -- there are caveats to
16 that.

17 BY MR. GODKIN:

18 **Q. What are the caveats?**

19 A. So in general, this is used for a person,
20 let's call them user A, to control which information
21 one of their friends, let's say user B, gave to an
22 application. I possibly recall that -- I'm not
23 entirely sure what the behavior was if user A actually
24 used the web- -- no, this is before.

25 Okay, sorry. My apologies.

1 **Q. Sure.**

2 A. Yes. This dialogue generally is used for
3 a person to control the information that one of their
4 friends may or may not make available to an
5 application.

6 **Q. But it was for apps that the user had not**
7 **installed, correct?**

8 A. In general, yes.

9 **Q. All right. Was this a screen, or**
10 **something similar to this, available on the Facebook**
11 **website from 2011 until, say, 2014?**

12 MS. MILLER: Objection; lacks foundation.

13 THE WITNESS: I cannot be sure when this
14 dialogue became available or when it became
15 unavailable. I don't have -- I don't recall that
16 information.

17 BY MR. GODKIN:

18 **Q. But did it become unavailable at some**
19 **point?**

20 A. I can't be sure of that.

21 **Q. All right. When this screen was**
22 **available, could a user choose to allow or deny a**
23 **friend access to her birthday through a developer app?**

24 A. The purpose of this dialogue was to allow
25 a person to restrict the ability for an application to

1 BY MR. GODKIN:

2 Q. All right. Just so that I'm understanding
3 this correctly, Facebook users can set their privacy
4 settings for their data, such as photos, birthday,
5 et cetera, correct?

6 MS. MILLER: Objection; vague.

7 THE WITNESS: In general, people have
8 privacy controls for their information.

9 BY MR. GODKIN:

10 Q. Do I understand that these privacy
11 controls are different from developer permissions?

12 MS. MILLER: Objection; vague.

13 THE WITNESS: My understanding is that
14 there are several privacy concepts that are important
15 here. One of those privacy concepts is app
16 permissions. The other is -- another one are privacy
17 settings available to people on Facebook.

18 BY MR. GODKIN:

19 Q. So privacy settings -- and I'm using your
20 English pronunciation of that word --

21 A. Thank you.

22 Q. -- are what other Facebook users can see,
23 right?

24 A. Yes. In general, users have a way to
25 control who sees what information on Facebook.

1 **Q. But the privacy settings don't control**
2 **what app developers can see, right?**

3 MS. MILLER: Objection; incomplete
4 hypothetical.

5 THE WITNESS: That doesn't match my
6 understanding. My understanding is that people have
7 control, varying levels of control, over who can see
8 what, and those settings, as I understand it, would
9 also affect the ability of an app to access that
10 information.

11 BY MR. GODKIN:

12 **Q. So before Graph API 2.0, when a Facebook**
13 **user uploaded a Graph object, like a photo, to**
14 **Facebook, do you recall what the various privacy**
15 **settings the user could select were?**

16 MS. MILLER: Objection; vague.

17 THE WITNESS: My recollection is that
18 there were several privacy settings that a person
19 could use when they -- my understanding is that people
20 had several privacy options available to them when
21 they uploaded content to Facebook. They included but
22 were not limited to Public, Friends, and Only Me.

23 BY MR. GODKIN:

24 **Q. What about Friends of Friends, was that**
25 **one of them?**

1 A. That is a setting that may have existed
2 for some pieces of information, but my recollection is
3 that that privacy setting was not necessarily
4 available for all pieces of information as somebody
5 uploaded to Facebook.

6 **Q. Does privacy settings apply to other**
7 **Facebook users but not to developers, app developers,**
8 **correct?**

9 A. My --

10 MS. MILLER: Objection; vague.

11 THE WITNESS: No. My understanding is
12 that -- let me back up.

13 Giving people control over their
14 information on Facebook is one of the most important
15 things we, as a company, can do. It's extremely
16 important to us, and let me be clear, is the
17 foundation for many -- the foundational reason for
18 many of the changes we have made to our platform over
19 time.

20 To answer your specific question, my
21 understanding is that the privacy settings that were
22 available to people on Facebook did, would and should
23 have affected the information available via
24 applications.

25 ///

1 BY MR. GODKIN:

2 Q. So if a person who had set a privacy
3 setting to Only Me, and we are talking about before
4 Graph API 2.0, a developer could still access that
5 photo as long as I had granted the developer the user
6 photo permission, correct?

7 A. My understanding --

8 MS. MILLER: I was going to say,
9 objection; incomplete hypothetical, and vague.

10 THE WITNESS: My understanding of how
11 the user_photos permission worked is that would grant
12 an application access to that user's photos, which
13 would, therefore, by definition, include the photos
14 that that person had marked as Only Me.

15 BY MR. GODKIN:

16 Q. All right. So as long as the user had
17 granted the permission for the photo, even if the user
18 had set the privacy setting to Only Me, the user was,
19 in effect, giving permission for app developers to use
20 or see those photos, right?

21 MS. MILLER: Objection; misstates the
22 testimony, vague as to time and incomplete
23 hypothetical.

24 THE WITNESS: My understanding is that if
25 a user granted the user_photos permission to an

1 application, an application would then get access to
2 that user's photos.

3 There were many use cases where it was
4 valuable to people -- my understanding is that there
5 are many use cases, several use cases where it was
6 valuable to people to grant an application access to
7 their photos on Facebook.

8 One example is if I want to print out a
9 family album, I could log into a website that printed
10 family albums and then choose from the photos I had
11 uploaded to Facebook, including those that I marked as
12 Only Me, for the purposes of creating that family
13 album.

14 BY MR. GODKIN:

15 **Q. But you would have had to grant the**
16 **developer the permission for accessing photos in that**
17 **hypothetical, correct?**

18 A. Yes. It's important to note that in
19 general we want to give people control over the
20 information they share with apps, and so a person
21 would have had to grant an application access to the
22 user_photos permission in order for the application to
23 have access to their photos.

24 **Q. And we are still talking about before**
25 **Graph API 2 .0. Did Facebook make available to**

1 friend's photo that was uploaded to Facebook with
2 the Only Me permission would not then be available via
3 the API to an application because of somebody granting
4 the user_friends permission -- the friends_photo
5 permission.

6 MR. GODKIN: I will ask to be marked as
7 Exhibit No. 4 a document with Facebook Bates number
8 61650 through 52.

9 (Cross Exhibit 4 marked for
10 identification.)

11 (Off-the-record discussion.)

12 BY MR. GODKIN:

13 Q. Okay. If you turn to page 652, Mr. Cross,
14 you will see that you appear on these emails, starting
15 on that page. Actually, starting on 651.

16 Do you see that?

17 A. Yes.

18 Q. So if you turn to page 652, that is an
19 email from Ime Archibong to you and KP. Mr. Archibong
20 is asking the two of you for a comprehensive review of
21 the Platform APIs, FQL calls, and permissions that
22 will be impacted by Platform 3.0.

23 Do you see that?

24 A. I do see that.

25 Q. Was "Platform 3.0" another term that was

1 used for what eventually became the Graph API 2.0?

2 A. "Platform 3.0" was one of the terms used
3 in general around these efforts to simplify and
4 stabilize the developer API platform.

5 Q. What he is asking you for is a break-out
6 of private/whitelisted APIs and the public APIs that
7 will be impacted by Platform 3.0 changes.

8 Do you see that?

9 A. I see that.

10 Q. As well as a list of developers -- this is
11 on slide 2 -- and partners that are using the
12 private/whitelisted APIs and the public APIs, correct?

13 A. I see that, yes.

14 Q. On the next page, he says:

15 "Chris is interested in getting a simple
16 framing like this pulled together to share with Zuck
17 and others."

18 Is "Zuck" Mr. Zuckerberg?

19 A. That's a term that we sometimes use to
20 refer to Mark, yes.

21 Q. And "Chris" is Chris Daniels?

22 A. That's who I understand "Chris" to be
23 referring to in this context, yes.

24 Q. What was Mr. Daniels' role at this time,
25 at the time of this email, 2013 in August?

1 A. That's probably what "plus Simon" probably
2 means, yes.

3 Q. Then at the bottom of page 69, Jackie
4 Chang is describing, among other things, Platform 3.0
5 risk assessment. Do you see that?

6 A. I do.

7 Q. And the types of risk are PR risk,
8 strategic value, competitive/not useful to Facebook,
9 major business disruption/kill.

10 Do you see that?

11 A. I do.

12 Q. Does she include a tab for spammy apps?

13 MS. MILLER: Objection; lacks foundation,
14 calls for speculation.

15 THE WITNESS: I'm not sure what that
16 means, and I don't see any evidence of that in front
17 of me.

18 BY MR. GODKIN:

19 Q. All right. Have you never heard the
20 phrase --

21 A. Can you say that again? You froze.

22 Q. Have you never heard the phrase "spammy
23 apps"?

24 A. I've heard the phrase "spammy apps," yes.

25 Q. Is that a phrase that is used or ever been

1 **used at Facebook?**

2 MS. MILLER: Objection; lacks foundation.

3 THE WITNESS: It may have been used at
4 Facebook. I've heard that phrase used in many
5 contexts, inside and out of Facebook.

6 BY MR. GODKIN:

7 **Q. Did she include, under Risk Assessment**
8 **tabs, a tab for apps that violated Facebook's**
9 **policies?**

10 A. I have no idea.

11 MS. MILLER: Objection; document speaks
12 for itself.

13 THE WITNESS: Yeah.

14 BY MR. GODKIN:

15 **Q. Did she include a tab for apps that**
16 **violate user trust?**

17 MS. MILLER: Objection; document speaks
18 for itself.

19 THE WITNESS: I can't answer that
20 question.

21 BY MR. GODKIN:

22 **Q. She does include a tab for competitive**
23 **apps, does she not?**

24 MS. MILLER: Objection; misstates the
25 document.

1 THE WITNESS: If you're referring here to
2 tabs of a spreadsheet, I can only answer that question
3 if the spreadsheet is in front of me, otherwise I'm
4 going on a recollection of a spreadsheet from four
5 years ago. I can't give you reliable answers to those
6 questions.

7 BY MR. GODKIN:

8 **Q. All right. So what was your understanding**
9 **by what Ms. Chang was trying to accomplish with her**
10 **audit and these various buckets that she was**
11 **including?**

12 MS. MILLER: Objection; calls for
13 speculation, lacks foundation.

14 THE WITNESS: It's hard for me to say
15 without seeing the analysis that you're referring to.

16 MR. GODKIN: All right.

17 BY MR. GODKIN:

18 **Q. If you go back to page 67. Do you see**
19 **that?**

20 A. Yes.

21 **Q. That's where KP added you. Then in his**
22 **second paragraph, he says:**

23 **"Simon managed to pull a list of 40k+ apps that**
24 **request and make use of the friends_permissions."**

25 **Do you see that?**

1 A. I do.

2 **Q. Is that true? Did you pull together a**
3 **list of more than 40,000 apps that requested and made**
4 **use of Friends Permissions?**

5 A. I recollect pulling together an analysis
6 of the applications that we at the time saw making use
7 of the Friend Permissions and the API calls related to
8 them.

9 **Q. And do you recall that there were 40,000**
10 **apps, more than 40,000 apps on that list?**

11 A. That seems like a reasonable number.
12 I don't recall the number exactly.

13 **Q. Then did you undertake an analysis of**
14 **those 40,000 apps?**

15 A. We didn't individually analyze 40,000
16 apps, no. We took an -- like, I recall us
17 investigating some of those apps, a sample of those
18 apps to understand in more detail how these
19 applications might be using that information.

20 **Q. The language that KP used here is "having**
21 **reviewed the top 250 apps."**

22 **Do you see that?**

23 A. I do see that in the document here.

24 **Q. Is that the analysis that you undertook to**
25 **perform?**

1 A. I recall us -- that may be one of the ways
2 we decided to look at the 40,000. As you can imagine,
3 40,000 applications is a large number, and this is a
4 relatively small team. It's likely that we did look
5 at applications filtered or ranked by some metric, and
6 it's reasonable that 250 was how we -- is a number
7 that we have actually looked at.

8 It's not clear from this document, or from my
9 memory, what the word "top" refers to, and it's not
10 clear that those 250 apps were necessarily reviewed to
11 the same degree.

12 **Q. Did you and KP do this analysis or were**
13 **other people involved?**

14 A. There were likely other people involved.
15 I don't recall exactly who.

16 **Q. Then do you see KP describes the results**
17 **of the analysis a little further down on page 67 and**
18 **spilling over to 68?**

19 A. I do.

20 **Q. And then he makes -- he ascribes**
21 **percentages to various types of apps, including games,**
22 **in-house app, mobile, et cetera.**

23 A. I do see that here.

24 **Q. He makes various recommendations, keep**
25 **access, remove access, et cetera.**

1 **Do you see that?**

2 A. I see those words, yes.

3 **Q. Did you work with KP to come up with those**
4 **recommendations?**

5 A. It's possible I was involved in some way.
6 It's also important to note that this exercise is
7 being carried out in roughly August 2013, which is
8 significantly before when any of these changes were
9 introduced, and you can clearly see the thinking here
10 being somewhat early in our analysis of both how to
11 categorize applications and also how to handle their
12 transition to the new platform systems.

13 **Q. How did you come up with your**
14 **recommendation about what to do with these apps as**
15 **reflected here?**

16 MS. MILLER: Objection; lacks foundation,
17 calls for speculation, misstates the document and
18 testimony.

19 THE WITNESS: I don't recall the specific
20 criteria we used. As you may expect, this exercise is
21 initially done from the point of view of somebody with
22 experience managing a diverse ecosystem of
23 applications and an understanding of the developer
24 ecosystem and our emerging understanding of people's
25 expectations as regards to their use of the Facebook

1 their app as a result.

2 BY MR. GODKIN:

3 Q. Do you know what percentage of Facebook's
4 revenue today is from NEKO advertising?

5 A. I do not know those numbers, I'm afraid.

6 Q. Turn back to page 37. Here is an email
7 that you wrote on September 5, 2013. Then you say:

8 "... for now, just list out the
9 capabilities/Gks/Sitevars."

10 Can you tell me what those are?

11 A. Those are technical mechanisms by which
12 Facebook makes non-public API behaviors available to
13 certain app developers.

14 Q. And is "whitelist" another word for that;
15 to make non-public APIs available to certain app
16 developers?

17 A. In general, that's what whitelists tend to
18 be. They are a list of applications that have
19 access -- in this context, applications that have
20 access to non-public API behaviors.

21 Q. Why does Facebook have three different
22 mechanisms for whitelisting?

23 A. Because Facebook -- I mean, my
24 understanding -- that's ultimately a question that our
25 infrastructure team should answer. They are different

1 mechanisms for use in different parts of our
2 infrastructure for guarding access to different types
3 of information.

4 **Q. Do you know -- and just tell me if you**
5 **don't -- but do you know which internal tools Facebook**
6 **would use to enable the capability?**

7 A. My understanding is there is a tool called
8 the Capability Tool which is used to administer
9 capabilities.

10 **Q. And the same for Gatekeeper, is there a**
11 **tool called the Gatekeeper tool?**

12 A. There is a tool called Gatekeeper which is
13 used to administer gatekeepers, and gatekeepers are
14 sometimes used to control the rollout of features on
15 Facebook and in the Facebook API.

16 **Q. Is there also a tool called the Sitevar**
17 **tool?**

18 A. There is a tool called the Sitevar tool
19 which allows our engineers to set certain sitevars
20 which affect the behavior of all kinds of products in
21 the Facebook system.

22 **Q. Is there something called the Talent tool?**

23 A. My understanding is that the Talent tool
24 is another name for the Capability tool.

25 **Q. Have you ever heard of something called**

1 **the Hendrix tool?**

2 A. To me, the word "Hendrix" may refer to
3 several things. I don't recall something called the
4 Hendrix tool, no.

5 **Q. Okay. Did you ever use one of these tools**
6 **to give a developer an extension to access the Full**
7 **Friends List, Friends data or the News Feed API after**
8 **April 30, 2015 in order to mitigate harm to their**
9 **business?**

10 MS. MILLER: Objection; compound.

11 THE WITNESS: I can't answer that full
12 question in one go. I can say that I was involved in
13 using these tools, or my team were involved in using
14 these tools to grant access to those APIs to some
15 developers when they were removed from the public
16 surface area of the platform.

17 We did that for varying but very -- for
18 varying but clear-to-us reasons.

19 BY MR. GODKIN:

20 **Q. How many developers did Facebook grant**
21 **such access to?**

22 MS. MILLER: Objection; lacks foundation,
23 calls for speculation.

24 THE WITNESS: I can't answer that
25 question, first of all because of the definition of

1 A. I can't be specific about individual
2 applications. I remember there were some. I do
3 remember that we granted access to a small number of
4 applications for a limited extension, and we only did
5 so because we determined -- we made a determination
6 that without an additional period of access, we were
7 going to harm the user experiences of people in a way
8 that we didn't feel was acceptable.

9 An example of such an application is I recall
10 an application that had been built by a developer
11 called Nuance for Fiat Automotive. This, again, was
12 essentially a Facebook Replacement Client, but unlike
13 a mobile application that had been updated very
14 quickly, this was software baked into the firmware of
15 an automobile. It's very hard for developers to
16 update that software. So had these changes been
17 applied to those applications, then there physically
18 would not have been enough time for the developers to
19 react to those changes.

20 So we decided to grant them an extension in
21 order to give them more time to upgrade the firmware
22 on those devices to no longer use the APIs and
23 permissions which were to be removed from the public
24 surface area of our platform.

25 **Q. Did you agree to give Tinder access to**

1 **certain APIs after they were no longer publicly**
2 **available?**

3 A. I don't recall us granting access to the
4 APIs that were removed from the public surface area
5 past the April '15 deadline. I do remember that there
6 were use cases which Tinder and other applications
7 had, which we considered to be valuable, and our users
8 considered to be valuable, and we found technical ways
9 to enable those use cases to continue to exist without
10 Tinder having to have full access -- well, somewhat
11 full access to information from an app-using person's
12 non-app-using friends.

13 MR. GODKIN: You can put Exhibit 6 aside,
14 and I'm going to ask the reporter to mark as Exhibit 7
15 the document with Facebook's Bates numbers 47134
16 through 40.

17 (Cross Exhibit 7 marked for
18 identification.)

19 BY MR. GODKIN:

20 **Q. Exhibit 7, Mr. Cross, is an email string**
21 **in January 2015 about Tinder. If you turn to the**
22 **bottom of page 35, there's an email from KP to you and**
23 **some others, which is asking if it's okay to whitelist**
24 **Tinder for a period of time to access the Full Friends**
25 **List.**

1 Do you see that?

2 A. I do.

3 Q. Then in the middle of that same page, you
4 respond in the second bullet:

5 "I'm not sure we should do this."

6 A. Yes.

7 Q. Do you see that?

8 Then at the top of that page, KP responds to
9 you, in the second paragraph:

10 "They told me ['they' referring to Tinder] told
11 me there are financial implications here for them not
12 meeting their goals..."

13 I will stop quoting there. Do you see that?

14 A. I do.

15 Q. Then at the bottom of page 34, you say:

16 "This is frustrating [for] them. If we can put
17 a time limit on this, I'm OK doing it."

18 Correct?

19 A. I see that, yes.

20 Q. Then Eddie O'Neil at the top of that page
21 agrees that it is okay. He says:

22 "It's better than... [number] 2/ starting an
23 email thread with Mark..."

24 Followed by a little smiley face. Do you see
25 that?

1 A. I do.

2 **Q. And "Mark" is Mark Zuckerberg?**

3 A. You'd have to ask Eddie if he was actually
4 referring to Mark.

5 **Q. Well, who did you understand he was**
6 **referring to when he sent you this email?**

7 MS. MILLER: Objection; calls for
8 speculation, lacks foundation.

9 THE WITNESS: It's hard to remember an
10 email from five -- well, four -- three years ago.
11 It's possible that he was referring to Mark
12 Zuckerberg.

13 BY MR. GODKIN:

14 **Q. Is there any other Mark that it's possible**
15 **he was referring to?**

16 A. There's lots of Marks who work at
17 Facebook.

18 **Q. Can you think of any other Mark that he**
19 **was -- he might have been referring to when he wrote**
20 **this?**

21 A. You should ask Eddie O'Neil who he was
22 referring to.

23 **Q. Okay. So this email was after the**
24 **Graph API 2.0 had been publicly can announced,**
25 **correct?**

1 A. That is correct.

2 Q. If you look at the bottom of page 39,
3 there is an email from Sean Rad. Did you know he's
4 the founder and CEO of Tinder?

5 A. I do.

6 Q. He says:

7 "[It] seems like our Graph access isn't working
8 and we had no idea."

9 Do you see that?

10 A. I do see that.

11 Q. So that's how long after Graph API 2.0 was
12 announced?

13 A. Graph API 2.0 was announced on April 30,
14 2014.

15 Q. And it was implemented on April 30, 2015?

16 A. We began the migration of applications
17 from v1 to v2 on April 30, 2015.

18 Q. But he says in January of 2015 that it
19 isn't working. That's quite a few months before
20 April 30, 2015, correct?

21 MS. MILLER: Objection; misstates the
22 document.

23 THE WITNESS: What this refers to is that
24 they perceived on that date that the API behavior had
25 changed for them. Hopefully by this point you have a

1 detailed understanding of the migration behavior from
2 API v1 to API v2.

3 What happened here, in my recollection, is
4 that Tinder -- let me back up.

5 As of April 30, 2015, developers could
6 opt/could choose to call API v2.0 at any moment after
7 that. When I say the migration began on April 30,
8 2015, I was referring to our, Facebook's, forced
9 migration of developers. Developers could begin their
10 own migration as of the morning, PST, on April 30,
11 2014.

12 At some point around December or January,
13 Tinder released a version of their app which had been
14 upgraded to call version 2.0 of the API.

15 (Reporter clarification.)

16 THE WITNESS: At some point around
17 December -- well, clearly December or very early
18 January, Tinder released a version of their app which
19 had been updated to call version 2.0 of the Graph API.
20 They made a mistake in understanding how the API
21 migration behavior would work.

22 That's what triggered, in my recollection,
23 this email. The rest of the thread, as I read it
24 here, is about us initially helping them to understand
25 that they'd made a mistake and that the API was

1 working, as you'll see by my quote earlier -- late --
2 earlier in the pages of the document, later in the
3 thread, the API -- so if you look at page ending 135,
4 my section there, I'm explaining how the API behavior
5 would work. At the bottom it says:

6 "Net, they shouldn't have upgraded to use
7 v2.0" --

8 "v2.x" is our nomenclature for 2.0 and
9 beyond.

10 "...until they were ready to handle
11 app-friends only..."

12 So they made a mistake releasing a version
13 of the application which had been coded against
14 version 2 of the API before they were ready --

15 (Reporter clarification.)

16 THE WITNESS: -- releasing a version of
17 the application which had been coded against version 2
18 of the API and they began to experience what they
19 considered unexpected behavior. Because they
20 considered it unexpected behavior, it was negatively
21 affecting the experience of people using their
22 application.

23 BY MR. GODKIN:

24 **Q. Did Facebook grant Tinder whitelist access**
25 **to any of the discontinued APIs after April 30, 2015?**

1 MS. MILLER: Objection; lacks foundation,
2 calls for speculation.

3 THE WITNESS: I don't recall the
4 specifics. I do recall our strong intent was to not
5 do so. The reason we -- my recollection as per these
6 emails is that we were discussing granting them an
7 extension during the migration period, before the
8 forced migration began, so that they could rectify
9 their mistake.

10 MR. GODKIN: Okay. You can put that one
11 aside.

12 Let me ask the reporter to mark as
13 Exhibit 8 a document with Facebook's Bates numbers
14 27003 through 08.

15 (Cross Exhibit 8 marked for
16 identification.)

17 THE WITNESS: Actually could we take
18 another break?

19 MR. GODKIN: Just a short one because I'm
20 trying to plow through here.

21 (Off the record at 4:13 p.m.)

22 (On the record at 4:19 p.m.)

23 BY MR. GODKIN:

24 Q. Do you have Exhibit 8, Mr. Cross?

25 A. Yes.

1 Q. Exhibit 8 is a string in February 2015 on
2 the subject of the v2.x XFN migration. What does XFN
3 stand for?

4 A. Cross-functional. In this context, there
5 was a cross-functional team of people involved in
6 managing the migration of our developer platform to
7 API 2.x.

8 Q. All right. Turn to the page with 05 at
9 the bottom.

10 A. Yes.

11 Q. There is a section there, "The
12 Ecosystem/Product Updates" and then "Simon Cross."

13 Do you see that?

14 A. Yes.

15 Q. Then in the second bullet point, you refer
16 to approval to launch the Hashed Friends API. You
17 say:

18 "This is a whitelist-only API for Tinder,
19 JCrush, etc, to let them know the shape of the social
20 graph without knowing the identities of the people
21 within."

22 First of all, what is a Hashed Friends API?

23 A. The Hashed Friends API was an API we built
24 that allowed certain use cases that were previously
25 enabled by an app having access to the Full Friends

1 List for those use cases to continue without
2 necessarily having access to the identities of a
3 person's non-app-using friends.

4 **Q. So how could these apps work without**
5 **knowing the identities of the non-app-using friends?**

6 MS. MILLER: Objection; calls for
7 speculation, lacks foundation, and compound.

8 THE WITNESS: My understanding of what is
9 meant by the word "hash" is a technical mechanism by
10 which you create a string of numbers or characters,
11 which is stable for a given input but is not usable in
12 any other way.

13 BY MR. GODKIN:

14 **Q. What does it mean to know the shape of the**
15 **graph without knowing the identities?**

16 A. For example, if two people used an
17 application and had three friends in common but those
18 friends did not use the application, the Hashed
19 Friends API would allow a developer/an application to
20 know that two of their app-using people had three
21 friends in common, but it would not know who those
22 people were.

23 **Q. This was an API that was given to Tinder,**
24 **as you write here, correct?**

25 A. As this document is written, at this point

1 we had legal and privacy approval to ship such an API.
2 It is unlikely we had given it to Tinder, for example,
3 at this time.

4 **Q. Did you ever give it to Tinder?**

5 A. My recollection is that this API was
6 eventually made accessible to Tinder and others.

7 **Q. How many others?**

8 A. I couldn't give you a specific number.

9 **Q. What's your best approximation?**

10 A. It's hard for me to give you an accurate
11 number. I don't know what it is today. I do not
12 recall what it was then.

13 **Q. Was it given to JCrush?**

14 A. I can't be certain that it was. It's
15 possible that it was.

16 **Q. Can you identify any other companies that**
17 **were given this whitelist-only API?**

18 A. I can't guarantee to -- I can't give you
19 with certainty the names of other companies that had
20 access to this API.

21 **Q. All right. Why would these companies want**
22 **such an API, to your knowledge?**

23 MS. MILLER: Objection; lacks foundation,
24 calls for speculation.

25 THE WITNESS: My understanding of certain

1 types of apps, specifically around dating, is that
2 they help people find other people, and one of the
3 mechanisms that they use to draw these recommendations
4 is an understanding of who those people know in
5 common.

6 BY MR. GODKIN:

7 **Q. Did Tinder pay Facebook money to obtain**
8 **access to this whitelist-only API?**

9 A. No, not that I understand.

10 MR. GODKIN: You can put that one aside.
11 Let me ask the reporter to mark as Exhibit 9 a
12 document with Facebook's Bates numbers 597229
13 through 33.

14 (Cross Exhibit 9 marked for
15 identification.)

16 BY MR. GODKIN:

17 **Q. Okay?**

18 A. Yes.

19 **Q. Exhibit 9 is an email string in November**
20 **of -- well, it starts in November -- or October of**
21 **2014 and continues after that, regarding Flipboard.**
22 **You're involved in this string. Do you see that?**

23 A. I'm involved in part of it.

24 **Q. If you turn to page 31, you were added to**
25 **it by Eddie O'Neil on October 31, 2014.**

1 read_stream. That's my recollection of why I asked
2 him for information about how to respond to this
3 request.

4 MR. GODKIN: You can put that one aside.
5 Let me ask the reporter to mark as Exhibit 11 a
6 document with Facebook Bates numbers 431352 and 353.

7 (Cross Exhibit 11 marked for
8 identification.)

9 BY MR. GODKIN:

10 Q. Let me know when you have that in front of
11 you.

12 A. I do. And she does too.

13 Q. This, Exhibit 11, is a task document that
14 you created, and it's dated September 2013; is that
15 right?

16 A. That's what I see, yes.

17 Q. Under the description you write that:
18 "With PS12N..."

19 And that's short for "platform simplification,"
20 right?

21 A. That's what I understand PS12N to mean,
22 yes, which is another name for API v -- Platform 3.0.

23 Q. "... we're moving to a world where we'll
24 have many more private APIs than we have today."

25 And then:

1 **"We're also moving to gate access to all these**
2 **private APIs using the Talent tool rather than GKs or**
3 **their own sitevars."**

4 **So how many more private APIs does Facebook**
5 **have today than it had when you wrote this document?**

6 MS. MILLER: Objection; lacks foundation,
7 calls for speculation.

8 THE WITNESS: I can't give you a precise
9 number. It's hard to know how we account for an API.
10 What I was referring to here is that at this time, it
11 looked to us that we were going to be removing some
12 APIs from the public surface area, and we were under
13 the assumption that they would be moved into the
14 private or whitelist surface area of our platform,
15 thereby increasing the number of private APIs that we
16 deemed to exist.

17 At this time, it's not -- it's hard for me
18 to know or say whether or not all of the things that
19 were removed from the public surface area still exist
20 in the private surface area.

21 BY MR. GODKIN:

22 **Q. Does your job today involve managing the**
23 **private APIs in any way?**

24 A. No, it does not.

25 MR. GODKIN: You can put that one aside.

1 Facebook's counsel to search for it, and if that
2 can be located, to turn it over.

3 You can put that aside, and let's mark as
4 the next exhibit, Exhibit 14, a document with
5 Facebook's Bates numbers 31245 through 61.

6 (Cross Exhibit 14 marked for
7 identification.)

8 BY MR. GODKIN:

9 Q. Let me know when you have it in front of
10 you.

11 A. I have my copy.

12 (Off-the-record discussion.)

13 BY MR. GODKIN:

14 Q. Exhibit 14 is an email string in March and
15 April of 2015 regarding a company called Hootsuite.
16 It concerns access to whitelisted permission.

17 If you turn, if you would, to page 58 at the
18 bottom. On that page, you wrote at the top that
19 Hootsuite has been approved for a number of
20 permissions and you listed them all there.

21 Do you see that?

22 A. I do.

23 Q. It includes read_friendlists, user_photos,
24 publish_actions, and a number of others, right?

25 A. I do see that.

1 Q. Then if you turn to page 49 at the bottom,
2 on that page Monica Tsang writes to Hootsuite that
3 their legal agreement regarding access to whitelisted
4 permissions is ready to sign.

5 Do you see that?

6 A. Yes.

7 Q. Do you know how many whitelist
8 agreements -- were they also known as private extended
9 API agreements?

10 MS. MILLER: Objection; lacks foundation,
11 calls for speculation.

12 THE WITNESS: Can you ask -- there were
13 two questions in your statement. Can you ask them
14 separately for me, please?

15 BY MR. GODKIN:

16 Q. Yes. I'll start over.

17 Do you know what a private extended API
18 agreement is?

19 A. My understanding is that that is a legal
20 document that we generally sign with developers in
21 order to grant them access to APIs that are not
22 available in the public surface area of our platform.

23 Q. Do you know how many of those types of
24 agreements Facebook has entered into with developers
25 after April 30 of 2014?

1 A. I do not know.

2 Q. Are you aware of any, other than
3 Hootsuite?

4 A. There are likely to be more than just with
5 Hootsuite. I could not tell you which companies or
6 how many.

7 Q. You can't identify any other companies?

8 A. Not that I can be sure were granted
9 extended API agreements.

10 Q. Did you ever work with developer companies
11 on getting a private extended API agreement put in
12 place other than Hootsuite?

13 A. I would have worked with other companies,
14 yes.

15 Q. But you can't recall a single name of any
16 of those companies?

17 A. I don't want to give a name that I can't
18 be a hundred percent confident was in play.

19 Q. So your testimony is you can't remember a
20 single company that you worked with to get a private
21 extended API agreement in place, other than Hootsuite?

22 MS. MILLER: Objection; misstates the
23 testimony.

24 THE WITNESS: My testimony is that I don't
25 want to give you the name of a company which I cannot

1 be sure was granted access to an extended -- was
2 granted access to private APIs under an extended API
3 agreement.

4 BY MR. GODKIN:

5 Q. Do you have a good-faith memory of any
6 companies that you worked with to get a private
7 extended API agreement put in place?

8 A. I honestly can't be sure.

9 MR. GODKIN: Okay. Let's put this one
10 aside.

11 Let's mark as Exhibit 15 a document with
12 Bates number 00510421.

13 (Cross Exhibit 15 marked for
14 identification.)

15 BY MR. GODKIN:

16 Q. Once again, let me know when everybody is
17 ready.

18 A. Yes, we're good.

19 Q. Exhibit 15 is a task that you prepared on
20 March 20, 2014, and the subject is "Fully deprecate
21 (not privatize) Checkins and Location APIs and
22 Permissions."

23 Do you see that?

24 A. I do.

25 Q. So Checkin was an API?

1 MR. GODKIN: All right. You can put that
2 one aside, and let me ask the reporter to mark as
3 Exhibit 16 a document with Facebook's number 00456587.

4 (Cross Exhibit 16 marked for
5 identification.)

6 BY MR. GODKIN:

7 Q. And let me know when you're ready.

8 All set?

9 A. All set.

10 Q. This is a task that you created on
11 February 3, 2014 to gain access to non-app friends by
12 a capability.

13 Do you see that?

14 A. I do.

15 Q. Then the description of the app, in the
16 second paragraph, you write:

17 "Some apps have a valid use case to access
18 non-app friends."

19 You give a couple of examples of Venmo and
20 Bing.

21 Do you see that?

22 A. I do.

23 Q. In the sentence next to Bing, you wrote:

24 "Bing needs this to display public data from
25 your friends which they acquired via the firehose."

1 **What does that mean, "firehose"?**

2 A. My understanding is that the firehose is a
3 specialized API that was built to allow us to work
4 with Bing to ensure that public data about people
5 you're friends with on Facebook was returned as part
6 of their Bing search engine.

7 **Q. Was the Firehose API, did it have a**
8 **different name or was it called the Firehose API?**

9 A. As I understand it, we called it the
10 Firehose API.

11 **Q. Was that API granted to anybody other than**
12 **Bing?**

13 MS. MILLER: Objection; lacks foundation,
14 calls for speculation.

15 THE WITNESS: It may have been.
16 I couldn't tell you for certain who it was granted to
17 or how many people there were.

18 BY MR. GODKIN:

19 **Q. Then you write:**

20 **"As such, we will need a new capability:**
21 **'can_read_non_app_friends.'"**

22 **Do you see that?**

23 A. I do.

24 **Q. And then with that capability, you write**
25 **at the bottom of page 87 that Facebook will give the**

1 app to -- "including to friends who have not TOS'd
2 this app."

3 Do you see that?

4 A. I do.

5 Q. Does TOS stand for terms of service?

6 A. It does. That's a phrase that's used
7 internally to represent when a user has chosen to log
8 into an app using Facebook Login.

9 Q. So when you wrote "friends who have not
10 TOS'd the app," you're referring to people who had not
11 downloaded the app, correct?

12 A. No. I'm referring to people who have not
13 logged into an app with Facebook.

14 Q. Oh, with Facebook. I understand. Okay.

15 MR. GODKIN: You can put that one aside.

16 Let me mark as Exhibit 17 a document with
17 Facebook's Bates numbers 510070 through 71.

18 (Cross Exhibit 17 marked for
19 identification.)

20 BY MR. GODKIN:

21 Q. All right. Exhibit 17 is another task
22 that was created by Harshdeep Singh on December 3,
23 2013, and you are subscribed to this task. Do you see
24 that?

25 A. I do.

1 tasks for things you might or may need to do. That
2 does not mean every task gets executed as written. My
3 recollection is that this permission was removed from
4 the API surface area because it's useless in a world
5 where apps don't have access to the Full Friends List.

6 **Q. That was going to be my next question.**

7 **After April 30, 2015, are you saying that a**
8 **developer could not access non-app friends because**
9 **this had been removed?**

10 A. My understanding is that this permission
11 was removed from the public API surface area because
12 it makes no sense to grant developers the ability to
13 manage a friend list when they don't have access to
14 the full content of those friend lists.

15 MR. GODKIN: All right. Put that one
16 aside, and let's mark as Exhibit 19 a document with
17 Facebook 00482145.

18 (Cross Exhibit 19 marked for
19 identification.)

20 BY MR. GODKIN:

21 **Q. Let me know when you're all ready.**

22 A. I think we have an email header with no
23 context. Yes.

24 **Q. It has a subject which is regarding tasks**
25 **with a number, and then the text is "[deprecate]**

1 **privatize friends_* permissions."**

2 **Do you see that?**

3 A. I do see that.

4 MS. MILLER: And I'll object again on the
5 record that the substance of this task is in a
6 separate document that was produced and is not being
7 shown to the witness.

8 BY MR. GODKIN:

9 **Q. What is your understanding of what this**
10 **task involved?**

11 A. It's hard for me to understand what this
12 task involves from three words of a subject and a task
13 from three and a half years ago.

14 **Q. To your knowledge, was this task**
15 **completed?**

16 MS. MILLER: Same objection.

17 THE WITNESS: I couldn't tell you if it
18 was or not. I refer to my previous answer, whereby
19 it's common practice at Facebook to create tasks for
20 things that you think you might want to do. Just
21 because a task exists, it does not mean the task was
22 completed, closed or actioned.

23 BY MR. GODKIN:

24 **Q. What does the word "deprecate" mean to**
25 **your understanding?**

1 A. Could you help me understand the context
2 you mean -- the context in which you want me to give
3 you my understanding?

4 **Q. The context as it appears on this**
5 **document, Exhibit 19.**

6 A. It's hard to understand exactly what the
7 context is because the rest of the task is not visible
8 to me.

9 In general, the word "deprecate" means a
10 process by which you begin -- you tell people that
11 something is no longer going to be available to them
12 over time.

13 **Q. Does it mean the same thing as privatize?**

14 A. No.

15 MR. GODKIN: You can put that one aside.
16 Let's mark as Exhibit 20 a document with Facebook's
17 Bates number 569387.

18 (Cross Exhibit 20 marked for
19 identification.)

20 BY MR. GODKIN:

21 **Q. Let me know when you're all ready.**

22 A. Yes, I have that.

23 MS. MILLER: And I'll make the same
24 objection; that the substance of this task was
25 produced in a separate document that's not being shown

1 referring to my previous answer, Nissan had likely
2 built a Facebook Replacement Client that was baked
3 into car dashboards, and they were physically unable
4 to update that integration in the timeline that we
5 gave to developers.

6 **Q. Could Nissan access friends_photos after**
7 **April 30, 2015?**

8 MS. MILLER: Objection; lacks foundation,
9 calls for speculation.

10 THE WITNESS: It's possible, given what's
11 discussed in these threads.

12 BY MR. GODKIN:

13 **Q. Do you know for what period of time Nissan**
14 **was granted access to friends_photos?**

15 A. I do not know what period of time. It's
16 likely that the period of time was defined at the
17 point we granted them an extension and likely written
18 into a contract.

19 MR. GODKIN: You can put that one aside.
20 Let's mark as Exhibit 23 a document with Facebook's
21 Bates numbers 61393 through 395.

22 (Cross Exhibit 23 marked for
23 identification.)

24 MS. MILLER: We're good to go.

25 THE WITNESS: We're good.

1 BY MR. GODKIN:

2 Q. Exhibit 23 is an email exchange in
3 September of 2013, which you and Mr. Archibong and
4 Mr. Daniels and others are discussing a comment
5 written by David Poll, who is a Facebook engineer. Is
6 that right?

7 A. That's what I see.

8 Q. Mr. Poll's comment appears on pages 94 and
9 95. Do you see that?

10 A. Yes.

11 Q. When you read this, what did you
12 understand was the nature of Mr. Poll's comment?

13 MS. MILLER: Objection; lacks foundation,
14 calls for speculation.

15 THE WITNESS: My understanding, that this
16 is his opinion.

17 BY MR. GODKIN:

18 Q. What was your understanding of the opinion
19 he was expressing?

20 MS. MILLER: Same objections, and the
21 document speaks for itself.

22 THE WITNESS: I think it's pretty clear
23 from the words in front of me what his opinion is.

24 BY MR. GODKIN:

25 Q. Mr. Rose forwarded Mr. Poll's comment to

1 Q. And then you say:

2 "We're already thrashing developers really hard
3 in an effort to clean up the API, so we need to be
4 careful about any additional value we remove from the
5 API surface area."

6 What did you mean by "we are already thrashing
7 developers really hard"?

8 A. My recollection from this time in March 2
9 is at this point we were 28 days away from beginning
10 the forced migration of API v1 to v2. As this effort
11 is hopefully clear to everybody by now, it was
12 something we took a lot of time over and knew was
13 going to affect applications and developers in some
14 way and that some of those applications, as I
15 mentioned earlier, developers would consider that --
16 that developers wouldn't consider viable after these
17 changes were made.

18 The set migrations are understandably
19 significant and required a lot of effort from
20 developers. So by "thrashing developers really hard,"
21 that's what I mean.

22 Q. What did you mean by:

23 "Facebook should be careful about any
24 additional value we remove from the API surface area"?

25 A. My recollection is at this point, the

1 events team, who own the Events API, wanted to remove
2 additional functionality from the Events API because
3 those APIs were no long -- those APIs were connected
4 to products that the events team were planning to
5 deprecate inside Facebook itself.

6 I was concerned at this point, if my
7 recollection serves correctly, that making these
8 additional removals on behalf of the events team, at
9 the same time as migrating our developer ecosystem
10 from API v1 to v2, would be complicated and confusing
11 to developers.

12 In my role as the product manager for developer
13 experience, my job was to manage this transition as
14 simply and cleanly and transparently as possible.

15 (Reporter clarification.)

16 THE WITNESS: Quickly, I think I said.
17 Quickly and cleanly as possible.

18 BY MR. GODKIN:

19 Q. So the Full Friends List was removed from
20 the platform effective April 30, 2015, correct?

21 A. As I've said in previous answers, we began
22 to force-migrate apps to API v2.0 beginning on
23 April 30, 2015.

24 Q. Same question for the News Feed API?

25 A. From what I'm reading here, this is

1 jogging my memory. It suggests that read_stream was
2 still in the -- still a permission developers could
3 request at that time but that we had decided or we
4 were planning at this point to deprecate that
5 permission as part of the next API version, API v2.4,
6 in June -- that we announced in June 2015.

7 Q. Let me just -- I'm changing the topic a
8 little bit now, just so it's clear. I want to talk
9 just talk for a few minutes about the Full Friends
10 List, the Friends Permissions, and the News Feed API.
11 Do I understand correctly that those three APIs were
12 removed effective April 30 of 2015? Is that right?

13 A. I think that's incorrect.

14 Q. What's incorrect about it?

15 A. From what -- this is helping me jog my
16 memory. The read_stream permission, which is the
17 permission developers needed to access the News Feed,
18 was still a part of API v2.0, v2.1, v2.3, until API
19 v2.4 was announced in June 2015.

20 The other permissions, access to the Full
21 Friends List and the friends_* permissions, were
22 deprecated as part of the removal of API v1.0, which
23 we began to force/migrate public developers away from
24 on April 30, 2015.

25 Q. When would you say Facebook made the