

EXHIBIT 1

UNREDACTED VERSION OF DOCUMENT SOUGHT TO BE LODGED UNDER SEAL

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SAN MATEO

3 ---oOo---

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

6 Plaintiff,

7 vs.

Case No. CIV. 533328

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

10 Defendant.

_____/

11

12

13 ***CONFIDENTIAL***

14

15 DEPOSITION OF

16 MICHAEL VERNAL

17

18 WEDNESDAY, AUGUST 30, 2017

19

20

21

22

23 REPORTED BY: HOLLY THUMAN, CSR No. 6834, RMR, CRR

24 (BO-137291)

25

1 MS. MILLER: Objection. Lacks foundation; 10:09:02
2 calls for speculation. 10:09:04

3 BY MR. GODKIN: 10:09:05

4 Q. Do you know why Facebook acquired 10:09:05
5 WhatsApp? 10:09:06

6 A. I mean, I believe at the highest level, it 10:09:10
7 is a successful social product, and Facebook -- and 10:09:15
8 aligned with Facebook's mission. 10:09:19

9 Q. Do you know whether Facebook used Onavo to 10:09:23
10 track the success of WhatsApp? 10:09:29

11 A. I would -- I would need to speculate, 10:09:35
12 but -- 10:09:39

13 Q. Well, you see on this -- this chart, this 10:09:40
14 document, the horizontal axis is entitled "Onavo 10:09:43
15 Reach," and then it says, "iPhone, cellular"? 10:09:49

16 A. Yes. 10:09:52

17 Q. Does that suggest that the person who 10:09:53
18 prepared this document was using data from the 10:09:56
19 Onavo product to track WhatsApp reach versus 10:09:59
20 engagement? 10:10:07

21 MS. MILLER: Objection. Calls for 10:10:08
22 speculation and lacks foundation. 10:10:08

23 THE WITNESS: Because the word is "Onavo" 10:10:13
24 there, I would speculate that it is Onavo, but I do 10:10:15
25 not know what the units of the reach axis are. 10:10:18

1 BY MR. GODKIN:

10:10:22

2 Q. Does this refresh your recollection as to
3 whether Facebook used Onavo to track competitors'
4 apps?

10:10:22

10:10:24

10:10:27

5 A. Well, as I said, I believe that Facebook
6 used a -- sort of a variety of means to keep track
7 of popular apps on the market.

10:10:29

10:10:33

10:10:38

8 Q. Did Facebook use Onavo to do that?

10:10:41

9 MS. MILLER: Objection. Lacks foundation
10 and calls for speculation.

10:10:44

10:10:45

11 THE WITNESS: I would presume so, but I
12 did not directly work on it.

10:10:46

10:10:49

13 BY MR. GODKIN:

10:10:51

14 Q. Do you see in the second paragraph here,
15 it says, "Bad news -- for same reach, competitors
16 have more engagement"?

10:10:51

10:10:53

10:10:57

17 A. Yes.

10:10:59

18 Q. And the only competitor that's -- that's
19 described on this page in the chart is WhatsApp.
20 Correct?

10:11:00

10:11:04

10:11:07

21 MS. MILLER: Objection. Lacks foundation,
22 calls for speculation.

10:11:07

10:11:08

23 THE WITNESS: It is -- it is the only
24 other app that I see listed.

10:11:11

10:11:12

25 //

1 Q. You have no knowledge one way or the
2 other?

3 A. I don't believe anyone in this group
4 reported to me, and I have never seen this email
5 before, so I would be speculating based on what's
6 written here.

7 Q. While you were working at the company, do
8 you recall any discussions within Facebook about
9 Onavo and concerns that people were worried about
10 if they found out how Facebook was using the Onavo
11 app?

12 MS. MILLER: Objection. Compound.

13 THE WITNESS: I don't recall any
14 conversations on this topic, at least that I was a
15 part of.

16 MR. GODKIN: Okay. Let's mark as the next
17 exhibit Facebook 01188663 through -665.

18 (Deposition Exhibit 6 was marked for
19 identification.)

20 BY MR. GODKIN:

21 Q. We've placed in front of you Exhibit 6,
22 Mr. Vernal. This one you were on the email. If
23 you'd take a minute to review it.

24 A. (Examining document.) Okay.

25 Q. First of all, is this an example of a chat

1 using the Facebook Messenger system that we talked 10:37:35
2 about earlier? 10:37:39

3 A. I believe so. 10:37:40

4 Q. So this is the kind of thing you told me 10:37:41
5 about that you can sign into your Messenger account 10:37:44
6 and produce things that look like this? 10:37:46

7 A. I believe the way it works is, this isn't 10:37:54
8 how it looks when using either the web product or 10:38:00
9 the mobile product. I believe this is how it works 10:38:03
10 for sort of document retention purposes. 10:38:06

11 Q. Okay. And in any event, you were on 10:38:08
12 this -- you were in this chat string -- correct? -- 10:38:11
13 because your name is there. 10:38:15

14 A. Yes. 10:38:16

15 Q. And so in the first paragraph, it starts 10:38:17
16 with Mr. Michael LeBeau writing. 10:38:20

17 Do you see that? 10:38:24

18 A. Yes. 10:38:24

19 Q. And do you know who Mr. LeBeau is? 10:38:25

20 A. Yes. 10:38:27

21 Q. Who is he? 10:38:27

22 A. I believe he was either an engineer or a 10:38:29
23 PM, I can't recall which, on a team in New York. 10:38:33

24 Q. And he -- he says in the first paragraph 10:38:39
25 that the growth team -- the growth team was the one 10:38:42

1 you mentioned earlier that is what Mr. Olivan runs 10:38:47
2 or ran at the time. Correct? 10:38:50

3 A. Yes. 10:38:52

4 Q. -- is going to -- does he say that they're 10:38:55
5 going to track the call logs of people who are 10:38:58
6 using Facebook on Android phones? 10:39:00

7 A. I do not believe that that's what he says. 10:39:06

8 Q. Well, he says, "the growth team is 10:39:08
9 planning on shipping a permissions update on 10:39:10
10 Android." Right? 10:39:12

11 A. I believe he says, "They are going to 10:39:17
12 include the 'read call log' permission, which will 10:39:19
13 trigger the Android permissions dialogue on update, 10:39:22
14 requiring users to accept the update." 10:39:25

15 Q. And then he says that: 10:39:27

16 "They will then provide an in-app opt-in 10:39:28
17 NUX for a feature that let you continuously 10:39:33
18 upload your SMS and call log history to 10:39:37
19 Facebook to be used for improving things like 10:39:41
20 PYMK, coefficient calculation, feed ranking, 10:39:44
21 et cetera." 10:39:49

22 Right? 10:39:49

23 A. Yes. 10:39:49

24 Q. What is NUX? 10:39:50

25 A. I believe it stands for new user 10:39:52

1 experience.

10:39:54

2 Q. And PYMK is --

10:39:54

3 A. People you may know.

10:39:57

4 Q. So isn't what he's referring to here that
5 Facebook -- the growth team of Facebook is going to
6 track call logs of people using it on an Android
7 phone?

10:39:59

10:40:01

10:40:03

10:40:08

8 A. I believe what he is saying is that
9 Facebook was going to launch a feature that users
10 can opt into to improve the Facebook experience by
11 leveraging the -- sort of the people you
12 communicate with most and helping you find them and
13 prioritize their content on Facebook.

10:40:09

10:40:11

10:40:15

10:40:20

10:40:23

10:40:25

14 Q. Okay. And then he goes on to say, "This
15 is a pretty high-risk thing to do from a PR
16 perspective but it appears that the growth team
17 will charge ahead and do it."

10:40:28

10:40:31

10:40:35

10:40:38

18 Do you see that?

10:40:40

19 A. Yes.

10:40:40

20 Q. What is your understanding of why it was a
21 pretty high-risk thing to do from a PR perspective?

10:40:41

10:40:43

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

10:40:47

10:40:47

24 THE WITNESS: Well, I believe this was the
25 opinion of either a PM or an engineer. And based

10:40:49

10:40:51

1 on sort of the subsequent conversation, it appears 10:40:57
2 it was not an opinion that I shared at the time. 10:41:03

3 BY MR. GODKIN: 10:41:06

4 Q. And Mr. LeBeau says in his third paragraph 10:41:07
5 that he's concerned about stories appearing along 10:41:11
6 the lines of, quote, "Facebook uses new Android 10:41:16
7 update to pry into your private life in ever more 10:41:20
8 terrifying ways -- reading your call logs, tracking 10:41:23
9 you in businesses with beacons, et cetera." 10:41:27

10 Do you see that? 10:41:35

11 A. Yes. 10:41:36

12 Q. And then he refers to Gravity. 10:41:36

13 Do you see that? 10:41:38

14 A. Yes. 10:41:39

15 Q. And what was Gravity, or what is Gravity? 10:41:41

16 A. I believe it was the -- it was a code name 10:41:44
17 for a project that he was working on. 10:41:49

18 Q. And do you know what the nature of that 10:41:51
19 project was? 10:41:52

20 A. It was -- it was an experience for when 10:41:53
21 you walked into a small business, sort of a small 10:41:58
22 local business, that you could easily sort of find 10:42:02
23 that business's page within the Facebook app and 10:42:06
24 interact with that business. 10:42:09

25 Q. Okay. And then you write on page -64, the 10:42:11

1 next page, "I acknowledge but tend to be less 10:42:19
2 concerned about this risk than you guys are." 10:42:24

3 A. Yes. 10:42:26

4 Q. Why were you less concerned about the 10:42:27
5 risk? 10:42:29

6 A. Because I felt that -- well, I felt that 10:42:33
7 Michael was taking a -- an extreme point of view 10:42:39
8 around -- he had a project that he was working on, 10:42:51
9 and he wanted to -- he wanted to minimize -- he 10:42:54
10 wanted to clear the path for his project to be 10:42:59
11 successful and I felt was being hyperbolic about 10:43:01
12 other projects as a way of clearing the path for 10:43:06
13 his project. 10:43:08

14 Q. Do you think that people who use Facebook 10:43:10
15 know that Facebook is tracking their call logs? 10:43:14

16 MS. MILLER: Objection. Lacks foundation; 10:43:17
17 misstates the document and testimony; calls for 10:43:17
18 speculation. 10:43:24

19 THE WITNESS: I mean, I -- so I first have 10:43:24
20 no idea if this feature was ever launched or not. 10:43:27
21 So I think here, this conversation is one group 10:43:31
22 talking about what another group may or may not do, 10:43:34
23 and so I don't know if it ever launched. 10:43:38

24 As described here, it seems like a feature 10:43:40
25 that has -- that users could affirmatively opt into 10:43:46

1 with a new user experience to improve your Facebook
2 experience. So I would have to speculate about,
3 one, whether this ever launched; and two, what the
4 experience was. But it seems like this was an
5 opt-in experience to improve the Facebook
6 experience for uses.

7 BY MR. GODKIN:

8 Q. While you worked for the company, did
9 Facebook ever track the call logs of its users?

10 A. I have no knowledge of that.

11 Q. And then further down on page 2 is some
12 entries by Yul Kwon.

13 Do you see that?

14 A. Yes.

15 Q. And is that a he or a she?

16 A. It's a he.

17 Q. He writes:

18 "Also, the Growth team is now exploring a
19 path where we only request Read Call Log
20 permission and hold off ongoing any other
21 permissions for now.

22 "Based on their initial testing, it seems
23 that this would allow us to upgrade users
24 without subjecting them to an Android
25 permissions dialog at all."

1 What is your understanding of what that 10:44:51
2 means? 10:44:53

3 A. I do not know. 10:44:54

4 Q. Does it mean that Facebook will be able to 10:44:58
5 track call logs of Android users without having to 10:45:02
6 ask them permission when they upgrade the app? 10:45:06

7 MS. MILLER: Objection. Lacks foundation, 10:45:09
8 calls for speculation. 10:45:10

9 THE WITNESS: I would be speculating, but 10:45:13
10 that is not what I think it means. 10:45:14

11 BY MR. GODKIN: 10:45:16

12 Q. What do you think it means? 10:45:16

13 A. I -- so again, I have no idea if this 10:45:20
14 feature ever launched, and I don't think I've ever 10:45:27
15 seen this feature. But my interpretation of the 10:45:29
16 first paragraph of this conversation refers to sort 10:45:33
17 of an in-app opt-in user experience where people 10:45:40
18 can turn this feature on. 10:45:45

19 And so the term "in app" in this context I 10:45:47
20 think refers to a new user experience within the 10:45:50
21 Facebook app; and "opt-in" in this context I think 10:45:53
22 refers to an experience where users affirmatively 10:45:57
23 decide to turn this on. 10:46:00

24 And so I don't see anything here that 10:46:02
25 would change my interpretation of that first 10:46:04

1 paragraph.

10:46:05

2 Q. Did Facebook ever implement any SMS log
3 tracking for users on Android phones, do you know?

10:46:07

10:46:12

4 A. I have no knowledge of that.

10:46:16

5 Q. What about iPhone phones?

10:46:17

6 A. I have no knowledge of that.

10:46:19

7 MR. GODKIN: Let's mark as the next
8 exhibit a document with Facebook's numbers 89734
9 through -742.

10:46:38

10:46:40

10:46:45

10 (Deposition Exhibit 7 was marked for
11 identification.)

10:46:46

10:46:48

12 BY MR. GODKIN:

10:47:03

13 Q. I've handed you Exhibit 7, Mr. Vernal.
14 Take a moment to look at it. I'm going to ask you
15 mostly about the second page.

10:47:05

10:47:08

10:47:11

16 And it's the first full little section of
17 the second page, starting "A researcher flagged and
18 publicized..."

10:47:58

10:48:01

10:48:06

19 A. (Examining document.) Okay.

10:48:10

20 Q. So Exhibit 7 is a -- appears to be a
21 weekly privacy update.

10:51:19

10:51:22

22 Do you see that?

10:51:24

23 MS. MILLER: Objection. Lacks foundation
24 and calls for speculation.

10:51:25

10:51:26

25 THE WITNESS: Yeah, I was not -- I don't

10:51:28

1 believe I was on the recipient list for this, so I 10:51:30
2 don't think I've seen this before. So I would 10:51:33
3 speculate given the subject line, but I have no 10:51:36
4 direct knowledge. 10:51:39

5 BY MR. GODKIN: 10:51:40

6 Q. Well, that's what I was going to ask you, 10:51:40
7 because on the first page, you see there is an 10:51:42
8 email from Matt Scutari on December 11th, 2013, and 10:51:45
9 he says, "Hi everyone." 10:51:50

10 A. Yes. 10:51:53

11 Q. So my question is, do you know who this 10:51:54
12 weekly privacy update was generally sent to? 10:51:55

13 A. I do not. 10:51:59

14 Q. Do you think it was not sent to you? 10:52:01

15 A. I don't recall getting these, but I could 10:52:07
16 be wrong. 10:52:09

17 Q. All right. And if you turn to the second 10:52:12
18 page, the entry entitled "PYMK Friends List 10:52:13
19 Visibility," PYMK is the people you may know that 10:52:21
20 you've talked about earlier? 10:52:25

21 A. Yes. 10:52:27

22 Q. And that's basically used to suggest 10:52:29
23 potential friends that you might want to connect 10:52:34
24 with on Facebook? 10:52:35

25 A. I believe so. 10:52:38

1 Q. Does this -- this little section here, it 10:52:42
2 says, "This is an intended behavior designed to 10:52:45
3 maximize the relevance of PYMK suggestions for new 10:52:49
4 users." 10:52:56

5 Do you see that? 10:52:57

6 A. I see it. 10:52:58

7 Q. Does that suggest that Facebook was 10:52:59
8 ignoring privacy settings on users' lists? 10:53:02

9 MS. MILLER: Objection. Lacks foundation, 10:53:09
10 calls for speculation, argumentative. 10:53:09

11 THE WITNESS: I have no direct knowledge 10:53:13
12 of either this broader email or this specific, sort 10:53:15
13 of, row. 10:53:21

14 BY MR. GODKIN: 10:53:22

15 Q. Was there a group at Facebook called 10:53:22
16 "Privacy"? 10:53:32

17 A. There was a -- I do not believe there was 10:53:34
18 a singular group called "Privacy." 10:53:36

19 Q. Was there some sort of a -- some kind of a 10:53:39
20 group that addressed privacy-related issues? 10:53:41

21 A. I believe there was a sort of privacy XFN 10:53:47
22 group, XFN standing for cross-functional, that 10:53:51
23 incorporated a number of constituents. 10:53:56

24 Q. Okay. Do you know in 2013 who was part of 10:53:59
25 that? 10:54:01

1 A. I do not.

10:54:01

2 Q. If you will turn to page -38. I'm
3 referring to the Bates numbers at the bottom.

10:54:08

10:54:11

4 A. Yep.

10:54:15

5 Q. There's an entry there called "Onavo app
6 lookalike targeting."

10:54:16

10:54:18

7 Do you see that?

10:54:21

8 A. Yes.

10:54:22

9 Q. And it -- the text is:

10:54:24

10 "Proposed test with a few advertisers,
11 where Onavo would pass ad identifiers for
12 devices that have an advertiser's app
13 installed to Facebook. Facebook would create
14 a lookalike audience that would allow
15 targeting of people who are demographically
16 similar to those who have the app installed."

10:54:25

10:54:28

10:54:31

10:54:35

10:54:38

10:54:41

10:54:43

17 Do you see that?

10:54:47

18 A. Yes.

10:54:47

19 Q. So does that suggest that Facebook was
20 considering using Onavo to target advertising to
21 people who were similar to the Facebook users?

10:54:48

10:54:54

10:55:01

22 MS. MILLER: Objection. Lacks foundation
23 and calls for speculation.

10:55:06

10:55:07

24 THE WITNESS: Yeah, I have no direct
25 knowledge either of this broader email or this

10:55:11

10:55:13

1 particular row, so I would just be speculating. 10:55:15

2 BY MR. GODKIN: 10:55:18

3 Q. All right. Turn to page -40, then. 10:55:19

4 There's an entry there called "Use of Call Log 10:55:24

5 Data," and then it starts: Product wants to use 10:55:28

6 call log data (e.g. duration/frequency -- bless 10:55:31

7 you -- recency of incoming/outgoing calls/text, to 10:55:36

8 generate PYMK suggestions following contact import. 10:55:41

9 Do you see that? 10:55:46

10 A. Yes, I see it. 10:55:47

11 Q. And product, was that a group within 10:55:49

12 Facebook, the product group? 10:55:51

13 A. No, not really. 10:55:55

14 Q. Well, what is your understanding of what 10:55:56

15 the word "product" here is referring to? 10:55:59

16 MS. MILLER: Objection. Lacks foundation, 10:56:03

17 calls for speculation. 10:56:04

18 THE WITNESS: Yeah, I would -- I think 10:56:08

19 this is probably a shorthand for the sort of -- the 10:56:10

20 product/engineering/design group within some org. 10:56:18

21 I don't know which org. 10:56:24

22 BY MR. GODKIN: 10:56:25

23 Q. Were you aware that somebody within 10:56:26

24 Facebook wanted to use call log data in this 10:56:29

25 fashion? 10:56:32

1 MS. MILLER: Objection. Lacks foundation. 11:02:36

2 THE WITNESS: So I was not in the employ 11:02:39

3 of the company at the time, but I believe that 11:02:42

4 Facebook was making available its platform for 11:02:44

5 people to use. 11:02:47

6 BY MR. GODKIN: 11:02:48

7 Q. And at the time you joined Facebook, did 11:02:49

8 you -- did it come to your attention that Facebook 11:02:53

9 was actually encouraging developers to build 11:02:56

10 applications and businesses on the platform? 11:02:59

11 A. I believe that Facebook was making its 11:03:03

12 platform available to developers and informing them 11:03:07

13 about it, yes. 11:03:10

14 Q. But are you saying they -- Facebook was 11:03:12

15 not encouraging people to use the platform to build 11:03:13

16 applications and businesses? 11:03:17

17 MS. MILLER: Objection. Argumentative. 11:03:19

18 Go ahead. 11:03:21

19 THE WITNESS: I -- I do not know if there 11:03:21

20 is a specific definition to "encouraging." I would 11:03:24

21 say that we -- Facebook made a platform available 11:03:27

22 to folks and was informing and -- informing the 11:03:30

23 community about that platform. 11:03:34

24 BY MR. GODKIN: 11:03:35

25 Q. And was informing the community about the 11:03:36

1 platform because it wanted people to actually use 11:03:39
2 it to develop applications and businesses. 11:03:41

3 Correct? 11:03:44

4 A. Presumably, yes. 11:03:46

5 Q. There would have been no other reason do 11:03:48
6 that, would there? 11:03:50

7 MS. MILLER: Objection. Argumentative. 11:03:51

8 THE WITNESS: It is -- I -- the platform 11:03:53
9 existed as a way for developers to sort of 11:03:59
10 integrate with Facebook. 11:04:03

11 BY MR. GODKIN: 11:04:04

12 Q. Is it true that starting in 2007, at least 11:04:05
13 until early 2014, Facebook was representing to the 11:04:12
14 public that developers had access to Graph API 11:04:17
15 data, including the full friends list, friends 11:04:25
16 permissions, and News Feed APIs? 11:04:27

17 MS. MILLER: Objection. Compound. 11:04:31

18 THE WITNESS: It is -- there are multiple 11:04:34
19 questions in there, and I believe that the 11:04:37
20 Graph API did not come into existence, or at least 11:04:39
21 public access, until sometime in the 2010 time 11:04:43
22 frame. 11:04:45

23 BY MR. GODKIN: 11:04:46

24 Q. But as of the 2007 time frame, is it true 11:04:46
25 that Facebook was representing to the public that 11:04:51

1 developers would have access to the full friends 11:04:55
2 list, friends permissions, and News Feed APIs? 11:04:57

3 A. I do not believe that question as stated 11:05:03
4 is true. 11:05:05

5 Q. What is not true about it? 11:05:05

6 A. Multiple parts. 11:05:07

7 Q. What parts? 11:05:08

8 A. Can you break down the question so that I 11:05:09
9 can answer it singularly? 11:05:10

10 Q. Sure. Is it true that beginning in 2007, 11:05:12
11 Facebook represented to the public that developers 11:05:15
12 had access to the full friends list? 11:05:19

13 A. I believe that in 2007, Facebook made 11:05:25
14 available an API via which users could grant an 11:05:29
15 application access to their friend list subject to 11:05:38
16 the user's consent and the developer's acceptance 11:05:41
17 of Facebook policies and a handful of, you know, 11:05:46
18 sort of footnotes. But yes. 11:05:49

19 Q. Okay. Same question regarding friends 11:05:52
20 permissions. 11:05:55

21 A. I do not believe friends permissions came 11:05:56
22 into existence until perhaps 2009 or 2010. 11:06:00
23 Probably 2010. 11:06:06

24 Q. But as of the date it came into existence, 11:06:07
25 it's true that Facebook was representing to the 11:06:11

1 public that developers had access to friends 11:06:13
2 permissions. Correct? 11:06:16

3 A. When that launched, which -- when 11:06:21
4 friends permissions, as I interpret -- as I 11:06:25
5 interpret what you mean, came into existence, I -- 11:06:30
6 I believe that -- again, developers could ask a 11:06:37
7 user to grant them access to -- could grant them 11:06:41
8 those permissions, subject to the user's consent 11:06:50
9 and the developer's acceptance of the terms and the 11:06:53
10 like. 11:06:56

11 Q. When did the News Feed API come into 11:06:56
12 existence? 11:06:59

13 A. I believe either late 2008, or maybe 11:07:01
14 sometime in 2009. 11:07:10

15 Q. As of the date that it came into 11:07:12
16 existence, did Facebook represent to the public 11:07:14
17 that developers had access to the News Feed API? 11:07:17

18 A. Again, I believe that -- I believe that 11:07:23
19 developers could ask users to grant them access to 11:07:29
20 this API. 11:07:35

21 Q. Starting in 2007, did Facebook represent 11:07:36
22 to developers that they would have a level 11:07:39
23 competitive playing field to build their business? 11:07:42

24 A. I was not in the employ of Facebook at the 11:07:47
25 time, and so I would be speculating. 11:07:51

1 management team weigh in at all? 11:48:30

2 A. I believe so, yes. 11:48:32

3 Q. What was Mr. Zuckerberg's view? 11:48:33

4 MS. MILLER: Objection. Vague as to time 11:48:38
5 and compound. 11:48:39

6 THE WITNESS: Yeah, I don't know if there 11:48:41
7 was a single view. I imagine there were multiple 11:48:42
8 views, and that they evolved over time. 11:48:45

9 BY MR. GODKIN: 11:48:48

10 Q. What was Sheryl Sandberg's view? 11:48:48

11 MS. MILLER: Same objections. 11:48:51

12 THE WITNESS: Same answer. 11:48:52

13 BY MR. GODKIN: 11:48:53

14 Q. Cox? 11:48:53

15 MS. MILLER: Same objections. 11:48:54

16 THE WITNESS: Same answer. 11:48:55

17 BY MR. GODKIN: 11:48:56

18 Q. Schroepfer? 11:48:56

19 A. Mike Schroepfer -- 11:48:58

20 MS. MILLER: Same objections. 11:48:59

21 THE WITNESS: Sorry. Same answer. 11:49:00

22 BY MR. GODKIN: 11:49:01

23 Q. So now focus your attention on before 11:49:05

24 April 30 of 2015. So in other words, before this 11:49:10

25 change was implemented. 11:49:14

1 Is -- was it possible for a user of 11:49:16
2 Facebook to prevent a developer app from accessing 11:49:21
3 My Photos, or the user's photos, on an app that was 11:49:26
4 installed? 11:49:34

5 MS. MILLER: Objection. 11:49:38

6 BY MR. GODKIN: 11:49:39

7 Q. In other words, was there something a user 11:49:39
8 could do to make sure that these apps did not have 11:49:41
9 access to data such as photos? 11:49:43

10 MS. MILLER: Objection. Vague as to what 11:49:46
11 "these apps" are. 11:49:47

12 BY MR. GODKIN: 11:49:48

13 Q. Any app. 11:49:49

14 A. There is -- I feel like it is a nuanced 11:49:50
15 question. 11:49:53

16 I think the short answer is, yes, there 11:49:54
17 were many ways for users to prevent access to apps 11:49:56
18 accessing either their data -- their data. 11:50:03

19 Q. So let's talk about photos for now. 11:50:07

20 It's true that there was a box that could 11:50:09
21 be checked that, you know, the user could check it 11:50:11
22 if they didn't want access to be shared of, let's 11:50:15
23 say, their friends' photos that were on the site? 11:50:21

24 A. I believe the -- the exact manifestation 11:50:24
25 of this evolved over time, but I think generally 11:50:27

1 A. Well, I believe that people could do it on 11:53:37
2 the app themselves, or they could do it on another 11:53:40
3 app like a Twitter or an Instagram or a WeChat or a 11:53:44
4 WhatsApp or the like. 11:53:49

5 So I think there are many platforms for 11:53:50
6 sharing information with friends. 11:53:53

7 Q. Did Facebook benefit from enticing 11:53:54
8 developers to develop apps on Platform? 11:53:59

9 MS. MILLER: Objection. Vague, compound, 11:54:03
10 argumentative. 11:54:05

11 THE WITNESS: I -- I believe that both 11:54:07
12 developers and Facebook benefited by sort of the 11:54:11
13 use of Platform. 11:54:17

14 BY MR. GODKIN: 11:54:19

15 Q. It helped Facebook grow dramatically, did 11:54:20
16 it not, having all these developers writing apps 11:54:23
17 for the Facebook platform? 11:54:27

18 MS. MILLER: Objection. Vague and 11:54:28
19 ambiguous, calls for speculation. 11:54:29

20 THE WITNESS: It is not clear that it 11:54:31
21 helped -- the answer is not clear. 11:54:32

22 BY MR. GODKIN: 11:54:33

23 Q. Okay. Let me dig out another document 11:54:35
24 here. I wish Facebook could develop something to 11:54:38
25 make my eyesight better. 11:54:55

1 Let's mark as the next document Facebook 11:55:05
2 document with the numbers 927553 through -56. 11:55:09
3 (Deposition Exhibit 9 was marked for 11:55:13
4 identification.) 11:55:15
5 BY MR. GODKIN: 11:55:35
6 Q. I've placed in front of you Exhibit 9, 11:55:35
7 which is a February 2013 email from Purdy to you -- 11:55:37
8 or it's not an email. It's one of these chat 11:55:45
9 things -- 11:55:47
10 A. Yes. 11:55:48
11 Q. So just take a minute to look at it. 11:55:48
12 A. Okay. (Examining document.) 11:55:51
13 Q. And I'm just going to ask you about 11:56:28
14 something on the first page. 11:56:30
15 A. Okay. 11:58:04
16 Q. So on the first page of Exhibit 9, there's 11:58:05
17 a bunch of your entries here. One of them starts 11:58:09
18 with number 3. And you wrote, "When we started 11:58:13
19 Facebook Platform, we were small and wanted to make 11:58:17
20 sure we were an essential part of the Internet." 11:58:20
21 Do you see that? 11:58:23
22 A. Uh-huh. 11:58:24
23 Q. And then, "We've done that -- we are now 11:58:25
24 the biggest service on earth." 11:58:27
25 So in 2013, when you wrote this, what did 11:58:29

1 you mean, "we are the biggest service on earth"? 11:58:32

2 A. I -- presumably, what I meant was that we 11:58:36
3 had the most number of engaged monthly active users 11:58:41
4 of any Internet-accessible service. 11:58:45

5 Q. About what was that number at the time you 11:58:49
6 wrote this? 11:58:51

7 A. I conjecture 1.1 billion, only because I 11:58:52
8 mention it up above. 11:58:56

9 Q. And what is it today? 11:58:57

10 A. I don't know. It is on -- I don't know if 11:58:58
11 it's hit 2 billion yet. It's on the order of 2 11:59:01
12 billion. 11:59:05

13 Q. Okay. And then you wrote, "When we were 11:59:05
14 small, apps helped drive our ubiquity." 11:59:07

15 Do you see that? 11:59:11

16 A. Yes. 11:59:12

17 Q. What did you mean by, "apps helped drive 11:59:13
18 our ubiquity"? 11:59:16

19 A. So I -- stepping up one level -- I don't 11:59:20
20 have the full context for this thread. But what -- 11:59:26
21 the way I am interpreting this is, it looks like I 11:59:30
22 am giving feedback to Doug on how to -- how to tell 11:59:32
23 a certain story. I don't know the audience for 11:59:39
24 that story; I don't know if it was internal or 11:59:41
25 external or the like. 11:59:43

| | | |
|---|---|----------|
| 1 | And so I -- I think -- I think what I'm | 11:59:44 |
| 2 | saying here is that when we were small, sort of, | 11:59:49 |
| 3 | the integrations that we offered -- specifically, | 11:59:58 |
| 4 | things like Facebook login helped to drive, sort | 12:00:02 |
| 5 | of, just general awareness of Facebook. And I | 12:00:05 |
| 6 | think now, at this point, Facebook probably has | 12:00:08 |
| 7 | good brand awareness. Like ubiquitous brand | 12:00:13 |
| 8 | awareness. | 12:00:19 |

| | | |
|----|---|----------|
| 9 | Q. So what you're saying, then, is, when | 12:00:20 |
| 10 | Facebook was a smaller company, encouraging all of | 12:00:22 |
| 11 | these third-party app developers to develop apps on | 12:00:27 |
| 12 | the platform is one of the things that helped the | 12:00:29 |
| 13 | company grow. Correct? | 12:00:31 |

| | | |
|----|--------------------------------------|----------|
| 14 | MS. MILLER: Objection. Misstates the | 12:00:33 |
| 15 | testimony. | 12:00:35 |

16 BY MR. GODKIN: 12:00:35

| | | |
|----|------------------------------|----------|
| 17 | Q. To the point of ubiquity. | 12:00:35 |
|----|------------------------------|----------|

18 A. I think it -- I think what I'm saying, it 12:00:38
19 is one of what I think is likely many things. 12:00:40

| | | |
|----|--|----------|
| 20 | Q. But that's the only one you wrote about | 12:00:45 |
| 21 | here. | 12:00:46 |

| | | |
|----|---|----------|
| 22 | A. Given the context of the email, yes. | 12:00:47 |
|----|---|----------|

| | | |
|----|---|----------|
| 23 | Q. Is it fair to say that a social network | 12:00:52 |
| 24 | like Facebook would have different business | 12:00:58 |
| 25 | priorities when it had, say, 10 million users | 12:01:01 |

1 versus when it has 1 billion users? 12:01:05

2 A. It is likely fair to say that. 12:01:10

3 Q. Then you go on to say, "Now that we are 12:01:14

4 big," then in parentheses, "(many) apps are looking 12:01:16

5 to syphon off our users to competitive services. 12:01:20

6 We need to be more thoughtful about what 12:01:24

7 integrations we allow, and we need to make sure 12:01:27

8 that we have sustainable, long-term value 12:01:30

9 exchanges." 12:01:32

10 Is that what you wrote? 12:01:33

11 A. I believe that's what I wrote. 12:01:35

12 Q. And when you say "sustainable, long-term 12:01:36

13 value exchanges," what do you mean by that? 12:01:42

14 A. I believe that -- effectively, what it 12:01:47

15 says. But where we have apps developing on the 12:01:56

16 platform, the value exchange between the app and 12:01:58

17 Facebook and users needs to both be sustainable 12:02:01

18 and -- sustainable in that instance and sustainable 12:02:07

19 over a period of time. 12:02:13

20 Q. So when Facebook was a smaller social 12:02:14

21 network, the value exchange was, allowing all these 12:02:17

22 third-party developers to develop apps was going to 12:02:21

23 help the company grow. Correct? 12:02:24

24 MS. MILLER: Objection. Misstates the 12:02:26

25 testimony and the document. 12:02:27

1 THE WITNESS: I don't think that was 12:02:30
2 the -- it certainly wasn't the only, and I don't 12:02:31
3 think it was even the primary, value exchange, no. 12:02:35

4 BY MR. GODKIN: 12:02:38

5 Q. So you're saying -- your testimony here 12:02:39
6 today is that you don't think allowing third-party 12:02:42
7 developers to develop apps on the platform gave 12:02:44
8 something to Facebook in the form of helping the 12:02:49
9 company grow rapidly to being one of the biggest 12:02:53
10 companies on the planet? 12:02:57

11 MS. MILLER: Objection. Misstates the 12:02:58
12 testimony. 12:02:59

13 THE WITNESS: Yeah, I don't believe that 12:03:00
14 was my testimony. 12:03:00

15 MR. GODKIN: Okay. All right. Let's mark 12:03:01
16 as the next exhibit Facebook 943406 and -07. 12:03:20

17 (Deposition Exhibit 10 was marked for 12:03:28
18 identification.) 12:03:29

19 BY MR. GODKIN: 12:03:49

20 Q. I've handed you Exhibit 10, Mr. Vernal, 12:03:50
21 which is an email or a series of emails involving 12:03:53
22 Andrew Bosworth and you and a variety of other 12:03:55
23 people dated in December of 2012. 12:03:59

24 A. Okay. Should I review it? 12:04:03

25 Q. Well, you're free to review it, and I'll 12:04:07

| | | |
|----|---|----------|
| 1 | Q. But you, obviously, can't testify about | 12:13:16 |
| 2 | conversations that Mr. Zuckerberg had with | 12:13:18 |
| 3 | Mr. Bosworth that you weren't present for. | 12:13:19 |
| 4 | Correct? | 12:13:21 |
| 5 | A. Presumably not. | 12:13:23 |
| 6 | Q. Nobody ever told you about discussions | 12:13:23 |
| 7 | that they were having privately? | 12:13:25 |
| 8 | A. Not that I know of. | 12:13:26 |
| 9 | MR. GODKIN: Okay. Let's mark as the next | 12:13:27 |
| 10 | exhibit Facebook 948764 and -65. | 12:14:01 |
| 11 | (Deposition Exhibit 11 was marked for | 12:14:04 |
| 12 | identification.) | 12:14:07 |
| 13 | BY MR. GODKIN: | 12:14:28 |
| 14 | Q. I've handed you Vernal Exhibit 11, | 12:14:28 |
| 15 | Mr. Vernal. Take a minute to look at it. | 12:14:33 |
| 16 | A. Okay. (Examining document.) | 12:14:37 |
| 17 | Okay. | 12:15:43 |
| 18 | Q. So Exhibit 11 is a chat string that you | 12:15:43 |
| 19 | sent to Mr. Zuckerberg, Mr. Lessin, Mr. Rose, and | 12:15:48 |
| 20 | Mr. Purdy on November 16th, 2012. Correct? | 12:15:53 |
| 21 | A. Yes. | 12:15:56 |
| 22 | Q. And it looks like you're addressing it to | 12:15:57 |
| 23 | Mark. Correct? | 12:16:00 |
| 24 | A. Yes. | 12:16:01 |
| 25 | Q. That's Mr. Zuckerberg? | 12:16:01 |

1 A. Yes. 12:16:03

2 Q. And then you -- go down to the bottom of 12:16:04

3 the first page. The very bottom entry, it says, 12:16:11

4 "And, obviously, there is the PBM conversation." 12:16:14

5 Do you see that? 12:16:18

6 A. Yes. 12:16:19

7 Q. So PBM stands for Platform business model? 12:16:19

8 A. I presume so in this context. 12:16:24

9 Q. Well, you wrote it, so -- 12:16:26

10 A. Yeah. 12:16:27

11 Q. -- do you think that's what it stands for? 12:16:28

12 A. As I said, I presume so in this context. 12:16:30

13 Q. All right. I just don't really like it 12:16:33

14 when you presume, especially when it's your own 12:16:35

15 writing. But that's fine. 12:16:38

16 And you say there are three options here. 12:16:40

17 Free friends is one of them. 12:16:42

18 Do you see that? 12:16:47

19 A. Uh-huh. 12:16:47

20 Q. Yes? You just need to say "yes" -- 12:16:48

21 A. Yes. 12:16:51

22 Q. -- because otherwise the court reporter 12:16:51

23 can't write it down. 12:16:53

24 A. Well, I think for precision, then, the 12:16:54

25 first option says: free friends, comma, paid 12:16:57

1 coefficient and total reciprocity for all. 12:17:00

2 Q. Well, aren't those the three choices? 12:17:03

3 A. I don't believe so. 12:17:06

4 Q. So -- 12:17:07

5 A. I mean, I think there's two more traces on 12:17:09
6 the next page. 12:17:12

7 Q. I see. All right. So then, what do you 12:17:13
8 mean when you say free friends? 12:17:15

9 A. So I don't -- so I don't recall 12:17:29
10 specifically. I think we were having a kind of 12:17:32
11 freewheeling brainstorm about the Platform business 12:17:37
12 model, and these were three options we were 12:17:41
13 considering at the time. I don't believe we went 12:17:44
14 with any of these options. 12:17:47

15 Q. All right. So the first of the three 12:17:49
16 options was, free friends, paid coefficient, and 12:17:51
17 total reciprocity for all. Correct? 12:17:57

18 A. Yes. 12:17:59

19 Q. And so when you used the term "free 12:18:01
20 friends" as part of that first option, does that 12:18:04
21 mean the full friends list, or non-app friends? 12:18:07
22 What does it mean? 12:18:12

23 A. I don't think -- I doubt it was at that 12:18:14
24 level of specificity. 12:18:20

25 Q. Okay. When you say, "paid coeff" -- that 12:18:21

1 stands for coefficient?

12:18:27

2 A. Yes.

12:18:29

3 Q. Does that mean an API that would recommend
4 a limited number of non-app friends?

12:18:30

12:18:33

5 A. I don't think so. That's not how I word
6 it. That's not how I interpret it.

12:18:37

12:18:41

7 Q. Well, what did you mean when you wrote
8 this?

12:18:47

12:18:49

9 A. So coefficient was -- the way I recall
10 coefficient was, it was a system that helped you
11 sort or rank your friends by, effectively, which
12 one were your top friends. You know, which friends
13 were you most engaged with.

12:18:49

12:18:52

12:18:55

12:18:59

12:19:01

14 And so I think here the question was,
15 should we offer coefficient in some paid form to
16 developers?

12:19:06

12:19:09

12:19:13

17 Q. Okay. And then when you say total
18 reciprocity for all, what does that mean?

12:19:14

12:19:17

19 A. So I believe at the time we were talking
20 about the -- the right user model for users to use
21 apps. And in particular, we were concerned about
22 apps that only let users bring data from Facebook
23 into the app but didn't offer users the ability to
24 then share data back to Facebook.

12:19:23

12:19:26

12:19:38

12:19:43

12:19:48

12:19:52

25 And so we were contemplating ways to make

12:19:53

1 that relationship symmetric. And I think total 12:19:58
2 reciprocity in this case meant that if you were 12:20:02
3 accessing data from Facebook, you gave people the 12:20:04
4 ability to also share that same kind of data back 12:20:10
5 to Facebook. 12:20:12

6 And let me caveat that all by saying, this 12:20:14
7 is my recollection, best of recollection. 12:20:17

8 Q. That's fine. So is it fair to say, 12:20:20
9 Mr. Vernal, that the topic of this document is 12:20:22
10 these -- you know, in rough form, these changes 12:20:27
11 that were implemented and announced -- strike 12:20:32
12 that -- were announced in April of 2014 and 12:20:34
13 implemented in 2015? 12:20:38

14 A. No, I don't think that is fair to say. 12:20:40

15 Q. Well, you were talking here about some 12:20:42
16 potential changes to, you know, how you were going 12:20:45
17 to allow developers to access data on the Facebook 12:20:50
18 platform. Correct? 12:20:53

19 A. We are -- so I think your question was 12:20:56
20 something to the effect of, is it fair to say that 12:20:59
21 this document is about the changes that were being 12:21:03
22 made in -- 12:21:05

23 Q. That's not what I meant to ask. Let me 12:21:06
24 ask it begin. 12:21:08

25 Is it fair to say that the general topic 12:21:09

1 of this document is a discussion about potential
2 changes to the platform that culminated in an
3 announcement that was made in April of 2014?

4 MS. MILLER: Objection. Vague.

5 THE WITNESS: It's not how I would
6 characterize the document.

7 BY MR. GODKIN:

8 Q. Well, would you agree with me that you are
9 talking about potential changes to the platform
10 here. Correct?

11 A. It is one of a multitude of topics in the
12 document.

13 Q. Right. And one of them is this PBM, or
14 Platform business model, conversation. Correct?

15 A. That is one of the topics, yes.

16 Q. All right. So then on the top of the
17 second page, you've got option number 2, which is
18 free friends, paid coefficient, categorical
19 reciprocity for all, and total reciprocity for big
20 guys/competitors. Correct?

21 A. Yes.

22 Q. And so by categorical reciprocity, what
23 did you mean?

24 A. Again, I am -- to the best of my
25 recollection -- this was a long time ago -- I

12:21:11

12:21:13

12:21:17

12:21:21

12:21:23

12:21:25

12:21:26

12:21:27

12:21:28

12:21:31

12:21:33

12:21:36

12:21:37

12:21:40

12:21:43

12:21:47

12:21:49

12:21:55

12:21:59

12:22:04

12:22:06

12:22:07

12:22:11

12:22:12

12:22:17

1 believe I was drawing a distinction between, sort 12:22:20
2 of, all data or categorical data. 12:22:25

3 So I think with categorical data, the idea 12:22:28
4 was -- so at the time, Facebook had an API or a 12:22:37
5 sort of set of APIs called Open Graph. And within 12:22:39
6 Open Graph, there were, sort of, categories of 12:22:44
7 data, like music data, for instance. 12:22:47

8 And so I believe categorical reciprocity 12:22:49
9 meant, if you were -- if you gave a user -- as a 12:22:55
10 developer, if you gave a user the option to, sort 12:22:59
11 of, read music data out of Facebook, you also would 12:23:04
12 need to give the user the ability to share music 12:23:09
13 data back to Facebook. 12:23:13

14 Q. All right. So -- 12:23:15

15 A. But perhaps not -- but on a 12:23:15
16 category-by-category basis. 12:23:18

17 Q. So to use another example, let's say you 12:23:20
18 were talking about Netflix. And Netflix has -- a 12:23:22
19 category of data is movies that a Netflix user 12:23:26
20 likes. 12:23:31

21 If you're sharing that kind of data, 12:23:31
22 you -- if you're getting that kind of data out of 12:23:34
23 Facebook, you would have to return to Facebook the 12:23:36
24 same kind of data. 12:23:39

25 A. You would have to give the user the option 12:23:41

1 to share that kind of data into Facebook. 12:23:44

2 Q. Okay. 12:23:47

3 A. And again, just for clarity, I think this 12:23:48

4 was all brainstorming, sort of speculative 12:23:51

5 conversation. I don't recall what, if anything, we 12:23:56

6 actually ever shipped. 12:24:00

7 Q. And then total reciprocity would be if a 12:24:03

8 developer is getting data from the Facebook 12:24:07

9 platform, it would have to return all data back to 12:24:11

10 the Facebook Platform. 12:24:14

11 A. It -- I believe it was if -- if a -- if a 12:24:17

12 developer gave the user the option to read data 12:24:23

13 from Facebook, then the developer also needed to 12:24:27

14 give the user the option to effectively share the 12:24:30

15 social data that you were generating in that app to 12:24:38

16 Facebook. 12:24:43

17 And my guess is, this was probably -- 12:24:44

18 probably centered on, like, the user's profile and 12:24:46

19 their profile picture and stuff like that. 12:24:50

20 Q. Okay. So at the end of describing these 12:24:52

21 three possibilities, you say, "I think the ball is 12:24:56

22 in your court on this one." 12:24:58

23 And you're saying that to Mr. Zuckerberg. 12:25:01

24 Correct? 12:25:03

25 A. Yes. 12:25:03

1 Q. And by the "ball is in your court," did 12:25:04
2 you mean that the next step in the process was you 12:25:07
3 wanted to hear from him what his thoughts were on 12:25:10
4 this topic? 12:25:12

5 A. Again, I am guessing as to the context 12:25:14
6 from a while ago, but I was likely waiting to hear 12:25:18
7 his feedback on this topic. 12:25:23

8 Q. Did he ever make a decision about whether 12:25:26
9 he wanted to go with one of these three possibility 12:25:32
10 or something else? 12:25:35

11 A. I -- 12:25:38

12 MS. MILLER: Objection. Vague. 12:25:38

13 THE WITNESS: I don't recall or believe 12:25:40
14 so. I think he -- procedurally, I think he would 12:25:45
15 have given us feedback and we would have iterated 12:25:50
16 on it. 12:25:54

17 BY MR. GODKIN: 12:25:54

18 Q. Okay. Is this one of the documents that 12:25:54
19 you reviewed to prepare to come and testify here 12:25:56
20 today? 12:25:58

21 A. I don't believe so. 12:25:59

22 (Discussion off the record.) 12:26:09

23 THE VIDEO OPERATOR: Going off the record, 12:26:14
24 the time now is 12:26. 12:26:15

25 (Recess from 12:26 P.M. to 1:18 P.M.) 12:26:17

1 interpret my response and try to extrapolate from 13:26:56
2 that probably how I felt. 13:27:01

3 And I think the first sentence of my 13:27:05
4 response is, "I'm general really happy with this 13:27:07
5 direction." 13:27:10

6 I think at the highest level, I had one 13:27:11
7 view on what we should be doing, and I think many 13:27:15
8 people in the room had other views, and I was 13:27:18
9 trying to align everyone towards my view. And I 13:27:21
10 took this as Mark slowly moving towards my view. 13:27:25

11 Q. Okay. So he says that -- now I'm looking 13:27:29
12 at the fourth paragraph of the first page of his 13:27:40
13 email that starts, "The answer I came to." 13:27:46

14 Do you see that? 13:27:53

15 A. Uh-huh. 13:27:53

16 Q. Yes? 13:27:54

17 A. Yes. 13:27:54

18 Q. So he's basically saying that sometimes 13:27:55
19 the best way for people to share something is to 13:27:57
20 have a developer build a special-purpose app or 13:28:00
21 network and then make that app social by having 13:28:03
22 Facebook plug into it. 13:28:07

23 Do you see that? 13:28:08

24 A. Yes. 13:28:10

25 Q. So wasn't that kind of the idea of 13:28:11

1 Facebook Platform at the beginning? 13:28:12

2 A. I don't know if I would characterize it as 13:28:21
3 the way that you did. But I -- I think one of the 13:28:23
4 uses of Facebook Platform that I believe was 13:28:28
5 imagined -- again, it was before I joined the 13:28:33
6 company -- was to enable people to build apps for 13:28:35
7 sharing -- you know, for specialized forms of 13:28:38
8 sharing. 13:28:40

9 Q. But then Mr. Zuckerberg goes on to say, 13:28:41
10 "That may be good for the world, but it's not good 13:28:43
11 for us," meaning Facebook. Correct? 13:28:47

12 A. That's my interpretation of "us." 13:28:50

13 Q. "... unless people also share back to 13:28:52
14 Facebook and that content increases the value of 13:28:54
15 our network." Correct? 13:28:57

16 A. That is how I read that sentence. 13:29:01

17 Q. Then if you turn to page -93, the next 13:29:13
18 page, it's a lengthy email, so I'm not going to 13:29:15
19 cover the whole thing. But he says, "There's more 13:29:19
20 nuance to this opinion, though." 13:29:22

21 Do you see that? 13:29:24

22 A. Sorry, no. Can you point out -- yes, I 13:29:24
23 do. 13:29:27

24 Q. It's sort of two-thirds of the way down? 13:29:27

25 A. Yes. 13:29:29

1 A. I interpreted that as probably primarily 13:30:53
2 some kind of invitations product, because he 13:31:00
3 mentions invite at the -- sort of the second clause 13:31:04
4 of that sentence, as well as potentially ad 13:31:06
5 products or other things. 13:31:12

6 Q. And then he goes on to say at the top of 13:31:13
7 the next page, "We also need to figure out how 13:31:15
8 we're going to charge for it. I want to make sure 13:31:18
9 this is explicitly tied to pulling non-app friends 13:31:21
10 out of friends.get." 13:31:24

11 Do you see that? At the very top of 13:31:27
12 page 4 of his email. 13:31:31

13 A. Yeah. Let me read that. 13:31:33

14 Yes. 13:32:02

15 Q. And so is he saying there that Facebook 13:32:02
16 needs to build a tool that it was going to charge 13:32:05
17 developers to use in order -- that would be used 13:32:12
18 for inviting non-app friends to download or 13:32:16
19 authorize the app? 13:32:20

20 A. Not exactly. 13:32:22

21 Q. What am I -- where am I wrong? 13:32:23

22 A. My interpretation of the paragraph is that 13:32:26
23 the -- the use case -- the primary use case for 13:32:30
24 non-app friends was for developers to build their 13:32:34
25 own invitation flows. We used to call them 13:32:38

1 multi-friend selectors, or MFSSs. 13:32:42

2 And my interpretation of the paragraph is, 13:32:45
3 he's saying, if we -- if we change the system to 13:32:47
4 only be app friends, we need to build an 13:32:51
5 invitations product that works for developers, and 13:32:53
6 that that product needs to be launched at the same 13:32:56
7 time as we make the change. 13:32:59

8 Q. And it's going to be a paid product. 13:33:01
9 Right? 13:33:03

10 A. I mean, I -- I think he is proposing here 13:33:03
11 that it is a paid product. I think we eventually 13:33:08
12 launched it, and I'm quite certain, if we did 13:33:11
13 launch it, that it was not paid. 13:33:14

14 Q. But what he says is, that's basically 13:33:15
15 explicitly tied to removing the developer's access 13:33:17
16 to the full friends list. Correct? 13:33:21

17 MS. MILLER: Objection. Misstates the 13:33:24
18 document. 13:33:25

19 BY MR. GODKIN: 13:33:25

20 Q. Well, he says it's explicitly tied to 13:33:25
21 pulling non-app friends out of friends.get. 13:33:29

22 A. Well, my interpretation of the document is 13:33:33
23 that he is saying that the launch of an invitations 13:33:35
24 product is -- needs to happen at the same time as 13:33:38
25 pulling non-app friends out of friends.get. I -- 13:33:40

1 Q. So since this is Mr. Zuckerberg's lengthy 13:33:43
2 email, would he be the best person for me to ask 13:33:46
3 what he meant when he wrote this? 13:33:49

4 A. I feel like I am competent to interpret 13:33:51
5 it, and my interpretation stands. 13:33:53

6 Q. But you don't know exactly what he meant, 13:33:56
7 do you? 13:33:59

8 A. I can -- I can interpret the sentence as I 13:34:01
9 think the primary recipient of it, and I feel like 13:34:04
10 my interpretation is pretty clear. 13:34:08

11 Q. So if developers had free access to the 13:34:10
12 full friends list, do you think they'd be 13:34:14
13 interested in paying for a service that gave them 13:34:17
14 access to the full friends list? 13:34:19

15 A. I didn't get that. 13:34:26

16 Q. In other words, at the time this email was 13:34:28
17 written, developers had free access to the full 13:34:29
18 friends list. Correct? 13:34:32

19 A. They -- yes, assuming they signed up 13:34:37
20 through the terms of service, et cetera. 13:34:39

21 Q. And this was -- 13:34:42

22 A. And to clarify, they had the ability to 13:34:43
23 grant a user to grant access to the friends list. 13:34:45

24 Q. Right. But they weren't being asked to 13:34:47
25 pay Facebook for the ability to use that service. 13:34:50

| | | |
|----|---|----------|
| 1 | send us their feed, it would be awkward to | 13:57:39 |
| 2 | take away our own feed at the same time." | 13:57:41 |
| 3 | Do you see that? | 13:57:45 |
| 4 | A. Yes. | 13:57:45 |
| 5 | Q. And then you respond at the top of the | 13:57:45 |
| 6 | page, "I don't think that's how Mark defines total | 13:57:47 |
| 7 | reciprocity." | 13:57:53 |
| 8 | Do you see that? | 13:57:53 |
| 9 | A. Yes. | 13:57:54 |
| 10 | Q. And again, that's Mark Zuckerberg? | 13:57:54 |
| 11 | A. I believe so. | 13:57:57 |
| 12 | Q. And you say, "he defines it as every piece | 13:57:58 |
| 13 | of content by that user that can be seen by another | 13:58:01 |
| 14 | user." | 13:58:04 |
| 15 | Do you see that? | 13:58:05 |
| 16 | A. Yes. | 13:58:05 |
| 17 | Q. And then you go on, "What Mark is saying | 13:58:06 |
| 18 | is he wants certain partners (I assume not all) to | 13:58:08 |
| 19 | give us news feeds on behalf of their users, which | 13:58:13 |
| 20 | is kind of crazy." | 13:58:16 |
| 21 | Do you see that? | 13:58:19 |
| 22 | A. Yes. | 13:58:19 |
| 23 | Q. And then you say, "He mentioned it once | 13:58:19 |
| 24 | before, and I'm not sure of the backstory here." | 13:58:22 |
| 25 | Do you see that? | 13:58:25 |

1 A. Yes.

13:58:25

2 Q. So you say he mentioned the concept of
3 total reciprocity once before. Correct?

13:58:26

13:58:28

4 A. That is not how I interpret it in that
5 context.

13:58:32

13:58:35

6 Q. Do you interpret "it" to mean the
7 definition as you describe it in the second
8 paragraph there?

13:58:36

13:58:39

13:58:42

9 A. No. I interpret "it" as Mark saying that
10 he wants certain partners to give us news feeds on
11 behalf of their users.

13:58:43

13:58:46

13:58:50

12 Q. Right. Which is what's in your second
13 paragraph. Correct?

13:58:51

13:58:53

14 A. Sorry. Maybe I misunderstood your
15 question.

13:58:54

13:58:56

16 Q. Okay. So you're saying back to Mr. Rose
17 that Mark had said that to you at least once
18 before. Correct?

13:58:56

13:58:59

13:59:03

19 A. That he is mentioned the concept of having
20 certain partners give us news feeds on behalf of
21 their users.

13:59:06

13:59:09

13:59:13

22 Q. Correct? That's what he mentioned.

13:59:14

23 A. Yes. That's my interpretation.

13:59:17

24 Q. So where you say "which is kind of crazy,"
25 why was that kind of crazy?

13:59:25

13:59:30

| | | |
|----|--|----------|
| 1 | A. Again, I don't recall. | 14:09:00 |
| 2 | Q. Mr. Olivan? | 14:09:02 |
| 3 | A. Again, I don't recall. | 14:09:03 |
| 4 | Q. Mr. Cox? | 14:09:05 |
| 5 | A. Again, I don't recall. | 14:09:06 |
| 6 | Q. Ms. Sandberg? | 14:09:08 |
| 7 | A. Again, I don't recall. | 14:09:09 |
| 8 | MR. GODKIN: All right. Let me mark as | 14:09:20 |
| 9 | the next exhibit. This is Facebook 1201989 | 14:09:21 |
| 10 | through -91. | 14:09:25 |
| 11 | (Deposition Exhibit 17 was marked for | 14:09:27 |
| 12 | identification.) | 14:09:29 |
| 13 | BY MR. GODKIN: | 14:09:45 |
| 14 | Q. So Exhibit 17 is again another follow-up | 14:09:45 |
| 15 | to Mr. Zuckerberg's lengthy email from you on | 14:09:48 |
| 16 | November 20th, 2012. | 14:09:52 |
| 17 | If you could take a minute to review your | 14:09:56 |
| 18 | cover email, top email. | 14:09:59 |
| 19 | A. Yep. | 14:10:03 |
| 20 | Q. So you say, "One of the things that Javi | 14:10:04 |
| 21 | routinely beats us up for (perhaps validly) is our | 14:10:10 |
| 22 | enforcement." | 14:10:13 |
| 23 | Is Javi Mr. Olivan? | 14:10:15 |
| 24 | A. I believe so, yes. | 14:10:17 |
| 25 | Q. And he was in charge of the growth group. | 14:10:18 |

1 Is that right? 14:10:20

2 A. Growth and analytics, right. 14:10:21

3 Q. Growth and analytics. He says, "we don't" 14:10:23

4 -- "He is concerned we don't have enough 14:10:25

5 strategic-oriented people looking at our usage 14:10:27

6 dashboards and finding things that might be abusive 14:10:31

7 or competitive and acting on them." 14:10:34

8 Did I read that correctly? 14:10:37

9 A. I believe so. 14:10:38

10 MS. MILLER: I'll just say for the record, 14:10:43

11 we'll stipulate that you can read documents 14:10:44

12 correctly, if there's not going to be any follow-up 14:10:46

13 questions. 14:10:49

14 MR. GODKIN: I can't answer -- I can ask 14:10:50

15 follow-up questions, but I can't always read them 14:10:52

16 correctly -- 14:10:53

17 MS. MILLER: We're willing to stipulate 14:10:54

18 the document says what it is, if you want to skip 14:10:55

19 some of the reading things out loud to preserve 14:10:58

20 time. 14:11:01

21 BY MR. GODKIN: 14:11:01

22 Q. And then he says -- you are asking a 14:11:01

23 question, "Who do you think owns tackling this 14:11:03

24 problem?" Right? 14:11:05

25 A. Yes. 14:11:06

1 Q. And then one of the things Mark flags
2 below -- referring to Mr. Zuckerberg's email.
3 Right?

4 A. Uh-huh.

5 Q. Is getting more aggressive on the
6 enforcement side. Right?

7 A. Yep.

8 Q. So when you said Mr. Olivan routinely
9 beats us up on this, what did you mean by that?

10 A. I believe that he is frequently concerned
11 and perhaps critical to me about -- about how
12 closely we're paying attention to, sort of, the
13 enforcement of our Platform policies.

14 Q. And you say that Mr. Zuckerberg is
15 basically saying the same thing in his lengthy
16 email, correct, about the need to pay more
17 attention to enforcement?

18 A. I haven't -- didn't reread Mark's email
19 right now, but I believe somewhere in the thread he
20 says that we should be more aggressive on the
21 enforcement side.

22 Q. So do you know whether Mr. Olivan and
23 Mr. Zuckerberg had private conversations about that
24 topic that you weren't present for?

25 A. I think in the -- the broad Platform

1 business model conversations, Javi's viewpoint was 14:12:18
2 frequently that we needed to be more rigorous about 14:12:23
3 the enforcing of our Platform policies. And so I 14:12:30
4 think that was a repeated theme from his feedback. 14:12:33

5 Q. But do you know for a fact whether 14:12:37
6 Mr. Zuckerberg and Mr. Olivan had private 14:12:41
7 conversations on that subject that you weren't 14:12:44
8 present at? 14:12:47

9 A. I -- again, I -- I think that particular 14:12:48
10 point was in some senses a subpoint of this entire 14:12:54
11 conversation, and so the most likely forum for that 14:12:58
12 conversation would have been in the group 14:13:01
13 conversations that I was leading. But I do not 14:13:02
14 know for a fact what was discussed in private 14:13:06
15 conversations. 14:13:08

16 Q. And it's possible, is it not, that the two 14:13:09
17 of them did have conversations on that topic that 14:13:11
18 you weren't privy to. Correct? 14:13:13

19 A. I mean, as stated before, I think the most 14:13:17
20 likely forum for any of those conversations would 14:13:20
21 have been in the conversation -- the group 14:13:22
22 conversations that I was leading around this topic, 14:13:24
23 but I cannot state for a fact what people said in 14:13:26
24 private conversations. 14:13:29

25 Q. And so it is possible that they discussed 14:13:32

1 it without you being there? 14:13:33

2 MS. MILLER: Objection. Asked and 14:13:35

3 answered. 14:13:35

4 THE WITNESS: Yeah. As previously stated, 14:13:36

5 I think the most likely forum for any of these 14:13:38

6 conversations would have been the group 14:13:41

7 conversations around the Platform business model 14:13:42

8 that I was leaving -- leading, but I can't say for 14:13:44

9 certainty what people did or did not say in private 14:13:47

10 conversations. 14:13:50

11 BY MR. GODKIN: 14:13:50

12 Q. Do you know whether Mr. Zuckerberg and 14:13:50

13 Mr. Olivan had a private conversation that involved 14:13:53

14 discussions of the full friends list, the friends 14:13:57

15 permissions, and the News Feed APIs? 14:14:01

16 A. Again, I think the most likely forum for 14:14:05

17 these conversations would have been the group 14:14:07

18 conversations that we had around the Platform 14:14:09

19 business model, but I can't say for certain what 14:14:10

20 people did or did not say in private conversations. 14:14:15

21 MR. GODKIN: Okay. Why don't we mark as 14:14:18

22 the next exhibit Facebook 899796 and -97. 14:14:30

23 (Deposition Exhibit 18 was marked for 14:14:36

24 identification.) 14:14:38

25 //

1 Do you see that? 14:37:26

2 A. Yes. 14:37:26

3 MS. MILLER: Again, we'll stipulate that 14:37:28

4 you can read paragraphs into the record accurately. 14:37:29

5 MR. GODKIN: Thank you so much, Laura. 14:37:32

6 MS. MILLER: I'm just saying, this is your 14:37:33

7 time. If you want to keep reading things into the 14:37:35

8 record, we're not going to make Mr. Vernal 14:37:37

9 available again based on that delay. 14:37:40

10 MR. GODKIN: Well, we'll see about that, 14:37:44

11 won't we? 14:37:46

12 So let me mark as the next exhibit a 14:38:00

13 document with the Facebook Bates numbers 01218365 14:38:03

14 and -66. 14:38:09

15 (Deposition Exhibit 20 was marked for 14:38:11

16 identification.) 14:38:12

17 BY MR. GODKIN: 14:38:26

18 Q. Exhibit 20 is a set of emails, one of 14:38:30

19 which is from you on Friday, September 27th, 2013. 14:38:36

20 Take a minute to look at it. 14:38:43

21 A. Sure. (Examining document.) Okay. 14:38:44

22 Q. And so the subject of these emails is 14:40:00

23 "PS12N meeting with Javi." 14:40:01

24 A. Yes. 14:40:05

25 Q. And that PS12N is Platform Simplification, 14:40:05

1 is it not? 14:40:11

2 A. I believe so. 14:40:12

3 Q. And in the middle of the first page, it's 14:40:13

4 an email from Doug Purdy to Ilya Sukhar, copying a 14:40:15

5 couple of people. Correct? 14:40:19

6 A. I believe so. 14:40:21

7 Q. And he says, "Sam has a ton of context." 14:40:21

8 Is that Sam Lessin? 14:40:24

9 A. I believe so. 14:40:26

10 Q. And then, "Mike used to work for him." 14:40:26

11 Is that you? 14:40:29

12 A. Yes. I believe so. 14:40:30

13 Q. And the key thing that Sam wanted to talk 14:40:33

14 about was the timeline, which was not in the 14:40:35

15 slides. 14:40:37

16 Do you see that? 14:40:38

17 A. Yes. 14:40:38

18 Q. And then he says: 14:40:39

19 "Javi has been more than clear on what he 14:40:40

20 doesn't like about Platform to Mike and I on 14:40:43

21 more than one occasion (if it were up to him, 14:40:46

22 there would likely be no platform)." 14:40:49

23 That's Javi Olivan? 14:40:52

24 A. I believe so. 14:40:54

25 Q. Did you agree with Mr. Purdy that if it 14:40:55

1 was up to Javi, there would be no platform? 14:40:57

2 A. I believe Doug is being hyperbolic here, 14:41:01
3 but, you know, I -- I do not agree with Doug's 14:41:06
4 characterization, but I understand the emotion 14:41:08
5 behind what he's saying. 14:41:13

6 Q. And this email was forwarded to you by 14:41:14
7 Vlad Fedorov. Correct? 14:41:17

8 A. Correct. 14:41:20

9 Q. And then you say, "Remind me of why you 14:41:20
10 forwarded this?" 14:41:23

11 Why did you ask him that question? 14:41:24

12 A. At the time, I think there was some -- 14:41:26
13 there was some tension between Doug and Vlad in 14:41:32
14 terms of, kind of, who was leading what. And I 14:41:35
15 was -- I was trying to avoid side email 14:41:38
16 conversations and instead just have everyone talk 14:41:47
17 about it as a group. 14:41:50

18 And so the "Remind me why you forwarded 14:41:55
19 this" was likely a, please don't forward me side 14:41:57
20 conversations. If we have an issue, let's all get 14:42:01
21 together and discuss it as a group. 14:42:04

22 Q. So you interpreted Vlad's forwarding this 14:42:07
23 email as kind of telling on Mr. Purdy, basically -- 14:42:09

24 MS. MILLER: Objection. Misstates 14:42:14
25 testimony. 14:42:16

1 BY MR. GODKIN:

14:42:16

2 Q. -- words to that effect?

14:42:16

3 A. I interpret his email as complaining about
4 the -- complaining about some back and forth here.
5 And I am just saying, I would just let them sort of
6 move on with it.

14:42:18

14:42:21

14:42:26

14:42:35

7 Q. And so Mr. Purdy in his email says, "This
8 plan addresses that, but I want to make sure he
9 agrees."

14:42:36

14:42:39

14:42:43

10 And by "he agrees," he's referring to Javi
11 Olivan. Correct?

14:42:44

14:42:48

12 A. I believe so, from context.

14:42:50

13 Q. So Mr. Purdy reported to you. Correct?

14:42:53

14 A. At the time, I believe so, yes.

14:42:57

15 Q. He didn't report to Javi.

14:42:58

16 A. No.

14:43:01

17 Q. So why was he making sure that Javi agreed
18 with something without going to you?

14:43:01

14:43:05

19 A. I think in the broadest terms, as I said
20 before, decision-making was not unilateral and
21 singular; it was a process of consensus building.
22 And so I think it was getting Javi's feedback on
23 the plan.

14:43:10

14:43:14

14:43:17

14:43:19

14:43:24

24 And you had sort of a secondary question
25 in there. Sorry.

14:43:29

14:43:30

1 Q. My question was, why is Purdy concerned 14:43:31
2 about getting Javi to agree with something and not 14:43:34
3 going to you, who was his boss? 14:43:38

4 A. Oh, I don't think this is at the exclusion 14:43:40
5 of me. I think this was, again, a form of building 14:43:42
6 consensus amongst interested parties and getting 14:43:46
7 feedback. 14:43:49

8 Q. Did Mr. Purdy and Mr. Fedorov and 14:43:49
9 Mr. O'Neil and Mr. Sukhar know about the potential 14:43:55
10 changes to the platform at this point in time? 14:43:59

11 A. Can you clarify -- 14:44:05

12 MS. MILLER: Objection. Vague. 14:44:06

13 THE WITNESS: Sorry. Can you clarify what 14:44:07
14 potential changes? 14:44:09

15 BY MR. GODKIN: 14:44:10

16 Q. The changes that were ultimately announced 14:44:11
17 on April 30, 2014. 14:44:13

18 A. So, I mean, I -- 14:44:16

19 MS. MILLER: I'll object as vague, because 14:44:17
20 there was a number of changes that were made on 14:44:18
21 that date. 14:44:21

22 THE WITNESS: So within the context of 14:44:22
23 this thread, I -- I believe the Platform 14:44:24
24 Simplification term came to encapsulate the 14:44:28
25 simplifying of Platform, and the -- sort of the 14:44:34

1 Q. And at this point in time, you reported to 14:51:13
2 Sam Lessin. Correct? 14:51:15

3 A. Yes. 14:51:16

4 MR. GODKIN: I'm going to ask the reporter 14:51:39
5 to mark Facebook 947595 through -606. 14:51:41

6 (Deposition Exhibit 22 was marked for 14:51:46
7 identification.) 14:51:48

8 BY MR. GODKIN: 14:51:58

9 Q. I have handed you Exhibit 22. If you 14:51:59
10 would take a moment to review it. 14:52:03

11 A. (Examining document.) Okay. 14:52:06

12 Q. So Exhibit 22 is in November of 2012, a 14:57:40
13 little bit earlier in that month than the lengthy 14:57:47
14 Mr. Zuckerberg email about total reciprocity that 14:57:53
15 we have talked about today. Correct? 14:57:57

16 A. I would need to check the chronology. My 14:57:59
17 sense is that this came -- comes after Mark's 14:58:02
18 feedback, but I would need to look at the dates. 14:58:06

19 Q. All right. Well -- 14:58:08

20 A. I could be -- I don't know. 14:58:10

21 Q. Well, starting on page -602 at the bottom, 14:58:12
22 if you open to page -602, there's an email there 14:58:18
23 from David Swaine to Sam, Mike, and Doug. 14:58:22

24 A. Yeah. 14:58:27

25 Q. And that's Sam Lessin, you, and Doug 14:58:28

1 Purdy? 14:58:31

2 A. I believe so. 14:58:32

3 Q. And then at the top of the next page, he 14:58:33

4 refers to "a hypothetical blog post to help 14:58:35

5 conceptualize how some of the decisions we're 14:58:39

6 considering could be positioned to developers." 14:58:44

7 Do you see that? 14:58:47

8 A. Yes. 14:58:47

9 Q. And then he says, Dan says -- Dan would 14:58:48

10 like to show -- David says, "Dan would like to 14:58:50

11 show" -- see, I don't always read them correctly. 14:58:54

12 "Dan would like to show something to Zuck 14:58:56

13 later today." 14:58:59

14 Zuck is Mark Zuckerberg. Right? 14:59:00

15 A. I believe so. 14:59:01

16 Q. And then there's this draft hypothetical 14:59:02

17 blog post about some of these changes that you were 14:59:04

18 all starting to discuss at the time. Correct? 14:59:09

19 A. Uh-huh. 14:59:12

20 Q. Yes? 14:59:13

21 A. Yes. 14:59:13

22 Q. So then -- and then at the top of 14:59:18

23 page -602, there's an email from Dan Rose to you 14:59:24

24 and Mr. Purdy, copying Sam Lessin. And at the 14:59:29

25 bottom, he says, "in the broader announcement so 14:59:35

1 that we package all of the platform changes
2 together at once for developers."

3 Do you see that?

4 A. Yes.

5 Q. And then you respond on page -601, on
6 Monday, November 19th, and you say, "I have been
7 bucketing all these changes into something I'm
8 calling 'Platform 3.0.'"

9 Do you see that?

10 A. Yes.

11 Q. And that includes the paid developer
12 model; removing a bunch of APIs (e.g., all the
13 friend ones).

14 Do you see that?

15 A. Yes.

16 Q. That means the full friends list and
17 friends permissions. Is that right?

18 A. I presume so.

19 Q. So that's something you were already
20 talking about doing in November of 2012. Correct?

21 A. I presume so.

22 Q. And a data reciprocity policy. Correct?

23 A. Uh-huh.

24 Q. And that's yes? I'm sorry.

25 A. Yes. Yes, yes.

1 Q. That's this concept of reciprocity that 15:00:38
2 we've been talking about that Mr. Zuckerberg wrote 15:00:42
3 his long email about. Correct? 15:00:46

4 A. I don't think that that is what he wrote 15:00:48
5 his long email about, but it was mentioned in that 15:00:50
6 email. 15:00:52

7 Q. Well, he starts it off by talking about, I 15:00:52
8 think, total reciprocity is the way to go, did he 15:00:54
9 not? 15:00:58

10 A. I would need to go back and look at it, 15:00:58
11 but I think as that email on feedback on the 15:01:00
12 Platform business model, not as being about data 15:01:03
13 reciprocity per se. 15:01:07

14 Q. And then you also include in Platform 3.0 15:01:09
15 new invitations model on iOS and Android, et 15:01:11
16 cetera. Right? 15:01:20

17 A. Yes. 15:01:21

18 Q. Removing non-TOSed friends? 15:01:21

19 A. Yes. 15:01:24

20 Q. Is that Terms of Service -- 15:01:25

21 A. Yes. 15:01:27

22 Q. Is that TOS? What did you mean, removing 15:01:27
23 non-TOSed friends? 15:01:31

24 A. We used as a shorthand -- when a user 15:01:32
25 authorized an application, logged into an 15:01:37

1 application, for historical reasons, in the code, 15:01:40
2 it was referred to as I think a TOS event, to mean 15:01:43
3 they were accepting the Terms of Service for the 15:01:48
4 app. And so we sometimes used -- we drew a 15:01:50
5 distinction between TOSed users and non-TOSed 15:01:53
6 users. 15:01:56

7 Q. And API charging above a certain usage 15:01:57
8 threshold. 15:02:00

9 Was that a reference to charging 15:02:01
10 developers money to use APIs above a certain 15:02:03
11 threshold, usage threshold? 15:02:07

12 A. I believe -- I believe so. 15:02:10

13 Q. And the action importer spec. Correct? 15:02:14

14 A. Yes. 15:02:20

15 Q. That was what we referenced a few minutes 15:02:21
16 ago: a way of getting data out of an app into 15:02:23
17 Facebook? 15:02:28

18 A. A way for users to be able to bring their 15:02:31
19 actions from other apps onto their Facebook 15:02:35
20 profile. 15:02:37

21 Q. And the last one is, potentially, in 15:02:38
22 parentheses, one premium service, just to set the 15:02:40
23 tone for premium services. 15:02:43

24 By premium service, were you referring to 15:02:46
25 something that cost money? 15:02:47

1 A. I believe so in this context.

15:02:51

2 It may be worth noting that I think a
3 majority of these bullet items never launched, so I
4 think just as context.

15:02:59

15:03:01

15:03:05

5 Q. So the draft or hypothetical blog post at
6 the end of this document was never released to the
7 public, was it?

15:03:07

15:03:11

15:03:13

8 A. Not that I know of. I very much doubt it.

15:03:14

9 Q. And Facebook did not publicly announce
10 that the friends APIs were going to be removed
11 until that April 30th, 2014, developer f8.
12 Correct?

15:03:19

15:03:24

15:03:26

15:03:32

13 A. I don't know exactly when it was
14 announced, but I know -- I believe it was discussed
15 at that f8, but I don't know when it was first
16 announced.

15:03:32

15:03:34

15:03:37

15:03:39

17 Q. Then if you turn to page 600, there's an
18 email there from Justin Osafsky to you, Mr. Rose,
19 Mr. Purdy. And he starts off, "A quick note to
20 ensure that we're coordinated in preparing for next
21 week's discussion."

15:03:40

15:03:43

15:03:47

15:03:53

15:03:56

22 Do you see that?

15:03:57

23 A. Yes.

15:03:58

24 Q. And down at the bottom of that page, he
25 says, under "Enforcement":

15:03:59

15:04:01

1 some feedback from him on his note live. But I 15:08:41
2 don't know the precise chronology. 15:08:44

3 Q. Do you recall whether there was a slide 15:08:46
4 presentation made at a meeting with Mr. Zuckerberg 15:08:48
5 on that Monday, which would have been, you know, 15:08:50
6 the week of Thanksgiving, 2012? 15:08:56

7 A. I do not recall. 15:09:00

8 Q. I take it you didn't review a slide 15:09:05
9 presentation on this subject as one of the 15:09:07
10 documents you looked at to prepare for coming here 15:09:09
11 today? 15:09:13

12 A. No, I don't think so. 15:09:14

13 Q. And then if you flip back to page -596, 15:09:16
14 there's an email in the middle of the page from 15:09:20
15 Charles Jolley. 15:09:22

16 Who was Mr. Jolley? 15:09:24

17 A. He was a PM, product manager -- or 15:09:26
18 potentially a product manager lead; I can't 15:09:34
19 recall -- who reported to Doug Purdy, I believe. 15:09:36

20 Q. Do you know whether he still works for 15:09:43
21 Facebook? 15:09:45

22 A. I do not believe he does. 15:09:46

23 Q. Do you know when he left? 15:09:47

24 A. I don't know precisely, but my sense is, 15:09:49
25 his tenure was brief. 15:09:52

1 Q. And do you know where he is -- where he 15:09:54
2 works now? 15:09:56

3 A. I believe he was -- ironically, I believe 15:09:57
4 he was the founder and CEO of a startup called 15:10:02
5 Ozlo, which Facebook very recently announced its 15:10:05
6 intention to acquire. But he is not joining 15:10:08
7 Facebook as a part of that transaction, so I 15:10:11
8 believe he is off to do another startup. 15:10:13

9 Q. And Mr. Jolley writes: 15:10:17
10 "Have we thought about/talked through the 15:10:19
11 complexity and risk we are placing on our 15:10:23
12 developers?" 15:10:25

13 He goes on: 15:10:28

14 "We are asking developers to potentially 15:10:29
15 take on a lot of work in order to integrate 15:10:31
16 with us in the first place, but my concern is 15:10:34
17 that a broadly scoped definition (i.e., 'any 15:10:36
18 action you take that is visible to other 15:10:40
19 people') seems like it would introduce a lot 15:10:41
20 of risk for the developer in that they would 15:10:46
21 never know exactly what we might define as in 15:10:49
22 scope/out of scope." 15:10:51

23 Do you see that? 15:10:55

24 A. Yes. 15:10:55

25 Q. What did you understand him to mean when 15:10:57

1 he was talking about this risk that Facebook was
2 placing on its developers?

3 A. My interpretation, based on the broader
4 context, is that he was pushing back on sort of the
5 concept of action importers and probably the
6 concept of reciprocity broadly. Or he was -- to
7 clarify, I think he was flagging that there may be
8 some complexity and risk associated with that, and
9 we should talk about it. But --

10 Q. And then on -- turning back to page -595,
11 it's at the very beginning of this exhibit,
12 Mr. Jolley writes, "The other one issue is with
13 requiring full reciprocity -- as I understand it,
14 means that if you are ready" -- if you ready --
15 what do you think he --

16 A. I believe it's a typo. I believe it
17 should be "read."

18 Q. "... if you read any of our social graph
19 then you must publish back all social actions."
20 Then he says:

21 "In this sense, the developer is no
22 longer in control except that they could opt
23 completely out of our graph. There's no
24 sense of investment matching the reward. I
25 have a potentially high up-front cost to get

1 anything out of Facebook. I don't have a 15:12:15
2 good framework to think about how this will 15:12:16
3 impact adoption yet; but it seems like a high 15:12:19
4 risk." 15:12:21

5 Did you have discussions with Mr. Jolley 15:12:23
6 about his concerns that he expressed to you? 15:12:25

7 A. I can't recall if I had separate 15:12:29
8 conversations, but I think he is -- he is flagging 15:12:32
9 a reasonable risk, and one of the reasons that I 15:12:36
10 think we never implemented either reciprocity or 15:12:39
11 the, sort of, action importer concept more broadly. 15:12:41

12 MS. MILLER: And I'll state again for the 15:12:46
13 record that we spent several hours discussing 15:12:47
14 something that was never implemented and doesn't 15:12:50
15 have any relevance to this case. 15:12:52

16 Can we take a quick break? 15:12:54

17 MR. GODKIN: I don't think you're the 15:12:56
18 judge here, Laura, so we'll let the judge decide 15:12:58
19 what's relevant and what's not relevant. 15:13:00

20 And yes. To answer your second question, 15:13:03
21 we can take a break. 15:13:05

22 THE VIDEO OPERATOR: Going off the record, 15:13:06
23 the time now is 3:13. 15:13:07

24 (Recess from 3:13 P.M. to 3:24 P.M.) 15:13:13

25 THE VIDEO OPERATOR: Back on the record, 15:24:13

1 Okay. 15:40:45

2 Q. So on the first page of Exhibit 25 on the 15:40:45

3 bottom, towards the bottom, there's a subheading 15:40:47

4 "Changes to Permissions and APIs." 15:40:49

5 Do you see that? 15:40:53

6 A. Yes. 15:40:53

7 Q. And then the second one at the bottom of 15:40:53

8 the page is "Friends Data." Do you see that? 15:40:55

9 A. Uh-huh. Yes. 15:40:58

10 Q. And it says: 15:40:59

11 "We will reduce the scope of the friends' 15:40:59

12 data that a developer can request and access 15:41:01

13 from users. Specifically, we will change the 15:41:04

14 /friends Graph API connection to only return 15:41:09

15 the user's friends that are already connected 15:41:12

16 to the app. In addition, we will no longer 15:41:15

17 support friends_* permissions or data 15:41:18

18 access." 15:41:23

19 Correct? 15:41:24

20 A. I see that, yes. 15:41:24

21 Q. And then if you turn to page -347, it 15:41:25

22 says -- there's a section in the middle of the page 15:41:32

23 called "Platform 3.0 Rules of the Road." 15:41:36

24 Do you have that in front of you? 15:41:39

25 A. Yes. 15:41:41

1 Q. And it says, "As we work towards 15:41:41
2 implementing the decisions that we made last year 15:41:44
3 which are now known as Platform 3.0" -- and I'll 15:41:48
4 stop quoting there. 15:41:53

5 Did Mr. Purdy write this document? 15:41:54

6 A. I believe so. 15:41:57

7 Q. And so Mr. Purdy says that some decisions 15:41:58
8 were made last year. Correct? 15:42:01

9 A. That is what he says. 15:42:04

10 Q. And that's now referring back to the 15:42:05
11 November 2012 time period that we talked about with 15:42:08
12 a bunch of exhibits earlier this afternoon. 15:42:12
13 Correct? 15:42:14

14 A. I presume so, yes. 15:42:15

15 Q. And so according to Mr. Purdy in this 15:42:17
16 document, these were decisions that the company 15:42:22
17 made in late 2012. Right? 15:42:24

18 MS. MILLER: Objection. Misstates the 15:42:28
19 document. 15:42:28

20 THE WITNESS: I believe -- sorry. Can you 15:42:31
21 repeat the question? 15:42:32

22 BY MR. GODKIN: 15:42:33

23 Q. According to Mr. Purdy, who wrote this 15:42:34
24 document, he's referring to decisions that the 15:42:36
25 company made in 2012 which are now known as 15:42:39

1 Platform 3.0. Correct?

15:42:44

2 A. I believe that is what he is
3 optimistically trying to say here.

15:42:47

15:42:50

4 Q. And then he -- on the same page, -347,
5 there are a number of principles that he
6 articulates.

15:42:54

15:42:59

15:43:01

7 Do you see that?

15:43:02

8 A. Yes.

15:43:04

9 Q. And he says in the beginning, "The
10 fundamental principle that governs Platform usage
11 is a simple concept: reciprocity."

15:43:04

15:43:06

15:43:09

12 Do you see that?

15:43:13

13 A. Yes.

15:43:13

14 Q. And then he says, "Reciprocity involves an
15 equitable value exchange between a third-party
16 developer and Facebook." Correct?

15:43:13

15:43:16

15:43:19

17 A. I see that.

15:43:22

18 Q. And then at the beginning of the next
19 paragraph, he says, "When considering the
20 implications of reciprocity, it is important to
21 note that a second order principle quickly emerges:
22 competitive access." Correct?

15:43:24

15:43:26

15:43:28

15:43:31

15:43:36

23 A. I see that.

15:43:37

24 Q. So he's basically saying that reciprocity
25 is tied in some fashion to competitive access.

15:43:38

15:43:42

1 Right? 15:43:45

2 A. I think he is saying that. I am not sure 15:43:49

3 I agree with his -- his exact line of reasoning, 15:43:52

4 but that appears to be what he's saying. 15:43:57

5 Q. Right. Well, he sent this document to 15:43:59

6 you. Right? 15:44:01

7 A. As a draft of a proposal, yes. 15:44:01

8 Q. All right. Did you make comments on it? 15:44:03

9 A. I don't recall. 15:44:05

10 Q. When you were preparing to come here to 15:44:07

11 testify, did you see a document that you wrote in 15:44:09

12 which you commented on what Mr. Purdy wrote here? 15:44:13

13 A. I did not. 15:44:17

14 Q. And then he goes on to say, "There are a 15:44:18

15 small number of developers whom no amount of 15:44:21

16 sharing to Facebook or monetary value can justify 15:44:23

17 giving them access to Platform." Correct? 15:44:27

18 A. Yes. I believe that is what it says. 15:44:32

19 Q. So do you know what -- what developers 15:44:33

20 Mr. Purdy was referring to? 15:44:37

21 A. I presume he was referring to Google and 15:44:39

22 Twitter. 15:44:43

23 Q. So just two? 15:44:44

24 A. I can't recall if there were any others, 15:44:46

25 but those were the two primary ones. 15:44:48

1 Q. And is that because Facebook considered 15:44:51
2 Google and Twitter to be competitors at the time 15:44:54
3 that he was writing this document? 15:44:58

4 A. In broad brushstrokes, I believe it was 15:45:06
5 because -- yes, I think they were viewed as trying 15:45:09
6 to build a fundamentally competitive service to 15:45:11
7 Facebook, as opposed to participate in a sort of 15:45:14
8 equitable way. 15:45:16

9 Q. Did Facebook restrict access to data to 15:45:18
10 Google and Twitter? 15:45:21

11 A. I believe that when -- I believe that when 15:45:24
12 those companies expressed an interest in using the 15:45:35
13 API in some form that became a partnership 15:45:38
14 discussion, we were never able to reach an 15:45:41
15 agreement that made sense for both of us. 15:45:44

16 Q. And so did Facebook prevent Google and 15:45:47
17 Twitter from having access to data? 15:45:51

18 MS. MILLER: Objection. Vague. 15:45:54

19 THE WITNESS: Yes. So I think the way 15:45:56
20 that these kinds of things typically work for large 15:45:57
21 companies is, you get people to go talk to each 15:46:01
22 other and decide if you can sort of find a way to 15:46:03
23 work together. And I think in this case, we did 15:46:06
24 not find a way to work together. 15:46:08

25 //

1 BY MR. GODKIN:

15:46:10

2 Q. So when you say "find a way to work
3 together," you're referring to money?

15:46:11

15:46:13

4 A. No. I'm referring to some kind of
5 equitable value exchange.

15:46:14

15:46:17

6 Q. Well, other than money, what kind of
7 equitable value exchange did you have in mind?

15:46:19

15:46:21

8 A. I don't think money was ever on the table.
9 I think it would have been some form of sharing or
10 some form of product integration/product
11 partnership.

15:46:25

15:46:27

15:46:30

15:46:38

12 Q. Can you think of any other company other
13 than Google and Twitter whom Facebook prevented
14 having access to data for competitive reasons?

15:46:39

15:46:42

15:46:47

15 A. Not with certainty.

15:46:56

16 Q. What about -- what's your best memory of
17 whether there were any others other than Google and
18 Twitter?

15:46:59

15:47:01

15:47:04

19 A. I mean, I think that there were some
20 concerns about major messaging apps. And only
21 because it showed up in a prior document, WeChat
22 may have been one of them, but I don't recall
23 whether or not we actually restricted any access on
24 WeChat.

15:47:04

15:47:09

15:47:12

15:47:18

15:47:20

15:47:23

25 And I think WhatsApp may have been one of

15:47:23

1 them as well prior to Facebook's acquisition.

2 But again, my sense was that the -- the
3 list of companies in this bucket were single digit
4 and probably on the order of two to four or two to
5 five, my best recollection.

6 Q. And turn the page to page -348. There's a
7 section in the middle of the page called
8 "Application."

9 Do you see that?

10 A. Yes.

11 Q. And Mr. Purdy writes, "The following
12 outlines the application of the above principles to
13 the various kinds of platform services," and the
14 first one is "Strategic competitors."

15 Do you see that?

16 A. Yes.

17 Q. And he says, "We maintain a small list of
18 strategic competitors that Mark personally
19 reviewed."

20 Is that Mark Zuckerberg?

21 A. I presume so.

22 Q. "Apps produced by the companies on this
23 list are subject to a number of restrictions
24 outlined below."

25 And then he finishes, "Any usage beyond

1 that specified is not permitted without Mark level 15:48:29
2 sign-off." 15:48:32

3 Do you see that? 15:48:33

4 A. Yes. 15:48:33

5 Q. And again, that's Mark Zuckerberg? 15:48:34

6 A. I presume so. 15:48:36

7 Q. So does that mean that Mark Zuckerberg 15:48:37
8 personally reviewed this small list of strategic 15:48:38
9 competitors, and that he personally had to sign off 15:48:42
10 on whether or not these strategic competitors would 15:48:45
11 have access to data? 15:48:50

12 A. Yes. I believe so. 15:48:53

13 Again, to clarify, there -- as I recall, 15:48:55
14 there were two companies on this list. There may 15:48:58
15 have been three or four. But it was a substantial 15:49:00
16 enough conversation around, if and how we partner 15:49:03
17 with Google or if and how we partner with Twitter, 15:49:09
18 that Mark would have been involved. 15:49:12

19 Q. And then turn to the next page, so it's 15:49:15
20 page -349. 15:49:19

21 And then in the middle of the page, he's 15:49:22
22 got a paragraph that begins, "During app review." 15:49:25

23 Do you see that? 15:49:28

24 A. There are two paragraphs that begin that 15:49:28
25 way. 15:49:31

1 Q. Okay. Well, that's good. 16:20:08

2 And a lot of this document has references 16:20:10

3 to a Netflix thing. 16:20:13

4 A. Yeah. 16:20:16

5 Q. Do you know what that refers to? 16:20:16

6 A. I think -- so I think this is a good 16:20:18

7 example of why we try to be organized in our 16:20:21

8 communication with developers, because if we 16:20:27

9 aren't, we randomize them. 16:20:29

10 And so in this case, it seems like what 16:20:31

11 happened was, the Netflix team was working on some 16:20:33

12 kind of integration with Facebook for sharing a 16:20:39

13 movie recommendation or something like that, and 16:20:43

14 the -- it seems -- my interpretation of this is 16:20:46

15 that someone on the Platform partnerships team told 16:20:51

16 them that what they were doing was sort of no 16:20:55

17 longer going to be allowed, and that they needed to 16:20:59

18 do this other thing, and that the Netflix team had 16:21:01

19 spent a lot of time investing in this, and that the 16:21:05

20 thing that they communicated to them was not even 16:21:09

21 finalized yet. 16:21:11

22 And so my interpretation is, I was 16:21:12

23 frustrated that we were not more organized in our 16:21:15

24 communication with developers and was trying to -- 16:21:18

25 was expressing that frustration. 16:21:21

1 Q. So in other words, if -- you think that 16:21:23
2 somebody said something to Netflix before the 16:21:26
3 company had made the announcement in April of 2014 16:21:30
4 about the changes to the platform? 16:21:34

5 MS. MILLER: Objection. Misstates the 16:21:36
6 document. 16:21:37

7 THE WITNESS: My interpretation is that 16:21:38
8 someone miscommunicated with Netflix and caused 16:21:40
9 randomization, which is one of the reasons we try 16:21:45
10 to be organized with our communication to 16:21:48
11 developers. 16:21:51

12 BY MR. GODKIN: 16:21:52

13 Q. And you say on page -71 that you had to 16:21:52
14 send a long apology to Cameron at Netflix. 16:21:58

15 What is Cameron's last name? 16:22:04

16 A. I don't recall, unfortunately. 16:22:06

17 Q. Was he -- do you remember what his 16:22:08
18 position was at the time? 16:22:09

19 A. I assume he was a -- either a product or 16:22:12
20 an engineering leader at Netflix. I don't recall 16:22:14
21 his exact position. 16:22:18

22 Q. At the top of page -72, Mr. Purdy writes, 16:22:26
23 "I just read this message to the entire core 16:22:29
24 platform PM team and said we are all fired if you 16:22:32
25 have to send another one of these emails. We are 16:22:36

1 debugging this right now." 16:22:39

2 And he was referring to the email you sent 16:22:41
3 to Cameron at Netflix? 16:22:43

4 A. I presume so, yes. 16:22:45

5 Q. And why was he saying that everybody was 16:22:46
6 going to be fired if you had to do this again? 16:22:48

7 A. One, I think he was being hyperbolic. 16:22:51

8 Two, I think I was expressing my 16:22:54
9 frustration that we were not better organized with 16:22:57
10 our communication to developers, and that 16:23:00
11 communicating the wrong information to developers 16:23:03
12 caused unnecessary churn and work, and that we 16:23:06
13 needed to be more organized. 16:23:12

14 Q. Was Mark Zuckerberg aware of this problem 16:23:17
15 with Netflix? 16:23:20

16 A. Oh, I do not know. 16:23:22

17 Q. Had he asked that these potential changes 16:23:24
18 to the platform not be communicated to anyone in 16:23:29
19 advance of the corporate announcement? 16:23:32

20 MS. MILLER: Objection. Vague as to what 16:23:34
21 "these changes" are. 16:23:35

22 BY MR. GODKIN: 16:23:37

23 Q. The changes that were announced in April 16:23:37
24 of 2014? 16:23:39

25 MS. MILLER: Again, vague as to what those 16:23:40

1 "Twitter launched Vine today which lets 16:26:20
2 you shoot multiple short video segments to 16:26:24
3 make one single 6-second video. As part of 16:26:26
4 their NUX, you can find friends via Facebook. 16:26:30
5 Unless anyone raises objections, we will shut 16:26:34
6 down their friends API access today." 16:26:37

7 Do you see that? 16:26:41

8 A. Yes. 16:26:41

9 Q. So that was in January of 2013. Correct? 16:26:42

10 A. It appears so. 16:26:48

11 Q. And then at the bottom of this chat, 16:26:49

12 Mark Zuckerberg says, "Yup, go for it." 16:26:52

13 Do you see that? 16:26:54

14 A. Yes. 16:26:55

15 Q. So he was being asked for approval -- his 16:26:55

16 approval of shutting down the friends API for 16:26:59

17 Twitter? 16:27:02

18 A. Yeah -- for Vine, which was a product that 16:27:05

19 was launched by Twitter. 16:27:08

20 Q. And what was the basis for shutting down 16:27:10

21 Twitter's friends API in January of 2013? 16:27:13

22 A. Well, this was previously discussed. I 16:27:19

23 think there was a very short list of competitive 16:27:21

24 apps, which I believe was Google and Twitter, for 16:27:25

25 which we -- for which we felt we needed to have a 16:27:28

1 partnership in place for -- in order to use 16:27:33
2 Facebook Platform. And in this case, Twitter was 16:27:35
3 launching an app that was using Platform that we 16:27:38
4 did not have a partnership in place, so we were 16:27:41
5 shutting it down. 16:27:44

6 Q. Was this Vine app violating Facebook's 16:27:47
7 policies in some fashion? 16:27:50

8 A. I -- 16:27:52

9 MS. MILLER: Objection. Calls for a legal 16:27:53
10 conclusion, lacks foundation, calls for 16:27:54
11 speculation. 16:27:56

12 THE WITNESS: I would need to look at the 16:28:00
13 exact policies, but I am fairly certain that we had 16:28:01
14 a fair deal of discretion on this matter. 16:28:05

15 BY MR. GODKIN: 16:28:11

16 Q. Okay. All right. 16:28:13

17 So let's mark as the next exhibit Facebook 16:28:42
18 01215536 through -38. 16:28:45

19 (Deposition Exhibit 31 was marked for 16:29:06
20 identification.) 16:29:08

21 BY MR. GODKIN: 16:29:09

22 Q. And Exhibit 31 is some emails -- now we're 16:29:09
23 going back in time to 2008. So if you take a 16:29:12
24 moment to review them. 16:29:16

25 A. (Examining document.) Okay. 16:29:19

| | | |
|----|--|----------|
| 1 | MR. GODKIN: Let's mark as the next | 16:47:09 |
| 2 | exhibit Facebook Document 01233837 through -40. | 16:47:10 |
| 3 | (Deposition Exhibit 32 was marked for | 16:47:19 |
| 4 | identification.) | 16:47:21 |
| 5 | BY MR. GODKIN: | 16:47:38 |
| 6 | Q. We have placed in front of you Exhibit 32, | 16:47:39 |
| 7 | which appears to be a chat between you and | 16:47:41 |
| 8 | Mr. Cheever in March of 2008. | 16:47:46 |
| 9 | Would you take a look at it, please? | 16:47:52 |
| 10 | A. Sure. (Examining document.) Okay. | 16:47:54 |
| 11 | Q. So at this point, March 2008, I think you | 16:52:46 |
| 12 | told me this morning that Charlie Cheever was in | 16:52:48 |
| 13 | charge of the Platform? | 16:52:51 |
| 14 | A. He was in charge of the Platform | 16:52:52 |
| 15 | engineering team. | 16:52:54 |
| 16 | Q. And you reported to him? | 16:52:55 |
| 17 | A. Yes. | 16:52:57 |
| 18 | Q. And so he's writing a Platform vision | 16:52:57 |
| 19 | statement, and a draft of it appears starting on | 16:53:00 |
| 20 | the second page of the exhibit. Correct? | 16:53:05 |
| 21 | A. Uh-huh. | 16:53:07 |
| 22 | Q. Yes? | 16:53:07 |
| 23 | A. Yes. | 16:53:08 |
| 24 | Q. And he starts off by saying, "Facebook | 16:53:09 |
| 25 | Platform should replace the web as the best way to | 16:53:12 |

1 make consumer software applications." Correct? 16:53:16

2 A. That is what he says. 16:53:19

3 Q. And by consumer software applications, 16:53:20

4 he's referring to what we've been calling apps 16:53:23

5 today. Right? 16:53:28

6 A. Yeah. I mean, I think he is saying 16:53:33

7 consumer software applications in a sort of a 16:53:34

8 broad -- broad sense. 16:53:37

9 Q. And then it -- toward the bottom of that 16:53:39

10 page, he -- there is a sentence that starts, "If we 16:53:42

11 do it right" -- do you see that? 16:53:47

12 A. Uh-huh. 16:53:48

13 Q. It says, "the Facebook Platform can 16:53:49

14 provide some of these kinds of ingredients and 16:53:52

15 effect another paradigm shift -- where the critical 16:53:55

16 mass of consumer applications and services moves 16:53:58

17 from the plain old vanilla web to the socially 16:54:00

18 enabled web." 16:54:05

19 Is that right? 16:54:06

20 A. That's what he appears to say. 16:54:07

21 Q. So that was his vision, if you will, in 16:54:09

22 March of 2008? 16:54:11

23 A. Well, I think it is a rough draft of his 16:54:13

24 vision. And it seems like it was produced in 16:54:16

25 response to the fact that there was a gentleman 16:54:20

1 name Chamoth, which he mentions in the sort of 16:54:25
2 preamble, who I think nominally ran the Platform 16:54:28
3 marketing organization and was trying to run a 16:54:34
4 process here. 16:54:36

5 And so my interpretation is, Charlie was 16:54:37
6 trying to draft something that's kind of important 16:54:39
7 to that process. 16:54:44

8 Q. And was what Charlie was writing 16:54:45
9 consistent with what Mr. Zuckerberg had stated 16:54:47
10 publicly about Facebook Platform up until that 16:54:50
11 point in time? 16:54:55

12 MS. MILLER: Objection. Vague and 16:54:56
13 compound. 16:54:57

14 THE WITNESS: Yeah, I don't feel equipped 16:54:57
15 to -- I don't know. 16:55:00

16 BY MR. GODKIN: 16:55:05

17 Q. And then if you turn to page -37, there's 16:55:06
18 an email from you to Mr. Cheever. Correct? 16:55:08

19 A. Yes. 16:55:10

20 Q. And in the middle of the page, you say, 16:55:11
21 "If that's true," referring to your earlier notes, 16:55:18
22 "I think the mission of Facebook Platform should 16:55:22
23 be, help users share information more efficiently 16:55:25
24 by enabling external developers to build 16:55:29
25 applications for interacting and sharing data using 16:55:32

1 the social graph." Correct?

16:55:37

2 A. That's what I appear to say.

16:55:41

3 Q. And external developers is the same thing
4 as what we've been calling third-party developers
5 today?

16:55:42

16:55:45

16:55:47

6 A. I presume so, yeah.

16:55:48

7 Q. And then you go on to say, "If that's the
8 mission, then the strategy for Platform would look
9 something like" -- and you have a 1, 2, and 3
10 there.

16:55:54

16:55:59

16:56:02

16:56:06

11 Do you see that?

16:56:06

12 A. Yep.

16:56:08

13 Q. And then you go on to say, "For the
14 developer ecosystem to flourish, we need to make
15 sure that developers can build sustainable
16 businesses to support the applications that they
17 build."

16:56:08

16:56:11

16:56:14

16:56:16

16:56:19

18 Do you see that?

16:56:19

19 A. Yes.

16:56:20

20 Q. And again, you're talking about
21 third-party developers?

16:56:20

16:56:22

22 A. Yes.

16:56:24

23 Q. And what did you mean by "sustainable
24 businesses to support the applications that they
25 build"?

16:56:24

16:56:27

16:56:29

1 A. I mean, I think my -- the next sentence is 16:56:32
2 probably my clarification, which is that we need to 16:56:35
3 -- we need to make sure that they can make money 16:56:39
4 from their applications. 16:56:42

5 MR. GODKIN: Okay. Let's mark as the next 16:56:44
6 exhibit Facebook 01139282 through -291. 16:57:01

7 (Deposition Exhibit 33 was marked for 16:57:08
8 identification.) 16:57:10

9 BY MR. GODKIN: 16:57:25

10 Q. Exhibit 33 is something called "Kangaroo," 16:57:25
11 and it appears to be last updated on April 7th of 16:57:30
12 2008. 16:57:33

13 A. Okay. 16:57:35

14 Q. Are you familiar with this document? 16:57:37

15 A. I -- I don't recall. But it seems like -- 16:58:03
16 I'm trying to figure out if this is something that 16:58:13
17 I wrote. It seems plausible that I would have 16:58:15
18 written it, but I haven't seen this in a very long 16:58:18
19 time. I'm impressed by its length. 16:58:21

20 Q. What is it about it that leads you to 16:58:25
21 believe that you might have written it? 16:58:27

22 A. Some mix of writing and formatting style. 16:58:31

23 Q. Do you recall something called Kangaroo? 16:58:40
24 Was that a project or a code name or something like 16:58:43
25 that at Facebook in '08? 16:58:45