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IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1589/5/7/23(T),
1424/5/7/21(T), 1596/5/7/23

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

22nd June-31st July 2026

Before:

The Honourable Mr Justice Roth
Dinah Rose KC
Alasdair Smith

(Sitting as a Tribunal in England and Wales)

BETWEEN:

**INFEDERATION LIMITED (“Foundem”)
KELKOO.COM (UK) LTD & OTHERS (“Kelkoo”)
WHITEWATER CAPITAL LIMITED (“Ciao”)**

Claimants

- and -

GOOGLE LLC & OTHERS

Defendants

A P P E A R A N C E S

Colin West KC (instructed by Hausfeld & Co LLP) on behalf of Foundem

Daniel Jowell KC, Sarah Love KC, Hugh Whelan & Gianna Seglias (Instructed by Linklaters LLP)
on behalf of Kelkoo and Ciao

Meredith Pickford KC, Brendan McGurk KC, Julianne Kerr-Morrison, David Gregory & Alistair Holder Ross (Instructed by Herbert Smith Freehills Kramer LLP and Bristows LLP) on behalf of
Google LLC & Others

1 Monday, 6 July 2026
2 (10.32 am)
3 THE CHAIRMAN: Good morning.
4 As it is the start of another week, I will just
5 repeat the warning that I gave at the outset of this
6 Trial. These proceedings are live streamed as are all
7 proceedings from this Tribunal and an official recording
8 and transcript is being made of the proceedings. It is
9 strictly prohibited for anyone to make any unauthorised
10 recording or any visual image of the proceedings and
11 doing so is punishable as a contempt of court.
12 Yes, Ms Morrison.
13 MS MORRISON: For the transcriber, it is Ms Morrison, one of
14 the counsel team for Google.
15 Google's next witness is Ms Elizabeth Dorfman.
16 Please can this witness be affirmed.
17 MS ELIZABETH DORFMAN (affirmed)
18 Examination—in—chief by MS MORRISON
19 THE CHAIRMAN: Please sit down, Ms Dorfman.
20 A. Thank you.
21 MS MORRISON: Ms Dorfman, please can you open the hard copy
22 of your first witness statement, which I believe should
23 be in front of you. For Opus, it is at {H3A/1}.
24 Do you have your first witness statement there?
25 A. I do.

1

1 Q. Could you turn to page {H3A/1/25}, please.
2 Is that your signature?
3 A. It is.
4 Q. Do the facts set out in your first witness statement
5 remain true to the best of your knowledge and belief?
6 A. They do.
7 Q. Please can you open up the hard copy of your second
8 statement. For Opus, it is at {H3A/14}.
9 A. Yes.
10 Q. Could you turn to {H3A/14/7}.
11 Is that, again, your signature?
12 A. It is.
13 Q. Do the facts set out in your second statement remain
14 true to the best of your knowledge and belief?
15 A. They do.
16 MS MORRISON: I believe Ms Love has some questions for you.
17 THE CHAIRMAN: Yes, Ms Love.
18 Cross—examination by MS LOVE
19 MS LOVE: Good morning.
20 Do you prefer Ms Dorfman or Dr Dorfman?
21 A. I would welcome Dr Dorfman, thank you.
22 Q. Dr Dorfman, you worked in the ads policy team, yes?
23 A. That's correct.
24 Q. In particular, you worked with the ads quality team on
25 the landing page quality, LPQ, programme, yes?

2

1 A. That's correct.
2 Q. You left in 2008 and subsequently rejoined in
3 a different area in 2015?
4 A. That's correct.
5 Q. Now, you have explained that the LPQ programme was
6 intended to address the issue of growing numbers of ads
7 that directed users to poor quality sites, poor quality
8 landing pages?
9 A. That's correct.
10 Q. The way in which that was done was to introduce an
11 algorithmically determined LPQ score into the ads
12 auction process that would affect the pricing of ads so
13 the worse an LPQ score was, the higher a minimum CPC,
14 cost per click, price that site would need to pay for
15 ads?
16 A. That's correct.
17 Q. Now, you have referred in your first statement to
18 the "church and state" principle, yes?
19 A. I have.
20 Q. Just to be clear, the whole of search is on the church
21 side, including search quality, web spam, OneBoxes,
22 Universal Search, they are all church?
23 A. To the best of my knowledge.
24 Q. While you were with the ads quality team, you were on
25 the state side?

3

1 A. Yes.
2 Q. Are you aware that from June 2004 onwards, Google's
3 web spam team within search quality had an algorithm
4 which is widely known as "Algorithm A"?
5 A. I heard the term "Algorithm A" for the first time in
6 reference to this case.
7 Q. Understood, Dr Dorfman.
8 Google's position in this litigation is that the aim
9 of Algorithm A was to reduce low quality sites?
10 A. If that's Google's official position in this case,
11 I don't have any contrary information.
12 Q. Now, your colleague, Ms Liadan O'Callaghan — I hope
13 I am not butchering that too badly — who is one of
14 the engineers who worked on the signals for the LPQ
15 algorithm, has told us in paragraphs 36 to 37 of her
16 second witness statement that while the algorithms were
17 different, the LPQ team used some of the signals that
18 had originally been developed by the web spam team for
19 Algorithm A; were you aware of that?
20 A. I'm not aware. I haven't seen the witness statement
21 from Liadan with regard to that topic.
22 Q. We can turn it up briefly for you to have a look. It is
23 at {H3A/12/10}.
24 Dr Dorfman, I do not think there is anything here,
25 but in any of these documents, if you see anything in

4

1 blue or yellow, then it has been designated confidential
 2 and so should not be read aloud and if you want to
 3 discuss any of it then we will go into camera.
 4 (Pause)
 5 A. I've read her statement.
 6 Q. So evidently, those in AdWords quality who were
 7 developing the LPQ algorithm considered those signals to
 8 be, well, informative about what is a high quality and
 9 what is a poor quality site from an AdWords perspective.
 10 I do not put it any higher than that.
 11 A. I'm sorry, what was the end of your sentence?
 12 I didn't —
 13 Q. I am not putting it any higher. They must have
 14 considered them to be informative?
 15 A. I think that's a reasonable interpretation.
 16 Q. Now, one of the points that you discuss in your first
 17 witness statement is the escalation process that you set
 18 up to handle cases where the LPQ score that was assigned
 19 to a site did not reflect its actual quality and so
 20 there was a manual intervention?
 21 A. Yes.
 22 Q. That was whitelisting?
 23 A. Yes, we no longer use that terminology, but at the time,
 24 we did.
 25 Q. Let us stick with the nomenclature from 2005 to 2008.

5

1 You have said that that was seen as a responsible
 2 thing to do given the novelty of the LPQ algorithm and
 3 also the fact that websites change?
 4 A. It was in particular the novelty of the algorithm and
 5 ensuring that we had some means, if there was an
 6 unexpected and significant problem, for us to have
 7 remediation.
 8 Q. You have also noted the importance of being fair and
 9 consistent and not just whitelisting sites because they
 10 complain the loudest, and so you developed guidelines to
 11 ensure consistency?
 12 A. We certainly attempted to.
 13 Q. So if a site — I mean, it could be comparison shopping,
 14 it could be any kind of site — was affected by the LPQ
 15 algorithm but then whitelisted, that will reflect that
 16 an individual assessment was made by your AdWords
 17 customer support team that the site was not poor
 18 quality?
 19 A. It would reflect that an escalation had taken place and
 20 that some team member who was in a qualified position to
 21 do so had evaluated the guidelines that we implemented
 22 and had ultimately made that decision.
 23 Q. So the site was reputable?
 24 A. The guidelines were intended to support a decision that
 25 would be consistent with a site being reputable.

6

1 Q. Now let us turn to the specific case of
 2 comparison shopping. I imagine you will have seen quite
 3 a few comparison shopping sites in your role?
 4 A. I did back then. I haven't spent as much time on them
 5 in the intervening 20 years.
 6 Q. Now, it is not an inherently low quality business model,
 7 is it?
 8 A. No, and I think that's reflected in my witness
 9 statement.
 10 Q. So there may be some comparison shopping sites of low
 11 quality, but also some higher quality ones?
 12 A. That's correct, and in fact, the fact that some were
 13 affected by our algorithm was consistent with that.
 14 Q. Now, you have focused in your evidence on whether
 15 a comparison shopping site offers value by giving users
 16 information that genuinely helps them to make an
 17 informed purchasing decision; that is correct?
 18 A. Could you repeat the question?
 19 Q. You have focused in your witness statement on whether
 20 a comparison shopping site offers value by giving users
 21 information that genuinely helps them to make informed
 22 purchasing decisions?
 23 A. Yes.
 24 Q. You have also referred in paragraph 73 of your first
 25 witness statement {H3A/1/21}, to a document and it is at

7

1 {J3F/1}.
 2 Now, this document sets out the specific guidance to
 3 the AdWords customer support teams on what, from an LPQ
 4 perspective, is a high quality or a poor quality
 5 comparison shopping site; that is correct?
 6 A. This document was prepared in response to questions that
 7 emerged after the initial launch of LPQ specifically
 8 with regard to comparison shopping sites, and it was an
 9 effort to offer ways to differentiate between higher
 10 quality and lower quality sites.
 11 Q. So if an AdWords customer support person were
 12 considering a comparison shopping site, whether to
 13 whitelist it, this is what she or he would have in
 14 mind/be applying?
 15 A. At one point in time, this was a resource that was made
 16 available to the AdWords customer support team.
 17 Q. It reflects your understanding of the approach that was
 18 taken to comparison shopping?
 19 A. Again, at a very specific point in time, this was, to
 20 the best of my recollection, something that we realised
 21 we needed as we began to field questions specifically
 22 related to comparison shopping sites. What I can't
 23 recall is how long this specific resource was used, nor
 24 whether it ultimately evolved over time.
 25 Q. (Inaudible).

8

1 Could we go over to the second page, please,
 2 {J3F/1/2}.

3 Ah, it appears not. We can make enquiries. Given
 4 that Dr Dorfman was involved in the period up to 2008,
 5 is it reasonable to assume it would have overlapped with
 6 your time?

7 A. This document certainly did. It was also the case that
 8 the internal resources that we made available to
 9 the customer support team were quite regularly modified
 10 and updated.

11 Q. Thank you, Dr Dorfman.

12 Now, if we go back to the first page and away from
 13 the, I am afraid, rather difficult to read illustrations
 14 {J3F/1/1}. Let us have a look:

15 "Poor Comparison Shopping.

16 " ... A Poor Comparison Shopping site ... is one
 17 which

18 "Uses data feed from one or a few other shopping
 19 comparison sites.

20 "Has no clear value addition in terms of content or
 21 enhanced functionality for users."

22 The converse is on the explanation of a high quality
 23 one. We can see in the "FAQs", do you see that in
 24 the right-hand column, slightly lower down, that for
 25 a poor comparison shopping site we are thinking in terms

9

1 of only one to three merchants, many of which will be
 2 themselves shopping aggregators and functionalities that
 3 do not outweigh the poor user experience?

4 A. Right.

5 Q. Now, you may have seen, Dr Dorfman, that Mr Stables, who
 6 is Kelkoo's CEO, has noted that the question of what
 7 helps users from a comparison shopping site is a bit
 8 more nuanced because it can depend on where they are in
 9 their shopping journey, what is sometimes called
 10 the "funnel". I want to set that debate aside, because
 11 I think the question of what users value in a CSS has
 12 already been discussed extensively with other witnesses
 13 and I just want to take at face value and focus on these
 14 indicators of high quality, adding value for users
 15 through content or functionality and having more than
 16 a handful of merchants.

17 We are going to go back to 2007, when you were
 18 working on the LPQ programme.

19 Could we have {M3/571}, please.

20 Right, shopping 20 years ago.

21 These are some results from a Wayback Machine
 22 snapshot. It is dated 17 June 2007. I am afraid that
 23 neither the URL nor the date is visible at the top, but
 24 that is a compromise so that it all is more readily
 25 readable. This is Kelkoo's landing page for

10

1 the "Digital Cameras" category.

2 Now, we can see there — well, we can see
 3 the ability to filter or search by a range of
 4 attributes, "Brand", Canon, Sony, Samsung, Nikon,
 5 Panasonic. "Price", "... type", "... resolution". We
 6 can see some recommendations, and I do not think we are
 7 going to need to flick through this whole thing, but if
 8 we just go on a couple of pages, we can see what looks
 9 like a fairly full set of popular digital cameras
 10 offered by different brands and manufacturers.

11 If we go back to the first page, please, we see near
 12 the top a "Digital Camera Buying Guide", and we are
 13 going to go forward now to {M3/573}.

14 Continuing our exciting 20 years ago digital camera
 15 shopping journey on Kelkoo, we can see a screenshot from
 16 10 June 2007 of the buying guide, and we can see, near
 17 the top, that the individual guides are "thoroughly
 18 researched and written by an independent expert".

19 I am sorry, can you read this, Dr Dorfman?

20 A. Am I able to or would you like me to read this document?

21 Q. No, you do not have to read it aloud, is it legible?

22 A. It is legible.

23 Q. Great.

24 If we go through this, we can see explanations of
 25 what you may be looking for as a beginner of if we

11

1 continue on ... oh, I think we may have missed
 2 the intermediate and advanced because we have — sorry,
 3 could we make the resolution back to the original. Yes.
 4 There are the "Intermediate" and "Advanced".

5 Then if we go forward a page {M3/573/2}, there are
 6 explanations of what you are looking for of the "Points
 7 to remember", "Optical sensors", "... lens", "... weight
 8 ... size", size of a mini screen.

9 Now let us say you were to click on a particular
 10 sub-category, so Samsung digital cameras. Let us go to
 11 {M3/572}.

12 We see again that there are the filtering abilities
 13 at the top, yes?

14 A. Yes.

15 Q. List of cameras, and there is — well, I was going to
 16 say there is an image of each one, I am afraid
 17 the Wayback Machine has not cached all of the images,
 18 but there are images and there are some details about
 19 their storage media, viewfinders and the price range,
 20 yes?

21 A. Yes.

22 Q. So, thinking of your guidance that was being given at
 23 the time, the content and value added box are ticked,
 24 are they not?

25 A. I wouldn't be able to say that definitively based on

12

1 these screenshots.

2 Q. That is a fair point, Dr Dorfman, this is a sample, but

3 on the basis of this limited sample?

4 A. Part of the reason I'm not able to say that definitively

5 is one of the challenges that we saw across some of

6 the lower quality sites, not exclusive to comparison

7 shopping sites but included in my witness statement, is

8 that we would frequently see content that was copied

9 from lots of websites and reused across multiple other

10 websites. So, for example, when you're showing me

11 the buyers' guide, one of the steps that we would have

12 taken was to actually copy and paste excerpts and see if

13 we could find multiple other websites on the web that

14 included verbatim the same information. I am not able

15 to do that here, but that's one of the reasons that

16 I would not take — I would not presume, just by looking

17 at the fact that there was information accompanying

18 a product listing, to note that that was truly unique

19 and differentiated.

20 Q. But there are a variety of other things that a user

21 would find helpful in terms of functionality, it is not

22 just about whether an excerpt from the buying guide may

23 be somewhere else; there is a range of filtering

24 options, the information is presented with ratings?

25 A. Ratings were sometimes something that we would see not

13

1 be represented as sort of faithful and true user

2 ratings. I will agree with the point that you're

3 making, that there is functionality within this website

4 that would be reasonable for a shopping user.

5 Q. Thank you, Dr Dorfman.

6 Now let us see what you would have got if you had

7 clicked on a particular Samsung digital camera. Let us

8 go to {M3/569}.

9 So we have a rating for this individual product and

10 we can see that there are nine ratings, two reviews. We

11 have some information about the product near the top and

12 we have not only a list of offers, but they have

13 information about availability for some of them — I am

14 sorry, you may want to zoom in on this — there is

15 a warranty, there is pricing including postage and

16 packaging, and there is also reviews of the merchants.

17 So, again, and with the caveats that you have very

18 fairly expressed, this appears to be useful

19 functionality, yes?

20 A. I think with the caveats that I have expressed that we

21 would sometimes see as problems for other comparison

22 shopping sites, what I am looking at looks like

23 a comparison shopping site.

24 Q. Thank you.

25 We have six offers from four merchants. Kelkoo has

14

1 thousands of merchants that it has worked with during

2 this time. I do not hold out this single listing as

3 being a paradigmatic example, in fact I think we will

4 live without the excitement, but I have another one from

5 the same time which has 13 offers from nine stores, but

6 we have more than a handful of merchants, do we not?

7 A. I will say one of — the question of what is the sort of

8 manufacture of record versus, you know, who are you

9 purchasing from if you were to click through on

10 the offer are sort of slightly separate considerations

11 that we would look to for that reference on the guide

12 that you shared with regard to how many end merchants

13 are there.

14 Q. We can perhaps look at {M3/574}.

15 This time we have nine different stores. Sorry,

16 could we please zoom out a bit so that we can see

17 the list in all its glory. Or maybe we need to go on

18 another page {M3/574/2}.

19 So, again, we seem to have more than the one to

20 three merchants?

21 A. Sure, yes.

22 Q. So —

23 THE CHAIRMAN: Can I just ask, does the fact that it also

24 tells you whether it is in stock at those merchants —

25 A. That seems useful.

15

1 THE CHAIRMAN: That is a useful feature?

2 A. Yes.

3 MS LOVE: Now, Dr Dorfman, you have very fairly noted that

4 this is a limited sample. With the time allowed, we

5 could have a shopping journey through various categories

6 on the Kelkoo website in 2007, and I recognise those

7 limitations, but on the basis of this sample, in

8 mid-2007, these pages would have met the requirements

9 that were being given to the AdWords customer support

10 teams for whitelisting, it appears, does it not?

11 A. That's not something I'm able to say definitively

12 without actually doing the full set of checks that we

13 had described in our guidelines, and I would like to

14 make one additional point, which is one thing we would

15 take into consideration, just in the process of

16 evaluating certain comparison shopping sites, was: what

17 do multiple other comparison shopping sites for the same

18 queries — in this case cameras — result? Because one

19 of the challenges that motivated landing page quality as

20 an addition to our ads product was the increasing

21 homogeneity of the results for a user who was looking

22 for a camera and might land on clicking on an ad that

23 implies that they have a camera, multiple listings that

24 all show the same set of offerings out to those end

25 merchants. So there is an absolute question and there's

16

1 also a relative question, because all of this was
2 motivated by our interests in offering the highest
3 quality set of diversified results for users.

4 Q. Well, again —

5 THE CHAIRMAN: Sorry, I did not — Dr Dorfman, I did not
6 quite get the relative point that you are making. Can
7 you just explain a bit?

8 A. The relative point relates to when a user searched on
9 Google with a query that was eligible to show ads,
10 the set of ads that would show, I think, within
11 the context of the case, how the ads auction works has
12 already been covered. We had policies, one policy was
13 called double serving, which said you can't have
14 the exact same website listed more than once in the ad
15 results, because that had zero value and in fact it
16 degrades the quality of the experience for users.

17 What we also had policies on, and to some extent
18 landing page quality was an additional policy when it
19 got more challenging to identify, was websites that
20 looked near identical, so a user would say: "I went to
21 the first result, I thought it might have what I was
22 interested in but I realised it did not. I came back
23 out again, I went to the next result, hoping that that
24 might have what I was interested in and it looks just
25 like where I was". Similarly: "I was interested in

17

1 a product and I clicked on the first result and it had
2 a set of options, and I went back out again and
3 I clicked and I have another list and it has largely
4 the exact same options at the exact same prices from
5 the exact same vendors".

6 So comparison shopping sites pushed into this
7 quality issue of different ads ultimately surfacing very
8 similar options for users when they acted as an
9 intermediary between the user and the end vendor of
10 the product, which is not to say that there is not value
11 that could be offered in those sites, but that holistic
12 assessment of multiple sites that might look
13 increasingly similar to one another was one facet of how
14 we thought about quality in the context of the set of
15 ads available to a user within a given query.

16 THE CHAIRMAN: I can completely understand that in terms
17 of —

18 A. Double serving.

19 THE CHAIRMAN: — double serving. You would not want to
20 have two ads sort of much the same, because ... indeed
21 neither advertiser would be very happy with that,
22 I imagine, because that then, as you say, degrades what
23 they are offering.

24 In that situation, would you say then we will have
25 none, or, if it is actually a useful ad but you do not

18

1 want to have two very similar, would you pick one of
2 them or would you say, no, we are not going to have any
3 of them?

4 A. So there was an implementation of double serving policy
5 that related to the top-level domain which was
6 the domain that showed at the base of text ad and so
7 there was a technical implementation that said if
8 there's multiple eligible ads that would need to come
9 from different accounts, you couldn't have two ads from
10 the same account triggered to serve at the same time,
11 only one of those would be eligible. I don't remember
12 the exact implementation, but my best guess would be
13 that the — that one would — one would win and it would
14 be the one that would have placed more highly in
15 the auction.

16 THE CHAIRMAN: Placed?

17 A. More highly in the auction, but again, I'm not 100%
18 certain of that, that is just my best guess.

19 THE CHAIRMAN: So if you have — well, it could be several
20 good quality CSSs, but they are two similar, so you
21 would not have two of them, but you would select one as
22 — on that basis?

23 A. So the double serving policy only triggered when it was
24 the exact same top level domain, website.com,
25 website.co.uk. But what we saw — and this was, again,

19

1 part of the motivation for the development of
2 the landing page quality algorithm — was that websites
3 that even had — that had different top level domains
4 sometimes had identical content and sometimes had a very
5 similar content. We saw identical content, sometimes in
6 the case of affiliate programmes, who would offer
7 effectively a website, you know, to you just to copy and
8 paste the code or even to frame it, so, again, the URL
9 looked different but the website looked exactly
10 the same, and that would not be able to be addressed
11 through that double serving technical block that would
12 ensure that only one website — one ad per website
13 showed.

14 PROFESSOR SMITH: Why would a CSS do that, try to sell two
15 ads of the same content on their website?

16 A. Well, we would — we would see many advertisers who are
17 interested in placing as many ads as possible on Google.
18 So sometimes they would open multiple accounts and have,
19 you know, a different credit card, but it was the same
20 advertiser, which was a separate violation of Google's
21 policies. The best way to detect that and prevent that
22 from resulting in duplication of ads was just to not let
23 multiple ads serve from the same website.

24 MS ROSE: I am not sure that you quite answered the Chair's
25 question, because he is talking about different CSSs,

20

1 but each CSS is producing a very similar set of merchant
 2 ads, so in that situation that would not be covered by
 3 your policy that only one that places higher in
 4 the auction gets into the advertising. So how would you
 5 decide between those two websites without otherwise ...?
 6 A. Yes, so I'll try to be as clear as possible. The double
 7 serving policy preceded the landing page quality
 8 algorithm and it was a very specific implementation of
 9 a singular situation when we had multiple ads for
 10 the exact same website bidding on the same keywords.
 11 What we saw over time was that part of what we were
 12 addressing with that policy, which was the same content
 13 being advertised, was being implemented in ways that
 14 were not necessarily the same advertiser and were not
 15 necessarily the same website, and so this was part of
 16 the set of low quality, non-unique content —
 17 MS ROSE: So if you have got two separate websites with
 18 similar quality, how do you decide which one is poor
 19 quality?
 20 A. In the context of LPQ, then the fact that there was
 21 highly similar content on multiple websites, again, I —
 22 I was on the policy team, I was not part of
 23 the development of the algorithm, but that was part of
 24 what this algorithm was intended to help to identify —
 25 MS ROSE: So they would all get downgraded?

21

1 A. If they were using highly duplicative content.
 2 MS ROSE: So they would all — there would not be one
 3 winner?
 4 A. Not in the case of content that was highly repeated
 5 across multiple sites was the intent. There was some
 6 coverage of affiliate programmes, that's an important
 7 part of also the LPQ algorithm and has some relevance to
 8 comparison shopping sites, but also there.
 9 MS LOVE: Now, Dr Dorfman — sorry, are there any
 10 further ...?
 11 Dr Dorfman, unfortunately, I am not in a position to
 12 take you to click on the "Go!" link for each of these
 13 ads and to verify that each does indeed, as they
 14 suggest, take you to a different listing, and
 15 I appreciate that you cannot say definitively, but based
 16 on this limited sample, this would not appear to be
 17 a low quality comparison shopping site, would it?
 18 A. I really couldn't say definitively. You have shown me
 19 lots of inventory and various features that seem
 20 relevant and suitable for a comparison shopping site.
 21 Q. Now let us go forward a few years, and I am conscious
 22 this is after the time that you left involvement with
 23 ads/policy, but on the assumption that the criteria
 24 being applied have not changed in their essentials,
 25 I would like to show you a page from July 2011. It is

22

1 at {M3/539}.
 2 Now, different format, so with a URL but illegible.
 3 Can we zoom in, please. Thank you.
 4 Just to stick with our theme, we are still in
 5 the "Digital Cameras" category and this is July 2011,
 6 and we see, not terribly clearly, I am afraid, but white
 7 on a blue background, some star ratings for individual
 8 cameras. We see the ability again to filter by a range
 9 of attributes, "Price" and "... resolution" and "Brand".
 10 Yes. Let us perhaps wait. If we do a bit of
 11 scrolling, please. Thank you.
 12 I think if we scroll the whole way to the bottom, we
 13 see that there is a "Buying Guide" written by "Digital
 14 SLR photography", so this is the specialist third party
 15 contributor.
 16 Now, with all the caveats that we had previously,
 17 this, again, appears not to be low quality on the basis
 18 of your guidelines; that is right?
 19 A. I think my assessment would be the same as the previous
 20 examples you've shown me.
 21 Q. Just to round off our exciting digital cameras journey,
 22 we are going to go to {M3/540}.
 23 Here we have the result. This time we have gone for
 24 a Panasonic Lumix DMC—TZ20, and this time we have 21
 25 different results from nine stores. We have reviews by

23

1 Kelkoo users from many of the merchants.
 2 Again, as before, with those caveats, these pages
 3 appear not to be low quality, with the same caveats as
 4 before, Dr Dorfman?
 5 A. They look similar in the types of information and
 6 capabilities to the other ones you've shown.
 7 Q. Well, we can actually see what the AdWords team thought
 8 of Kelkoo around that time in a document which is at
 9 {K1/54}.
 10 Now, this document, I believe, does have some
 11 confidential highlighting. I am not intending to take
 12 you to any parts that do, but if we go off piste on my
 13 referencing, then, yes, no — no — yes, they are all
 14 blue.
 15 Now, this is a response that Google wrote to
 16 questions that the Commission sent in its investigation.
 17 I do not know the date of it, but the questionnaire is
 18 from April 2011, so the responses are likely to have
 19 been also at some point in 2011. You can see that
 20 Section 9 concerned "AdWords".
 21 So can we go forward to {K1/54/134}, please. That
 22 is the start of it. Let us go to {K1/5/138} and let us
 23 zoom in at the bottom on question 67.
 24 So you can see that what has been requested by
 25 the European Commission is a list of the algorithms that

24

1 AdWords uses:
 2 " ... to filter low-quality advertiser sites that
 3 might harm the 'user experience'."
 4 What has been asked for is:
 5 " ... which of these algorithms was responsible for
 6 the lowering of Foundem's Quality Score."
 7 Now, it may help you to go over the page and just
 8 skim the general description that has been given there
 9 of how Google ensures the quality of AdWords. I am sure
 10 that much of it will be familiar to you {K1/54/139}.
 11 A. You would like me to read this page quickly?
 12 Q. Yes.
 13 (Pause)
 14 A. Sorry, I'm still making my way through.
 15 Q. Great.
 16 (Pause)
 17 A. I've read it.
 18 Q. Are we good to go over the page? {K1/54/140}. Thank
 19 you.
 20 You will see in paragraph 3 — well, first of all,
 21 you will have seen on the previous page that a lot of
 22 the broad aspects are similar to what they were in 2008.
 23 I wanted to show you that in fairness, because I am
 24 conscious this is three years after you left.
 25 Then we see that in paragraph 3, although

25

1 the Commission used the language of "quality score",
 2 Google is saying, well, actually this is about LPQ
 3 score. So you can see that in paragraph 3?
 4 A. I see that there, although this is also a new—to-me
 5 page.
 6 Q. I am sorry, I am mindful of the time, Dr Dorfman.
 7 If we look on to question 68, we see that
 8 the Commission is asking about:
 9 " ... 13 comparison shopping sites that Google ...
 10 whitelisted to prevent the demotion of their Quality
 11 Score."
 12 You may want to have a look at what is said in
 13 paragraph 1 at the bottom there.
 14 (Pause)
 15 Then if we go over the page, I would like you to
 16 look in particular at paragraph 3 {K1/54/141}. So we
 17 can see that all of these websites have been manually
 18 reviewed, presumably by an AdWords customer support team
 19 such as those with whom you worked, and that was not
 20 necessarily because there was some prior algorithmic
 21 issue or request, and they have all been whitelisted?
 22 A. I'm sorry, could you repeat the question? I was reading
 23 the paragraph.
 24 Q. So all of these 13 sites have been manually reviewed,
 25 presumably by an AdWords customer support team such as

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1 those whom you worked with, and all of them have been
 2 whitelisted, yes?
 3 A. If the document indicates that they were.
 4 Q. Okay.
 5 Now let us go over — let us have a look — let us
 6 turn over the page {K1/54/142}. Oh, there is eBay.
 7 Right. Okay, well let us turn on another page — sorry
 8 — to page {K1/54/143}, and can I ask you to look at
 9 number 6, Kelkoo.
 10 A. Okay.
 11 Q. So I appreciate this was after your time, Dr Dorfman,
 12 but clearly, since April 2011, Kelkoo has been
 13 considered to be a reputable comparison shopping site
 14 and that is a view that has been reached by a manual
 15 reviewer, yes?
 16 A. In the context of the landing page quality algorithm and
 17 the appropriateness of applying the whitelist.
 18 Q. So at least from April 2011, by definition, this is not
 19 a poor quality or disreputable comparison shopping
 20 service?
 21 A. I was not involved in AdWords at this time and I haven't
 22 been since, so it's hard for me to make that statement.
 23 Q. Well, reputable is the opposite of disreputable, can we
 24 agree?
 25 A. Sure, but I'm being asked to affirm something that

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1 I wasn't involved in at a time period that I didn't work
 2 on the product.
 3 Q. Okay, can we go —
 4 MS ROSE: I have a question.
 5 A. Sure.
 6 MS ROSE: Between 2008 and 2011, Kelkoo was given grey list
 7 status after multiple reviews. Do you know why that
 8 would have been?
 9 A. This is covered I think briefly in some of the documents
 10 that are part of my witness statement. When landing
 11 page quality was first implemented, it had four levels.
 12 I don't know if that's still the case, but there were
 13 sort of four tiers of status, and the whitelisting and
 14 blacklisting, recognising that we don't use that
 15 vocabulary any more, referred to the top and the bottom
 16 tiers, and grey referred to the middle tiers, and it was
 17 an acknowledgement that we had instituted the ability to
 18 whitelist to ensure that there was some mechanism for
 19 a major problem, but that wasn't always the only
 20 appropriate way to designate the quality of a site.
 21 MS ROSE: So you are recognising that quality is a spectrum,
 22 not a binary; is that right?
 23 A. That's correct.
 24 THE CHAIRMAN: What was the other intermediate tier between
 25 white and black?

28

1 A. So the terms that we used, I feel a little bit bad in
 2 retrospect, were: good, bad, very bad, terrible .
 3 THE CHAIRMAN: Grey is?
 4 A. Bad and very bad.
 5 MS LOVE: We can see an explanation of grey on page 141 of
 6 this document, I believe {K1/54/141}.
 7 The third — second bullet, I am sorry, in
 8 paragraph 4. So it is just that, in this context, it
 9 appears simply to mean that "no specific action is
 10 taken".
 11 A. Ah, there's another document that is part of my set of
 12 materials that I was shared with where we discuss
 13 the possibility of grey listing and that referred more
 14 specifically to what I was just discussing with
 15 the Tribunal.
 16 Q. But in this context it cannot — it is simply an
 17 indication that no specific action was taken?
 18 A. That's what it says in this document.
 19 Q. Thank you.
 20 Now, finally, can we go back to {M3/572}.
 21 Here we are on the 2007 sub—category page for
 22 Samsung digital cameras, and this is a site that, with
 23 all the caveats that we discussed, you agreed appeared
 24 not to be low quality. We have already discussed
 25 Algorithm A, and if a site is subject to an Algorithm A

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1 demotion — sorry, I think it is an algorithmic
 2 adjustment is the preferred terminology, a penalty as
 3 you might think, in general, it will be nuked in
 4 the search rankings?
 5 A. I wouldn't be able to speak to Algorithm A or its effect
 6 on search rankings.
 7 Q. That is fine, Dr Dorfman, others in Google have.
 8 Now, Google has provided some datasets that tell us
 9 whether Algorithm A penalised certain domains and
 10 sub—domains of kelkoo.co.uk and the claimants' expert
 11 economist has compared a consolidated dataset that
 12 covers the period from November 2006 to the start of
 13 2008.
 14 Can I ask for {I4/1/155}.
 15 This is the list of the sub—domains that were
 16 demoted, and you see there is a share showing what
 17 proportion of days.
 18 If we go over to {I4/1/156}, and I think it is
 19 the second one down. Unfortunately, the line has split,
 20 so it is:
 21 "... brand_s
 22 "amsung ..."
 23 Do you see that?
 24 A. I'm sorry, could you direct me to where I'm supposed to
 25 be looking on this?

30

1 Q. The second row.
 2 A. Okay. Yes.
 3 Q. So this was penalised by Algorithm A, subject to
 4 a downwards algorithmic adjustment for about two—thirds
 5 of the period covered by this dataset. But just —
 6 MS ROSE: Do you know what period of time this is talking
 7 about? Is it pre—or post—2011?
 8 MS LOVE: It is November 2006 to early 2008, because this
 9 relates to the analysis that was done for
 10 the Pre—Decision Period claim.
 11 Oh, I am also told that the date of the LPQ
 12 document, about which the Tribunal enquired, is from
 13 2006, and that can be seen from the annex to
 14 Dr Dorfman's first statement on {H3A/1/28}.
 15 So this site, this particular sub—domain, along with
 16 many others, is being penalised for a very high
 17 proportion of the time {I4/1/156}, but you have agreed
 18 that from an AdWords perspective, Kelkoo, as an AdWords
 19 customer, does not seem obviously to have been of low
 20 quality.
 21 A. I can't speak to the search quality algorithm and its
 22 intent and its appropriateness.
 23 Q. I am not asking you, Dr Dorfman, I am just asking for
 24 confirmation of the position from an AdWords
 25 perspective.

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1 A. This is from 2006?
 2 Q. This would be — this will be from the consolidated
 3 penalty dataset, so it will cover the period from
 4 November 2006 to the start of 2008, and you can see that
 5 if we go back a page {I4/1/155}.
 6 The point does not matter. I am simply asking —
 7 and I fully appreciate you were on the state not church
 8 side, I am not asking for a second about search quality
 9 or Algorithm A, I am simply asking, from an AdWords
 10 perspective, we have agreed that this subdomain did not
 11 appear to be poor quality.
 12 THE CHAIRMAN: I do not think you can ask this witness to be
 13 taken to material that dealt with a side of Google
 14 operation, as it were, that Dr Dorfman was not concerned
 15 with at all, because not only are they documents that
 16 I do not think she will have seen, but I do not think
 17 she can be expected really to comment on that once you
 18 go outside the AdWords field.
 19 MS LOVE: To be clear, I am not asking for any comments in
 20 relation to search quality.
 21 I have no further questions.
 22 THE CHAIRMAN: Any re—examination?
 23 Re—examination by MS MORRISON
 24 MS MORRISON: Just two questions.
 25 It was put to you in the context of one of

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1 the questions that it was the AdWords customer support
 2 team that decided about whitelisting; is that correct?
 3 A. Thank you. I will clarify. The customer support team,
 4 who directly communicated with advertisers, needed to
 5 engage a specialist team to perform reviews that would
 6 ultimately yield a whitelist or non-whitelist decision.
 7 Q. Could I just show you one document. Can we go to
 8 {J1A/24}.

9 This is an internal "Kelkoo Strategic Search
 10 Briefing". A lot of questions were put to you on
 11 the basis of pictures of Kelkoo and you were asked to
 12 comment quite broadly.

13 Could we go to {J1A/24/4} of this internal document
 14 from 2011.

15 If I could just ask you to skim through this page.
 16 All I ask you to do is comment on whether any of this
 17 type of information about the site would have been
 18 relevant to a whitelisting assessment.

19 MS ROSE: This is an internal Kelkoo document?
 20 MS MORRISON: Yes, but it is describing the pages. We have
 21 been shown a number of just snapshots of the site. This
 22 as more strategic overview of what the type of content
 23 on the site is from Kelkoo's perspective, so in
 24 fairness, I thought I should show Dr Dorfman a broader
 25 explanation of the kind of content on the site.

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1 THE CHAIRMAN: This is 2011.
 2 MS MORRISON: Yes, and my learned friend put screenshots
 3 from a range of years, including 2011.

4 A. The description here, there's some loaded words,
 5 you know, "low-quality" and "template" and "duplicate",
 6 but those would be the intent of what we would be trying
 7 to evaluate when looking at a website this in
 8 the context of an escalation related to
 9 the appropriateness of a penalty.

10 Q. You were shown one shopping comparison checklist. If
 11 I could just ask you to take a look at {J3F/5}.

12 Could you explain what this whitelisting checklist
 13 is to the Tribunal?

14 A. So, again, shortly after we launched landing page
 15 quality, whitelisting we had built internally as
 16 a mechanism which we hoped we didn't need, but we did
 17 end up getting a lot of questions and building out
 18 broader materials not remotely exclusive to comparison
 19 shopping sites that described some of the help
 20 the AdWords team, who directly communicated with
 21 advertisers themselves, be able to understand
 22 the appropriateness of even considering an escalation
 23 for a whitelist, and it spoke to several types of
 24 business models that we would frequently encounter,
 25 the extent to which they ever typically represented

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1 a spectrum of quality versus certain business models
 2 almost exclusively were low quality websites.

3 Q. Just finally, Dr Dorfman, do you have any recollection
 4 of the scale of the sites that were affected by
 5 the landing page quality algorithm? So how many sites
 6 you were dealing with that might raise concerns?

7 A. It would be hard to say. There was one document that
 8 was shared with me in the context of preparing for this
 9 case that spoke to the proportion of low quality ads
 10 or — before and after landing page quality which
 11 showed — and also the proportion of sites, which was
 12 very small, that ended up being considered for
 13 whitelisting. I think it was 2%.

14 Q. I think you are referring to — it may help to show
 15 the Tribunal this — {J3F/2}, which is an internal
 16 presentation on landing page quality, and I think you
 17 are referring to page 2. If we could just show that to
 18 the witness to confirm that. Sorry, {J3F/2/3}. I
 19 apologise.

20 Is that the page you had in mind?

21 A. It's gone blank on my screen.

22 Q. And mine.

23 THE CHAIRMAN: Is there a page ...?

24 MS MORRISON: {J3F/2/3}.

25 Those are the figures that we are talking about?

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1 A. That's correct. This was what I was referring to with
 2 regard to the percentage of improvements of good ads,
 3 which was what we were hoping for, the reduction in bad
 4 ads and then the total proportion of sites whitelisted
 5 post-launch.

6 THE CHAIRMAN: This is all sites, it is not just —

7 A. That's correct. This is in no way exclusive to
 8 comparison shopping.

9 THE CHAIRMAN: Yes.

10 MS MORRISON: I have no further questions.

11 Questions from THE TRIBUNAL

12 THE CHAIRMAN: Can you just help me on one thing,
 13 Dr Dorfman, I may have missed. If we look at Part 4D of
 14 your first witness statement, which starts on page 16,
 15 that is {H3A/1/16}, you talk about the "Launch of
 16 the LPQ algorithm" and how that would affect its
 17 advertisers and the roll-out.

18 Then at paragraph 55, on the next page {H3A/1/17},
 19 you say:

20 "I remember ... the launch ... was difficult for
 21 some of the ... account representatives ..."

22 I could not see anywhere — and I may have missed it
 23 and someone will point it out — actually when was
 24 the launch, approximately? Can you recall?

25 A. My recollection of it was in early 2006, but I don't

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1 remember the specific date and I would need to look that
 2 up to be sure.
 3 THE CHAIRMAN: Right. Early 2006, to the best of your
 4 recollection?
 5 A. To the best of my recollection, but I have not
 6 referenced any materials about the launch outside of
 7 what was shared with me.
 8 MS MORRISON: Sir, I hesitate to rise, but just in case it
 9 helps, in the presentation that I just showed
 10 Dr Dorfman, at page 7 there is a timeline. For your
 11 reference, it is {J3F/2/7}.
 12 (Pause)
 13 THE CHAIRMAN: Yes, so it looks from that as though it
 14 started at the end of 2005, early 2006, and was being
 15 refined in the course of 2006; does that seem right?
 16 A. That seems right.
 17 THE CHAIRMAN: I have no other questions. Thank you very
 18 much.
 19 A. Thank you.
 20 THE CHAIRMAN: That concludes your evidence.
 21 (The witness withdrew)
 22 MR PICKFORD: Sir, just before I call our next witness,
 23 a very small comment. We have three days of evidence
 24 today. We have no particular objection to reallocating
 25 time, but obviously we cannot —

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1 THE CHAIRMAN: We have three days of evidence today?
 2 MR PICKFORD: Sorry, we have three — I beg your pardon,
 3 I misspoke.
 4 We have three days of evidence this week.
 5 The witness we have just heard from was down — was
 6 a 15-minute witness. Now, obviously, it is not
 7 particularly problematic to reallocate time, but
 8 ultimately Kelkoo are going to need to come in, or
 9 Kelkoo and Foundem together, within their time limit,
 10 otherwise we could be here all week. That is just
 11 a small point.
 12 Could I call, please, Cristos Goodrow.
 13 THE CHAIRMAN: Yes. We have, I see, Thursday as a run-over,
 14 potentially. That is what it says.
 15 MR PICKFORD: Yes, I mean, certainly we have sought —
 16 I sought to stay very much within the bounds that we had
 17 been given for my witness, and we would hope that Kelkoo
 18 can do the same.
 19 MR CRISTOS GOODROW (sworn)
 20 Examination—in-chief by MR PICKFORD
 21 THE CHAIRMAN: Do sit down, Mr Goodrow.
 22 A. Thank you.
 23 MR PICKFORD: Good morning, Mr Goodrow.
 24 Can I check what you have in front of you in terms
 25 of screens and a folder?

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1 A. Well, I have a screen that seems like the transcript.
 2 I have another screen that says "Opus 2" on it, and
 3 I have a binder that says, "The First Trial witness
 4 statement, Cristos Goodrow".
 5 Q. Thank you.
 6 Could you open that binder up, please.
 7 A. Sure.
 8 Q. You should find inside it the first document, what is
 9 that entitled?
 10 A. It says, "Second Witness Statement of Cristos Goodrow".
 11 Q. Is that your witness statement?
 12 A. It is.
 13 Q. Could you go to page {H3A/6/32}, please.
 14 Is that your signature?
 15 A. It is.
 16 Q. I understand that there are two corrections you would
 17 like to make to this statement?
 18 A. Yes. For paragraph 52 — no, wait a minute — yes — it
 19 reads, the second sentence I think reads {H3A/6/13}:
 20 "The OneBox displayed the highest ranked Froogle
 21 property results as either a single product or small
 22 number of product offers".
 23 It should — it should say "as either a single offer
 24 or a small number of product offers", because Froogle
 25 didn't have products in the way I was describing them.

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1 Q. Thank you.
 2 I understand that there is a further —
 3 A. Right.
 4 Q. — correction?
 5 A. The other one is in point — in paragraph 58 {H3A/6/15}.
 6 It should say — it should say — right now, it says:
 7 "... such as fulfillment reliability and user
 8 reviews, and used these to boost or demote offers within
 9 the Product Universal."
 10 It should say "demote — boost or demote offers and
 11 products within the Product Universal", because
 12 Product Universal included these things that we referred
 13 to as products.
 14 Q. Thank you.
 15 Could you go on in that folder, please, to the next
 16 document {H3A/13/1}.
 17 Is that your Third Witness Statement?
 18 A. It is.
 19 Q. Could you go, please, to {H3A/13/19}.
 20 A. Yes.
 21 Q. Is that your signature?
 22 A. It is.
 23 Q. Subject to the corrections that you just made to your
 24 Second Witness Statement, are these two statements
 25 the evidence that you wish to give for this Trial?

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1 A. Yes.
 2 Q. Do you believe the facts stated in those statements are
 3 true?
 4 A. Yes.
 5 Q. Thank you.
 6 It has just been brought to my attention that you
 7 have a brown leather notebook. Is that your notes?
 8 A. Yes, it's my book that I carry with me always.
 9 Q. Right. So you should not use any notes —
 10 A. Sure, I won't use any notes.
 11 Q. — whilst you are answering questions. If you put
 12 those —
 13 A. Very good.
 14 Q. — all to one side.
 15 A. Yes.
 16 MR PICKFORD: Thank you.
 17 Mr Jowell KC, who is counsel for Kelkoo, will have
 18 some questions for you.
 19 Cross-examination by MR JOWELL
 20 MR JOWELL: Good morning, Mr Goodrow.
 21 A. Good morning.
 22 Q. You joined Google in 2008?
 23 A. Yes.
 24 Q. You had previously been at Amazon; is that correct?
 25 A. That's correct.

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1 Q. Your immediate manager at Google was Jen Fitzpatrick, am
 2 I right?
 3 A. Yes.
 4 Q. She was the director of engineering and she oversaw
 5 Google's search properties, including Google Product
 6 Search; correct?
 7 A. That's correct.
 8 Q. Now, at paragraph 87 of your second statement, you
 9 mentioned that at the time that you joined Google,
 10 "Google's goal was trying to have more people start
 11 their product search on Google than any other place".
 12 Do you recall that evidence? We can go to it if you
 13 like. It is at paragraph 87 {H3A/6/22}.
 14 THE CHAIRMAN: I think it is paragraph 86.
 15 MR JOWELL: 86, forgive me. Forgive me, I have got a bad
 16 reference.
 17 A. Yes, that's correct.
 18 Q. You say you referred to that as "starting a 'shopping
 19 session'", yes?
 20 A. Yes.
 21 Q. That was also, I take it, the main focus and concern of
 22 your managers: increasing the share of shopping sessions
 23 or shopping starts at Google?
 24 A. Well, Jen in particular had a variety of
 25 responsibilities, but that was certainly one of them.

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1 Q. Yes, and that was a priority?
 2 A. Yes.
 3 Q. Now, your role became essentially to develop Google
 4 Product Search, did it not?
 5 A. Yes.
 6 Q. That was the successor to what had previously been
 7 called "Froogle"?
 8 A. Yes.
 9 Q. I think you will agree with me that Froogle had not been
 10 working effectively and had been generally regarded as
 11 uncompetitive with other price comparison services and
 12 indeed with Amazon; correct?
 13 A. It was particularly perceived to be not very competitive
 14 with Amazon.
 15 Q. And against other price comparison services indeed?
 16 A. I don't remember discussing its competitiveness with any
 17 price comparison services.
 18 Q. Well, we will see.
 19 In any event, it had not been an effective or
 20 successful shopping engine, had it, Froogle?
 21 A. I mean, it had not competed well — helped Google
 22 compete well with Amazon and it had not seemed to
 23 increase the share of product queries or shopping
 24 session starts.
 25 Q. Are you aware that it also did a lot of scraping of

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1 content, including from other rival shopping sites?
 2 A. I'm not aware of that.
 3 Q. Now, I want to show you, if I may, two presentations,
 4 both of which date shortly before your time, but pretty
 5 closely shortly, so I just want to see whether you are
 6 familiar with them.
 7 The first of these is a document that we think dates
 8 — almost certainly dates some time between
 9 November 2007 and early 2008. It is at {N/301}, please.
 10 You see it is called, "Online Advertising
 11 Challenges, Rise of the Aggregators", and the presenter
 12 is Jonathan Bullock and you can see the various
 13 contributors.
 14 If we go to {N/301/2}, you see, "Agenda and
 15 Objectives":
 16 "Market overview & Google's position — Agree on
 17 assessment.
 18 "EMEA ..."
 19 I take it that is Europe and the Middle East:
 20 "... faces five major challenges across the ad
 21 landscape.
 22 "The top priority challenge is the 'Rise of
 23 the Aggregators'.
 24 Now, do you recall this presentation at all?
 25 A. No, I don't.

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1 Q. Okay, let us see, maybe we can refresh your recollection
 2 or spark a memory.
 3 If you go to {N/301/9}, you see the "Main
 4 EMEA aggregators", you see the second column "Retail",
 5 and under there you see a number of shopping comparison
 6 services, yes?
 7 A. I see that page, yes.
 8 Q. But you would have been familiar with these shopping
 9 comparison services at the time?
 10 Ciao and Kelkoo and Shopping.com, these would all
 11 have been familiar names to you, would they not?
 12 A. When I started at Google, I think I remember hearing
 13 about Shopping.com, but I hadn't heard very much about
 14 the others.
 15 Q. Okay.
 16 THE CHAIRMAN: As you worked on developing Google Product
 17 Search, did you get to learn about the other sites?
 18 When you came, you might not, but ...
 19 A. I don't remember hearing very much about others than
 20 Shopping.com. I remember discussing NexTag a little
 21 bit, maybe PriceRunner, but not — not too many others,
 22 because we generally weren't that concerned with
 23 comparison shopping sites.
 24 MR JOWELL: Well, let us see. If we go to {N/301/6}.
 25 Here, you can see "Aggregators (... Product Search)"

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1 on the right—hand side — "Aggregators (e.g. Product
 2 Search)" on the right—hand side.
 3 Do you see that in the third box down?
 4 A. Yes, I do.
 5 Q. If you go to {N/301/7}, we see, again, the "Rise of
 6 [the] Aggregators", and you can see that the second
 7 column, at the top, the:
 8 "Revenue opportunity/exposure is of the order of
 9 \$0.5–2B."
 10 If we go on to {N/301/9}, again, we've seen this,
 11 the "Main EMEA aggregators".
 12 If you go to {N/301/35}, you can see, at
 13 the top, "Revenues", and on the right—hand side, you see
 14 the example of Ciao. So someone in Google was certainly
 15 looking at Ciao's revenue and working out how it was
 16 rising, its profitability was rising.
 17 You must have been aware of Ciao at the time?
 18 A. I wasn't. I think this is an ads presentation and
 19 I generally didn't see any ads presentations.
 20 Q. Okay.
 21 If you go to — for example, to — you were aware —
 22 well, let us go to {N/301/31}. You see a definition
 23 of "Aggregator":
 24 "For the purposes of our analysis, we have
 25 considered aggregators to be 'vertical—specific

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1 search engines, which
 2 "Sell leads to direct providers on a CPA or
 3 CPC basis.
 4 "Collate providers' products and allow consumers to
 5 search and sort them by price and vertical—specific
 6 attributes."
 7 Were you aware of concept of an aggregator?
 8 A. I mean, I think generally, but not as — as specifically
 9 to this definition.
 10 Q. Right, but you knew that an aggregator was
 11 a vertical—specific search engine, yes?
 12 A. I mean, no, I wouldn't have thought of an aggregator
 13 specifically as that, I just generally understood
 14 the term of an aggregator as some business or entity
 15 that aggregates a bunch of things together.
 16 THE CHAIRMAN: What sort of things?
 17 A. Oh, any sort of things. I don't know, reviews, let's
 18 say, or ... just any sort of things.
 19 MR JOWELL: Let us look at {N/301/32}.
 20 There is a bit of an analysis of the "Aggregator
 21 virtuous circle/network effect".
 22 Would you be aware of this sort of analysis of
 23 business model of vertical—specific search engines?
 24 A. I mean, I — I knew of the business model of some. For
 25 instance, I had met with some people at NexTag and they

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1 explained their business to me.
 2 Q. Right, and it would be similar to this, with advertisers
 3 and consumers in a virtuous circle?
 4 A. I don't think I understood their business model enough
 5 to say whether or not it would be — it would be similar
 6 to this.
 7 Q. Well, let us look at {N/301/36}.
 8 We see there is a concern about aggregators
 9 dominating search results.
 10 Were you aware of this concern, that aggregators
 11 were dominating search results? It gives the example of
 12 car insurance.
 13 A. I don't — I don't remember being aware of this concern,
 14 no.
 15 Q. Okay.
 16 If we go to {N/301/37}, at the bottom, you see there
 17 is a box "Google Implications". Perhaps I could just
 18 ask you to read those paragraphs there about
 19 the implications for Google and its business model,
 20 the growth of these aggregators.
 21 A. You would like me to start on the left?
 22 Q. Yes, just the bits at the bottom, I think.
 23 A. Okay.
 24 Q. "Product providers are forming direct relationships with
 25 aggregators ..."

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1 Do you see there is a:
 2 "Risk that aggregators will become close partners,
 3 whilst Google will merely be an advertising channel
 4 weakening our industry position."
 5 Then you see:
 6 "Aggregators are using their experience to build
 7 large technology barriers to entry and maintain a high
 8 margin business model."
 9 There is a concern, you see below there, that they
 10 could in effect:
 11 "... lock-out Google from crucial information about
 12 [the] advertising ecosystem."
 13 The next column:
 14 "As strong aggregator brands grow Google could face
 15 significant revenue erosion from our largest
 16 advertisers."
 17 "There could be a decline in paid search market
 18 share of total ad revenues as advertisers source more
 19 volume at lower CPAs and risk through aggregators."
 20 Were you aware of these business concerns about
 21 aggregators within Google shortly after you joined?
 22 A. I wasn't.
 23 Q. Very well.
 24 But could I show you another presentation,
 25 Mr Goodrow. It is at {M1/535}. This one is called,

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1 "Aggregators — GPS".
 2 If we could go to {M1/535/3}.
 3 MS ROSE: What does "GPS" mean?
 4 MR JOWELL: I believe that means — we will see
 5 the definition in a moment, I do not want to pre-empt
 6 it.
 7 If we go to slab C, you see, again, "... Aggregators
 8 dominate [the] search results".
 9 Yes?
 10 Again, the example is given of car insurance?
 11 A. Yes, I see that.
 12 Q. You see all the financial comparison sites are appearing
 13 in the results.
 14 If you go to {M1/535/7}. I am afraid we see it is
 15 a bad slide, but you see the plan is to "Integrate into
 16 [the] search results".
 17 If we go to {M1/535/12}, we see a better —
 18 a somewhat better slide, where you can see what is meant
 19 by integrating into the search results.
 20 You see, at the top, there is effectively a sort of
 21 form of OneBox, effectively, at the top there; do you
 22 see that?
 23 A. You're talking about this — this first result —
 24 Q. Yes.
 25 A. — that goes to Google.com merchant search data?

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1 Q. Yes.
 2 A. Yes, I see that in the slide.
 3 Q. Yes.
 4 It seems that the idea was that Google would
 5 integrate its own financial comparison service into
 6 the search results by putting it at the top like that?
 7 A. I mean, I haven't seen this presentation before, so
 8 I can't say.
 9 Q. No? You do not recall it?
 10 A. No.
 11 Q. Okay.
 12 Let us go to {M1/535/15}.
 13 A. And just by the way, "GPS" stands for "Google product
 14 strategy".
 15 Q. Is Google product strategy something that you worked
 16 with?
 17 A. Well, Google product strategy was a name for a series of
 18 discussions with the executives of Google, the senior
 19 executives of Google, and so when — I would — I would
 20 appear when there was one that was about Product Search,
 21 but for instance, this seems to be about ads and
 22 I wouldn't have attended.
 23 Q. Okay. Well, it is a bit broader than that, because we
 24 can see, second slide [sic]:
 25 "Aggregators are dominating commercial queries in

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1 Ads as well as search results."
 2 Yes?
 3 You see at the bottom:
 4 "Take Away:
 5 "Aggregators once able to dominate are also able to
 6 take the consumer mind share and drive them away from
 7 Google. A concerning trend."
 8 Again, were you aware of this concern?
 9 A. No, I was mostly aware of a concern that Amazon would do
 10 this.
 11 Q. Okay.
 12 If we go to {M1/535/18}, you see there is a nice
 13 explanation here of the "Aggregator strategy and Google
 14 implications". You see the last two bullets explain,
 15 again, the concern about:
 16 "... Google could face significant revenue erosion
 17 from our largest advertisers [and]
 18 "[The] decline in paid search market share of total
 19 ... revenues ..."
 20 You say you were not aware of this concern?
 21 A. No, I — I didn't pay much attention to the ads issues.
 22 Q. If we go to {M1/535/19} we see "Nick's comments". Would
 23 this have been Nick Fox?
 24 A. It depends on what time this document was written.
 25 Q. November 2007.

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1 A. It could have been Nick.
 2 Q. You see he says —
 3 THE CHAIRMAN: When you say "it could have been Nick", you
 4 mean it could have been Nick Fox?
 5 A. It could have been Nick Fox, yes. Nick Fox was part of
 6 the ads team then, product management in ads.
 7 MR JOWELL: We see he says:
 8 "The primary question is whether we should have
 9 a destination property (like MSM) or something
 10 integrated into the results page. The build/buy
 11 decision comes later and is really a question of
 12 time—to—market, rather than general strategy."
 13 Then he says:
 14 "I'd phrase option 3 (on page 10) as 'integrate into
 15 [the] search results page' ... "
 16 So what he seems to be proposing, am I right, is
 17 basically that there would be a OneBox,
 18 a Product Universal option?
 19 A. I don't think I understand this document well enough to
 20 comment on what he was trying to say.
 21 Q. Okay, very well.
 22 A. I'm sorry.
 23 Q. Let us go to another document {M3/552}.
 24 Again we see, "Commerce EMEA GPS, Nov 21st 2007".
 25 So this is about two months before you joined Google?

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1 A. Yeah, I guess maybe three months before I joined Google.
 2 Q. If we go to {M3/552/2}, you see it is to:
 3 "Present the business case for Product Search and
 4 Checkout in EMEA and describe why is Commerce ...
 5 important for Google in EMEA."
 6 Now, this was your field, was it not, product
 7 search?
 8 A. Yes.
 9 Q. It seems a little surprising that you would not have
 10 seen this document when you joined?
 11 A. I — it's a — no, it's not surprising at all. This is
 12 a document about Europe in particular, and it — I don't
 13 know, it pre-dated me, so, no, I —
 14 Q. Okay, well, let us go to {M3/552/4}:
 15 "Business Case
 16 "Traffic
 17 "Our product search offering is not currently
 18 competitive."
 19 That is presumably a reference to Froogle?
 20 A. Well, I think, actually, Google Product Search, they had
 21 started working on Google Product Search in — in
 22 the later half of 2007, certainly before I joined, and
 23 so this could have referred to Froogle or it could have
 24 also referred to Product Search.
 25 Q. Product Search, so the successor to Froogle. But either

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1 way, they clearly do not regard it as currently
 2 competitive at that time.
 3 They say:
 4 "Other players have stepped in to fill the void in
 5 our offering."
 6 Do you see that?
 7 A. Yes.
 8 Q. They say:
 9 "These players are dependent on Google for traffic."
 10 Then it says underneath that:
 11 "Monetization
 12 "Comparison sites are effectively monetizing
 13 traffic."
 14 Then there is a reference to "Checkout".
 15 Then you see in the small print, you see, perhaps if
 16 we can focus in on that, you see:
 17 "9% of our search queries representing 20—30% of our
 18 ad word spend is ecommerce related.
 19 "The majority of customers looking for comparison
 20 engines first come to Google and then are sent
 21 elsewhere.
 22 "These comparison engines are able to monetize
 23 the traffic for millions of dollars.
 24 "The traffic is ours for the taking.
 25 "The business case for enhanced [Product Search]

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1 across EMEA.
 2 "Searchers for products generate billions of dollars
 3 for Google in EMEA. The Retail and Tech verticals will
 4 financial credit for c.30% of Direct revenue in 2007.
 5 "At the moment, these searchers have a relatively
 6 poor experience on Google.
 7 "Google supplies 30—70% of traffic for leading
 8 comparison engines in Europe.
 9 "These comparison sites are experiencing strong
 10 growth and healthy monetization."
 11 Let us go through that.
 12 Were you aware, at the time you joined, that
 13 comparison shopping sites in Europe were experiencing
 14 strong growth and healthy monetisation?
 15 A. No.
 16 Q. Were you aware that Google supplied 30 to 70% of traffic
 17 for leading comparison engines in Europe?
 18 A. I wasn't aware of that particular statistic, but it
 19 doesn't surprise me.
 20 Q. Right, it does not surprise you.
 21 So let us go on then to {M3/552/5}.
 22 We see here, again, "Business Case for Enhanced
 23 [Product Search] across EMEA."
 24 We see:
 25 "Google provides 30%—70% of the traffic to leading

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1 comparison sites in the UK & FIGS."
 2 What is the "FIGS"? Is that — what is that,
 3 France, Italy, Germany and Spain?
 4 A. I don't know for sure. I don't remember hearing "FIGS".
 5 Q. Okay. But in any event, it is Europe, and you see
 6 the reference there to Ciao and Kelkoo, Shopping.com and
 7 others, yes?
 8 A. Yes, I do.
 9 Q. You were aware that those sites were heavily dependent
 10 on traffic from Google for their business models, yes?
 11 A. It doesn't surprise me. I wasn't aware of
 12 the particular amount or statistics, no.
 13 Q. If we go to {M3/552/6}, you see in particular they focus
 14 on the fact that:
 15 "Ciao! has 53% ... share [of] the Spanish market and
 16 [it] grew at 88% last year."
 17 So you must have been aware that Ciao was growing
 18 incredibly rapidly in Europe at this time when you
 19 joined Google, were you not?
 20 A. No, I wasn't.
 21 Q. Was it simply that you did not have any focus on Europe
 22 at all? Was that somebody else's role?
 23 A. No, I was also responsible for Product Search in Europe,
 24 but again, we didn't pay much attention to comparison
 25 shopping sites.

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1 Q. Well, someone paid a lot of attention, just two months
 2 before you joined, to comparison shopping sites in
 3 Europe, did they not?
 4 A. This seems, again, like it came from the ads team,
 5 but — and we were quite separate from the ads team,
 6 so ...
 7 Q. Well, someone is aware that Ciao is growing incredibly
 8 rapidly and also that Ciao is highly dependent on your
 9 traffic, and I think you accept the latter, do you not?
 10 You accept that you were aware that Ciao was heavily
 11 dependent on Google's traffic; correct?
 12 A. Well, I believe that many comparison shopping sites —
 13 I don't think I was even aware of Ciao —
 14 Q. Oh, even though it had 53% share in the Spanish market,
 15 you were not aware of it? That seems a little
 16 surprising.
 17 A. Yeah, I don't remember even hearing about Ciao.
 18 Q. Really? Okay.
 19 Let us go on to {M3/552/7}. We see, "Product Search
 20 Monetization":
 21 "Product search will add additional traffic, so
 22 monetisation will bring non—cannibalized revenue.
 23 "Google's product search monetization can be
 24 improved."
 25 If we go over to {M3/552/8}, you see the "Current

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1 Status", where you see a very thick arrow of traffic
 2 going to "Comparison Sites"; do you see that?
 3 A. Yes.
 4 Q. Then you see a thin arrow going to "Product Search",
 5 yes?
 6 A. Yes.
 7 Q. At the bottom, it says:
 8 "Lose product search traffic and not monetizing
 9 traffic that we have to [the] full extent possible."
 10 If we go over to the next slide {M3/552/9}, you see
 11 then a "Goal", which is to:
 12 "Take back our traffic and monetize effectively."
 13 You see the big arrow to "Comparison Sites" has
 14 become a very small arrow, whereas the arrow to
 15 the "Updated Product Search" has become a very large
 16 arrow. So the idea is to take the traffic that went to
 17 comparison sites and send it to updated Product Search;
 18 correct?
 19 A. I see that that arrow's got different sizes, yes.
 20 Q. Yes, and that was the plan, was it not, Mr Goodrow?
 21 A. I can't say that was a plan that I ever heard. In fact,
 22 it's surprising to me, because the ads team completely
 23 changed their mind about Product Search, in particular
 24 Nick Fox, not long after this. He wanted us to stop
 25 doing Product Search maybe like a year,

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1 a year—and—a—half later.
 2 Q. Right, and that was because of the cannibalisation
 3 issue; correct?
 4 A. That's correct.
 5 Q. But, at this stage, what the plan was was to — it
 6 appears, was to take the traffic from going to
 7 comparison sites and move it to the updated Product
 8 Search that you were responsible for; correct?
 9 A. I — like I said, I see the presentation with different
 10 sized arrows.
 11 Q. Okay.
 12 Before we leave this, let us go to {M3/552/22}.
 13 We see the "Current product and engineering status",
 14 and you see "Goals for Q4 (in eng[ineering])":
 15 "Improve OneBox coverage ..."
 16 That is what became — that is
 17 the Product Universal, is it?
 18 A. Yes, OneBox eventually became Product Universal, that's
 19 right.
 20 Q. Now, you mention the Universal Search and
 21 the Product Universal at paragraph 60 of your second
 22 witness statement —
 23 THE CHAIRMAN: Are we moving off this document?
 24 MR JOWELL: Yes, we are.
 25 THE CHAIRMAN: Would that be —

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1 MR JOWELL: It would be a very convenient moment, yes.
 2 THE CHAIRMAN: — a convenient moment?
 3 Mr Goodrow, we take a short break at a suitable
 4 point in the morning and indeed in the afternoon, as you
 5 will discover, for everyone's convenience. So we will
 6 rise for ten minutes. You can use the facilities here,
 7 but you must not talk about your evidence at all with
 8 anyone until you have completed giving your evidence.
 9 A. I understand.
 10 THE CHAIRMAN: We will be back just after 5 past.
 11 (11.58 am)
 12 (A short break)
 13 (12.10 pm)
 14 THE CHAIRMAN: Yes.
 15 MR JOWELL: Could we please be shown {J3A/6}, please.
 16 You will see here an email from Jeff Bartelma to
 17 you, dated 4 September 2008, Mr Goodrow?
 18 A. Yes.
 19 Q. If we — you see he says, underneath his email sign off,
 20 he says:
 21 " ... data, mocks & other stuff we need to pull
 22 together for GPS ..."
 23 A. Yes.
 24 Q. Do you see that?
 25 A. Yes, I do.

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1 Q. Do you see under "Competition", do you see the third
 2 bullet point down:
 3 "Ciao analysis for EMEA since [Microsoft] bought
 4 them ([year on year] growth data, where traffic is from
 5 etc) — Pete."
 6 A. Yes, I do.
 7 Q. Does that refresh your recollection, Mr Goodrow, that
 8 you were aware of Ciao and its year-on-year growth rates
 9 at the time?
 10 A. Like I said, maybe I skimmed this. I don't remember
 11 thinking about Ciao at all.
 12 Q. Okay, let us look at the next bullet point down:
 13 "Where traffic to CSEs comes from ..."
 14 "CSEs", those are comparison shopping engines, are
 15 they not?
 16 A. Yes, I think so.
 17 Q. " ... on a per CSE basis (what % is Google results,
 18 Google ads, organic traffic, other?) — Paul?"
 19 Again, you clearly were aware of this at the time
 20 you joined in 2008, Mr Goodrow, were you not?
 21 A. Yeah, I don't remember paying much attention to this,
 22 no.
 23 Q. Very well.
 24 Universal Search and the Product Universal. You
 25 were aware that there was a project to get the product

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1 results —
 2 THE CHAIRMAN: Just one second.
 3 MR JOWELL: Yes.
 4 THE CHAIRMAN: Can I just ask, if we go to the next page of
 5 this document {J3A/6/2}, and in your reply, Mr Goodrow,
 6 which starts part way down, do you see that? "[Chris]
 7 Goodrow ... wrote?"
 8 A. Yes.
 9 Q. Then going into that document, it says:
 10 " ... bright shiny Amazon ..."
 11 And so on.
 12 Then if you go down, before the word "Scary"; do you
 13 see that there? It says:
 14 "Comparison shopping sites — kill this (we'll be
 15 [number] 1 soon)."
 16 What did you mean?
 17 A. I think I meant that we shouldn't include that in
 18 the Google Product strategy preparation.
 19 THE CHAIRMAN: Because?
 20 A. Because I didn't think it was relevant. I think that
 21 I thought that the most important thing we were going to
 22 discuss — and I think you see that in other documents,
 23 including this preparation — is that we need to beat
 24 Amazon, because if we don't have shopping session
 25 starts, then — then, in particular, traffic won't go to

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1 Ciao and others because they don't start on Google and
 2 Google can't send it to them anyway.
 3 THE CHAIRMAN: "... we'll be [number] 1 soon", "we" is
 4 presumably Google?
 5 A. Yes, that's right.
 6 THE CHAIRMAN: Why will you be number 1 soon? What do you
 7 mean?
 8 A. Just in terms of the amount of traffic that we're
 9 sending to merchants in particular.
 10 THE CHAIRMAN: Through the new Google Product Search that
 11 you are working on?
 12 A. That's right.
 13 THE CHAIRMAN: So because Google Product Search will be so
 14 good that you will be the number one, is that what you
 15 mean?
 16 A. That's the idea, yes.
 17 MR JOWELL: Well, it is not — we will come on to that,
 18 Mr Goodrow, but it is not because you are going to be so
 19 good, it is also because you have got the advantage of
 20 the Product Universal, is it not?
 21 A. Well, I think we wanted to be the best in terms of
 22 product search quality, (inaudible) and all of those.
 23 Q. Yes, but we have seen that by this stage, you were not
 24 yet — you were hoping to be, but what you did have was
 25 a huge advantage, as we will see, from the existence of

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1 the shopping box, the Product Universal, which sent
 2 traffic to you and did not take traffic — did not send
 3 traffic to anyone else. We will come on to that.
 4 You were aware that there was a project to get
 5 Product Search into the shopping box or
 6 the Product Universal at the top of the page; correct?
 7 A. I mean, that already existed by the time I arrived.
 8 Q. Yes.
 9 Were you also aware that there were algorithms that
 10 demoted comparison sites like BizRate and Kelkoo in
 11 the general search results?
 12 A. I'm not sure I was aware. It's been a long time.
 13 I don't remember —
 14 Q. You do not remember?
 15 A. — thinking about those in the — in the general search.
 16 Q. Well, can I show you something — a document that — it
 17 is about eight months before you joined Google but it
 18 concerns your boss, Ms Fitzpatrick.
 19 If we go to {M1/97}, and you see here an email from
 20 Mr Frumkin to Mr Lipkovitz, and it is copied to a number
 21 of people, including Mr Cutts and Jen Fitzpatrick and
 22 others, Mr Brougner, and also to Udi Manber. Now, he
 23 was the person who recruited you, was he not, from
 24 Amazon?
 25 A. That's correct.

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1 Q. Have you seen this email before?
 2 A. I don't think so.
 3 Q. So the background to this email was a complaint from
 4 a site called thefind.com about the fact that it had
 5 been demoted from the general search results. There is
 6 an exchange with Mr Cutts and then we see that
 7 Mr Frumkin makes some comments on what Mr Lipkovitz has
 8 written. Perhaps I can just read you — if we can just
 9 read on this page, he says:
 10 "Hi Eisar,
 11 "I think you summed it up well. I have a few
 12 comments below ..."
 13 Then you see on 19 June, Mr Lipkovitz wrote:
 14 "Irrespective of thefind ... you bring up some
 15 interesting points, so I'm adding more people to
 16 the discussion.
 17 "I think our current policy is consistent and
 18 somehow easy to explain, i.e. our users would like us to
 19 send them to pages that contain direct information about
 20 the stuff they were searching for and not send them to
 21 intermediary that don't provide value. The latter is
 22 obviously subjective, but I like Matt's 'definition',
 23 i.e. anything that is automatically generated can't
 24 provide any value."
 25 Then there is a comment.

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1 "I'm not sure I like 'automatically generated
 2 [equals] doesn't add value' idea. I will grant that
 3 this is more often true than not, but our results are
 4 also auto-generated ... I understand that a search
 5 result pointing to another search result is not a good
 6 thing, but when the presentation is completely different
 7 (and more useful to the task at hand) I still think
 8 these sorts of results can be useful. It would be nice
 9 if we just could solve this problem with more aggressive
 10 Froogle presentation, but only if we are certain that
 11 the query is commercial.
 12 "Also, including a couple of product images (or
 13 a hint that people can browse images after following
 14 the link) on the result pages in these cases seems
 15 a much better use of real-estate than the checkout
 16 pills. People want to see 'what' they can buy much more
 17 than the payment method they can use."
 18 Then he says:
 19 "Right now I see two problems:
 20 "1) We aren't consistent in our enforcement of
 21 the policy, and I hate manual solutions as they become
 22 too subjective, so [Algorithm A] is a good answer. But
 23 it's clearly allowing shopping.com and their like to
 24 stay in the index.
 25 "I'm curious. What about the algorithm affects

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1 other similar sites but let's shopping.com and nexttag
 2 [sic] stay? They are much less useful to me than
 3 the site we just demoted."
 4 Then we see:
 5 "2) Our UI for product search result is poor and we
 6 do no clustering — that's your main point.
 7 "Yes, I think Froogle is almost there. With
 8 a little work on the data cleaning and clustering issues
 9 we could point people to a grid-view Froogle result in
 10 these cases."
 11 Then underneath it, it says:
 12 "Jen ..."
 13 I assume that is Jen Fitzpatrick:
 14 "... is working on (2) and I do have some ethical
 15 issues with the fact that we will be perceived as
 16 monopoly that tries to crush the competition. But given
 17 that product search isn't going to be monetizing clicks
 18 on search results like the rest of the folks in this
 19 space, gives us the more high ground in my opinion."
 20 Then there is a comment:
 21 "Go Jen! I don't think the ethics are a problem for
 22 the reason you state and also because all merchants
 23 large and small can put their products into Froogle for
 24 free."
 25 So were you aware that Jen Fitzpatrick was working

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1 on improving Froogle and the presentation of the grid
 2 view at Froogle at the top of SERP when you came?
 3 A. Oh, yes. That was one of the main things we were trying
 4 to do.
 5 Q. Yes.
 6 You do see the reference there to algorithms
 7 demoting at least some comparison shopping sites, but
 8 you have said that you do not — you were not — you did
 9 not recall that at the time?
 10 A. No, I — they're talking about general search results
 11 and I wasn't very much involved in how those were —
 12 Q. Okay.
 13 But you were very much aware of trying to get
 14 Product Search up into the top of the search results
 15 through the OneBox and the Product Universal?
 16 A. Well, the fact is that when I arrived it was almost
 17 always at the top, because that's when it was — when
 18 Froogle was launched, it was literally only at the top.
 19 I think, over time, it became at the top and the bottom
 20 and then — and then from the time I started, we were
 21 mostly trying to move it down.
 22 Q. Right.
 23 But what about this concern that is mentioned there,
 24 that the promotion of Froogle in the OneBox combined
 25 with the demotion of comparison shopping sites in

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1 the SERP, what about the concern that that could amount
 2 to Google acting as a monopoly crushing the competition?
 3 Were you aware of that concern?
 4 A. I don't remember discussing that concern. I think it's
 5 a reasonable thing to be concerned about.
 6 Q. What about the justification that is given there, that
 7 that was all okay because Froogle was free while other
 8 CSSs charged? Was that — it was quite important,
 9 was it, at that time, to you, that the links to
 10 merchants from the OneBox were free, they did not have
 11 to charge?
 12 A. It was very important to me, yes, because, one, it
 13 helped us be more comprehensive in terms of getting all
 14 of the merchants who might want to sell something, and
 15 two, I think it provided the — sort of the trust that
 16 consumers might have that we weren't putting some offers
 17 above others or some merchants above others because we
 18 had a financial incentive to do so. So those were the
 19 reasons why that was important to me.
 20 Q. So the first one, essentially you are saying it was much
 21 easier for you to sign up merchants because they were
 22 not paying for their clicks?
 23 A. Absolutely, and that offered comprehensiveness to
 24 the consumers.
 25 Q. Yes, so because it was free, more of them signed up, and

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1 that therefore improved the product?
 2 A. Absolutely.
 3 Q. So that was a key element of your ability to attract
 4 merchants to Google Product Search was that the fact
 5 that it was free?
 6 A. I think that was an important component, yes.
 7 Q. Could we go, please, to {K3/11}, just to — I think this
 8 makes the point rather well. This is, "Product Search
 9 Positioning", it is a presentation by Jessica Ng, and it
 10 is dated 3 October 2008.
 11 I do not know if you recall this at all? Maybe?
 12 A. I don't remember —
 13 Q. If we go to {K3/11/5}, we see, "Positioning
 14 Statements — Now", and if you see on the right-hand
 15 side, it says:
 16 "For the head of marketing of a small to
 17 medium-sized online retailer that has annual sales of
 18 less than \$10MM.
 19 "But is frustrated by the rising costs of marketing
 20 activities and the challenge of the generating
 21 incremental traffic and sales."
 22 Then:
 23 "Google Product Search is Google's shopping vertical
 24 search tool that allows merchants to upload their
 25 products and reach qualified shoppers for free.

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1 "Unlike other shopping directories or marketplaces
 2 that charge a listing fee, CPC, or transaction fee, and
 3 often act as a middleman between search engines and
 4 buyers.
 5 "Google Product Search helps merchants drive free,
 6 qualified traffic and sales to their sites ..."
 7 So, again, I think that is a very good example, is
 8 it not, of what you were just saying a moment ago, that
 9 this was a key selling point for you in signing up
 10 merchants, was it not, that you were free?
 11 A. Yes, we believe so.
 12 Q. Now, could we go to another presentation, which is at
 13 {M1/513}. This is a:
 14 "Product Search
 15 "Initial Analysis [of] Cannibalisation."
 16 You see it is from Allan Livingston, with
 17 contributors Alex Gawley and Robert Swerling, and it is
 18 dated January 11, 2008, so this was about a month before
 19 you joined Google.
 20 Do you recall this presentation?
 21 A. No, I don't.
 22 Q. If you go to {M1/513/2}, you see the "Objective":
 23 "This analysis is designed to explore possible
 24 cannibalistic impacts of product search."
 25 Yes?

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1 A. Yes, that's what it says.
 2 Q. You see the "Summary of [the] results" — the next
 3 bullet says:
 4 "It is not an overall projection of financial impact
 5 due to the uncertainty ... "
 6 But it says:
 7 "Summary of results
 8 "As with other search quality improvements,
 9 increasing product search quality will produce short—run
 10 cannibalistic effects (c.1%)."
 11 Then:
 12 "Due to market size, the cannibalistic effects are
 13 concentrated in existing Product Search markets (UK,
 14 DE)."
 15 Then you see the "Context":
 16 "Product Search 1—Box is the primary driver of
 17 potential cannibalisation .
 18 "Directing Product Search 1—Box traffic towards
 19 Product Search pages introduces a secondary monetization
 20 channel that reduces cannibalisation while still
 21 improving search quality.
 22 "Search quality enhancements are made with
 23 the intent of growing traffic that more than offsets
 24 cannibalization impacts.
 25 "Ads quality should be increased to counteract

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1 impacts of search quality improvements."
 2 Now, you were aware of this issue, that putting
 3 Product Search results in the Product Universal box
 4 could potentially cannibalise some of the ad revenue
 5 that would otherwise come from the text ads on the SERP?
 6 A. I became aware of it after I joined Google, in
 7 the months after I joined Google.
 8 Q. But you also believed, I think, that ultimately that
 9 would be more than made up for by the greater number of
 10 product searches that would start on Google.com because
 11 users would see value in having those Product Search
 12 results on the page?
 13 A. That was my belief, yes.
 14 Q. That would therefore help you to maximise your main
 15 objective of maximising shopping starts?
 16 A. That's right.
 17 Q. Okay.
 18 Could we go, please, to {J3A/4}.
 19 You see an email from you to Paul Lee, dated
 20 20 May 2008, and it is copied to a number of others,
 21 including Jeff Bartelma and Jen Fitzpatrick. It is
 22 regarding an executive meeting, and you are commenting
 23 on the slides. It starts with a reference to the "1%
 24 Ads revenue cannibalization". You see the first indent:
 25 "We have an ordered list by site of session metrics,

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1 where we are [number] 8 ..."
 2 Then it says:
 3 " ... (Ebay, Amazon, Shopping.com, Shopzilla, etc)."
 4 The last two of those, Shopping.com and Shopzilla,
 5 those were shopping comparison sites, were they not?
 6 A. Yes.
 7 Q. So you were still at that point in time, May 2008, you
 8 were still behind them on session metrics?
 9 A. I believe so.
 10 MS ROSE: (Off microphone — inaudible).
 11 A. I think those mean things like maybe number of queries
 12 or number of page views or number of users.
 13 MR JOWELL: Then you see a numbered list of six points and
 14 the second you see is:
 15 "Strategic direction to dial—up google.com
 16 inclusion ."
 17 Do you see that? Number 2 in the list of points?
 18 A. Sorry, where is it on this page?
 19 Q. Do you see underneath —
 20 A. Oh, yes, I see it, yes. Yes.
 21 Q. So I take it that is a reference, is it, to featuring in
 22 the Product Universal box more often?
 23 A. Yes.
 24 Q. Then, below the numbered list, you see a question:
 25 "Where are we with respect to comparison shopping

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1 engines?"
 2 Yes?
 3 A. Yes.
 4 Q. Below that, you see the question:
 5 "Can we lead in comparison shopping by the end of
 6 2009 ..."
 7 You put in brackets:
 8 " ... (stretch)? What would this mean in terms of
 9 sessions (doubling?), etc?"
 10 Yes?
 11 A. Yes.
 12 Q. So, to be clear, at this point in time in May 2008, you
 13 are definitely not in the lead as between other shopping
 14 comparison sites, are you?
 15 A. With respect to session metrics, no.
 16 Q. Yes.
 17 You were asking, can we lead in 2009, and your
 18 assessment was that was a stretch; correct?
 19 A. Well, I think this is notes from the meeting, so I think
 20 this is what was discussed at the meeting.
 21 Q. That was the assessment at the meeting; correct?
 22 A. It was a question that was raised at the meeting.
 23 Q. Yes.
 24 Then, below that, you see:
 25 "What about Amazon? Is it a meaningful comparison?"

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1 So you were actually asking was it even meaningful
 2 to compare your Product Search to Amazon at that point
 3 in time?
 4 A. Again, I think this is a question that came up at
 5 the meeting and I'm recording it as notes.
 6 Q. If we go down, we see the — if we could go down, you
 7 see the penultimate bullet — perhaps it is —
 8 A. "Where do the shopping sessions start? Are we winning
 9 the 'starting shopping session' already?"
 10 Is that it?
 11 Q. I think we need to go over the page {J3A/4/2} actually.
 12 Forgive me.
 13 Do you see the second — forgive me, the second —
 14 the second bullet down, it says — you say:
 15 "We need a slide on 'Where do shopping sessions
 16 start?' question."
 17 Then you say:
 18 "Product search is creating option value by getting
 19 the shopping sessions to start at google. It's
 20 a second-order question to figure-out how to monetize
 21 or 'capture all the value of retail'."
 22 So just so I understand that, what you are saying
 23 there is, first, let us just get everybody starting
 24 their shopping queries on Google, right, and then we can
 25 worry later on about how we monetise that?

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1 A. That's — that's what that bullet is meant to represent,
 2 yes.
 3 Q. Then if we see over the page {J3A/4/3} —
 4 THE CHAIRMAN: Well, just before —
 5 MR JOWELL: Yes.
 6 THE CHAIRMAN: Sorry, which page are you going to? Page 2,
 7 or are you going on?
 8 MR JOWELL: You go ahead, Sir, please.
 9 THE CHAIRMAN: Just to put this in context, this email,
 10 is it right that this is really your guidance to
 11 the others on the slide deck that they need to prepare
 12 for a forthcoming executive meeting projecting
 13 the messages you want to get across?
 14 A. So these are the notes of a meeting we had in advance of
 15 this executive meeting where we discussed what we should
 16 do to prepare for that executive meeting and I was
 17 capturing the notes of that.
 18 THE CHAIRMAN: You are telling — is that right, you are
 19 telling the team what slides they should prepare for
 20 that executive meeting?
 21 A. Those are the slides that we decided in that pre-meeting
 22 should be prepared for the subsequent executive meeting,
 23 that's right.
 24 THE CHAIRMAN: Yes, well, you had a pre-meeting, but you are
 25 then writing to tell them, indeed you say get a new deck

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1 ready, this is what should be in it and what it should
 2 say; is that fair?
 3 A. That's exactly right, yes.
 4 THE CHAIRMAN: Yes.
 5 A. The reason I'm a little bit hesitant about telling is
 6 because the people who prepare these things are product
 7 managers and I lead the engineering team, I led
 8 the engineering team, and so it wouldn't be my team that
 9 would probably it —
 10 THE CHAIRMAN: I see, yes.
 11 A. — it would be other people who don't report to me and
 12 so there's a little bit of a — I was just recording
 13 what we decided together should be there and so
 14 the product managers would go and prepare the slides as
 15 directed.
 16 THE CHAIRMAN: You are gathering the consensus —
 17 A. That's right.
 18 THE CHAIRMAN: — and setting it out so —
 19 A. That's exactly it.
 20 MR JOWELL: One of the things that you asked them to
 21 prepare, if we look at the penultimate point that starts
 22 "AI", you see:
 23 "Slide where we try to estimate coverage,
 24 [Click-Through Rates], countries to get something that
 25 compares us with other comparison shopping sites

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1 lineally extrapolated) in 2009."
 2 So I know you now, you say "Amazon, Amazon", but at
 3 the time, you were actually, were you not, looking at
 4 other comparison shopping sites and you were asking to
 5 be compared against them; correct?
 6 A. Yes, we — we were preparing that kind of information
 7 too, yes.
 8 Q. If we go to {M1/172}.
 9 Again, we see an email from you, dated 21 May 2008,
 10 regarding the executive meeting that is on the horizon,
 11 and we see you proposed setting "high level long-term
 12 goals" and you proposed two of them, you see the two
 13 indents:
 14 "All product shopping sessions start at Google.
 15 "Google product search offers everything that is
 16 sold on-line."
 17 Yes? You see that?
 18 A. Yes, I do.
 19 Q. So you were setting an ambitious ultimate goal that all
 20 shopping sessions should start at Google and you wanted
 21 Google results to be as attractive as possible for users
 22 to that end and therefore you wanted to ensure that
 23 Google's search attracted as many merchants as possible;
 24 correct?
 25 A. Yes.

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1 Q. If we go to {N1/206} [sic], we see the commerce 2009
 2 strategy. This is dated — sorry, forgive me, it should
 3 be {N/206}. We are in the wrong bundle. This is:
 4 "Product Search — Search Quality.
 5 "... June 24, 2008.
 6 "Olivier Bousquet."
 7 Do you recall this slide — this presentation?
 8 A. Not particularly.
 9 Q. But you would have, presumably, seen it at the time?
 10 A. I think I probably would have seen this, yes.
 11 Q. If we go to {N1/206/2}, please, we see:
 12 "Overview.
 13 "Where are we today — or 'Do we still suck?'"
 14 So that is a reference to the very poor reputation
 15 of the previous — of Froogle and, initially, Google
 16 Product Search; correct?
 17 A. I think so, yes.
 18 Q. Then we see:
 19 "External traffic metrics: 2nd largest
 20 Comparison Shopping Engine by pageviews (behind
 21 Shopzilla), up from 9th, on trajectory to be 1st by
 22 [the end of the year]."
 23 Yes?
 24 A. Yes.
 25 Q. So you are still, at this point, behind Shopzilla in

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1 the United States, but you are on your trajectory to be
 2 number one, yes?
 3 A. I believe so, yes.
 4 Q. If we go to {N/206/5}, you see "Recent progress":
 5 "Onebox coverage improvements."
 6 In the middle there?
 7 A. Yes.
 8 Q. Improvements to quality.
 9 Then over the page {N/206/6}, you see again:
 10 "Q4'07
 11 "Onebox coverage increase."
 12 Yes?
 13 Then:
 14 "Q2'08 ...
 15 "Launched product pages onebox."
 16 Then if we go to {N/206/15}, we see here:
 17 "Use these annotations for onebox triggering."
 18 The third bullet.
 19 So it is fair to say, is it not, that the OneBox or
 20 the Product Universal, as it was officially known, was
 21 a critical component in the overall strategy to bring
 22 more product queries to Google, was it not?
 23 A. Absolutely, yes.
 24 Q. If we could go, please, to {J2A/6}, we see here
 25 a document dated 24 October 2008 entitled:

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1 "Product Search Impact on Google.com Ad Revenue."
 2 You see the summary, and you are a contributor, and
 3 we see here at the top:
 4 "Summary.
 5 "The Product Search onebox is a critical component
 6 of the strategy to increase Google's revenue by bringing
 7 more product queries to google.com."
 8 Yes?
 9 A. Yes.
 10 Q. We see the same on {J2A/6/2}.
 11 So, again, it is absolutely clear this was
 12 a central, critical part of your strategy, was it not,
 13 the OneBox?
 14 A. Yes.
 15 Q. If we go to {J2A/6/15}, we see here at the bottom, we
 16 see you are — Google is compared against what are
 17 called "Key Competitors", and we see Google Product
 18 Search doing very, very well in increasing shopping
 19 session starts, NexTag not doing so well, BizRate not
 20 doing so well, yes?
 21 A. Yes, I mean, I see this — this chart. I don't
 22 completely understand — I don't remember exactly what
 23 it was measuring, just — or how it was measured.
 24 Q. This is in the United States, of course.
 25 If we go over the page {J2A/6/16}, again, we see

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1 further analysis of the shopping. These are the metrics
 2 that we were talking about earlier; is that right?
 3 A. I'm sorry, I'd have to look at the whole document to
 4 really understand what this graph is about.
 5 Q. All right.
 6 But, broadly speaking, it is fair to say that
 7 the effect of the OneBox was that Google Product Search
 8 was growing much faster in the United States compared to
 9 other comparison shopping sites, was it not?
 10 A. I think that's fair to say, yes.
 11 Q. Actually, most of the growth that you were getting for
 12 Product Search was probably down to the fact that you
 13 had the Product Search box integrated in the form of
 14 the OneBox, was it not?
 15 A. I suspect that's probably true, yes.
 16 Q. Thank you.
 17 Now, if we could go to {N/181}, please,
 18 "Product Search Universal", and we go to — this is
 19 a presentation of May 2008. Do you recall this
 20 presentation?
 21 A. Not particularly, no.
 22 Q. If we go to {N/181/3}, it says here:
 23 "Most of our traffic comes from OneBox."
 24 There is a Pac—man. I remember Pac—man!:
 25 "The onebox sends twice as much traffic to merchants

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1 than the homepage."
 2 So just to understand that, what that is saying is
 3 that merchants get much more of their traffic from
 4 the clicks that go through from the OneBox than they do
 5 — than they get from the Google Product Search
 6 standalone website?
 7 A. Yes, I think that's what this is meant to represent.
 8 The chart is obviously silly, but the text is what it's
 9 meant to represent.
 10 Q. If we go to {M1/386}, please, this is now a bit later
 11 on, January 22, 2009. We see:
 12 "Product Search Update for Search Properties Leads."
 13 If we go to {M1/386/10}, we now see:
 14 "Competitors [side by sides] ..."
 15 We see:
 16 "First round ...
 17 "Comparing on our top queries: much better than
 18 Amazon ... NexTag ..."
 19 You are still comparing yourself to NexTag, are you
 20 not?
 21 A. Yes, we had this — we had written a few what we call
 22 "scrapers" so that we could compare ourselves to various
 23 comparison shopping engines, and so we — when they —
 24 when they weren't broken, we would continue to use them.
 25 Q. Yes. So you were still comparing yourself to NexTag and

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1 Shopping.com as well, right?
 2 A. I think probably we had one that still worked for
 3 Shopping.com and then we added Live Search, which was
 4 Microsoft's product search.
 5 Q. If we go to {M1/386/27}, it says:
 6 "There is no strong leader in product queries
 7 today."
 8 So there was not — at that point in 2009, there was
 9 not a single dominant leader even in the United States,
 10 was there?
 11 A. I mean, according to this chart, it doesn't seem like.
 12 There's still a lot of shopping sessions that start
 13 directly on merchant sites.
 14 Q. But thanks in large part to the Product Universal
 15 OneBox, you are growing a lot faster than the other
 16 comparison shopping sites in the US; correct?
 17 A. I don't think that's what this chart shows.
 18 Q. No, but I am just saying in general terms. I mean, we
 19 can see there is clearly — if we go back, say, to
 20 {M1/386/20} on this, we see:
 21 "Products Universal improvements."
 22 This is the triggering and the placement of
 23 the OneBox.
 24 If we go to —
 25 A. Right, so we pushed it down, we improved the triggering,

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1 that's right.
 2 Q. As we have discussed already, I think you have very
 3 fairly acknowledged, this was a key point of part of
 4 your strategy, to get ahead of the comparison shopping
 5 competition; correct?
 6 A. No, it was to get ahead of Amazon and get shopping
 7 sessions to start on Google.
 8 Q. Comparison shopping sites as well? We have seen that
 9 you were also competing against them.
 10 A. We didn't think that we were competing against them. We
 11 thought we were competing against Amazon.
 12 Q. Well, not only. That is not quite right, is it, because
 13 we have just seen that you are directly comparing
 14 yourself to NexTag and to Shopping.com, are you not?
 15 A. Well, we did make those comparisons, yes, that's true,
 16 but we thought that our main goal was to compete with
 17 Amazon.
 18 Q. Well, yes, because you were leaving them in the dust
 19 because of the existence of the Product Universal?
 20 A. Well, I mean, we were — we were competing with them for
 21 shopping session starts, and so — so of course that's
 22 hard to measure by — by the amount of traffic that
 23 Google would send. The point is that we were trying to
 24 get people to start on Google rather than Amazon.
 25 Q. Yes, but my point is that you did not need to worry by

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1 this stage about the comparison shopping sites as an
 2 alternative because you had the Product Universal, which
 3 gave you a massive turbo boost to your exposure, did it
 4 not?
 5 A. I mean, we were trying to make the Google page —
 6 the Google.com page as compelling as possible. That was
 7 the goal of Product Universal, to make more shopping
 8 start on Google.
 9 Q. Yes, rather than on comparison shopping sites?
 10 A. We were concerned primarily, and almost exclusively,
 11 with Amazon.
 12 Q. Well, we have just seen — I appreciate that may be how
 13 you look at it now, but actually, if you — clearly you
 14 did not just look at it in terms of Amazon back in 2008,
 15 did you?
 16 A. Oh, we did make other comparisons with comparison
 17 shopping sites, that's true.
 18 Q. They were your rivals, were they not, as well?
 19 A. We didn't think of it that way. We only thought Amazon
 20 was our rival.
 21 Q. Well, we will have to disagree about that. Let me show
 22 you — let me just remind you again of {M1/386/27}:
 23 "There is no strong leader in product queries
 24 today."
 25 If we go back to slide —

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1 A. I think here you've got Google.com at 14% and Amazon at
 2 9%, and what we saw was that queries like Amazon.com
 3 query on Google was growing and the — and product
 4 queries were — had been decelerating and so that's why
 5 we were so concerned with Amazon.
 6 Q. But if we go back to {M1/386/10}, you are directly
 7 comparing yourself also to NexTag and to Shopping.com.
 8 You see, your "competitors". "Competitors [side by
 9 sides]". You cannot say they were not your competitors,
 10 it is saying here they are your competitors.
 11 A. I mean, we called them competitors when we did these
 12 side by sides, but again, our main goal was to compete
 13 with Amazon.
 14 Q. We will see — anyway, let us see how it looked in
 15 Europe as well. If we go to {N/302}, and again we see
 16 a — here we see:
 17 "The Aggregator Challenge.
 18 "2009 action planning.
 19 "28 January."
 20 Do you recall this slide? This is now in your time.
 21 A. No, I don't.
 22 Q. If we go to {N/302/3}, again we see:
 23 "How do we define aggregators?
 24 "Aggregators help users search for and obtain
 25 the best product/service for their needs, from

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1 a selection of 3rd party sellers."
 2 We see below how they work. They generate traffic,
 3 they obtain product data, they help the user find
 4 the right product, they help the user choose a seller,
 5 they link to a supplier and so on.
 6 If we go to {N/302/4}, you see it says:
 7 "Aggregators are the biggest opportunity/threat we
 8 face in our core business of search."
 9 Were you not aware of this being the biggest
 10 opportunity or threat Google faced in its core business
 11 of search?
 12 A. No, I think that this might have been an ads
 13 presentation, and I generally didn't participate or
 14 review ads presentations, and that wasn't how we felt
 15 about what we were doing with Product Search.
 16 Q. Okay.
 17 You see under the aggregators, again, we see mention
 18 of Ciao, one of the claimants in these proceedings; do
 19 you see that under the list of aggregators?
 20 A. Yes.
 21 Q. If we go to {N/302/5}, again we see:
 22 "Aggregators are a challenge across all mature
 23 markets and most verticals."
 24 Again we see, under "Retail", we see a mention of
 25 Kelkoo and Ciao as well as Amazon.com, yes? Do you see

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1 that?
 2 A. I do.
 3 Q. We see on page {N/302/6}:
 4 "Why are aggregators a critical issue for Google?"
 5 We see they are regarded as — we see the third
 6 bullet:
 7 "Major revenue opportunity and threat [underlined]."
 8 Do you still say you were completely oblivious to
 9 all of this, Mr Goodrow?
 10 A. Yes. Like I said, this was an ads presentation, and we
 11 had sort of a church and state separation, so I wouldn't
 12 have seen this.
 13 Q. Okay.
 14 If we go to {N/302/8}, we see reference to
 15 the interest in a:
 16 "... more aggressive Google move, from all parts of
 17 the business."
 18 Do you see that at the top?
 19 A. Yes.
 20 Q. A:
 21 "Renewed focus on product efforts that seek to
 22 address the aggregator challenge."
 23 Yes? You see that?
 24 A. Yes.
 25 Q. You see the second bullet, specific reference to

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1 Product Search?
 2 A. Yes.
 3 Q. You were not made aware of this?
 4 A. No, and it's a big surprise to me because, if this is an
 5 ads presentation, they were the same people who wanted
 6 to shut Product Search and the OneBox down.
 7 Q. Okay, well, if you look at the bottom:
 8 "Increasing concern across EMEA teams ..."
 9 Were you aware of increasing concern across the EMEA
 10 teams about the threat from aggregators like Kelkoo and
 11 Ciao?
 12 A. No, I don't remember being aware of that.
 13 Q. Could we go to {N/302/12}, please. We see a proposed
 14 team, with roles. Were you aware of — did you work
 15 with any of these individuals?
 16 A. (Pause). No, I think these were all people who were in
 17 the ads organisation. I didn't work closely with any of
 18 them.
 19 Q. Susan Wojcicki? She was a very senior individual, was
 20 she not?
 21 A. She's passed away.
 22 Q. Yes.
 23 A. She was probably, at this time, product management lead
 24 for the ads organisation.
 25 Q. Do you happen to know whether this team was eventually

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1 formed?
 2 A. I don't know.
 3 Q. If we go to {N/302/14}, we see:
 4 "The European aggregator market is large and growing
 5 strongly."
 6 Yes? We see at the top "Retail" in particular;
 7 A. I see that.
 8 Q. So it does — you would have been aware, were you not,
 9 that in Europe CSSs like Ciao continued to grow even in
 10 2008?
 11 A. Like I said, I wasn't really aware of Ciao. I didn't
 12 pay much attention to —
 13 Q. You did not —
 14 A. — comparison shopping sites.
 15 Q. — pay much attention to the European market; is that
 16 correct?
 17 A. No, I was responsible for launching Product Search and,
 18 you know, overseeing it in those markets, but we didn't
 19 pay much attention to the comparison shopping sites.
 20 Q. But it seems at the bottom it says:
 21 "Aggregators spend at most 25–30% of revenues on
 22 SEM — so for every \$1 of advertiser spend that moves
 23 from Google to aggregators, we are losing 75c."
 24 So you must have been aware that you had certainly
 25 not won in Product Search in Europe in 2009, had you?

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1 A. I'm sorry, I — what was the question? We had won?
 2 Q. Certainly you say you had not won in Product Search in
 3 Europe in 2009, had you?
 4 A. We didn't feel that we had won really anywhere. We were
 5 competing, again, for shopping session starts and we
 6 hadn't won.
 7 Q. Yes. But in Europe in particular, there is a remaining
 8 threat from aggregators from other comparison shopping
 9 sites; correct?
 10 A. That's what this slide deck is about, but, again, that
 11 wasn't something that I was paying attention to or aware
 12 of.
 13 Q. If we go, please, to {N/303}, this is "\$search review 09"
 14 with a dollar sign for "search":
 15 "\$search = Search Monetisation ..."
 16 We see the authors. Now, again, this is by senior
 17 individuals within Google at the time; correct?
 18 A. Yes.
 19 THE CHAIRMAN: But which team? Are they in the ads team as
 20 well?
 21 A. These are all people on the ads team.
 22 MR JOWELL: If we go to {N/303/11}, we see:
 23 "Our \$search strategic framework."
 24 You see — you see the box in the middle, half of
 25 it. We have got Google.com at the bottom.

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1 MS ROSE: (Off microphone — inaudible) "\$SEARCH" dollar sign
 2 at the beginning?
 3 A. I think it's just because it's being presented by
 4 the ads team, and the ads team is responsible for
 5 monetisation and so they were cleverly using a dollar
 6 sign to represent their presentation.
 7 MR JOWELL: Then you see:
 8 "\$search market space."
 9 Underneath there you see:
 10 "Specialist Search Properties."
 11 Then you see — you have to tilt your head, I am
 12 afraid:
 13 "Verticals .
 14 "Travel.
 15 "Local.
 16 "Finance.
 17 "Retail ."
 18 Yes?
 19 A. Yes, I see that.
 20 Q. You see that is white rather than shaded, and you see at
 21 the bottom left, you see it says:
 22 "Un—captured market space."
 23 Yes? You see the little key at the bottom?
 24 A. Oh, yes.
 25 Q. So what it is saying is that you have got specialist

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1 search properties at the top, including in retail, and
 2 that is uncaptured, as yet not captured by Google;
 3 correct?
 4 A. Yes.
 5 Q. If we go to {N/303/15}, we see:
 6 "\$search has 10 significant long—term challenges."
 7 Then we see the:
 8 "Monetization of Google.com."
 9 You see at 1c:
 10 "Address threat of aggregators and vertical
 11 specialists (finance, travel, products, local)."
 12 So were you aware of the strategic desire to address
 13 the threat of aggregators and vertical search
 14 specialists in the retail or product area?
 15 A. No.
 16 Q. Were you aware of —
 17 A. Apart from Amazon and competing with Amazon. I guess
 18 you could call that a vertical specialist in retail.
 19 Q. But it seems that others in — within Google saw it
 20 rather more broadly, did they not?
 21 A. The ads team evidently was concerned about aggregators
 22 too.
 23 Q. Yes, and they wanted to capture the market space that
 24 the aggregators in Europe currently occupied, did they
 25 not?

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1 A. I can't say what they wanted to do, but this is their
 2 presentation.
 3 Q. It is.
 4 THE CHAIRMAN: Can I just ask, you have been shown lots of
 5 documents now and, as you fairly explain, this was
 6 the ads team, it was not where you were working, certain
 7 division of functions and so on, but you were focused on
 8 Amazon, you said?
 9 A. That's right.
 10 THE CHAIRMAN: I suppose the question arises, very clearly,
 11 the ads team — we see that from these documents — were
 12 concerned about aggregators and comparison sites. Was
 13 that, their feelings about that and that concern, ever
 14 conveyed across to you?
 15 A. Interestingly, no. As a matter of fact, my interaction
 16 with the ads team was specifically with Nick Fox, who
 17 wanted to eliminate the Product Universal because of
 18 the cannibalisation, that he fundamentally did not
 19 believe that Product Universal was increasing the number
 20 of shopping session starts and shopping queries to
 21 Google, and therefore he thought it was merely
 22 cannibalising and he thought we should turn it off.
 23 That was my — that was my interaction with the ads
 24 team, and that's what the previous — we saw a document
 25 about that exact point. That was the document that we

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1 wrote trying to make the case that — that in fact we
 2 thought it was going to add shopping sessions, more
 3 product queries, which could then be further monetised,
 4 the ads, and he didn't buy it.
 5 THE CHAIRMAN: Yes.
 6 Would that be a sensible point to break for lunch?
 7 MR JOWELL: Yes.
 8 THE CHAIRMAN: We will resume at 2 o'clock.
 9 You will recall what I said, that you cannot discuss
 10 this case with anyone.
 11 A. Yes, Sir.
 12 (1.02 pm)
 13 (The short adjournment)
 14 (2.05 pm)
 15 MR JOWELL: Good afternoon, Mr Goodrow.
 16 Could we go, please, to {M1/261}.
 17 You see here an email from Sameer Samat to
 18 Marissa Mayer, dated 10 July 2009, and you can see that
 19 he sets out a number of plans following a meeting with
 20 Sergey, I think — forgive me, following a product
 21 review.
 22 Indeed it seems to have been a product review which
 23 took place with Sergey. That would be Sergey Brin?
 24 A. Yes.
 25 Q. You see point 1 of the plan is to:

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1 "Launch 5—pack onebox ASAP ..."
 2 Do you see that?
 3 A. Yes.
 4 Q. So that is showing in the OneBox not just three products
 5 or offers but five; correct?
 6 A. Yes, and in particular it — I believe the five pack was
 7 meant to be the one that has images as well.
 8 Q. Yes.
 9 You see in 3, point 3, it says:
 10 "Move onebox back to the top, per the plan
 11 presented, in 2 weeks time ..."
 12 Then:
 13 "(a) Above other CSEs."
 14 That would be other comparison shopping engines;
 15 correct?
 16 A. Yes, that's correct.
 17 Q. So just to be absolutely clear, the plan is to put
 18 Google's OneBox above other comparison shopping engines
 19 whenever those rival comparison shopping engines appear
 20 in the ten blue links; correct?
 21 A. Yes. That's because those were an indication that these
 22 were product queries.
 23 Q. Yes.
 24 We see in point 5, you see it says:
 25 "Explore ways to modify the new 5—pack one box to

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1 bring more people to the product search results page
 2 instead of having them click to individual offers."
 3 Now, that is a reference to getting them to click on
 4 the — on things that would take them to the standalone
 5 webpage, that is right, rather than through to
 6 merchants?
 7 A. Yes, that's right, because we were thinking that that
 8 would be a better shopping experience for them.
 9 MS ROSE: We have seen before that Google did not think it
 10 was a good idea to have search results leading to search
 11 results. Is this not inconsistent with that?
 12 A. Yes, it is, and that was one of the — that was one of
 13 the points of debate that we were having at that time
 14 was that the web search team felt it shouldn't have
 15 search results in the search results, and my view,
 16 especially at the time, was that when people are
 17 shopping, they often want to look at a page that's —
 18 that's all products, and of course the Google search
 19 results page probably wouldn't be, and so it would be
 20 a better experience for them to go to a page like
 21 the Product Search results page or the product page,
 22 which was about products.
 23 MR JOWELL: Thank you, Mr Goodrow. I want to come back and
 24 explore that with you in a moment in more detail,
 25 definitely.

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1 Could I just, though, show you another email on this
 2 theme, which is {M1/263}.

3 Here we have got, from Marissa Mayer to
 4 Sameer Samat, copied to Jen Fitzpatrick, and you see it
 5 has got, "... L&S Review tomorrow". So "L&S", that
 6 would be Larry Page and Sergey Brin, the two founders of
 7 Google, would it?

8 A. Yes, that's correct.

9 Q. You see in the email below that, again, there is
 10 a reference to:

11 "The [Product Search] onebox should trigger at
 12 the top any time the top result is from another
 13 comparison shopping engine ..."

14 Then you see the first bullet. Then it names
 15 a number:

16 "... (shopping.com, pricegrabber, nexttag, etc)."

17 Yes?

18 A. Yes, that's because we had been moving it down and Larry
 19 and Sergey were concerned that we were doing that too
 20 much and that we should put it back up to the top where
 21 it had started.

22 Q. Whenever one of those competitor sites appeared in
 23 the organic results, yes?

24 A. In particular because that indicated that the query was
 25 a shopping query.

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1 Q. Yes.

2 Now —

3 MS ROSE: What do you mean "moving it down"?

4 A. Well, so at the beginning, when Froogle launched in
 5 the OneBox, it was only ever at the top, and that's
 6 because the web search team didn't know where to put it.
 7 So they said: well, let's just put it at the top next to
 8 the ads, because we put the ads there, so why don't we
 9 put this thing there. Then they said: okay, well, maybe
 10 it can sometimes be at the bottom. Then at the time
 11 I joined, the middle spot became available because we
 12 were developing this new thing called Universal Search
 13 which would allow it to be moved to other spots in
 14 the middle of the page, and so we had spent a lot of
 15 time moving many of these down, and I think Larry and
 16 Sergey in particular said, "Well, you moved too many of
 17 them down, you should have kept most of them at the top,
 18 or many more of them at the top, and one of
 19 the indications that you can keep it at the top, that
 20 the query is in fact a product query, is that there are
 21 comparison shopping sites in the top".

22 MS ROSE: But what was the rationale for moving it down to
 23 the middle of the page?

24 A. Well, actually, it increased traffic. Because it was,
 25 like, connected to the ads, people would often skip over

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1 it and so, like, it would increase consideration if we
 2 moved it down —

3 MS ROSE: Because it looked more like a search result?

4 A. Well, that's another point is that it didn't look as
 5 much like — it would have increased traffic even more
 6 if it had looked just like a search result. It did
 7 intentionally look different. But moving it down,
 8 I believe, caused users to consider it more rather than
 9 just scroll past it as being an ad.

10 MR JOWELL: So could I just understand a bit about Larry and
 11 Sergey, if I can call them that. They — we have heard
 12 a lot about church and state, but they are at the apex
 13 of the pyramid where they are both church and state, are
 14 they not?

15 A. Well, I mean, at this time, I think that Eric Schmidt
 16 was the CEO, so he would have been at the apex.

17 Q. Okay, the very apex. But they are pretty close to
 18 the apex, are they not?

19 My point is they have a view both of what is going
 20 on in ads and what is going on in search, right?

21 A. They would have been at all of the ads Google Product
 22 Strategy sessions, I believe, but I don't know how much
 23 involved they were with ads. They were very involved
 24 with search.

25 Q. Right, but they would certainly have had a view on ads

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1 as well, would they not?

2 A. If what you mean is would they have attended those —

3 Q. Yes, yes —

4 A. — presentations, yes, I believe they would have.

5 Q. They would have, yes, the ones we have seen.

6 We do not have — it is strange, but we do not have
 7 any direct record of this meeting with Mr Brin and
 8 Mr Page. Was there a policy not to record meetings with
 9 them in Google?

10 A. No, not that I know of. In fact, I think that there are
 11 many documents that I have reviewed in preparation that
 12 were called, you know, shopping, Google Product
 13 Strategy, and they would have attended those.

14 I remember them attending those.

15 Q. Okay.

16 But they were clearly responsible for this decision
 17 to move up the OneBox every time that the top result was
 18 a comparison shopping — a rival comparison shopping
 19 site?

20 A. That was their request to us.

21 Q. Yes. Okay.

22 Can we move to 2010 and go to {M3/180}. Here we
 23 have got a "Product Strategy and Execution Plan"
 24 of "Shopping 2010".

25 Would you have seen this at the time?

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1 A. Yes, I believe I would have.
 2 Q. If we go to {M3/180/4}, we see:
 3 "Competitive Landscape: Amazon is the real
 4 threat — Keep eye on others."
 5 Then we have a division between the "US" and
 6 "International", and we see that in the US, you have
 7 Amazon, Bing and then CSEs, and it notes that the CSEs,
 8 Shopping.com, Shopzilla and Pricegrabber are:
 9 "Fading ([with the] exception [of] Pricegrabber
 10 ...)"
 11 Yes? You see that?
 12 A. Yes, I do see it.
 13 Q. So that would have been your assessment at the time of
 14 the US, that Amazon and perhaps Bing were the biggest
 15 threats, the CSEs were still there but they were fading,
 16 that is right, in 2010?
 17 A. That's definitely what it says here, yes.
 18 THE CHAIRMAN: That was your feeling as well, was it?
 19 A. Yes. Like I said, we weren't very concerned with
 20 comparison shopping engines, we were very concerned with
 21 Amazon and to a lesser extent Bing.
 22 MR JOWELL: But then in international, you see it is
 23 a different picture, because of course Amazon was only
 24 a partial presence in many international markets at that
 25 time, was it not?

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1 A. Yes.
 2 Q. So we have Japan and then we have China, and then we
 3 have EMEA, and it says "Fragmented", and you see
 4 the comment, it says:
 5 "Different major eCommerce/comp shopping leader in
 6 almost all countries."
 7 Do you see that?
 8 A. Yes.
 9 Q. So in the EMEA, in Europe and the Middle East, in 2010,
 10 it seems that your main competitors remained
 11 comparison shopping engines as well as other major
 12 e-commerce entities; correct?
 13 A. Well, again, I think that we were worried about Amazon
 14 entering those markets too.
 15 Q. In the future, but at this time, it is
 16 comparison shopping — it is rival comparison shopping
 17 that are the leaders, it says?
 18 A. That may have been who were the leaders, but that wasn't
 19 our primary concern. Our primary concern was about
 20 Amazon and I think we intended to enter the markets with
 21 Google Product Search in the markets that Amazon was
 22 present.
 23 Q. Well, shall we say your primary concern, because we have
 24 seen that certainly those in ads seem to have had
 25 a different primary concern, did they not?

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1 A. A fair point.
 2 Q. If we go to, for example, {M3/180/7}, we see again you
 3 have the "... Strategy to Win in Shopping" and that you
 4 want Google.com to be the starting point for shopping.
 5 It says:
 6 "Need to address [the] early portion of the shopping
 7 task ('What to Buy')."
 8 At the bottom, we see you say you want to "Scale
 9 internationally", yes, including in the EMEA? Do you
 10 see that at the bottom?
 11 A. Yes.
 12 Q. Just to understand that "What to Buy", if we go to
 13 the next page, to {M3/180/8}, it says:
 14 "Focus experience on 'What to Buy', less price
 15 comparison."
 16 So that is essentially more on comparison between
 17 products rather than purely on the price of a product
 18 that has already been selected; is that right?
 19 A. That's correct.
 20 Q. Then if we go to {M3/180/12}, we see a bit more about
 21 this, and you can see an explanation of the product
 22 comparison experience, I think.
 23 Again, this is reflecting your view that users want
 24 to browse to have a full shopping experience as in
 25 a shop, not just to be taken to a few top products; is

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1 that right?
 2 A. Yes, although the word "browse" is overused, in
 3 the sense that I believe that what didn't work was sort
 4 of a categorical kind of a hierarchical browse, but what
 5 did work was, after someone entered a search, showing
 6 them a variety of different products.
 7 Q. If we go to {M3/180/13}, we see:
 8 "Why Browse is Hard to Create."
 9 I think that reflects what you have just mentioned?
 10 A. That's right.
 11 Q. If we could go to {M3/180/27}, we see:
 12 "Data Quality: Current State."
 13 You see it says:
 14 "Analysis shows that [Product Search] has
 15 significant data quality issues.
 16 "Top 500 Product Pages have an error from one or
 17 more merchants."
 18 It goes through the root causes of some of the data
 19 quality issues.
 20 So there clearly were issues with Product Search's
 21 quality still at this time?
 22 A. Absolutely, and probably into the future as well, beyond
 23 this point as well.
 24 Q. I mean, it is a challenging thing, is it not, to set up
 25 a comparison shopping site, and there are always going

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1 to be some glitches and flaws and so on?
 2 A. That's right, and we were working to address them.
 3 Q. If we go to —
 4 THE CHAIRMAN: Then at the bottom, it says, is that right:
 5 "Must address price and availability errors to be
 6 a credible place to start shopping."
 7 That is "availability", is that a reference to
 8 whether it is in stock or not; is that right?
 9 A. That's right.
 10 THE CHAIRMAN: Yes.
 11 MR JOWELL: If we go to {M3/180/66}, we start to see
 12 the international plan, which is to bring the UK and
 13 Germany to parity with the United States:
 14 "Launch catalog construction."
 15 We will come on to what that was:
 16 "Improve search quality."
 17 "Improve merchant coverage ..."
 18 So you are still developing internationally, are you
 19 not?
 20 A. Yes. I mean, it had been launched, but we wanted to
 21 improve the quality, as it says.
 22 Q. If we go to {M3/180/70}, we can see where users start,
 23 and you can see that overwhelmingly users at that time
 24 started at a specific merchant site, did they not?
 25 A. Yes, that's right.

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1 Q. Then we have got:
 2 "Search engine/directory: 34%."
 3 You see a bit further down "Comparison shopping
 4 sites" themselves at 14%?
 5 A. Yes.
 6 Q. So you wanted to effectively get the second — well,
 7 the search engine to be the main one and that to be
 8 the Google search engine where people started buying
 9 things?
 10 A. Yes, we would — we wanted to make a service that
 11 everyone would use to start shopping.
 12 Q. Okay.
 13 Can we come on then just to understand a bit more
 14 about cannibalisation again from your perspective. So
 15 if we go to {M1/380}, this is a "Commerce Review".
 16 I hope it will come up in a second. You can see that we
 17 do not know exactly when it is, it is undated, but it is
 18 from some point in 2010, and you can see that you are
 19 among the contributors there?
 20 A. Yes.
 21 Q. Do you recall this at all?
 22 A. Not specifically, but, yes, I certainly remember
 23 presenting these sorts of things.
 24 Q. If we go to {M1/380/56}, we can see an explanation of
 25 monetisation, and unfortunately it is a slightly — it

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1 is not a brilliant slide, but you can see
 2 the identification in the red box of
 3 the Product Universal, yes? Do you see that?
 4 A. Yes.
 5 Q. There it says:
 6 "Google Shopping results (free listings)."
 7 At the bottom.
 8 Then it mentions — you see the mention at
 9 the bottom:
 10 "Product Universal cannibalizes \$250M/yr."
 11 Yes?
 12 A. Yes, I see that.
 13 Q. If we go over to {M1/380/57}, we see a further breakdown
 14 of that and it says:
 15 "Breaking even, and turning profitable."
 16 We see the "Product Universal Break[down]".
 17 Effectively, one sees the — you see, three down, it
 18 says:
 19 "Google.com RPM ..."
 20 That is revenue per million, is it?:
 21 "... no Product Universal."
 22 Would be \$125, but the Google.com RPM with
 23 the Product Universal is \$116, yes?
 24 A. Yes, I see that.
 25 Q. That is reflecting the fact that there is this

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1 cannibalisation, this leakage of people who would click
 2 on the ads, but instead are clicking on the free
 3 Product Universal links?
 4 A. Yes, that's correct.
 5 Q. You can see at the bottom:
 6 "Product Universal cannibalization would be negated
 7 if 0.1% incremental traffic is captured due to a better
 8 shopping experience on Google."
 9 So what you are saying there is that if you can —
 10 that is why it is so important to win on shopping
 11 starts, is it not, because even just a tiny 0.1%
 12 increment will compensate for the fact that per user
 13 impression, you are going to receive a lower amount from
 14 the ads, you are getting more user impressions,
 15 effectively?
 16 A. That's right.
 17 Q. Could I turn then to a different topic that picks up on
 18 what Ms Rose was asking you about. If we could go to
 19 your witness statement which is at {H3A/6/17}.
 20 We see that you mention there in paragraph 68 that:
 21 "There were two types of Product Universal:
 22 "An 'offer version', which showed a product offer
 23 which ... [took you] directly ... to a merchant site ...
 24 and
 25 "A 'catalogue version' ... [which took you to

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1 the] product pages on the Google Product Search
 2 property."
 3 That is the standalone web page, yes?
 4 A. Correct.
 5 Q. If we go over the page, we can see them {H3A/6/18}.
 6 Perhaps if we could just focus on the images, please, at
 7 the top of the page.
 8 The image on the right is taking you — that is
 9 the — a catalogue version which takes you only through
 10 to the Product Search page, and on the left is the —
 11 takes you through — clicks take you through to
 12 the third party merchants, other than the header link,
 13 which would take you to the product page, yes?
 14 A. Yes.
 15 Q. Okay.
 16 If we go to {M1/207}, please.
 17 We see an email from you, dated 31 October 2008. It
 18 seems to be a latency meeting. But if we look at
 19 the second paragraph, the long paragraph, it says:
 20 "Catalog results make users MUCH happier according
 21 to nearly all of our metrics, and searching over them
 22 means that we can find them more often and show them to
 23 users, which should be a good thing."
 24 So your understanding at that time was that users
 25 typically preferred the catalogue results, those that

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1 took you to the website page?
 2 A. Yes, particularly because of what you mentioned before,
 3 that people want to decide what product they want to
 4 choose before they decide from whom they want to buy it.
 5 Q. Yes.
 6 If we go to M1/3 —
 7 THE CHAIRMAN: Just before you do that, just so I fully
 8 understand it, if you search for a particular product,
 9 say a Canon XP5 camera, then you would get the proper
 10 version; is that right?
 11 A. No, not particularly. If you had searched for
 12 a particular product, then you might get what we call
 13 the single Product OneBox, which would be a product page
 14 for that particular product, and then you could click on
 15 that product page, you'd go to that page for that
 16 particular product and then there would be a lot of
 17 information about it, like ... similar to what you might
 18 see on a merchant's site, where we aggregated a bunch of
 19 that information from all the merchants. You'd see
 20 reviews, you'd see specifications, you'd see features,
 21 maybe other images of the product.
 22 MR JOWELL: That would be on the standalone website, that
 23 information that you were just describing.
 24 A. Yeah, that would be on the Product Search.
 25 Q. On the Product Search —

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1 A. Yeah, domain, yeah.
 2 THE CHAIRMAN: Would you see then offers from different
 3 merchants?
 4 A. Yes, that's right.
 5 THE CHAIRMAN: You would see that as well?
 6 A. Right, you would see — at the top, you would see
 7 information about the product and you could click into
 8 a bunch of different things, like specifications and
 9 reviews and many things, and then below that, you'd see
 10 a list of however many offers we had from merchants for
 11 that specific product.
 12 THE CHAIRMAN: And whether it is in stock, probably?
 13 A. And whether it's — I think we had information about in
 14 stock, we had information about the price, we might have
 15 had information about, like, the shipping terms.
 16 THE CHAIRMAN: Yes, that sort of comparative across —
 17 between merchants.
 18 MR JOWELL: So if we can go to {M1/385}, please. If we
 19 could go perhaps to {M1/385/3} of this.
 20 I do not know if you recall these exchanges, but
 21 there is a series of exchanges between yourself,
 22 Mr Tao Jiang and Ashutosh Shukla about some side by side
 23 comparisons of certain de—linked results.
 24 Could you just explain to the Tribunal what
 25 de—linking involved?

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1 A. So de—linking would involve if we — I think if we had
 2 the offer version of the product search OneBox, where it
 3 was just individual offers from particular retailers,
 4 then we wouldn't link those offers, we would — so
 5 the user would just — you know, if they were going to
 6 click, they'd click only on the top link and then go to
 7 Product Search and then they'd see a longer list of
 8 things.
 9 Q. So if we look at Mr Ashutosh Shukla's email, just at
 10 the top of the page, you see the last paragraph, he
 11 says:
 12 "Just to state the motivation behind the [side] ..."
 13 "SxSs", those are side by sides, are they not? Do
 14 you see the last paragraph of his email?
 15 A. Yes.
 16 Q. "Just to state the motivation behind the [side by sides]
 17 again — De—linking makes the onebox look very much like
 18 a web result (even though it is not ranked like a web
 19 result). So we want to evaluate if the Product onebox
 20 were to be ranked like a web result and appeared in
 21 the positions where it is triggering today, how good/bad
 22 the quality would be."
 23 Then —
 24 THE CHAIRMAN: Sorry, that — which — this is on — on
 25 which page is this?

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1 MR JOWELL: It is where the arrow is. It is on page 3.
 2 THE CHAIRMAN: Ah, yes.
 3 MR JOWELL: The last main paragraph.
 4 THE CHAIRMAN: Yes, I see.
 5 MR JOWELL: If we go to a further email on {M1/385/2}, we
 6 should be able to see a further email in which he notes
 7 that the inclusion of the OneBox is "overall positive".
 8 Rather, Mr Tao Jiang writes that it is "overall
 9 positive". You can see that on the first main email —
 10 the second email up.
 11 Then what I want to focus on is your response on
 12 that page to Tao, where you say, the second sentence of
 13 your email:
 14 "I also believe that product universal is overall
 15 positive, but I think that it's more positive than you
 16 expect for a reason that doesn't seem to be often
 17 considered: 'if people are shopping, then they want to
 18 go to a store'. I think that what we see in these [side
 19 by sides] is a slightly weaker version: 'if people issue
 20 product queries, then a normative shopping experience is
 21 appropriate'. The point is that we win not because we
 22 are so much better than Amazon or Nextag as a store, but
 23 that in many cases there just aren't stores on the page
 24 if not for product universal. Further, even if Amazon
 25 or Nextag are on the page, it's their product page

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1 rather than their search results page, so you still
 2 don't feel like you are in the aisle of a store looking
 3 at a set of products."
 4 Just to understand that, your point is that
 5 the Product Universal is valued by users with shopping
 6 queries because it gives them access to a form of
 7 shopping comparison service that is fuller and that they
 8 value, and it is the only such shopping comparison
 9 service that they have on the web results page, is it
 10 not?
 11 A. Yeah, my — this goes back to my point, which is that
 12 when you're shopping, it's useful to see a list of
 13 products instead of just a small selection of them.
 14 That was — that was my view at the time.
 15 Q. Then, in the next paragraph, you say:
 16 "Imagine that we weren't looking at this as
 17 Product Universal, but that we had a new ranking
 18 algorithm that just stuck a link to Shopzilla search
 19 result pages at various positions in the web results.
 20 Would we not evaluate that with a ranking [side by
 21 side], with web-like snippets or no snippets?"
 22 So you are effectively comparing
 23 the Product Universal to the presence of
 24 the CSS Shopzilla within the general search results with
 25 its search results link?

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1 A. Yes, I was proposing that we think of it similarly.
 2 Q. Then if you go to {M1/385/1}, we see another exchange in
 3 the last indent, in the last sentence:
 4 "Can we take the snippet ..."
 5 Do you see that?
 6 A. Yes.
 7 Q. "... and Google biases out, leaving only the bias that
 8 we would have if we were to boost search results pages
 9 for some other shopping site? I think that this would
 10 be worthwhile. If positive, it might argue that we
 11 should be putting some shopping site's search results on
 12 the page, even if it's not Google Product Search. In
 13 other words, what experiment could we run to test
 14 the hypothesis:
 15 "[A link to the search results of some [other]
 16 shopping site improves the first page of google.com
 17 results for queries defined as 'product' by
 18 the product universal trigger]."
 19 So, again, your intuition was that for users with
 20 product queries, it would probably be appreciated by
 21 them to have search results pages from a competing
 22 shopping comparison site on the webpage; correct?
 23 A. Yeah, this was my difference of opinion with the web
 24 search team which had a "no search results in search
 25 results" point of view.

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1 Q. You thought, no, what we are doing with
 2 the Product Universal is effectively search results
 3 within search results, right?
 4 A. Well, what I thought is that users who were shopping
 5 would want to be taken to a list of products and not
 6 just a small set of them, and so either we could take
 7 them to Product Search where that list exists, or we
 8 could bring the products, you know, with bigger
 9 universals to the Google.com page.
 10 Q. If we go to {M1/240}, we see here these are the de-link
 11 Product OneBox user interface. The engineers are Shukla
 12 and Cristos. I take it that is you?
 13 A. Yes.
 14 Q. The product manager, that is Mr Jeff Bartelma; is that
 15 right?
 16 A. That's correct.
 17 Q. If we read the "Overview":
 18 "This is a [User Interface] change for
 19 Product Universal. Today Product Universal has a top
 20 link 'Shopping Results for [query]' and then 3 sublinks
 21 for 3 results. In a real world scenario, it is hard to
 22 imagine users clicking on individual offers and making
 23 purchases based on just the 3 results that are shown in
 24 the onebox. This change will de-link the 3 sub links
 25 and convert them into text and the title link will

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1 become '[query] — Google Product Search'. This change
2 will then force users to click on the Product OneBox to
3 see the Google Product results, which should lead to
4 increased long-click rate and reduced short-click rate
5 on the onebox according to previous analysis."

6 Then you show what it would look like.

7 If we go to the "Results" on {M1/240/3}, please, we
8 see the "Results":

9 "Compared to production, this change increases
10 queries with long clicks, whole page long clicks, and
11 product long clicks. It decreases queries with short
12 clicks, whole page short clicks, and product short
13 clicks, leading to a net decrease in overall queries
14 with any clicks, whole page clicks, and product clicks."

15 So, overall, this study's quantitative results
16 strongly suggested that users benefited from being sent
17 to a — effectively to a catalogue view or to
18 the product search page, rather than to — via offers
19 directly to merchants; that is right?

20 A. I mean, that was my view. I have to say that the people
21 who had a different view thought that the reason it
22 benefited so much is that it looked much more like a web
23 result, and when you look like a web result in a list of
24 web results, you generate more clicks, and so I think
25 that was the tension was that their view was that

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1 the reason why this is supposedly so much better is
2 because it looks like a web result and that was
3 something that we weren't supposed to do, look like
4 a web result.

5 Q. Yes, let us come on to that. That is clearly right.

6 If we go to {M1/243}, it is clearly right that there
7 was great sensitivity about it not looking like a web
8 result. This is a — at the bottom of page 1, we see an
9 email dated 17 April from Sameer Samat which summarises
10 a meeting attended by you and others. We can see
11 the record there:

12 "It is important to not try and make the onebox look
13 like a web result. Even though the user metrics support
14 the delinked onebox, there are philosophical concerns
15 about its [User Interface] treatment.

16 "Principle: The onebox must be visually distinct
17 from a web result — the delinked onebox is
18 semi-distinct, but not enough. This makes it feel as if
19 we are giving Google's product search preference over
20 other product search (nexttag, etc). We need to find
21 another way to make this different."

22 Now, of course, NexTag was a major CSS in
23 the United States at that time, was it not?

24 A. I don't know if it was major. I was aware of it.

25 Q. Okay. But you were certainly aware that you did not

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1 want to be accused of somehow preferencing
2 Product Search results relative to other product search
3 results in the 10 blue links?

4 A. We had this principle that — that things that weren't
5 ranked according to the same way that the things in
6 the 10 blue links were ranked can't appear like those 10
7 blue links, the same way that ads, ads appeared on top,
8 they weren't ranked the same way, they had to look
9 different.

10 Q. Did you not think that that was a bit of a triumph of
11 form over substance? Because, I mean, if you are
12 putting it in the OneBox, it may be distinct, but you
13 are still favouring it, are you not?

14 A. Well, like this shows, the fact that we were making it
15 look different actually reduced the amount of traffic it
16 was getting, and so, I mean, we could have favoured it
17 more by making it look the same.

18 Q. Right, but in fact you did favour it by putting in
19 images, by putting in product information, by putting it
20 right at the top of the SERP. I mean, that was —

21 A. No, again, it started at the top, and in that place, it
22 got actually less clicks because it was close to
23 the ads, and then — and then as we show in this
24 experiment, if you make it look more like ads, then it
25 gets more clicks and so we added these other things,

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1 like images and whatever, in part to make the page look
2 more shoppy, but also because we had this principle that
3 it should look different and that led it to get less
4 traffic.

5 Q. But the images obviously increase traffic, right?

6 A. No, the images decrease traffic.

7 Q. If we go to {M1/390}, we see an exchange about how
8 the results should be or would be presented.

9 At the top, in an email dated 20 April 2009, we see
10 you responding to suggestions from Mr Jack Menzel. Who
11 was Jack Menzel?

12 A. Jack Menzel was a product manager on the Google.com
13 team.

14 Q. Right.

15 We see he has made a comment. He says:

16 "Shopping bag: NO! This does nothing but add
17 200ms of latency to the page."

18 You respond:

19 "False. The shopping bag visually distinguishes
20 the result as being a onebox, and not ranked with
21 the other web search results. This is a very important
22 distinction to make."

23 So you did not mind having an extra 200 milliseconds
24 of latency provided you could achieve that greater
25 visual distinction?

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1 A. Well, I minded it, because I — I actually had proposed
 2 the whole "de-linking/make it look the same as a web
 3 result" experiment.
 4 Q. Right.
 5 A. But I — you know, we had this principle, and so in
 6 order to adhere to the principle, we needed to make it
 7 look different, in this case with the shopping bag.
 8 Q. The latency increase was a price you were prepared to
 9 pay?
 10 A. Well, because the alternative — I mean, there was
 11 an alternative, we had to make it look different.
 12 Q. Yes, so it was a price you were prepared to pay?
 13 A. Yes.
 14 Q. He then says:
 15 "Re: a list of 10. Lets do it. But lets link
 16 them."
 17 You say:
 18 "Linking them leads to a poor shopping experience,
 19 as demonstrated by the de-linking experiment, sessions
 20 analysis, user observations, and other evidence.
 21 I don't understand why you would suggest that at this
 22 point."
 23 So you are saying that there is a multiplicity of
 24 evidence that supports not linking them directly to
 25 the merchants, right?

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1 A. Yes.
 2 Q. Now, we have seen the de-linking experiment, yes? What
 3 were the "sessions analysis"? Can you recall?
 4 A. I think that might have been — I think the sessions
 5 analysis, I might have been referring to that analysis
 6 that we saw.
 7 Q. Okay, and the "user observations", "other evidence"?
 8 maybe you cannot recall at this —
 9 A. I can't recall. It's been a —
 10 Q. Anyway, you were convinced that there was a lot of
 11 evidence that sending results to the shopping property
 12 was superior from a user perspective to sending them to
 13 specific merchants; correct?
 14 A. Yes.
 15 Q. If we go to {M1/257}.
 16 Now, this is a document we think you may have
 17 authored, I do not know.
 18 A. Yes, this is something that I wrote. I kept a — kind
 19 of like a journal of things I thought of. This comes
 20 from that.
 21 Q. Do you want to just — can we just look at your entry
 22 under 27 April. Do you want to just read it and remind
 23 yourself of it.
 24 (Pause)
 25 A. Okay, I've read it.

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1 Q. So, now, much of that speaks for itself and reflects
 2 your view at the time that it was better experience for
 3 users with a product query to be directed to the full
 4 website rather than direct to the merchant, yes?
 5 A. Yes, that's right. The merchant for a particular
 6 product.
 7 Q. Yes, product, yes.
 8 I also note, in the final paragraph of this entry,
 9 that you say that sometimes:
 10 "... for some queries on which Product Universal
 11 might trigger at the top, the search results page from
 12 Nextag is at the top and it's better."
 13 Do you see that?
 14 A. You mean this point?:
 15 "David made it clear that we continue to allow
 16 Nextag Search Results pages in search results pages
 17 because they are indeed very good for product queries."
 18 Q. Yes, and the last sentence, you say:
 19 "... for some queries on which Product Universal
 20 might trigger at the top, the search results page from
 21 Nextag is at the top and it's better."
 22 A. That's right.
 23 Q. So you are saying that the price comparison site NexTag,
 24 that sometimes featured in the 10 blue links, was better
 25 than the Product Universal and perhaps better than

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1 the Google Product Search website?
 2 A. For some queries, I imagine that's true, yeah, that was
 3 true.
 4 Q. Then can we now look at your next — the next entry for
 5 April 22:
 6 "No search results pages in Google search results."
 7 You say:
 8 "I think that this is a big mistake for
 9 [the] shopping queries. That is, I am a heretic."
 10 Then you go on.
 11 Perhaps if you can just read, and then if we can
 12 read over the page.
 13 Just say when you have read that last paragraph.
 14 (Pause)
 15 A. Yes. {M1/257/2}.
 16 Shall I read this next page too?
 17 Q. Yes, please, if you read down to the end of this entry,
 18 I think, stop at April 7.
 19 (Pause)
 20 A. Okay, I've read it.
 21 Q. So, first of all, the reference there to, "Folks
 22 work[ing] hard to enforce this", which is a reference
 23 back to the prohibition against including search result
 24 pages in Google.com's search results, you were aware of
 25 people then, like Paul Haahr, who were going through

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1 manually deleting — manually deleting search page
 2 results in the organic links?
 3 A. I would be surprised if he was manually doing anything,
 4 but I do know that people were working on —
 5 Q. Algorithmically demoting as well?
 6 A. Right, they had — they had a prohibition of search
 7 results pages in search results.
 8 Q. Yes, and yet, then it says that some get through anyway,
 9 like you see you make a reference to NexTag. So that is
 10 a reference to some of these comparison shopping sites
 11 being able to beat the demotions that were going on and
 12 get through nonetheless?
 13 A. Right, like — or it could have been that
 14 the search quality team felt like that particular
 15 instance was fine to have a search results in their
 16 search results. Generally, they thought it wasn't.
 17 Q. Right, and you think that when they do get through, that
 18 is a benefit to users, right?
 19 A. Not always, but in product queries, in many cases, it
 20 would be, yeah. That's the argument I'm making.
 21 Q. Then the reference to Matt Cutts' blog, and you say in
 22 brackets "A Miracle on 34th Street". Now, that is
 23 a film, is it not, "Miracle on 34th Street"?
 24 A. Yes.
 25 Q. In that film, the main character claims he is

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1 Santa Claus, does he not?
 2 A. Yes.
 3 Q. I think he causes panic at one stage among all the store
 4 executives, because what he does is direct shoppers, or
 5 children shoppers in particular, to rival stores if they
 6 do not have the exact toys that the customers are
 7 looking for; that is right, is it not?
 8 A. That's right.
 9 Q. So what you are effectively saying is that you are
 10 contemplating that Google could and should have offered
 11 a range of different price comparison sites in its web
 12 results, are you not, and that would have been better
 13 for users?
 14 A. Well, in particular I'm making the case to allow search
 15 results pages in the search results for product
 16 queries, yes.
 17 Q. Matt Cutts' blog, I mean, we can go to that, it is
 18 {M3/146.1}, please.
 19 Maybe just have a glance at that. Is this the page
 20 of Mr Cutts' blog that you were referring to?
 21 A. It's been a long time. I'm not sure I can remember.
 22 I mean, I trust you if this was the linked page, but I'm
 23 afraid I don't remember if this is the page I was
 24 referring to.
 25 Q. In other words — but we get your point — you are

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1 saying it would have been better for users if Google had
 2 directed shoppers to rival comparison shopping sites,
 3 specifically their search results pages, yes?
 4 A. In particular, I think it's — it would be better if you
 5 allowed — if they allowed search results in the search
 6 results for product queries so that users could see
 7 a list of products, yes.
 8 Q. If we go to {M1/388}, please, we see here:
 9 "Product Search Eng[ineering] Review.
 10 "May 2009."
 11 You are one of the contributors.
 12 If we can go over the page {M1/388/2}, perhaps one
 13 more page {M1/388/3}, we see, "Products vs Offers":
 14 "Positive metrics in response to Products."
 15 Now, when there is a reference here to "product
 16 pages", that is the same as the catalogue pages?
 17 A. Yes, that's right.
 18 Q. Okay.
 19 A. We would call them catalogues or product pages.
 20 Q. Right, on the one hand, and then "offers" on the other
 21 hand?
 22 A. Offers are different from that. Offers are things from
 23 particular retailers.
 24 Q. Yes.
 25 We see on this page your conclusion that:

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1 "Users like Products [or the catalogues] more than
 2 Offers."
 3 A. Yes.
 4 Q. You say:
 5 "Or, provocatively, interstitial pages are good."
 6 So that reflected the fact that the property was an
 7 interstitial page? It is — it meant that the user went
 8 through not direct to the merchant, but instead went
 9 through an intermediary page before then getting to
 10 the merchant; correct?
 11 A. Yes, I mean, I was intentionally calling this out
 12 because, in general, interstitial pages are not good,
 13 it's a little bit frustrating, you have to click through
 14 a bunch of things, but in this case, when you can get to
 15 a page that shows you more information or that allows
 16 you to compare a bunch of products, that's better than
 17 having a — you know, just a small number in a — in
 18 a universal result on Google.com.
 19 Q. We saw from your blog or — I do not know what we should
 20 call it, your reflections, that that applied also to
 21 good comparison sites, like NexTag, as well and you
 22 thought that that would also be good for users?
 23 A. I thought that anything that sent you to a list of
 24 products where you could see a lot of them would be
 25 a good idea, including, in that case, NexTag.

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1 Q. Thank you.
 2 If we could go to {M1/388/6}, please.
 3 I want to just show you some metrics. You see
 4 the metrics there, and you see "Latency" is about
 5 the sixth bullet down:
 6 "[Less than] 900 [milliseconds] 25th percentile in
 7 Webspeed."
 8 Then:
 9 "[Approximately] 1.3 [second] median on high-speed
 10 connections in CSI."
 11 So am I right then in thinking that latencies of
 12 around a second were considered acceptable at that time?
 13 A. Well, I think this is measured to the — to the client.
 14 So around a second to the client would probably be okay,
 15 but that meant that, like, the search system had to get
 16 it back in a couple of hundred milliseconds or less,
 17 because there was a lot of time taken up by creating
 18 the page and then getting the page out to the user.
 19 Q. In any event we see that you are comparing yourself
 20 there in terms of search quality against Amazon, NexTag,
 21 eBay and Shopping.com, yes?
 22 A. Yes.
 23 Q. Can we go to {M1/251}, please.
 24 Here we see a "Product Search Eng[ineering] Meeting"
 25 of May 11, 2009, and again, if we go to {M1/251/15}, we

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1 see:
 2 "Product Search Universal."
 3 If we go to {M1/251/17}, we see the three user
 4 interfaces that were available at that time, the "Offer
 5 results", the "Product results" and the "Single product
 6 result". You have mentioned all of those.
 7 We can see that, if we go to {M1/251/18}, we see
 8 that the overview is that the OneBox was:
 9 "Triggering on [roughly] 5% of traffic (7% during
 10 holiday season)."
 11 That the vast majority of the traffic is coming
 12 directly or indirectly from the OneBox. At that time it
 13 seems as though most of the — the breakdown is 87%
 14 offer, 12% catalogue, 1% single product, OneBox; do you
 15 see that?
 16 A. Yes.
 17 Q. One would have seen from that point in time a shift,
 18 would you not, to more of the catalogue presentation
 19 over time?
 20 A. We were working on making that shift, yes.
 21 Q. Because you thought that gave a better user experience;
 22 correct?
 23 A. Yes, that's right, for certain categories of queries.
 24 Q. Okay.
 25 If we go to {M1/251/19}, we can see that

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1 the catalogue OneBox had just been launched in the UK
 2 and Germany.
 3 On {M1/251/21}, you can see the "Intent signals".
 4 Some of this is confidential, I will not read it out,
 5 but you can see that — the intent signals that Google
 6 used to determine shopping queries and commercial web
 7 results, yes?
 8 A. Yes.
 9 Q. You see, under the third bullet, which is not
 10 confidential:
 11 "Definition:
 12 "Look at the grouper labels from the top 10 web
 13 results.
 14 "Positive labels: [include] shopping comparison
 15 engines ... "
 16 Yes?
 17 A. Yes, that was what we used to determine if the query was
 18 indeed something appropriate for Product Search.
 19 Q. Yes, thank you.
 20 Can I turn just to one more email before turning to
 21 a different topic and I wonder if you can help me
 22 with it. It is {N/267}, and it seems as though there
 23 has been a meeting. We can see at the top there is an
 24 email from you to Jack Menzel, copied to Mr Bartelma,
 25 Samat, Ms Fitzpatrick, Ms Mayer, Mr Manber, Mr Gomes,

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1 Mr Singhal, and it is about the Product Universal.
 2 At the bottom half of the page, you see an email
 3 from Mr Menzel, and it says:
 4 "SPS Notes."
 5 That is the search product strategy meeting, yes?
 6 A. Yes.
 7 Q. He says — Mr Menzel says:
 8 "From a principal perspective it would be good if we
 9 could actually just crawl our product pages and then
 10 have the rank organically.
 11 "Problem is that today if we crawl it will never
 12 rank."
 13 You see that?
 14 A. Mm—hm.
 15 Q. So what he seems to be saying, tell me if I am wrong, is
 16 that if you had permitted Google searches to be crawled
 17 and indexed, those pages would never have featured in
 18 Google's main 10 blue link listings; correct?
 19 A. Yeah, because we had a prohibition against any Google
 20 property appearing in search except through the —
 21 through the universal system.
 22 Q. Well, I do not think he is just saying that, is he,
 23 because he is saying: if we did crawl our products, then
 24 the problem is that even if it was crawled, it would not
 25 rank.

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1 A. Right, because we have this file that says that anything
2 that has a prefix match can't appear in the web results.
3 Q. I see, you take him to be saying that, rather than it
4 would not rank because it simply would not — it would
5 be demoted by the algorithms?
6 A. I mean, he was a product manager, I'm not sure he would
7 know about whether it would be demoted by algorithms,
8 but I know for sure that we had this file, because we
9 kept it up to date. Sometimes we'd changed the URL
10 pattern of Product Search and then some of our pages
11 would actually slip through, and so I know this to be
12 not true in certain cases because we would change
13 the URL structure and not update this file that would
14 eliminate things from appearing in web search and then
15 they would slip through and then we'd have to go and
16 change this file to eliminate them.
17 Q. Okay. Well, can I see what you say and then can you
18 explain that to me. It says:
19 "Product Pages — crawl them and get them to rank,
20 make sure that the url for the product page shouldn't
21 look like a search results page ..."
22 So you are saying — and then it says:
23 "Eg Google News ..."
24 Then it says:
25 "End goal: no onebox, product pages crawled and

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1 ranked, search results pages should be a shopping mode."
2 So are you saying that you wanted them to appear in
3 the ordinary search results?
4 A. Yes, what — what I'm basically arguing for is that when
5 we know that the query is a product query, if we could
6 determine that, we would have Google results just be
7 a shopping mode and we would bring all the product pages
8 and everything to Google.com and then there would be no
9 need for a OneBox, because the Google.com page would
10 itself look like a shopping page.
11 Q. So you would effectively have organic results which
12 would be rich results with some images, presumably?
13 A. Yes, we would want a whole list of producty,
14 shopping—looking results, all of which would have
15 images, and if they would all have images, then the one
16 with the image wouldn't stand out and get less clicks.
17 Q. Presumably, on that scenario, you would also have rival
18 comparison shopping sites appearing there in those web
19 search results?
20 A. We could maybe crawl their product pages, or — or maybe
21 they could submit their product pages.
22 Q. It would all go into the main feed, so you would have
23 just an integrated single feed of the Google.com
24 results?
25 A. That was the idea of a shopping mode.

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1 MR JOWELL: If that is a convenient moment to take a break,
2 I am coming on to another topic.
3 THE CHAIRMAN: We will take, again, about ten minutes,
4 Mr Goodrow.
5 (3.04 pm)
6 (A short break)
7 (3.19 pm)
8 MR JOWELL: Mr Goodrow, you explore in your witness
9 statements a little bit — something which has been
10 called — we lawyers call "the counterfactual", which is
11 a big "what if" question, which is essentially: what if
12 Google, back in 2008, had — what it would have done had
13 it complied with the obligation to treat other CSS
14 services no less favourably than its own in terms of
15 the positioning in display within its general search
16 results.
17 If we go to {H3A/6/28}, we see, at the bottom, you
18 were asked about these various "Counterfactual
19 scenarios". Do you recall this part of your witness
20 statement?
21 A. I do.
22 Q. Now, the first scenario that you were asked about — if
23 we go over the page {H3A/6/29}, please — was
24 effectively on the assumption that the only bit of
25 Google's conduct that was unlawful was the inclusion of

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1 links that went to Google Product Search, and you say in
2 those paragraphs: well, in that case, we would have just
3 dropped those links and we would only have kept
4 the links that went direct to retailers. Do you recall
5 that?
6 A. Yes.
7 Q. Now, I think I do not need to ask you about that,
8 because Google no longer claim in this litigation, they
9 have amended their pleading, they no longer assert that
10 just dropping those links would have been
11 the counterfactual.
12 But if we go to paragraph 111, over the page
13 {H3A/6/30}, here you say that you would not have chosen
14 to have had no Product Universal at all, because that
15 would have just left you with just the 10 blue links and
16 that would not have been a rich shopping experience and
17 it would not have enabled you to compete effectively as
18 the starting place for product queries, yes?
19 A. Yes.
20 Q. Now, a moment ago, we were discussing your alternative
21 that you were considering with Mr Menzel and others, and
22 we discussed how it would be possible in theory to
23 enrich those — the blue links, effectively.
24 Do you recall that discussion?
25 A. Yes.

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1 Q. So one possibility might have been then for you to have
 2 done just that and to have enriched those features when
 3 a product query appeared to make it more attractive for
 4 users and integrated both the Google Product Search
 5 results and also those of other CSSs; correct?
 6 A. I don't — I don't know if I discussed enhancing
 7 the links of CSSs. I don't remember that.
 8 MR PICKFORD: I do apologise for rising. I just would like
 9 to clarify one thing about the basis on which this is
 10 being put.
 11 Mr Jowell contrasted some paragraphs which he said
 12 he did not need to put any more because they were based
 13 on the idea that the links were unlawful, and then he
 14 went to paragraph 111, but that was also addressing
 15 the same issue as to if we had been told that these
 16 links were unlawful. So it is the same premise in both
 17 parts of the witness's evidence, because that was
 18 Google's case at the time, and I think it is very
 19 important that the premise on which these
 20 counterfactuals are being put is clear to the witness,
 21 because as I understood it, you were contrasting
 22 the previous paragraph. Sorry, I understood that
 23 Mr Jowell was contrasting the previous paragraph with
 24 111.
 25 MR JOWELL: Well, I was simply asking you about the evidence

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1 that suggests that you would not have had no
 2 Product Universal at all. So I was simply putting to
 3 you that in a scenario, which we discussed before
 4 the adjournment, where you were treating rival
 5 comparison shopping sites on a parity with Google's
 6 Product Search, one possibility would have been to have
 7 integrated all of those results into the organic search
 8 results but enhance those results by having them — by
 9 including images, richer text and so on.
 10 A. I think the problem with that is it was probably — it
 11 was just too hard getting the images and whatnot without
 12 some markup standard. I think we were trying to promote
 13 this idea of this thing called "H product" that websites
 14 might adopt for markup which was being slowly adopted,
 15 maybe is not even adopted, would have been too hard. So
 16 I think, honestly, if we go beyond just saying that
 17 these particular links are not allowed and we can't have
 18 instead the offer version, I think what Google would
 19 have done is gone to the product listing ads approach,
 20 which was already something that was being considered,
 21 getting rid of the Product Universal all together and
 22 going to product ad listing ads.
 23 Q. Well, before the adjournment, we discussed your email
 24 exchange with Mr Menzel and I think you agree with me
 25 there that you were considering ultimately going to

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1 a situation where you would integrate the Google Product
 2 Search results into Google.com, yes? You recall that
 3 exchange?
 4 A. Yes, it's just that that was, like, a shopping mode
 5 vision and it was — I don't know if it was technically
 6 possible.
 7 Q. Well, that was your vision at the time, was it not?
 8 A. I mean, it wasn't our team's vision, it was a proposal.
 9 Q. You also mentioned that you disapproved, effectively, of
 10 the policy of demoting NexTag.com's search results;
 11 correct? You recall that?
 12 A. I — I personally felt like we should allow for there to
 13 be search results inside of search results in the cases
 14 of product queries.
 15 Q. Okay, so then there is no — if you bring those two
 16 things together, you can then have NexTag's search
 17 results in the organic results and you can have them
 18 alongside Google Product Search results, potentially
 19 each of them in an enriched format; correct?
 20 A. I think the enriched format is the key issue, is that
 21 what we would want is we want the — we would want
 22 the Google.com page to look like the search results for
 23 products, which would mean having lots of images and
 24 prices and all of that, and there just wasn't a way for
 25 us to get that information onto the page, either from

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1 merchants or from any other site really, because we
 2 would have to crawl it and, like, figure out which
 3 images go with which things and I didn't think there was
 4 a way to do that.
 5 Q. Well, you could have standard requirements that could
 6 have applied?
 7 A. Well, that's exactly what the H product markup language
 8 is about, it was this idea that the whole web would
 9 adopt a markup language that would say, you know,
 10 specific things, like, "This is a product and here is
 11 its image and here is its price", and all of that, so
 12 that you could, in the process of crawling, basically
 13 create offers that you knew were legitimate and
 14 accurate. But without people adopting that, I don't see
 15 any way that we could have actually achieved this
 16 shopping vision.
 17 Q. Well, could you not have said to CSSs, "If you wish to
 18 appear, you have to comply with a minimum standard
 19 format"?
 20 A. I think we could have, but as far as I know, CSSs
 21 weren't at the time uploading offers to us and we were
 22 mostly crawling, so —
 23 Q. But they could have uploaded links with images to their
 24 search results page; correct?
 25 A. It's possible that they could have uploaded images and

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1 things like that, and — ideally we would still need
 2 this markup thing, because we would need to go and check
 3 that the things that they were uploading were actually,
 4 you know, what people would get when they — when they
 5 landed on that site. So I just think — I just think it
 6 was the adoption of these markup standards or things
 7 were pretty far out and I don't think that they would
 8 have — they would have happened in the time, especially
 9 because of the cannibalisation concerns and all of that.
 10 Q. But what you might have had is, initially, simply links
 11 to search results of Google Product Search and its rival
 12 CSSs, and then that would have evolved over time into
 13 something more interesting, with images and so on;
 14 correct?
 15 A. Again, I think that would have been taking a step
 16 backwards, because what we were trying to do was make
 17 the Google.com page look as much like the Amazon results
 18 page as we could, and so if we were to eliminate
 19 the images from the OneBox or whatever, then I think
 20 that would be taking a step back.
 21 Q. Well, another possibility would have been — would it
 22 not, would have been to have kept the OneBox, but then
 23 within the OneBox, you would have had links not just to
 24 Google Product Search, but also to rival CSSs; correct?
 25 A. Perhaps. I don't know how that makes the page look more

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1 like Amazon, but, you know, that's a possibility.
 2 Q. That is a possibility.
 3 So, for example, if you had had a query
 4 like "five-man tent", then instead of there being five
 5 different merchant offers, you might have had five
 6 offers from rival CSSs, including one from Google
 7 Product Search; correct?
 8 A. I don't know exactly what you mean by "offers" in that
 9 case.
 10 Q. Well, links to their search results.
 11 A. I think we could have had links to comparison shopping
 12 engines as well as the link — top link to
 13 Product Search, but I think the key question is,
 14 you know: what would the images be and where would those
 15 go and how do we make it look more like Amazon.com?
 16 Q. Over time, as technology developed, it might have been
 17 possible even for different CSSs to put their own
 18 results in, their own specific offers in, into the box?
 19 A. Again, I'm not sure what you mean by "offers" in that
 20 case.
 21 Q. Well, their products.
 22 A. So you mean —
 23 MS ROSE: To be clear, are you talking about a catalogue
 24 link, or are you talking about the specific —
 25 MR JOWELL: Products. Well, what I was initially asking

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1 about was about the catalogue link, and I think
 2 the witness has accepted that you could have had
 3 a catalogue—type link to rival CSSs. Now I am saying,
 4 as the technology developed, you might have had
 5 a situation where rival CSSs could actually have
 6 populated that box with their own —
 7 MS ROSE: Results.
 8 MR JOWELL: — results, as technology developed.
 9 A. That I don't think would have been possible, because
 10 the results are dynamic, and so ... I think the product
 11 pages or catalogues, I could imagine, because those you
 12 could sort of upload them and we could have them in
 13 advance so that we could put them in our index and serve
 14 them up, but — but to get a dynamic list from an
 15 external source would be very difficult in the — it
 16 would just be very difficult from a technological point
 17 of view and especially with the latency considerations.
 18 Q. I want to ask you next about a different proposed
 19 counterfactual. If we go back to 2008 to 2011, when you
 20 were working in Product Search, we have established that
 21 Google was not, at that time, charging merchants;
 22 correct?
 23 A. That's correct, for Product Search.
 24 Q. For Product Search. You have explained that that was an
 25 important selling point in getting all those merchants

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1 on board; correct?
 2 A. Yes, I believe it made it easier for them to submit
 3 offers.
 4 Q. Okay.
 5 Now, I do not know whether you are aware of
 6 the current arrangements under which Google operates
 7 the box in which effectively —
 8 A. I'm not.
 9 Q. You are not aware, okay.
 10 Well, effectively, under the current arrangement,
 11 you have got a notional Google CSS called
 12 Google Shopping Europe, and you have third party CSSs,
 13 and they intermediate effectively between merchants, who
 14 bid for placement with the product listing ads that
 15 appear in the box. That is how it works at the moment,
 16 in very broad terms.
 17 Now, is it realistic to suppose that back in 2008,
 18 you would have adopted a system based on merchants
 19 bidding in an auction via CSSs, or would you have
 20 preferred to keep the Product Universal free because
 21 charging would have scared off those merchants from
 22 participating?
 23 A. Well, I think, in general, the organic version of
 24 Product Search was intended to be free. But as far as,
 25 like, integrating with comparison shopping engines and

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1 having them mediate, I don't know — I don't know
 2 whether we would have — I just — I just — I don't
 3 know how I can answer that question. It's just
 4 complicated. I don't really understand the current
 5 setting well enough, I think, to say.
 6 Q. Very well. Let me ask you one final question.
 7 If we go back to 2008 and you had been told, first
 8 of all, you now have to charge merchants, okay? All
 9 the merchants, you are not going to get any — you have
 10 to charge merchants and you have to charge merchants as
 11 much as other comparison shopping services charge them,
 12 and let us say also you were told: and there can be no
 13 Product OneBox, or insofar as there is a Product OneBox,
 14 it is not an advantage to you, it has got to be on equal
 15 terms with other CSSs. Google Shopping would not have
 16 succeeded in the way it did, would it?
 17 A. I mean, my own view is that Google Shopping didn't
 18 succeed. Like, Amazon gained share anyway, so I don't
 19 know if there's any 'succeeded as it did'. As I said,
 20 I think — I think we would have —
 21 Q. You would have struggled. You would have really
 22 struggled?
 23 A. No, I think we would have gone to product listing ads.
 24 Q. Okay, so you just would not have had Google Shopping,
 25 you would not have had a CSS at all?

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1 A. I mean, that's where we ended up — that's where we
 2 ended up anyway, even without all of these limitations.
 3 MR JOWELL: Okay. I have no further questions. I think
 4 Mr West may have some.
 5 Cross—examination by MR WEST
 6 MR WEST: Good afternoon, Mr Goodrow.
 7 A. Good afternoon.
 8 Q. When Google Product Search provided the user with
 9 a comparison of different prices for a product, it had
 10 to provide a description of the product on offer on
 11 the page, did it not?
 12 A. I'm not sure exactly what you mean by that.
 13 Q. Well, perhaps we can look at an example, {M3/495/59}.
 14 This is a search for a particular kind of camcorder
 15 and you will see there is an example from Google Product
 16 Search which has been highlighted in red; do you see
 17 that?
 18 A. Yes.
 19 Q. If the user clicked on that, then they are taken through
 20 to the next page, I believe {M3/495/60}, and you will
 21 see that at the top there, there is a description of
 22 the product?
 23 A. Yes.
 24 Q. Then underneath, there is a list of different merchants
 25 who are offering the product?

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1 A. Yes.
 2 Q. That description was not written by Google itself,
 3 was it?
 4 A. No. We sourced that from either the merchant offers or
 5 in some cases directly from the manufacturers.
 6 Q. You say in your evidence that merchants provide — or
 7 some merchants provided Google Product Search with data
 8 feeds; that is right, is it not?
 9 A. Yes.
 10 Q. If the descriptions were in those data feeds, then they
 11 would also appear on other CSSs that the merchants
 12 supplied those data feeds to?
 13 A. I can't say, but possible.
 14 Q. In this particular example, if one assumes that
 15 the description is from Amazon, because that seems to be
 16 the cheapest price, I think it is right to say Google
 17 Product Search did not have a data feed with Amazon,
 18 did it, at this time?
 19 A. We had a variety of situations. Sometimes we did and
 20 sometimes we didn't, sometimes we had a partial feed
 21 with Amazon. But I — the way — just to be clear,
 22 the way the description is created is it's an
 23 aggregation across all of the information we get from
 24 all of the retailers and sometimes also verified with
 25 the manufacturer, and so we take all the information

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1 that we get and try to put it together, where it's
 2 consistent, to create this description.
 3 Q. But the description would be supplied by either
 4 the merchant or possibly the manufacturer?
 5 A. I mean, this description is an amalgam of all of
 6 the descriptions and all the information we got from
 7 the various feeds and — and from the manufacturer.
 8 PROFESSOR SMITH: Can I ask, at what point was that
 9 amalgamation done? It is not done live when
 10 the customer is searching for cameras, is it?
 11 A. No, it's not. It's done in advance, and then — and
 12 then these things are put in the index with that
 13 information, and one of the things that we had to do was
 14 make sure that if one of the merchants removed their
 15 offer, then we had to have sort of a provenance system
 16 that said: oh, well, they have removed their offer and
 17 we got this or that information from that particular
 18 offer and so now we would have to remove that
 19 information, let's say, from the description, because we
 20 no longer sort of have the rights to it.
 21 MS ROSE: So is all of that done automatically?
 22 A. It's all done automatically through, like, basically
 23 some fancy clustering systems, but it's all done offline
 24 in the sense that it's done in advance of someone coming
 25 and seeing it on — on the —

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1 MS ROSE: So like a sort of primitive LLM putting together
 2 descriptions?
 3 A. That's right. That's right, yes.
 4 MR WEST: Could we look at page {M3/495/78} of this. Can we
 5 make that slightly larger.
 6 So this appears to be — this is, again, from Google
 7 Product Search. So would this — is it right to say
 8 that this would be a product page rather than an offer
 9 page?
 10 A. No. This is a search results page and it lists products
 11 which would then lead to product pages.
 12 Q. But we see, in any case, that each description is
 13 the same, is it not?
 14 A. Descriptions, I mean, I guess they're the same. I think
 15 the thing that's different is the — looks like
 16 the RAM of the iPod Classic that's being sold, so those
 17 are the things that are different across all — and
 18 the colours.
 19 Q. Again, it looks like Google Product Search is simply
 20 displaying the descriptions it has been supplied with?
 21 A. I think it's just the description for an iPod, you know,
 22 the part that's different about the 160 GB black and
 23 whatever the 160 GB silver is not in the first portion
 24 of the description, it's probably further on.
 25 Q. If it is right —

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1 THE CHAIRMAN: Where the products are the same but only
 2 the colour is different, there you have got the same
 3 description, yes, it appears?
 4 A. It appears like every — everything here has the same
 5 snippets of the description. I mean, the description,
 6 if you were — I believe that if you were to go to
 7 the — any one of these pages, like the top one,
 8 the description would be much more than that, and
 9 the one for the 160 GB black would say probably near
 10 the end of the description "160 GB black", as opposed to
 11 160 GB silver, or something else.
 12 THE CHAIRMAN: Yes.
 13 A. But this is just — the reason why these are — why
 14 these are the same is that the snippet system just takes
 15 the first few lines of the description and, well, for
 16 all the iPad — all the iPod Classics, they're kind of
 17 the same.
 18 MR WEST: If the descriptions come from the merchant sites
 19 and there are errors in the descriptions that
 20 the merchants provide, those errors can transfer over
 21 into the comparison shopping page, could they not?
 22 A. They could, and, you know, we tried — that's one of
 23 the reasons why we also got information from
 24 the manufacturers to try to correct those sorts of
 25 errors. But, yes, they could. We were trying to figure

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1 out how to prevent that.
 2 Q. Could we look at {J2B/7/1}.
 3 At a certain point in time — this is in 2009 —
 4 Google identified that there were certain textual errors
 5 on the Foundem comparison shopping site and Foundem's
 6 position, as set out in this email, is that the same
 7 errors also appeared on various other comparison
 8 shopping sites, and the first example you will see there
 9 is Google Product Search, and you see the example,
 10 instead of an apostrophe, there is a question mark. So
 11 those are the kinds of errors that could carry over from
 12 the merchant site?
 13 A. Right, like this looks like it's just a — sort of like
 14 a spelling error, but, yeah, there could be all kinds of
 15 errors.
 16 Q. We have a screenshot, it might be useful to look at it,
 17 {M3/567/2}, if we look at page 2.
 18 This, again, is a Google Product Search page; do you
 19 see that?
 20 A. Yes.
 21 Q. That is the example error which we looked at a second
 22 ago in the email, is it not?
 23 A. The "won?t" is misspelled; is that right? Yes.
 24 Q. So that instead of an apostrophe, for some reason, it is
 25 being displayed as a question mark?

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1 A. Right. I mean, yeah, that's probably, like, a character
 2 mistake in terms of how you represent apostrophe in
 3 the ASCII table is my guess.
 4 Q. But if it is found on Google's product search but also
 5 on other CSSs that is likely because it was on
 6 the merchant's site or in the merchant's feed and it has
 7 simply carried over?
 8 A. I mean, certainly if it came — like, we would have
 9 gotten this from either the merchants or from Apple
 10 and — I mean, it could have very well been on the Apple
 11 page.
 12 Q. Could we just look at one or two other examples of
 13 the same kind of thing. At {M3/567/11} of this —
 14 THE CHAIRMAN: I think the point is being made, whether it
 15 comes from the manufacturer or the merchant, if you get
 16 the same mistake appearing also on other CSSs, that
 17 suggests it is on a similar source that you have taken
 18 and they have taken?
 19 A. Yes, I think that would suggest so.
 20 MR WEST: If we go forward to {M3/567/11} of this, one can
 21 see a slightly different type of error here. So instead
 22 of there being a space between the sentences, the space
 23 is missing, and again, it looks like the character is
 24 displaying only instead of a space; do you see that?
 25 A. Yes.

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1 Q. Again, it seems likely that that originated in
 2 the merchant site, because one has the same error
 3 several times on the page?
 4 A. Again, I don't know where it's coming from, but I agree
 5 that it's coming — Google didn't write these things,
 6 they took them from the merchants and the manufacturers,
 7 and so that would be the only source of it.
 8 Q. If we look at {M3/567/14} of this, again, another
 9 example of Google's Product Search pages; is that right?
 10 A. Yes.
 11 Q. What one sees there, it is not an error, but it is
 12 the same description appearing multiple times; do you
 13 see that?
 14 A. Yes, but again, this is the first couple of sentences
 15 from the description, which is what you see in
 16 the snippet. So we would have to go to these pages to
 17 see that they're actually completely the same and
 18 I would expect they would not be.
 19 Q. But in any event, this suggests that the text originally
 20 came from the sites which are being displayed here?
 21 A. I'm sorry, what do you mean by "the sites that were
 22 being displayed"?
 23 Q. So the sites that are being linked to here provided
 24 these descriptions and Google Product Search is then
 25 displaying them?

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1 A. The sites that are being linked to here are the product
 2 pages on Google.
 3 Q. But those then link again onto the merchant pages
 4 ultimately?
 5 A. Those pages would link to merchant pages, and
 6 the descriptions and all the information in fact would
 7 come from the merchant feeds or from the manufacturer.
 8 Q. Now, a comparison —
 9 MS ROSE: To be clear, as I understand your evidence, you
 10 are saying that this is not the description that you
 11 would get verbatim on the site of an individual merchant
 12 whose product was linked to, but it is an amalgamation
 13 of that information with information from other
 14 merchants and the manufacturer, so it is a Google
 15 Shopping description, but it is a mash-up of all
 16 the information from different merchants and
 17 manufacturers?
 18 A. That was the way that it was working when I was on
 19 Product Search, that it would take information from
 20 a bunch of these feeds —
 21 MS ROSE: Yes, and create something that is a Google
 22 description.
 23 A. Yes, that's right, because sometimes we get feeds with
 24 almost no description, and sometimes we get — you know,
 25 other people would send, like, a bunch of information

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1 that was irrelevant and so we'd have to piece that
 2 together to get something coherent, yes.
 3 MS ROSE: But if one of those feeds has got a character
 4 error, that might —
 5 A. We would take — we would take — I mean, the text would
 6 come verbatim from one of them, but we would put it
 7 together. Like if we got something about the number of
 8 megabytes from one merchant and we got something about
 9 the colour from another merchant, then we would
 10 say: okay, it's got this many megabytes and this is
 11 the colour.
 12 MR WEST: Now, a comparison shopping service might seek to
 13 provide some original content in the form of product
 14 reviews, might it not, on its site? That is something
 15 it might do?
 16 A. Sure.
 17 Q. Either written by the comparison shopping service or
 18 possibly by a user of the service who then wrote
 19 a review to display on the comparison shopping site?
 20 A. Yes.
 21 Q. We can see an example of this at {M3/498/17}. Sorry, if
 22 one goes back a couple of pages. {M3/498/15} it might
 23 be. The previous page again, sorry {M3/498/14}. Yes,
 24 could you just — is it possible to make those a bit
 25 bigger?

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1 So that is Foundem's page, Foundem was a comparison
 2 shopping service, and one sees there some reviews on
 3 the left-hand side of what appears to be a telephone
 4 handset and on the right-hand side some wired
 5 headphones; do you see that?
 6 A. I'm having a hard time seeing the reviews. Maybe you
 7 could make one or two of them bigger? Is that what
 8 these are, reviews, the whole thing?
 9 Q. Page 14, was it? Yes, so these are reviews.
 10 A. Okay, yes, I see.
 11 Q. But at this time, Google Product Search did not provide
 12 user-generated reviews on its site, did it?
 13 A. I mean, we had user reviews that we sourced from the —
 14 from across the web. I'm not sure when that started,
 15 and I think Froogle might have also had user reviews.
 16 Q. If we look over the page at {M3/498/15}, that is
 17 Google's product search page there, and we see it's
 18 the review tab. All of those reviews were taken from
 19 Amazon, were they not?
 20 A. No, the bottom one is from something else.
 21 Q. Oh, sorry, you are right, the bottom one is from
 22 a German site.
 23 A. Yeah, from Germany.
 24 Q. I am afraid I do not read German, but all the other ones
 25 are from Amazon?

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1 A. Yeah, that's right, those all came from Amazon.
 2 Q. I believe if one goes to screenshot 16 {M3/498/16}, that
 3 also shows that, because here we have the original
 4 Amazon page with the same text as is being shown here on
 5 Google's Product Search page; do you see that?
 6 A. Yeah, the same — I mean, the same review text, yeah,
 7 that's right.
 8 Q. But in 2010, Amazon asked Google to take its reviews off
 9 of Google's Product Search pages, did it not?
 10 A. I don't know.
 11 Q. Could we look at {J1A/34/47}.
 12 This is the Federal Trade Commission memorandum and
 13 one sees, at the second—bottom paragraph:
 14 "Shortly thereafter, claiming that Amazon's data
 15 feed to Google Product Shopping was too limited, Google
 16 decided not to rely on the feed, but instead, crawled
 17 Amazon's website to scrape the much more detailed
 18 product information — including star ratings and user
 19 reviews. Google also relied on Amazon's web pages that
 20 indicate the ranking of products within Amazon. Google
 21 used — and continues to use — this information to
 22 determine the order in which to rank products within
 23 Google Product Search."
 24 Then:
 25 "In August 2010, around the same time that Yelp

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1 requested that Google remove Yelp's content from
 2 Google Local, Amazon requested that Google stop using
 3 Amazon's crawled product reviews in Google Product
 4 Search."
 5 Does that assist your memory of this event?
 6 A. I — I don't have any particular memory of that event.
 7 Q. Can I just perhaps show you one other very brief
 8 reference {M1/354}. It may perhaps be the next page.
 9 THE CHAIRMAN: Sorry, when it says, at the top, "Shopping
 10 update for OC", "OC" would be ...?
 11 A. So "OC" was a group that was like a management committee
 12 at the time, and so it would include the people who were
 13 leading search, for sure, so like Marissa and Ahmed and
 14 Udi, and I think it may have included a broader set of
 15 people across Google.
 16 MR WEST: Sorry, this is the right page. It is paragraph 2:
 17 "As far as lowlights go, I would share that Amazon
 18 has requested to remove their product reviews from
 19 product search."
 20 But you do not recall this happening?
 21 A. I don't recall that happening.
 22 Q. In any event, Google never provided its own reviews or
 23 any unique reviews generated by users of Google Product
 24 Search within Google Product Search?
 25 A. I don't remember.

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1 Q. So the quality of a comparison shopping service does not
 2 depend, does it, on that comparison shopping service
 3 providing its own unique product reviews?
 4 A. That would certainly enhance the quality, if it did,
 5 I suppose.
 6 Q. But the mere fact that it does not have one does not
 7 mean, of itself, that it is a low quality comparison
 8 shopping service?
 9 A. I don't think so, that alone is probably not the only
 10 reason that it could be a low quality. There may be
 11 other reasons for it to be a low quality.
 12 Q. Now, Froogle had come to an end before you joined
 13 Google, but you do provide some useful information
 14 about it. At paragraph 29 of your statement {H3A/6/8},
 15 you say it did not provide any grouping or clustering
 16 functionality; do you recall that?
 17 A. Yes.
 18 Q. It only returned offers, and users then had to navigate
 19 to the merchant sites for more detail on what the offers
 20 were for; do you recall that?
 21 A. Yes.
 22 Q. So what that means is, when the user was presented with
 23 a list of offers on Froogle, those were not necessarily
 24 all offers for the same product?
 25 A. Well, I think Froogle would try to make it so, but the

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1 user would have to check the merchant sites to be sure.
 2 Q. Well, surely trying to make it so is exactly
 3 the grouping or clustering functionality which you tell
 4 us that Froogle did not have?
 5 A. Well, I mean, it didn't offline group them, it tried to
 6 make it so in the sense that it would — its ranking
 7 would try to make sure that, you know, they weren't
 8 accessories instead of products and that the things at
 9 the top were for the same thing, but, yeah, I mean, it
 10 didn't do a clustering — an offline clustering like we
 11 discussed that Google Product Search did.
 12 Q. But it is a pretty fundamental piece of functionality
 13 for a comparison shopping service, is it not, that when
 14 it displays a list of offers, they are all offers for
 15 the same product?
 16 A. Yeah, it really depends on what sort of a circumstance
 17 you're talking about. Like, if you're searching for,
 18 I don't know, clothes, then you're going to see a list
 19 of literally different clothes, so that's a list,
 20 they're not all for the same thing, but that's
 21 appropriate. It's only when you — what you don't want
 22 is a bunch of repeated — what look like the same things
 23 repeated, but they're not actually the same thing, and
 24 anyway, the redundancy is not helpful. So maybe that's
 25 what you're trying to say.

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1 Q. Well, it might be — I think you discussed earlier in
 2 your evidence, there might be two things the user might
 3 want to do: the user might want to just compare offers
 4 for a single product, or the user might want to compare
 5 different products to decide which product it wishes to
 6 purchase?
 7 A. Correct.
 8 Q. But in order for the user to compare offers for the same
 9 product, the CSS has to provide this grouping
 10 functionality. That is the point I am putting to you.
 11 A. It makes it much easier, that's right.
 12 Q. Google Product Search only provided that kind of
 13 functionality after the change from Froogle to GPS,
 14 did it not?
 15 A. Yes, that's right.
 16 Q. That happened in around mid-2007, before you joined
 17 Google, but thereabouts —
 18 A. Yes.
 19 Q. — is that right?
 20 You do not say specifically when GPS introduced
 21 this, but could I show you an article at {M3/498/9}.
 22 This is in a publication called "Search Engine Land".
 23 Were you familiar with that?
 24 A. Yes.
 25 Q. "Google Product Search Gets More Useful.

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1 "I've personally never found Google Product search
 2 all that useful, but hopefully that will change now.
 3 Google Operating System reports that Google Product
 4 Search has undergone a redesign of some sort.
 5 "In the past, Google Product Search just showed you
 6 results but did not group stores offering to sell
 7 the same product with reviews ..."
 8 Then it carries on:
 9 "... and technical specifications. Now, for some
 10 searches, Google groups store results, shows reviews on
 11 Google, and also shows product specifications."
 12 So it looks from this as if the change was
 13 introduced in April 2008, which is when the article was
 14 published?
 15 A. Well, no, I wouldn't say that. It was introduced before
 16 April 2008, but, you know, we may not have gone out and
 17 tried to get an article written about it until quite
 18 some time after it was introduced.
 19 Q. So you think that when this article was written about
 20 changes to Google Product Search, in fact these changes
 21 had come in before, some time before?
 22 A. I am certain of it.
 23 Q. Well, could we look at {M1/97}.
 24 I think we saw this this morning. Under point 2.
 25 So this is dated June 2007, I believe. Under item 2:

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1 "Our UI for product search result is poor and we do
 2 no clustering ..."
 3 So it does not appear to have come in by mid-2007;
 4 would you agree?
 5 A. I think that's probably true, yes.
 6 Q. But the point goes on:
 7 "... I think Froogle is almost there. With a little
 8 work on the data cleaning and clustering issue we could
 9 point people to our grid-view Froogle result in these
 10 cases."
 11 So the work was still ongoing at mid-2007?
 12 A. Yes, I believe that's true.
 13 Q. So in any event, it appears on your evidence, it came in
 14 at some point between then and the article we saw in
 15 April 2008?
 16 A. Yes, and I would say it had — some of them had launched
 17 even before I joined in February of 2008.
 18 Q. Could we look at paragraphs 39 to 40 of Mr Raff's
 19 statement {H2A/2/15}.
 20 So Mr Raff there says that:
 21 "By June 2006, [Foundem] had introduced the fully
 22 search-engine crawlable version of [its] [CSS], where
 23 the leaf-nodes of our product hierarchies (ie, the
 24 various available makes and models within each product
 25 category) were comprised of a clickable and filterable

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1 grid of these various makes and models, together with
 2 a summary of the lowest and highest price for which each
 3 could be purchased."
 4 There is an example given there.
 5 Then:
 6 "When a user or search engine crawler clicked on one
 7 of these products, they would be taken directly to
 8 the detailed price comparison page for the relevant
 9 product featuring all of the available offers for that
 10 product, sorted by price."
 11 So, Foundem had this clustering or grouping
 12 functionality, based on Mr Raff's evidence, from 2006,
 13 and this is the same functionality which was only
 14 introduced by Google Product Search some time between
 15 mid-'07 and April 2008; is that right?
 16 A. The functionality of grouping offers together under
 17 a product was introduced on Google Product Search in
 18 the time frame that you mentioned.
 19 Q. Now, as we have discussed, Froogle had some quality
 20 issues, and when you arrived at Google, part of your
 21 role was to improve the quality of Google Product Search
 22 and make it more competitive with other competing
 23 comparison shopping services; is that right?
 24 A. My goal was to improve Product Search and make it
 25 competitive with Amazon so that Google could compete

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1 with Amazon.
 2 Q. Could we look at {M3/498/7}.
 3 This is the homepage, is it not, of Google Product
 4 Search as you would have recalled it, the search page?
 5 A. Yes, I think that's right.
 6 Q. Specifically, on the left-hand side, the main search
 7 page, and on the right-hand side, the advanced product
 8 search page?
 9 A. Yes.
 10 Q. If we go on to the next page {M3/498/8}, this is an
 11 example search. You will see the search query that has
 12 been entered "Sony digital camera", and we can see
 13 the attribute filters down the left-hand side. Do you
 14 see those?
 15 A. Yes.
 16 Q. We have a price filter and a brand filter; do you see
 17 those?
 18 A. Yes.
 19 Q. But no filters which are specific to the product
 20 category, i.e. cameras?
 21 A. There's this thing that says "category" above, main
 22 category, "Digital Cameras", "Video Cameras", "Camera
 23 Bags" and so on. That — that's not what you mean?
 24 Q. I mean specific filter parameters which — filter
 25 parameters which are specific to cameras.

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1 A. Filter parameters — so you mean like point and shoot,
 2 SLR, things like that?
 3 Q. Yes.
 4 A. I see. No, I don't see any. What domain is this, by
 5 the way? I can't tell. Do you know? I guess it must
 6 be .UK, because it says the location is in England.
 7 Q. Yes, looks like it.
 8 A. Okay.
 9 THE CHAIRMAN: The prices are in pounds.
 10 A. Yeah, and the prices are in pounds. Good point.
 11 MR WEST: Could we look at {M3/498/1}. Sorry, that is where
 12 we are. Page 1 for this same document. If we could
 13 look at that in a bigger size.
 14 This is Foundem's page.
 15 (Off microphone discussion)
 16 I am just checking when the date is.
 17 (Pause)
 18 What one sees, on the right-hand side, if one looks
 19 at — so this is a search for LCD TVs, and what one
 20 sees, on the right-hand side [sic], is that as well as
 21 "Make", "Model Range", "Shop" and "Price", one has
 22 product-specific parameters, search parameters for
 23 "Screen Size" and "Features", such as Freeview and
 24 Freesat. Again, those would be specific to televisions,
 25 would they not?

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1 A. You're talking about the left-hand side now?
 2 Q. The left-hand side, yes.
 3 A. Yes.
 4 Q. Earlier in your evidence, when you were being asked
 5 questions by Mr Jowell, you talked about a product page.
 6 Is this an example of a product page, the kind of
 7 product page that you were talking about where users can
 8 compare different products?
 9 A. No. The product page is for a specific product.
 10 Q. Well, is that not the comparison — the price comparison
 11 page that we see on the right-hand side?
 12 On the right-hand side, we can see there are prices
 13 displayed for a specific model of television, whereas on
 14 the left-hand side, there are different models of
 15 television and the user can compare and contrast
 16 the different models.
 17 A. So you're — you're saying that the right-hand side
 18 would be the product page?
 19 Q. The left-hand side.
 20 A. No, the left-hand side is a search results page, at
 21 least as I view it. It has a bunch of different
 22 products, you know, different sized TVs and whatnot.
 23 The right-hand side appears to be something like
 24 a product page, at least that's how I would view it, and
 25 — and so they're all supposed to be for this one

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1 particular — all the offers are for this one particular
 2 product, the Samsung LCD television.
 3 Q. Maybe it is the terminology that is confusing, but the
 4 right-hand side is price comparison for a specific
 5 product.
 6 A. Yes.
 7 Q. The left-hand side is comparing different products.
 8 A. That's right.
 9 Q. Yes.
 10 The functionality there in the left-hand side of
 11 being able to compare and contrast different products is
 12 what you were saying earlier that you thought was
 13 a useful functionality for a comparison shopping
 14 service?
 15 A. Yes.
 16 Q. That is what users want to do when they go shopping
 17 online?
 18 A. Yes.
 19 Q. If we go on to the next — sorry, before we move on.
 20 You will see that there is a diagram in orange in
 21 the top right. That is the price history graph. Can
 22 you see that?
 23 A. Yes.
 24 Q. If one goes on to the next page {M3/498/2}, on
 25 the left-hand box, you can see that the page is

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1 providing auto—complete functionality when someone types
 2 in a search term; do you see that?
 3 A. Yes.
 4 Q. At the time that you were working for Google Product
 5 Search, these were not features which Google Product
 6 Search offered?
 7 THE CHAIRMAN: Which, when you say "these"?
 8 MR WEST: Well, we had the price history graphs, for
 9 example.
 10 THE CHAIRMAN: Let us do them one by one.
 11 A. I don't remember having a price histogram, no.
 12 MR WEST: Auto—complete functionality?
 13 A. I'm pretty sure we had auto—complete, yeah. I mean, we
 14 inherited that from Google, actually, because Google had
 15 auto—complete.
 16 Q. As we see, it did not have product—specific search
 17 parameters?
 18 A. No, we definitely did. We may not have shown them on
 19 that particular instance, but we definitely did.
 20 Q. If we go over the page again {M3/498/4}, these are
 21 screenshots from an iPhone app for the Foundem CSS.
 22 Again, that is not something which Google offered at
 23 this time?
 24 A. No, I don't remember us having an app at this time.
 25 THE CHAIRMAN: Sorry, these are — what we are looking at

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1 now is an iPhone — because we have not heard much about
 2 apps so far, an iPhone app for Foundem; is that right?
 3 MR WEST: Yes.
 4 If we look at {H2A/2/35}. Is it possible to zoom in
 5 on the screenshots?
 6 The one in the middle and on the right I think we
 7 have seen before, but that is comparing different
 8 products and then the price comparison for one product.
 9 The one on the left—hand side here is the homepage
 10 and it enables the user to carry out a search simply by
 11 clicking through on the product on the grid; do you see
 12 that?
 13 A. Yes.
 14 Q. Again, that is not something which Google Product Search
 15 offered while you worked there?
 16 A. Well, we did experiment with that, but we decided that
 17 it's not the way users wanted to search for product or
 18 find products. So what we found instead, rather than
 19 giving categories, we instead, on our homepage, put
 20 specific products, because that seemed like what our
 21 experiments said users preferred.
 22 Q. Could we look at {M3/498/6}, which may be a better
 23 version of this. I apologise, that is a better version
 24 of the same thing we have been looking at at the top.
 25 Do you see, at the bottom, we have the equivalent on

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1 Google Product Search as it has appeared since
 2 June 2012? So do you see that on the far left, one now
 3 has a product — clickable product grid homepage?
 4 The middle one has the ability to compare products and
 5 then, on the right, the comparison shopping
 6 functionality?
 7 A. Yes.
 8 Q. So that does appear to be something that Google Product
 9 Search has since introduced?
 10 A. I can't really say the one on the left, but I knew, of
 11 the two, the one in the middle, I'm very familiar with,
 12 and the one on the right, I'm also very familiar with.
 13 Q. While you were there, the search function was always
 14 form—based?
 15 A. I'm not sure what that means.
 16 Q. That was the form we looked at, where the user has to
 17 put in a search query?
 18 A. Yes, I mean, if what you mean is that a search starts
 19 with a search query, then Google was pretty committed to
 20 that — that way of finding things.
 21 Q. It is right, is it not, that Google did not sort its
 22 results by price by default, did it, when it displayed
 23 individual offers?
 24 A. No, we sorted the results by relevance to the query,
 25 because, if you sort by price, you get a lot of

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1 irrelevant things.
 2 Q. There was an option to sort by price, was there not?
 3 The user could choose to sort by price?
 4 A. Yes.
 5 Q. But you say, when they did so, the results would feature
 6 a lot of, I think you said, "irrelevant things"; is that
 7 right?
 8 A. It could feature irrelevant things, that's right.
 9 Q. Like accessories rather than the main product?
 10 A. Among other things. I mean, it's just a — we felt like
 11 it was most important to search — sort by relevance to
 12 the product — to the query rather.
 13 Q. Can we look at paragraph 36 of your third statement
 14 {H3A/13/12}. This is about sorting by price. You say:
 15 "Product results were not sorted by price by default
 16 because we in the Google Product Search team found that
 17 users did not want that. Instead, regardless of whether
 18 results on Google Product Search were presented on
 19 the search results page in a list or a grid, they were
 20 by default ordered according to relevance to the user
 21 query. This generally didn't take price into
 22 account — to the extent price was taken into account,
 23 this was likely secondary. When I first joined
 24 the Google Product Search team in February 2008,
 25 I remember results were primarily ordered by price.

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1 However, when we tested this, we found that users were
 2 clicking on results that appeared further down
 3 the search results page, which told us we weren't
 4 ordering them in the right way."
 5 If you then look at paragraph 38 {H3A/13/13}, about
 6 halfway down, you say:
 7 " ... if you sort lowest to highest, the accessories
 8 come to the top because they are usually cheaper than
 9 the primary product ..."
 10 Do you see that?
 11 A. Yes.
 12 Q. That is likely the explanation, is it not, of why
 13 the users were clicking on not the top results but the
 14 results further down, because the top results would have
 15 been the accessories and therefore, if it was ordered by
 16 price, they would have been cheaper?
 17 A. No, we saw that across the board, even in cases where
 18 there were no accessories. Like, even if you just
 19 search for clothes, there's no accessories for clothes,
 20 and if you sort highest to lowest, or lowest to highest,
 21 neither of these things are really what we found that
 22 users wanted. What we found is that we would try to
 23 make it most relevant to their query.
 24 Q. Could we look at {M3/498/13}. This is a search on
 25 Google Product Search for the term "Nikon D7000", which

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1 is a type of camera, I believe, but we see there
 2 the first three results are not the camera, they are
 3 books or DVDs about the camera, so this is an example of
 4 accessories being promoted to the top when the results
 5 are ordered by price on Google Product Search; that is
 6 right, is it not?
 7 A. Yes, because the user asked us to sort the results —
 8 you see in the top right it says, "Sort by: price, low
 9 to high", and so, like, we have to respect that and sort
 10 the results by low to high, which means that, like we
 11 said, the accessories are likely to come up to the top.
 12 Q. Because Google Product Search's grouping functionality
 13 did not enable you to distinguish the main product from
 14 the accessories?
 15 A. No, it's because the user asked us to sort it low to
 16 high. They have a query, we found all the things that
 17 matched the query, and then the user asked us to sort it
 18 low to high, so, I mean, it would be a — we — we found
 19 that users would be upset if we didn't put the lowest
 20 price thing there, because they'd scroll down
 21 the results and say, "What's this; there's a lower
 22 price; don't you know how to order by price"? It would
 23 look broken otherwise.
 24 Q. Could we look at one more example {M3/495/3}. This is
 25 a search for a particular kind of motorcycle helmet on

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1 Google, and clicking through to the Google Product
 2 Search page, which is on the next page {M3/495/4}, these
 3 have been sorted by relevance, we can see that; do you
 4 agree?
 5 A. Yes, that's what it says in the "Sort by" (inaudible).
 6 Q. But if the user then asks to sort by price, I think we
 7 need to go to slide 6 {M3/495/6} of this deck. Again,
 8 we see the same thing, the accessories come to the top
 9 of the list?
 10 A. Yes, I mean, they have to, because otherwise the lowest
 11 price result would not be at the top. When you sort low
 12 to high, the numbers have to be in increasing order,
 13 the prices have to be in increasing order, therefore
 14 the accessories must be at the top.
 15 Q. Well, if we look at page {M3/495/27} of this deck it
 16 shows you what happened if you do the same search on
 17 Foundem.
 18 A. (Pause). Is it the same search? Is it prices sorted
 19 low to high?
 20 Q. This is with prices sorted low to high.
 21 A. So they don't have any accessories?
 22 Q. The accessories have been filtered out from the results;
 23 do you see that?
 24 A. But why? That means you're missing results for this
 25 query.

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1 Q. It means it is producing results for the helmet itself.
 2 A. No, I mean, I'm sure that some of the accessories have
 3 that some string in them, "Shoel XR-1000", and if you
 4 don't show them, then you're — then how am I supposed
 5 to get to them? How does one get to them? Scroll down?
 6 Q. Searching for the accessory, I suggest.
 7 A. By typing "accessory" or something? I mean —
 8 Q. Well, "chin strap", or whatever it was.
 9 A. I see. I mean, that wasn't the way we thought that
 10 sorting should work. We thought that sorting should
 11 show you all the things that match your query, sorted
 12 low to high. So, yeah, if you sorted low to high, we
 13 would certainly not demote accessories or anything like
 14 that, because we thought that was not what the user had
 15 asked us to do.
 16 Q. I suggest that is simple, basic grouping functionality.
 17 A. I mean, it — I just disagree. I think that it's
 18 a broken experience.
 19 Q. We looked at an example earlier at {M3/495/60} of
 20 a camcorder within Google Product Search's results; do
 21 you remember that?
 22 A. Yes, I do think I remember looking at this, yes.
 23 Q. These results also seem a little strange because, if you
 24 look at the top price for this item, it is £94 on
 25 Amazon, which is much cheaper than any of the others; do

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1 you see that?
 2 A. Yes.
 3 Q. What we see if the user clicks on that is, I think,
 4 the next page of this slide {M3/495/61}. We can see
 5 the same price there on the page; do you see that?
 6 A. Yeah, 94, but it's a different camera; is that
 7 the point?
 8 Q. It is a different camera, is it not?
 9 A. Yeah.
 10 Q. So these are from Amazon, so Google's product search
 11 would have provided these results contents by scraping
 12 Amazon's content; is that right?
 13 A. It depends on the exact moment in time. Sometimes we
 14 got a feed, sometimes we scraped, sometimes the feed
 15 wasn't complete so we had to augment it or check it, so
 16 it really depends on the exact time, and I don't know if
 17 I could remember exactly when things came from feed and
 18 when they were scraped.
 19 Q. This is a pretty basic mistake for a CSS to be making,
 20 is it not?
 21 A. Yeah, this is — this is something that we were working
 22 to prevent, if this was actually what happened.
 23 Q. So Google was starting from a fairly low base with its
 24 comparison shopping service with Froogle and it appears
 25 that it was still having some teething problems at this

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1 time?
 2 A. We're always working to improve the quality by matching
 3 the products and offers together.
 4 THE CHAIRMAN: Would that be a convenient point, Mr West?
 5 MR WEST: It would. I have not got very much longer, but
 6 obviously we also have re-examination, so I do not think
 7 that we will be able to finish today.
 8 THE CHAIRMAN: Well, Mr Goodrow has been in the box quite
 9 a while, but there is not another image page you want to
 10 put on this theme, is there? Or is there?
 11 MR WEST: Can I review that overnight? I am sorry I cannot
 12 give a more satisfactory answer.
 13 THE CHAIRMAN: That is probably sensible.
 14 So we will rise now, Mr Goodrow, in a moment and
 15 continue your evidence in the morning. So I have to
 16 remind you that overnight you cannot discuss
 17 the case/your evidence, with anyone in the legal team,
 18 but also indeed in Google or indeed with anyone at all.
 19 So think about other things, the football, if you are
 20 interested in that, or whatever —
 21 A. Yes.
 22 THE CHAIRMAN: — but not this.
 23 Mr Pickford, did you want to say something? You are
 24 not obliged to say anything.
 25 MR PICKFORD: No, it was merely that I had understood, but

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1 obviously I am entirely in the Tribunal's hands, that we
 2 were sitting to 4.45 today.
 3 MS ROSE: I have to judge a moot.
 4 MR PICKFORD: Sorry?
 5 MS ROSE: I have to judge a moot.
 6 MR PICKFORD: That is understood. Thank you.
 7 THE CHAIRMAN: But it does not look — at the moment,
 8 looking the timetable, we are not in difficulties, are
 9 we?
 10 MR PICKFORD: No, I think we are doing well.
 11 THE CHAIRMAN: Good. So we will rise now and resume at
 12 10.30 tomorrow.
 13 (4.29 pm)
 14 (The Court adjourned until 10.30 am on Tuesday, 7 July 2026)
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