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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE ANDRÉ BIROTTE JR., U.S. DISTRICT JUDGE

DISNEY ENTERPRISES, INC., ET)
AL.,)
)
 PLAINTIFFS,)
)
 vs.) No. CV 16-4109-AB
)
 VIDANGEL, INC.,)
)
 DEFENDANT.)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FRIDAY, JUNE 14, 2019

8:54 A.M.

LOS ANGELES, CALIFORNIA

Day 4 of Jury Trial, Pages 674 through 816, inclusive

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I N D E XJUNE 14, 2019

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1 LOS ANGELES, CALIFORNIA; FRIDAY, JUNE 14, 2019

2 8:54 A.M.

3 - - -

4 (The following was heard in open court outside the
5 presence of the jury:)

6 THE CLERK: Calling CV 16-4109-AB, Disney
7 Enterprises, Inc., et al., versus VidAngel, Inc., Jury Trial
8 Day 4. Counsel, please step forward and state your
9 appearances.

10 MR. KLAUS: Good morning, Your Honor.
11 Kelly Klaus, Rose Ehler, Blanca Young for the plaintiffs.

12 THE COURT: Good morning.

13 MR. EISENHUT: Good morning, Your Honor.
14 Mark Eisenhut, Sam Brooks, Morgan Philpot, with our client,
15 Neal Harmon.

16 THE COURT: Good morning to you all. Happy
17 Friday.

18 There was one preliminary issue I was thinking
19 about looking into last night. The issue -- I guess we'll
20 call them surveys or the customer reviews. I tried to look
21 into this issue further last night. I don't see any
22 exception to the hearsay rule. I don't think it fits within
23 residual exception even, and I'm not sure, again, that it's
24 relevant, and I know we have done the back-and-forth as it
25 relates to that, but I don't see any reason to introduce

1 that testimony.

2 Mr. Brooks, you wish to be heard?

3 MR. BROOKS: Your Honor, I did a little bit of
4 research as well. I did find some authority saying that
5 surveys can come in under the residual exception.

6 THE COURT: At the Court's discretion or --

7 MR. BROOKS: Yes. Well, I mean, there's certain
8 things that the Court needs to find in order for them to
9 come in under the residual exception. Really, it's the
10 circumstantial guarantees of trustworthiness, which I think
11 is satisfied here but setting that aside, I don't think we
12 need to introduce the surveys themselves; but I am planning
13 to get some testimony about what VidAngel learned, the
14 purpose for doing those, what they learned and what they did
15 as a result of the surveys, which I think that would be
16 relevant and that would not be hearsay.

17 THE COURT: You can ask what you did as a result
18 but what you learned is hearsay; right? It's the contents
19 of what the responses were; correct?

20 MR. BROOKS: It would be VidAngel's state of mind.
21 Regardless of whether the people answering the surveys were
22 telling the truth or not, the fact that VidAngel took
23 something from that and adjusted what they were doing
24 because of it, that's not hearsay.

25 THE COURT: It's not being offered for the truth?

1 MR. BROOKS: We would not be offering it for the
2 truth. And if there is any confusion about that, I would be
3 fine with you including a limiting instruction, but I don't
4 think it will be confusing.

5 THE COURT: I just want to make sure we're clear.
6 Yesterday you said you were offering it for the truth;
7 right?

8 MR. BROOKS: Yesterday I was thinking we would.
9 After I did a little bit more research and thought about
10 really what we were using them for, I think, regardless of
11 whether we show the surveys, really what we want to use them
12 for is to show what VidAngel thought the surveys meant and
13 what it did in response to them.

14 And I think that's -- if -- I think that's
15 certainly relevant, and it's not within the hearsay
16 exclusion.

17 THE COURT: Ms. Ehler, in light of the change in
18 argument, what, if any, response do you have? I guess,
19 trying to focus the argument, could an argument be made that
20 it's not being offered for the truth of the matter but
21 simply to show why the defendants did what they did, could
22 that -- could a limiting instruction satisfy any concerns
23 you may have in that regard?

24 MS. EHLER: I would be fine, Your Honor, if the
25 question is did you do a survey? What did you do as a

1 result?

2 But I think the piece that is troublesome is
3 the -- what did you interpret the survey to mean? Or what
4 did you learn from the survey? Or how did VidAngel
5 understand the survey?

6 That's just a question that gets at what the
7 survey said, which is hearsay. So if we're skipping that
8 part and we're saying you did a survey, then what did you
9 do, that's fine. If we are getting at what the results are
10 from the survey, it's hard for the jury --

11 THE COURT: The defense are saying that they're
12 not offering it for the truth. They're offering it to -- I
13 assume, to say we did something else because everyone said
14 they loved VidAngel.

15 MS. EHLER: I understand that argument, but I
16 think that goes -- we can solve it based on what they did,
17 they did a survey and what they did as a result. I still
18 think the contents of what the survey said are -- it's going
19 to be confusing for the jury to not think that that's what
20 the survey said and they should take that as a fact.

21 THE COURT: Mr. Brooks, can you shed some light,
22 to the extent you know, what's your offer of proof? What is
23 this witness going to say in response to those questions?

24 MR. BROOKS: Certainly, Your Honor.

25 So the witness -- if I can just preface it with

1 saying, you know, it's not really -- would make very little
2 sense to say did you do a survey and then what did you do as
3 a result without any context as to why they thought they
4 should do those things.

5 But I expect the witness will testify that they
6 learned that customers wanted the filters for their
7 families, the customers wanted it specific filters, that
8 some customers appreciated the filters for addressing things
9 like PTSD and avoiding trigger scenes, those sorts of
10 things, and that helped VidAngel with their customer service
11 to really tailor their product to what their customers
12 wanted.

13 THE COURT: Thank you for that. But this is after
14 the company is up and running; correct?

15 MR. BROOKS: Yes, it's while -- so it's customers
16 who are giving feedback as they watch. So, you know,
17 including customers -- so there is different kinds of
18 surveys.

19 Some of them were done through SurveyMonkey, where
20 they would send out to customers questions, and others were
21 just after the movie was done, it was, like, How did you
22 like this movie? and then there would be a comment box.

23 But they took those comments and they looked for
24 themes and they -- based on those themes, they tried to
25 tailor their service to what the customers were saying they

1 wanted.

2 THE COURT: But, I guess, as it relates to that,
3 how would -- again, I am having difficulty understanding the
4 relevance at that point in time. I get the defendant wanted
5 to create this company, did all the testing to show that
6 this is a need. So now the company is up and running, he is
7 getting feedback -- the defendants are getting feedback, and
8 so what did they do differently or so -- what did they do
9 differently that has a relevance to willfulness or the
10 issues in this case?

11 Because my understanding is, look. The company is
12 up and running, they're getting feedback. Okay. Let's
13 assume from what I understood, they're making tweaks to the
14 filters, et cetera. The initial response is okay and all
15 right, that's great, but how does that bear any relevance
16 that they made additional tweaks after the company was up
17 and running? It's a filtering company. I mean, that's what
18 their whole model was.

19 MR. BROOKS: Willfulness isn't the only issue in
20 this case but --

21 THE COURT: Right.

22 MR. BROOKS: -- the plaintiffs' argument that
23 we've been able to infer so far is that VidAngel was focused
24 so much on just trying to build their business with the
25 \$1.00 pricing, that the filters didn't even matter.

1 And, you know, I think we need to show -- and I
2 don't think it's -- you know, I don't think it's irrelevant
3 to show that they understood that what the customers wanted
4 was filtering, including at a good price that they could
5 afford and they were in good faith trying to offer this
6 service in compliance with the law.

7 THE COURT: Right. But what do these SurveyMonkey
8 surveys and comments to the videos have to do with that?

9 MR. BROOKS: Well, I would point out that
10 yesterday, when Dr. Duckworth was talking, the plaintiffs
11 put up examples of filters that they thought were
12 non-substantive. They highlighted them from the Lichtman
13 report, and they thought that was relevant.

14 THE COURT: But there has been testimony -- there
15 has been ample testimony on the other side, I mean, to show
16 here are all the different kinds of filters. I don't think
17 that's in dispute.

18 Maybe I am missing something because I am not sure
19 I understand -- there is no dispute that there are other
20 filters that are utilized within VidAngel.

21 The plaintiff says, yeah, but some of those
22 include bogus ones -- opening credits, closing credits. You
23 say there are all these other filters. I'm not seeing --
24 where is the dispute as it relates to that?

25 MR. BROOKS: Well, I think the dispute is that the

1 plaintiffs are making it out that the filters were just a
2 loophole, that they were not legitimate, and we need to make
3 the case that it was legitimate. And it won't take much
4 time, Your Honor, to go through this, and, you know,
5 relevance is --

6 THE COURT: I didn't know that was a factor in the
7 analysis as far as time --

8 MR. BROOKS: In 403 it is. And if that's the
9 argument, is that this is just a 403 issue because
10 hearsay -- we're not offering for the truth, you know, it's
11 not going to be wasting time. It's not cumulative.

12 If there is any question about confusion or
13 prejudice I have already said we would be okay with a
14 limiting instruction to say don't consider it for the truth.

15 I just don't see the problem in letting us put on
16 something that we believe the jury will find relevant,
17 particularly, when it's responsive to things that the
18 plaintiffs believe the jury will find relevant.

19 THE COURT: We have a slightly -- we have a slight
20 disagreement of opinion, but, in the abundance of caution, I
21 will allow you to introduce some testimony with respect to
22 it. It's not being offered for the truth of the matter.
23 It's being offered as you are representing to show
24 defendant's state of mind, and I am going to take your
25 representation to heart, and the jury will receive a

1 limiting instruction to that effect.

2 All right. Thank you.

3 Anything else that we need to discuss before we
4 bring the jury in from your standpoint?

5 MR. BROOKS: I guess just as far as the limiting
6 instruction goes, that would only apply to this testimony,
7 and it would clearly not apply to the survey that
8 Dr. Duckworth did, which was an expert survey.

9 THE COURT: Right.

10 MR. BROOKS: Thank you.

11 THE COURT: From the plaintiff, anything further
12 that we need to discuss?

13 MS. EHLER: Very briefly, Your Honor. There is an
14 exhibit that came in yesterday. It's 2492. It was the
15 document that defendant used to show that Al Podrasky, who
16 is an employee of one of the plaintiffs, has an account on
17 VidAngel. It has his home address, and so we'd like that
18 be -- that personal information be sealed in the public
19 record.

20 THE COURT: Any objection from the defense?

21 MR. BROOKS: No objection.

22 MS. EHLER: Thank you.

23 THE COURT: I will let you all work on how to do
24 that. That's fine.

25 Mr. Quinto.

1 MR. QUINTO: Thank you, Your Honor. Very briefly.
2 When we broke yesterday, the Court made a
3 statement suggesting that I had taken advantage of the
4 Court's generous ruling that I be permitted to stay in the
5 courtroom during testimony. I want to assure the Court,
6 first, that I am grateful for the Court's ruling and it did
7 not intend to anything the Court did not anticipate.

8 I did not want to be at counsel table simply
9 because I did not want to be perceived as a member of the
10 trial team --

11 THE COURT: If that were the case then, Counsel,
12 why were you essential if you are not going to be at counsel
13 table? Are you advising from the galley? Is that it?

14 MR. QUINTO: I have advised at every
15 opportunity --

16 THE COURT: So should I assume, then, that you
17 have been here during the whole course of the proceedings
18 every day of the trial, from beginning to end?

19 MR. QUINTO: Well, as the Court noted yesterday,
20 there had been a few brief periods when I was not inside the
21 courtroom, but I have been present for 95 percent, I would
22 say, of the testimony.

23 THE COURT: Okay.

24 MR. QUINTO: And, again, Your Honor, I did not
25 intend in any way to take advantage of the Court's

1 generosity.

2 THE COURT: Okay. Duly noted. I'm not sure what
3 you want me to say in response.

4 MR. QUINTO: Thank you, Your Honor.

5 THE COURT: All right. And then I did notice, I
6 guess this morning, about 6:30 this morning, there was a
7 filing from the plaintiff with respect to proposed jury
8 instructions. Hopefully, we'll deal with that this
9 afternoon. I'm going to assume, Mr. Quinto, or Ms. Ehler or
10 Ms. Young, that you are not the author of these documents?
11 Would that be a fair statement?

12 MR. KLAUS: If it had my signature on it,
13 Your Honor, I take responsibility --

14 THE COURT: I understand. That's not the issue.
15 I am just curious, who are these lawyers that are delegated
16 to the galleys of Munger, Tolles & Olson that are filing
17 these documents at 6:30 in the morning? I am just more
18 curious than anything else. Is there a Ms. Yee,
19 Ms. Herrera, or is it -- and I don't know -- Rowley Rice?
20 Okay.

21 MR. KLAUS: They are there, Your Honor. So you
22 know who they are.

23 THE COURT: Hopefully they will be adequately
24 compensated come bonus time because they have been working
25 triple time during the course of this trial, if they had

1 anything to do with these early morning and late night
2 filings.

3 So if you all want a copy of the transcript, you
4 can order it at the end of the trial. All right.

5 With that, why don't we bring in the jury and
6 resume the trial.

7 Why don't we have Ms. Ellis -- if she's outside,
8 why don't we just bring her in so we'll be ready to go.

9 (The following was heard in open court in the presence
10 of the jury:)

11 THE COURT: Good morning, ladies and gentlemen.
12 Happy Friday to you all. We're ready to resume our
13 testimony in this case.

14 So with that, Mr. Brooks, you may proceed.

15 ELIZABETH ELLIS,

16 having been previously duly sworn,

17 testified further as follows:

18 DIRECT EXAMINATION (RESUMED)

19 BY MR. BROOKS:

20 Q Good morning, Ms. Ellis.

21 A Good morning.

22 Q I believe you testified yesterday that VidAngel has
23 done surveys of its customers. Do you remember that
24 testimony?

25 A Yes.

1 Q Can you tell me what kind of surveys VidAngel did?

2 A Yeah. We would survey our customers all the time. We
3 wanted to make sure they were happy. We wanted to know why
4 they were using our service, wanted to see what we could do
5 better.

6 Q What kind of -- did you use SurveyMonkey to do some of
7 those surveys?

8 A Yes.

9 Q How else did you do surveys of your customers?

10 A We would have a little pop-up survey immediately after
11 every movie they watched to rate their experience and to --
12 we had open-ended question box that they could leave any
13 kind of feedback from their experience.

14 THE COURT: Ms. Ellis, can you bring the
15 microphone little closer.

16 THE WITNESS: Better?

17 THE COURT: Yes. Thank you.

18 BY MR. BROOKS

19 Q When you say at the end of the movie there would be an
20 open-ended question box for comments, was there actually a
21 question that was asked to elicit comments, or was it just a
22 comment box?

23 A No. It was just a comment box. It was open-ended so
24 they could just add any other thoughts that they had.

25 Q What was the purpose of doing these things?

1 A Our goal was to get feedback. We wanted to make sure
2 we had the best possible service. And so we would read
3 through those and make sure what ways we could do things
4 better.

5 Q And did you personally review those kinds of comments
6 and survey responses?

7 A Yeah, all the time. We actually had a whole support
8 team, and we would respond to all the comments, both good
9 and bad.

10 Q And did you notice any themes in the comments?

11 A A huge amount were people telling us how they had
12 chosen to filter their movies, that they loved being able to
13 watch particular movies with their families; also suggesting
14 other devices because they wanted it to be more convenient
15 on their home -- in their home, for however they watch
16 movies as a family.

17 THE COURT: Ms. Ehler.

18 MS. EHLER: I will object as calling for hearsay.

19 THE COURT: Mr. Brooks, this is not being offered
20 for the truth of the matter; is that correct?

21 MR. BROOKS: It is not being offered for the
22 truth.

23 THE COURT: Ladies and gentlemen, this evidence,
24 the testimony you are hearing about these surveys is not
25 being offered for the truth of the contents of what you are

1 hearing but offered to show why the defendants in this case,
2 VidAngel, did what they did relative to the feedback from
3 the survey.

4 So you are not to take as truth the contents, the
5 specific contents, but what VidAngel did in response to
6 those contents. All right?

7 You may continue.

8 BY MR. BROOKS

9 Q Were there any other themes that affected what VidAngel
10 did that you noticed, important themes?

11 A Themes? Yeah. We actually had a lot of people that a
12 loved filtering because -- especially people that had PTSD
13 or had some other trauma, they would often get triggered
14 matching movies; so they loved being able to filter out
15 those types of scenes of abuse or rape or violence.

16 Q And did that -- those comments help you figure out how
17 to tailor the VidAngel service to what customers wanted?

18 A Absolutely. We were always working to make it more
19 exact. We would add more filters as people requested them,
20 or we also were always working to make it as precise as
21 possible. So if you were taking out a word, it would stop
22 right as they said a word and not a whole sentence.

23 MR. BROOKS: I'd like to identify Exhibit 2534.
24 Before it comes up on the screen, I will let counsel take a
25 look.

1 Q You can look at it in one of the binders next to you.

2 A They all look the same. Like a volume of encyclopedias
3 here; right?

4 THE COURT: I think, it's Volume 12. If you can
5 look at Volume 12, I believe that contains the document.

6 MS. EHLER: Same objections, Your Honor. This is
7 hearsay. These are a piecemeal selection of the comments --

8 THE COURT: Sidebar, please.

9 (The following proceedings were held at sidebar.)

10 THE COURT: So, Mr. Brooks, forgive me. I thought
11 we were talking about testimony. I had no idea. I don't
12 think there was any indication that you intended to
13 introduce as an exhibit the actual survey responses.

14 MR. BROOKS: Okay. And if I misunderstood, I
15 didn't realize that I was not going to be allowed to do
16 that.

17 THE COURT: I didn't know you were going to do it.
18 I thought we were talking about oral testimony about the
19 feedback.

20 MR. BROOKS: I can move on if that's an issue but
21 I -- again, I wouldn't be offering these for their truth.
22 It would just be to show VidAngel's state of mind.

23 THE COURT: But you want -- you are intending to
24 introduce the actual document into evidence.

25 MR. BROOKS: This one. I -- there were two other

1 surveys that I was not going to. I have actually already
2 passed over those --

3 THE COURT: Why don't you -- I think in the
4 abundance of caution, if you want to elicit some portion of
5 the testimony of that document that I guess you deem is
6 important, I will allow you to do that; but I am not going
7 to allow the document to be introduced into evidence.

8 MR. BROOKS: Okay. Thank you.

9 (The following was heard in open court in the presence
10 of the jury:)

11 BY MR. BROOKS:

12 Q All right. You can actually put that document away.

13 After this lawsuit was filed, did VidAngel receive
14 any feedback from customers?

15 A We got so much feedback. We had -- so many customers
16 wrote in to tell us they loved filtering, they wanted to
17 protect it. One of our customers even started his own
18 petition for save filtering that ended up with 200,000
19 signatures on it.

20 Q Did any of your customers donate money for the legal
21 defense?

22 A Yeah, absolutely.

23 Q Did VidAngel feel an obligation to those customers to
24 do the best they could to defend the model that they
25 believed was lawful?

1 A Of course. We wanted to make sure they had that
2 ability.

3 Q Was all of the feedback positive?

4 A No, actually. Lots was positive but a lot of people
5 actually left because they were worried about being
6 associated with a lawsuit.

7 Q And were some customers concerned that VidAngel might
8 not actually be legal?

9 A Yeah.

10 Q And did VidAngel customers, based on your -- did you
11 believe that VidAngel customers only wanted to do what was
12 legal?

13 A Yeah. Definitely. We had people leave for that
14 reason. They were worried, and that's why we created videos
15 for them helping explain the different laws and why VidAngel
16 was legal.

17 Q Was one of the concerns that customers raised that they
18 didn't know whether VidAngel was actually paying for the
19 content?

20 A Yeah, definitely.

21 Q And did VidAngel create a video to explain how it paid
22 for the content?

23 A We did.

24 MR. BROOKS: We'll go ahead and play the video.
25 It's Exhibit 2510, and this will be a limited portion based

1 on our conversation.

2 THE COURT: Ms. Ehler.

3 MS. EHLER: Just that it's hearsay, and so we
4 would appreciate another instruction.

5 THE COURT: Objection is noted but overruled.

6 (Exhibit played.)

7 MR. BROOKS: I apologize Your Honor. I thought
8 this was the shortened version.

9 Go ahead and pull it down.

10 Q When it was operating the disc-based service, did
11 VidAngel offer any titles where you had upward of 30,000
12 transactions?

13 A Oh, definitely.

14 Q Can you think of an example?

15 A New movies like "Star Wars" had, like, 36,000
16 purchases.

17 Q And according to this video, VidAngel had to have a
18 disc for every time that movie was watched; right?

19 A Yes.

20 Q And how many discs roughly did VidAngel purchase of
21 "Star Wars: The Force Awakens"?

22 A We had to purchase over 2,200 copies.

23 Q And so if my math is right, with 36,000 views and 2,200
24 discs, that would be about 16 transactions per disc?

25 A I can't do that math in my head, but I totally trust

1 you.

2 Q Were there any movies that were even more popular than
3 "Star Wars"?

4 A Yeah. Actually, you would be surprised to know that
5 kids' movies were super popular. So a movie like,
6 "Zootopia," that's animated. Parents would filter "the
7 Lord's name in vane," and there's, like, a scene of bullying
8 and a nudist colony. So we actually sold that movie, like,
9 63,000 times.

10 Q Do you remember how many discs you bought, copies of
11 discs, authorized discs that you bought from retailers of
12 that title?

13 A Like 2,500, 2,500.

14 Q So that would be about 25 transactions per disc; right?

15 A Yeah.

16 Q And were those discs inexpensive?

17 A No, definitely not. DVDs are 20 to \$25 apiece.

18 Q How many people are currently doing work for VidAngel?

19 A We work with, like, over a hundred people.

20 Q Are all of those employees?

21 A About 50 of those are employees.

22 Q And is VidAngel's current service just filtering?

23 A No. So we created a new system that --

24 MS. EHLER: I will just object, Your Honor, on
25 relevance.

1 THE COURT: I'm sorry?

2 MS. EHLER: Relevance of the new service.

3 THE COURT: Overruled.

4 THE WITNESS: So we created a new filtering system
5 after the injunction, which is a huge portion of my team.
6 But we're also working on brand-new content. We have "Dry
7 Bar Comedy," which is a clean comedy stand-up, where we film
8 four shows a week; so huge production crews.

9 And we also have been working to distribute new TV
10 series that we are helping creators with.

11 Q And what is the name of that TV series?

12 A "The Chosen."

13 Q Has that been well-received?

14 A Yes, very well.

15 Q Are you familiar with its rating on IMBD?

16 A Yeah. It's like 9.8 something. It's really high.
17 It's been really, really popular.

18 Q What would happen to those employees and contractors if
19 VidAngel had to shut down?

20 A I really hope that doesn't happen because we all
21 wouldn't have jobs.

22 MR. BROOKS: Thank you. No further questions.

23 THE COURT: Cross-examination.
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CROSS-EXAMINATION

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BY MS. EHLER:

Q Good morning, Ms. Ellis.

A Good morning.

Q We haven't met before. You weren't deposed in this case?

A No.

Q Even though plaintiffs noticed the deposition for you; is that right?

A I didn't know that.

MR. BROOKS: Objection. Move to strike that question, relevance.

THE COURT: Sustained. Stricken.

BY MS. EHLER

Q VidAngel's granted you over 99,000 stock options in the company; is that right?

A I don't know the exact number but sure.

Q You don't know how many stock options you have in VidAngel?

A I don't.

Q But 99,000 sounds about right?

A Possibly.

Q You spoke to Mr. Brooks about buying DVDs, and I believe you said you spent 20 to \$25 for each of the DVDs. Is that accurate?

1 A For those titles that we're talking about, yes.

2 Q And for every title, VidAngel spent 20 to \$25 to buy
3 the DVD?

4 A Possibly not. It depended on the title.

5 Q And yesterday you said you went to retail stores like
6 Walmart and Target to buy the discs; is that right?

7 A Uh-huh.

8 Q You said VidAngel would buy all of the discs for
9 certain titles?

10 A In many stores.

11 Q I think your testimony was that Walmart and Target
12 would actually get mad because they didn't have any discs
13 left for their customers; right?

14 A Sometimes.

15 Q That's because their customers would come to the store
16 and they would want to buy a disc but they would be all
17 gone?

18 A We wouldn't do all of them, but we would buy a good
19 portion of them. And so --

20 Q And so some might not have been left for other
21 customers; right?

22 A We tried to always leave some. We had a bunch of
23 stores around us. So --

24 Q Ms. Ellis, that wasn't your testimony yesterday, was
25 it?

1 A I don't recall exactly what I said.

2 Q You said you would buy all of the titles at Walmart and
3 Target.

4 A Okay.

5 Q When Mr. Brooks asked you questions, you described
6 about "Zootopia" and "Star Wars." You did some math or
7 Mr. Brooks helped you do some math. I'd like to do math
8 too.

9 A Okay.

10 Q Mr. Eisenhut said there were about 72,000 discs of
11 plaintiffs' titles in VidAngel's vault. Does that sound
12 right to you?

13 A I don't know that off the top of my head. But if
14 that's what he said, that's probably correct.

15 Q That's with the 819 movies that are at issue in this
16 case; right?

17 A Yes.

18 Q And you are aware that there were over 2 million
19 streams of plaintiffs' movies before VidAngel was shut down;
20 correct?

21 A Okay.

22 MR. BROOKS: Objection. I think it
23 mischaracterizes it, and it's vague as to whether the 200 --
24 whether that number is just the plaintiffs' works or whether
25 it's all VidAngel.

1 THE COURT: I will ask Ms. Ehler if you can
2 clarify as relates to the 2 million streams. Is that all
3 streams or plaintiffs' streams?

4 MS. EHLER: Plaintiffs' streams.

5 Q Ms. Ellis, 2 million streams for plaintiffs' movies.
6 For all movies, it was much more, wasn't it?

7 MR. BROOKS: Also lacks foundation.

8 THE COURT: Overruled.

9 THE WITNESS: I don't know those numbers off the
10 top of my read.

11 BY MS. EHLER

12 Q You have no idea?

13 A No.

14 Q Well, I will let you assume for me that there were
15 2 million streams of plaintiffs' movies. And if we do that
16 math -- and I won't ask you to do it, but 2 million divided
17 by 72,000, which I did with a calculator -- that comes out
18 to about 28 transactions per plaintiff DVD; right?

19 A Okay.

20 Q You also testified yesterday about a number of DVDs
21 that the VidAngel customers own. Do you remember that?

22 A Uh-huh.

23 THE COURT: Ma'am, just do me a favor. If you can
24 say yes, because the court reporter won't be able to do that
25 down.

1 BY MS. EHLER

2 Q I would like Mr. Jay to bring up Exhibit 150 at
3 page 41.

4 Ms. Ellis, this is one of VidAngel's SEC filings.
5 Are you familiar with these?

6 A I've seen them, but I am not their financial officer.
7 So I don't know the exact details.

8 Q That's fine. At the -- in the second paragraph, it
9 says: "VidAngel separates its revenue transaction into two
10 groups. Those groups are defined by the length of total
11 time of disc ownership."

12 And for clarity purposes the groups are defined as
13 short-term ownership and long-term ownership.

14 The long-term ownership was what you meant when
15 you said people own the DVDs; right?

16 A Yes.

17 Q And if you keep reading at the end of that sentence, it
18 says "for 99.5 percent of the transactions." Those are
19 short-term ownership; right?

20 A Okay.

21 Q And only .5 percent of all transactions fall into the
22 long-term ownership category; right?

23 A Okay.

24 Q Is that a yes?

25 A Yes.

1 Q You spoke about an audit report that VidAngel had done?

2 A Yes.

3 Q And that was something that VidAngel decided to do;
4 right?

5 A Correct.

6 Q No one told VidAngel that they had to do that?

7 A No, ma'am.

8 Q And yesterday your testimony was that you hired
9 accountants to do that, not lawyers; correct?

10 A Yes.

11 Q And Mr. Brooks asked why, you said that VidAngel wanted
12 to follow the law. Is that right?

13 A Yes.

14 Q And that audit report, you would show that to somebody
15 who came to you and said, "Hey, VidAngel isn't following the
16 law," and would you say, "Look, we did an audit report";
17 right?

18 MR. BROOKS: Objection. Mischaracterizes her
19 testimony.

20 THE COURT: Overruled.

21 THE WITNESS: I don't know that was our purpose
22 but just wanting to make sure that our inventory system was
23 accurate for that purpose of law. So that seemed like a
24 financial thing.

25

1 BY MS. EHLER:

2 Q When plaintiffs filed this lawsuit, that document was
3 one of the first that VidAngel produced; correct?

4 MR. BROOKS: Objection. Lacks foundation.

5 THE COURT: Overruled.

6 THE WITNESS: I wasn't involved in that, but if
7 that's true --

8 BY MS. EHLER

9 Q Mr. Brooks asked you about some surveys; right?

10 A Uh-huh.

11 Q And you said that you've looked at every customer
12 comment that's come in; correct?

13 A Many of them. I don't know that I have seen every
14 single one ever.

15 MS. EHLER: I am going to ask Mr. Jay to bring up
16 Exhibit 418.

17 Q Does this look familiar to you as some of the customer
18 comments?

19 A Oh, yeah.

20 Q If you go two pages down.

21 This was an example; right? "Having to have a
22 filter is really dumb, but I usually just knock out the end
23 credits." You saw that, didn't you?

24 MR. BROOKS: Objection, Your Honor, if this is
25 being offered for hearsay purposes, then I would just ask

1 for the same instruction that was given before.

2 THE COURT: Is this being offered for the truth of
3 the matter?

4 MS. EHLER: I asked if she saw it.

5 THE COURT: The objection is noted but overruled.

6 BY MS. EHLER

7 Q You saw this comment, didn't you?

8 A I have seen this document.

9 Q And you saw this comments, didn't you?

10 A Potentially, yes.

11 Q And you said you responded to every customer that wrote
12 to VidAngel; right?

13 A We tried to. We had a system for it.

14 Q Next one, please.

15 You also saw this comment. It says, "not clear on
16 the filter business but just filtered out end credits, which
17 is a nice copout for those of us who want it all." You saw
18 that comment to; right?

19 A Sure. But these are just a few of the tons that we're
20 talking about using filters.

21 Q And these comments went to VidAngel's state of mind as
22 well, didn't they?

23 A I guess so.

24 Q Next one.

25 "I would be happy to watch all movies without a

1 filter. The only filters I use on this site are the
2 beginning and end credits and only because I'm required to
3 use filters. I use VidAngel because it's cheaper than
4 Redbox and I don't have to go anywhere to pick up and return
5 movies." You saw that as well, didn't you?

6 A We required filters to make sure we were following the
7 law.

8 MS. EHLER: Your Honor, I move to strike. That
9 didn't respond to my question.

10 THE COURT: Stricken.

11 BY MS. EHLER

12 Q My question was you saw that too, didn't you?

13 A (No audible response.)

14 THE COURT: Was there an answer to that question?

15 THE WITNESS: I said yes. Sorry. I apologize.

16 BY MS. EHLER

17 Q Ms. Ellis, this is an invoice from the company, RedFox.
18 Do you see that?

19 A I see that.

20 Q And this is for a product called AnyDVD HD Lifetime;
21 right?

22 A Yes, ma'am.

23 Q And your name appears in the upper left-hand corner?

24 A It does.

25 Q You made this purchase on of behalf VidAngel?

1 A I don't recall making this purchase, but I also had the
2 only credit card at that point in time.

3 Q So you did or didn't make this purchase?

4 A I did not make this purchase.

5 Q You authorized someone to make it on your behalf?

6 A Possibly.

7 Q And this person didn't use their own name when they
8 bought it, did they?

9 A Everything was invoiced to me back then. We had only
10 five employees.

11 MS. EHLER: No further questions, Your Honor.

12 THE COURT: All right. Mr. Brooks.

13 REDIRECT EXAMINATION

14 BY MR. BROOKS:

15 Q Ms. Ellis, you were shown some comments of people who
16 were using VidAngel's service even though they didn't like
17 filters. Do you remember that?

18 A Yes.

19 Q Were those types of comments the majority of the
20 comments that you saw?

21 A No, sir. Very few.

22 Q Most of the comments you saw talked about how much they
23 loved filtering; right?

24 A Yeah.

25 Q And which audience did VidAngel want to serve? The

1 ones -- the few who don't like filtering or the many who did
2 like filtering?

3 A Our intention was to serve the many.

4 MR. BROOKS: No further questions.

5 MS. EHLER: Objection. Leading.

6 THE COURT: Overruled. All right.

7 Ms. Ehler, anything further?

8 MS. EHLER: No, Your Honor.

9 THE COURT: May this witness be excused?

10 Hearing no objection, ma'am, you may step down.

11 All right. You may call your next witness.

12 MR. EISENHUT: Defense would call

13 Mr. David Quinto, Your Honor.

14 THE COURT: All right.

15 DAVID QUINTO,

16 having been first duly sworn,

17 testified as follows:

18 THE CLERK: Do you solemnly swear that the
19 testimony you shall give in the cause now before this Court
20 shall be the truth, the whole truth, and nothing but the
21 truth, so help you God?

22 THE WITNESS: I so affirm.

23 THE CLERK: Thank you. Please be seated. Please
24 state and spell your name for the record.

25 THE WITNESS: After hearing my name spoken all

1 week, it's a pleasure finally to say I am David Quinto.

2 D-a-v-i-d Q-u-i-n-t-o.

3 THE COURT: You may proceed.

4 DIRECT EXAMINATION

5 BY MR. EISENHUT:

6 Q Good morning, Mr. Quinto.

7 A Good morning.

8 Q What is your occupation?

9 A I am a lawyer, and I am employed by VidAngel. I was
10 hired by VidAngel as its general counsel, and I performed a
11 substantially similar role now but with a different title,
12 chief legal officer.

13 Q What education did you receive to become a lawyer?

14 A After graduating from Amherst College cum laude in
15 1977, I attended Harvard Law School as a member of the class
16 of '81, but I actually finished in '82 because I took a year
17 off to pursue a graduate fellowship at the
18 University of Hong Kong Law School.

19 Q Can you please just give the jury a brief overview of
20 your professional career leading up to today.

21 A Sure. It has involved almost entirely intellectual
22 property and, interestingly, it began before I even
23 graduated from law school. While I was a student, I wrote
24 an article for the school newspaper, and the article then
25 appeared in a national publication.

1 Worst from my point of view was they refused to
2 pay me a freelance fee; so I filed suit in Washington, D.C.
3 for copyright infringement.

4 That suit resulted in two published opinions --
5 one of which has been cited by the Supreme Court and the
6 other which awarded me attorney's fees even though at the
7 time I was not a lawyer and having represented myself had,
8 obviously, incurred no fees.

9 Q After your pre-layer endeavors, did you become a lawyer
10 somewhere?

11 A Yes, I did. I am admitted in California and Arizona.
12 Following law school, I moved to Los Angeles. I took a job
13 with the law firm Paul, Hastings, Janofsky & Walker.

14 After 2 1/2 years there, I left to join a hole in
15 the wall Downtown L.A. office of a now defunct New York
16 firm.

17 A few months later, four of us left that office to
18 start a firm called Quinn Emanuel, now Quinn Emanuel
19 Urquhart & Sullivan. I stayed there from January 1986 until
20 March 2014.

21 During that time we grew from a hole-in-the-wall
22 office in Downtown L.A. to become an international
23 litigation powerhouse and happily for me the second most
24 profitable law firm in the world.

25 Then after there, I left to join a former partner

1 in starting our own little firm, but I decided to pursue my
2 interest in intellectual property. I really needed a larger
3 platform.

4 So I went to work for the national law firm, Davis
5 Wright Tremaine, and I left there as of August 2016 to work
6 for VidAngel.

7 Q Now, how many years have you been practicing law in the
8 intellectual property realm?

9 A As a lawyer, for 37 years.

10 Q Now, have you done work for clients in the Hollywood
11 entertainment industry?

12 A Yes. For 27 years, I did probably 80 percent of the
13 outside legal work for the Academy of Motion Picture Arts
14 and Sciences, the Oscars, and in the process attended 25
15 Academy Award ceremonies.

16 I have also represented Warner Bros., the
17 Producers Guild of America, and the Emmys in intellectual
18 property matters and numerous other companies that are not
19 in the entertainment space.

20 Q Have you written any books on intellectual property
21 law?

22 A Yes. Funny you should ask. My first was published by
23 Aspen Law and Business. It was an early look at Internet
24 tort law.

25 After that I was recruited by Oxford University

1 Press to write a book on all things trade secret from a
2 national perspective. LexisNexis later acquired the rights
3 to the book from Oxford, and we will shortly be out with the
4 eighth edition. I'm the principal author but Stuart Singer,
5 who is my -- one of my law school classmates, has also
6 participated in every edition of the book.

7 Q All right. Let's talk about VidAngel. When did you
8 first come to know anybody at VidAngel?

9 A I believe it was August 2014.

10 Q How did that come about?

11 A I received a call out of the blue from Neal Harmon.

12 Q Now, before this time had you had any connection to
13 Neal Harmon to know who he was?

14 A I had never heard of either Neal or VidAngel.

15 Q Okay. Did Mr. Harmon tell you why he was contacting
16 you?

17 A Yes. He introduced himself, described VidAngel's
18 business a little, said that he was looking for legal advice
19 in copyright area, had contacted another firm and they had
20 said, "Well, if you want advice in copyright, the guy you
21 really I want to talk to is David Quinto," and that is how
22 he came to call me.

23 MR. KLAUS: Objection, Your Honor. The latter
24 part of that answer was hearsay. We would move to strike.

25 THE COURT: The objection is noted but overruled.

1 BY MR. EISENHUT

2 Q You said it was in -- I don't know if you said the
3 months or not. Did you say August or September of 2014?

4 A I think it was August.

5 Q You listed a series of law firms. Were you with one of
6 those firms at the time?

7 A Yes. I was with Kupferstein Manuel & Quinto.

8 Q When you first got in contact with Neal Harmon, had you
9 already been aware of VidAngel?

10 A No.

11 Q Did you know anybody at VidAngel at the time?

12 A No.

13 Q Once you started interacting with Mr. Harmon, did you
14 come to find out whether or not VidAngel was at the time
15 already using what's been called in this case "the
16 disc-based method"?

17 A It was not using it. That method had not yet been
18 conceived or conceived of.

19 Q What legal help did Mr. Harmon indicate that he was
20 going to want from you specifically?

21 A He told me that VidAngel had attempted to offer
22 filtered content through various means, that all those means
23 had been shut down by what he termed "Hollywood," and he
24 then said that he was trying to find a lawful method to
25 offer filtered content that the studios could not block.

1 MR. KLAUS: Objection, Your Honor. It's hearsay.
2 They could have brought that up with Mr. Harmon. We would
3 move to strike.

4 THE COURT: Is this being offered for the truth of
5 the matter, Counsel?

6 MR. EISENHUT: No, Your Honor.

7 THE COURT: So if it's not being offered again for
8 the truth of the matter, just to show why Mr. Quinto did
9 what he did and the conversation, it will be allowed.

10 BY MR. EISENHUT

11 Q Did Mr. Harmon indicate to you that he was already
12 familiar at all with the Family Movie Act?

13 A I don't recall whether he said so in the initial
14 conversation. Certainly very early in our communications, I
15 learned that.

16 Q You were familiar with the Family Movie Act?

17 A Actually, I was not.

18 Q So you had become familiar with it as part of your job
19 for -- the task that you were to engage on for VidAngel?

20 A That's right.

21 Q Now, when VidAngel contacted you and you started doing
22 work for them, you were an outside attorney doing work for
23 them and a number of other clients as well; is that correct?

24 A That's correct.

25 Q Once you started to learn about the Family Movie Act,

1 did you view it as protecting copyright owners and filtering
2 company's rights alike?

3 A Yes, I did.

4 Q From the some of the sample clients in the
5 entertainment industry that you mentioned earlier, it sounds
6 like you've worked on behalf of a lot of copyright owners.
7 Is that right?

8 A I have spent my career representing intellectual
9 property owners.

10 Q Now, what about the Family Movie Act did you view to be
11 beneficial to a copyright owner?

12 MR. KLAUS: Object, Your Honor. Irrelevant.
13 Offering expert testimony.

14 THE COURT: I will allow it. Overruled.

15 THE WITNESS: It appeared to me to be a way to
16 expand the market for motion pictures by encouraging people
17 who would not otherwise have watched home video, to do so.

18 And, of course, those same people would likely not
19 have watched motion pictures in theatrical release either.

20 Q Have you, yourself, been a consumer of any filtered
21 content as opposed to just the original unfiltered content?

22 A My -- I joke, but I was perhaps an unfit parent because
23 the first full-length motion picture I allowed my elder
24 daughter to watch at age three was "Gangs~of~New~York," and
25 that was unfiltered. By the time she was five, she had

1 watched "Transamerica" six times, and that's a coming-of-age
2 story about a transexual who crosses America.

3 So I personally would not use filtering, but I
4 have a second daughter who to this day will have nightmares
5 for a week if she sees a movie that shows somebody being
6 disemboweled or -- the blood, guts, and gore will give her
7 nightmares.

8 And so for her, I would filter simply to protect
9 her and not out of any sense -- not out of being a prude or
10 religious conservative or any other category.

11 Q Did you feel that your views and not necessarily
12 needing a service like filtering that VidAngel was offering
13 would somehow interfere with your ability to do a good job
14 for VidAngel?

15 A No. If anything, I thought just the opposite. Because
16 I was not personally invested in filtering, I would be able
17 to approach the task with great objectivity.

18 Q Now, having worked, it sounds like, for studios and
19 Academy Awards and other copyright owners, if you thought
20 that what VidAngel was attempting to do when Mr. Harmon came
21 and spoke with you had something to do with stealing or
22 infringing copyrights, would that have concerned you?

23 MR. KLAUS: Objection, Your Honor. Relevance.

24 THE COURT: I will allow it. Overruled.

25 THE WITNESS: That would be a mild understatement

1 or a great understatement. It would have more than
2 concerned me.

3 I have spent my career protecting intellectual
4 property rights. I have protected my own. I love the
5 motion picture industry. I am delighted that, even though I
6 no longer work for The Academy, the Academy has given me
7 privileges to continue to watch all the movies that they
8 show in their theater, their screenings, year-round.

9 I love the art form. I love the people in the
10 industry. I live on a -- I am the last house on the street
11 right next to a greenbelt area that is used all the time for
12 filming.

13 It's used at day, used at night; and, every time
14 there is some other movie or television show or commercial
15 being filmed there, people come up and down the street
16 giving us written announcements and asking whether we have
17 any objection. And I always say, "Perfectly fine provided
18 that your crews don't speed up and down the street."

19 BY MR. EISENHUT:

20 Q What do you view as a pirate?

21 MR. KLAUS: Objection. Relevance and opinion
22 testimony.

23 THE COURT: Sustained.

24 BY MR. EISENHUT

25 Q Once you came to know what VidAngel's intentions were,

1 did you view them as intending to have any -- to be pirates?

2 MR. KLAUS: Same objection, Your Honor.

3 THE COURT: I will allow it.

4 THE WITNESS: No, not at all.

5 THE COURT: Next question, Counsel.

6 BY MR. EISENHUT:

7 Q Now, you have since been engaged to provide opinions to
8 VidAngel regarding the legality of their system; is that
9 correct?

10 A Yes.

11 Q And eventually --

12 If we could pull up Exhibit 2156 that would be
13 helpful.

14 Eventually, you brought your -- you reduced your
15 opinion into a written format; is that correct?

16 A Yes.

17 Q This Exhibit 2156 -- we're seeing page 1 of it -- is
18 that an opinion that you prepared in writing for VidAngel?

19 A Yes, it is.

20 Q Now, prior to giving this written opinion, had you also
21 expressed to VidAngel any oral opinions about their
22 disc-based system?

23 A Yes. And if I may just point out that this is, sort
24 of, a truncated view of the first page of the opinion
25 letter. If the full page were visible, you could see my law

1 firm caption up above.

2 Q Okay. So at the top of part was your law firm at the
3 time that you were working with --

4 A Yes.

5 Q At this point of time in February 25th, 2015, you were
6 an outside attorney working for VidAngel as well as numerous
7 other clients?

8 A Yes.

9 Q As far as any verbal opinions that you gave prior to
10 this date, were they consistent with the conclusions at
11 least of your letter?

12 A Yes, they were.

13 Q When did you first start actually analyzing whether or
14 not VidAngel's system was lawful?

15 A As best I recall, at the beginning of October, 2014,
16 although at that time VidAngel hadn't conceived the idea for
17 the disc-based service. It was still focused on a different
18 service -- different potential service.

19 Q So when they started talking to you about what became
20 the disc-based service, it was a proposed service at that
21 point in time?

22 A Yes.

23 Q And did they start actually doing the service, offering
24 it to people before you gave them an opinion about its
25 legality?

1 A No.

2 Q In this written opinion, if we look at the bottom of
3 the very first paragraph, the last sentence says "As
4 VidAngel's proposed technology has been described to us, we
5 believe that VidAngel's current service is lawful."

6 Was that indeed your opinion as of
7 February 25th, 2015?

8 A Yes, it was.

9 Q And when did you first form that opinion,
10 approximately?

11 A November. I would say November 2014.

12 Q Okay. Now, it says "as the proposed technology has
13 been described to us." Have you since become confident that
14 what was described to you was thorough and accurate so that
15 you actually understood it when you rendered this opinion?

16 A Yes.

17 Q Now, in reaching this opinion, what did you do to come
18 to the opinion?

19 A Well, if I may just clarify the last response. There
20 were one or two very small details that I learned later that
21 caused me to give some additional advice to VidAngel, but
22 they didn't alter the fundamental opinions expressed.

23 Q Okay. Since you brought it up, why don't we talk about
24 it.

25 What details did you find out about?

1 A Well, one I recall is that, after the service was
2 offered, at some point after the service was offered but as
3 I recall long with before the Disney lawsuit was filed, I
4 asked whether it was possible for someone to, in essence,
5 game the system by selecting a filter for something that was
6 not in a movie such that the user would be choosing a filter
7 that filtered out nothing.

8 Mr. Harmon said, "I don't know. Why would anybody
9 do that?"

10 I said, "Well, you wouldn't, but, you know, I want
11 to make sure that anybody who is using this is using it to
12 filter."

13 So Mr. Harmon then got back to me, as I recall,
14 the following day saying, "I inquired and, yes, you were
15 right, that it is a possibility."

16 And I said, "It's got to go." When you selected a
17 filter, it has to actually filter something. So that change
18 is one that I recall as having been implemented well before
19 the suit began.

20 Q Okay. Sounds like you said VidAngel followed your
21 advice in that regard?

22 A Yes, it did.

23 Q Did you ever give any advice to VidAngel that would
24 affect your legal opinion?

25 A No. They always implemented my advice.

1 Q Okay. So in coming -- Did you -- well, let me rephrase
2 the question.

3 What did you do to begin analyzing whether or not
4 what VidAngel was proposing would be lawful?

5 A Well, I wanted to have in mind what I viewed as
6 essential parts of the Copyright Act to keep in mind while
7 looking at the portion of the Family Movie Act that is
8 codified in the Copyright Act -- there is a portion that's
9 also in the Trademark Act -- but those -- the portions I
10 wanted to have in mind were first -- the first four
11 subsections of Section 106.

12 Section 106 identifies the so-called exclusive
13 rights of copyright owners, and, depending on the type of
14 work protected, different copyright owners have different
15 exclusive rights. But, as relates to motion pictures
16 which -- and the Copyright Act, by the way, defines motion
17 picture to include television show -- the rights that motion
18 picture owners have are the first four identified in
19 Section 106 -- the right to make copies, the right to make
20 derivative works, the right to distribute copies, and the
21 right to perform copyrighted works publicly.

22 I also wanted to have in mind another definition
23 which is rather important, the meaning of copy. The
24 Copyright Act defines copy as --

25 Q Let me just pause for a second.

1 What's on the screen right now, that's the
2 Copyright Act that you were referring, to the four sections
3 that you felt were important?

4 A Yes. These were the so-called exclusive rights. But,
5 as you see in the first phrase under the heading, subject to
6 Sections 107 through 122, those sections of the
7 Copyright Act carve-out exceptions to the exclusive rights
8 of copyright owners so -- and some of those sections, as we
9 will see in a minute, carve out numerous exceptions.

10 So copyright lawyers frequently refer to the
11 exclusive rights as the so-called exclusive rights because
12 they're so riddled with exceptions.

13 Q And you said you wanted to look at the definition of
14 copies. Is this the definition on the screen that you were
15 looking at?

16 A Yes. A copy is a material object in which a work is
17 fixed. So a DVD or a Blu-ray disc of a movie would be a
18 copy, but a stream of a movie would not be a copy because
19 it's ephemeral, and it's not a physical object.

20 Q There is something called the first sale doctrine. Was
21 that pertinent to your analysis as well here?

22 A Yes, it was. So although copyright owners have
23 so-called exclusive rights with respect to copies which, as
24 I said a moment ago, include DVDs and Blu-ray discs --

25 MR. KLAUS: Your Honor, I object. Mr. Quinto

1 should be able to discuss what he told Mr. Harmon, but I
2 object to the tutorial on copyright law, which is not
3 relevant.

4 THE COURT: Let me have counsel approach at
5 sidebar, please.

6 (The following proceedings were held at sidebar.)

7 THE COURT: Mr. Eisenhut, I can appreciate the
8 challenge of eliciting testimony from this witness, having
9 worked at the same firm with him, but, be that as it may, it
10 is seeming like a tutorial on copyright law. Am I missing
11 something here?

12 MR. EISENHUT: What -- I don't want it to be a
13 long lecture. I'm trying to see if I can get it to be more
14 precise.

15 But it's important for the jury to understand that
16 he did a reasonable good faith, deep analysis. I don't need
17 to take him through every bit of that analysis. I am trying
18 to do my best to try and make a summary of that analysis,
19 but it is important that they understand that he made a
20 thorough analysis before he then rendered that decision.

21 THE COURT: Okay. But I guess the question in my
22 mind is is there a way to elicit the fact that he did this
23 thorough analysis without him having to go through a
24 symposium of copyright law to support that?

25 MR. EISENHUT: Sure.

1 THE COURT: And maybe I will ask this question of
2 you but also inquire of you, Mr. Klaus. Is there a dispute
3 that Mr. Quinto did this analysis?

4 MR. EISENHUT: There is certainly dispute that he
5 did it well enough, I suppose. I don't know.

6 THE COURT: Mr. Klaus, I am curious. I mean, I am
7 curious. Is there a dispute that Mr. Quinto did this
8 analysis?

9 MR. KLAUS: I am not going to cross-examine him on
10 whether he did the analysis of the exclusive right to
11 copyright or the definition of copy.

12 I suspect we are going to hear the definition of
13 what it means to publicly perform and transmit -- that will
14 be another 30 minutes of Mr. Quinto lecturing us -- or what
15 the fair use doctrine is and four fair use factors and
16 Mr. Quinto's musings about Campbell versus Acuff-Rose.

17 I am going to, to be clear, I am definitely going
18 to talk about the fact that he missed the critical portions
19 of the Family Movie Act, which is entirely fair, and he can
20 get into that.

21 THE COURT: Right.

22 MR. KLAUS: But I think the background on
23 copyright law is just -- the purpose of this is to make him
24 appear to be an expert and educating him.

25 We have received zero, zero of Mr. Quinto's

1 research files in discovery. He should tell us -- he should
2 tell the jury what he told Mr. Harmon in his letter, but he
3 should not be able to give a seminar or a CLE on copyright
4 law.

5 THE COURT: What's your response to Mr. Eisenhut's
6 point? Fine, he can say that he did that, but could it lead
7 the jury to wonder, well, how do we know? This guy could be
8 a -- pardon of my colloquialism as side bar -- but he could
9 be a hack.

10 I mean, how do we know he knows anything about
11 copyright law? Is there some leeway that should be given to
12 at least allow Mr. Quinto to demonstrate that he is not a
13 hack and has some substance behind the opinion that he
14 offered?

15 MR. KLAUS: Well, Your Honor, I didn't object to
16 him holding up the books that he's written. I didn't object
17 to the 30 years of talking about this. I didn't object
18 to --

19 THE COURT: All the Oscars that he attended.

20 MR. KLAUS: -- the Oscars he attended, the
21 screeners he gets, the film companies that come on his
22 street. I didn't object to any of that. I didn't object
23 to --

24 MR. EISENHUT: I didn't ask him that either, by
25 the way.

1 MR. KLAUS: Understood.

2 THE COURT: Recognizing the challenge.

3 MR. KLAUS: Understood. But the point is I think
4 there is more than enough evidence to make the point that he
5 is a lawyer with background in this area, and I think at
6 this point more of this would just be cumulative.

7 MR. EISENHUT: I just want to get him -- if I
8 don't succeed, then we'll just have to stop, but I would
9 like to get him through a summary at least of what he did
10 because, obviously, he is going to be attacked to some
11 extent on what he did.

12 THE COURT: Again, I am trying to recognize the
13 challenge that may come with this particular witness, but
14 you are going to have to take control. And if you want to
15 have him go through a summary of what he did and the basis
16 for that summary, that's one thing.

17 But I think -- I am trying to balance out the two,
18 but I see Mr. Klaus's point. We are -- this is not a
19 seminar of Quinto on copyright. Let's try to move it along.

20 MR. KLAUS: Thank you, Your Honor.

21 (The following was heard in open court in the presence
22 of the jury:)

23 THE COURT: Go ahead, Counsel.

24 MR. EISENHUT: Thank you.

25 Q I am going to ask you just to kind of identify those

1 areas of law that you looked at in formulating your opinion,
2 and for purposes of your testimony today, we don't need to
3 go through the full analysis that you did as long as we can
4 just understand that you did the analysis.

5 So with that background, you have mentioned the
6 Copyright Act, and we looked at that and the definition of
7 copy, and I think you have mentioned also the first sale
8 doctrine.

9 A Yes.

10 Q And just as far as in a summary format, I think you
11 also mentioned the Family Movie Act. You looked at that as
12 well in connection with this job?

13 A Yes.

14 Q Can we -- again, without going through it in detail --

15 But can you pull up the Family Movie Act language.

16 We have a section that you had asked us to prepare
17 for your testimony that's from Section 110. Looks like it's
18 coming up here.

19 Is this the section of the copyright law that you
20 looked at relevant to the Family Movie Act?

21 A That's the bulk of it. There are two more sentences
22 that follow what's on the screen.

23 Q This is a truncated version. There is more language
24 that you would have looked into and relied upon in forming
25 your opinion?

1 A Yes.

2 Q Okay. For the portions that are on the screen here, I
3 wanted to walk through just a few of them with you.

4 If you look at the first highlighted sentence, it
5 says: "Notwithstanding the provisions of Section 106, the
6 following are not infringements of copyright."

7 Just briefly, was it your understanding that that
8 sentence would be relevant to what's coming up next at
9 paragraph 11?

10 A Yes. Section 106 was the last -- or second-to-last
11 slide that you showed us with the exclusive rights of motion
12 picture owners.

13 Q In your analysis then, you were looking at whether or
14 not Section 11 would -- if Section 11 was met by VidAngel's
15 system, it, in your opinion, should exclude VidAngel from
16 Copyright Act infringement.

17 A Yes. Notwithstanding the provisions of Section 106 --
18 notwithstanding the exclusive rights of a motion picture
19 copyright owner, the following are not infringements of
20 copyright.

21 Q Looking at Section 11 then, that's the portion that's,
22 essentially, the Family -- I know you said there's more to
23 it, but this is, essentially, the heart of the
24 Family Movie Act; is that correct?

25 A Yes.

1 Q Now, if we look at some of the highlighted portions, it
2 starts out with the "making imperceptible" -- that would be,
3 essentially, muting or skipping?

4 A Yes.

5 Q -- "at the direction of a member of a private
6 household" -- that would be somebody who is going to view
7 the content?

8 A Right. So it means that a third party cannot censor
9 content -- a third party cannot decide what the household
10 gets to see or hear.

11 Q So if we look at some other part "during the
12 performance transmitted to that household," in doing your
13 analysis, in order --

14 MR. KLAUS: Your Honor, I just want to -- I just
15 object on the grounds that it is legal opinion testimony for
16 Mr. Quinto to testify about what it means. I don't object
17 to him saying this is what he understood based on his
18 research.

19 THE COURT: Why don't we limit it to what
20 Mr. Klaus just described, Counsel, please.

21 MR. EISENHUT: Sure.

22 Q What you are testifying to now is your understanding of
23 the law as you were analyzing it for purposes of VidAngel?

24 A Absolutely.

25 Q We're not -- you are not seeking to argue here whether

1 or not somebody else's interpretation would be right or
2 wrong?

3 A That's correct. This is how I read it, and I'm not
4 trying to represent that everybody else sees it the same
5 way.

6 Q Okay. Just with respect to a couple of things, the
7 next one says "transmitted to that household" and another
8 one says "from an authorized copy of the motion picture."

9 And I believe in some of the legal analysis that
10 disagrees with you, authorized copy was one of the big
11 issues.

12 What did you understand about VidAngel's system to
13 suggest that it was using an authorized copy in transmitting
14 content to members of their private household?

15 A The short answer is that I understood it to mean that
16 it had to originate from a copy that a motion picture studio
17 had chosen to release.

18 So it had to originate from a DVD or Blu-ray disc,
19 and it could not originate from a recording that somebody
20 secretly made in a theater with a camcorder. It could not
21 originate from a hack of a studio computer system to acquire
22 the files.

23 Q Okay. And those are things that you considered as you
24 were formulating your opinion for VidAngel?

25 A Yes.

1 Q All right. A couple of other things here to note.
2 "Technology that enable such making imperceptible," and the
3 next highlight is "used at the direction of a member of a
4 private household," and the next one I want to ask you
5 about, "if no fixed copy of the altered version of the
6 motion picture is created by such computer program."

7 With respect to the no fixed copy, again, as you
8 were formulating your opinion, what did you understand that
9 to mean in connection with the VidAngel system that was
10 proposed?

11 A Sure. A stream is not a fixed copy. So you could
12 create a stream of a filtered work because that's not a
13 fixed copy, but you could not create your own filtered DVD.

14 You could not release any kind of filtered version
15 of the motion picture that could be viewed by persons not
16 inside the family house. It could not be shown in a
17 theater.

18 Q All right. Having reviewed all this -- and, by the
19 way, before you formulated your opinion, were there other
20 laws or other legal information you took into account before
21 you formulated the opinion that VidAngel's system would be
22 lawful?

23 A Yes, there were. I would also point out that I -- in
24 performing my analysis, I focused as well on the phrase
25 "altered version of the motion picture" because I read two

1 things into that.

2 One was that you could not release a copy of a
3 filtered version. The other thing was that, by calling out
4 altered versions, Congress seemed to be intentionally
5 avoiding saying "copy."

6 Q Let me make sure I am clear.

7 You are identifying, I think, a spot where the
8 Court later disagreed with you, but that is that whether or
9 not what VidAngel was doing by starting with a DVD but then
10 streaming from some information that came off of the servers
11 would not be in conformance. But you are explaining -- so
12 this was something that you considered and analyzed before
13 you originally formed your opinion; is that correct?

14 MR. KLAUS: Objection. Leading.

15 THE COURT: Overruled.

16 MR. EISENHUT: Thank you.

17 THE WITNESS: Yes. This was simply how I viewed
18 it, but I viewed it as significant in that it didn't say
19 that -- if no copy of any kind of the motion picture is
20 created. It seemed to be very carefully limiting the
21 prohibition to altered versions rather than any version.

22 Q Okay.

23 A And to me that was an important distinction. Then to
24 go to your next question about whether I considered anything
25 else --

1 Q Let me pause you there for just a moment, and then
2 we'll get there.

3 At this point in your analysis, did it appear to
4 you that VidAngel's proposed system would match up with the
5 language as you understood it of the Family Movie Act?

6 A At this point, it was so far so good.

7 Q Okay. And just kind of in bullet-point fashion without
8 getting into the analysis yet, what other laws or legal
9 considerations did you go through?

10 A Well, I considered various principles of statutory
11 interpretation that the U.S. Congress has identified as
12 things the Department of Justice applies in interpreting or
13 explaining the meaning of laws to the Supreme Court.

14 Q Okay. One thing you looked at was, if there is any
15 question, how do you interpret it and, there is something
16 called statutory interpretation that your --

17 A Correct.

18 Q Did you also look at what is called "legislative
19 history"?

20 A Yes.

21 Q And briefly what is legislative history? That's
22 probably not a familiar term for everybody.

23 A Sure. Whenever Congress starts considering possible
24 legislation, it creates a written record of all the
25 testimony it receives, all of the documents it looks at. It

1 includes versions of the proposed legislation.

2 As legislation goes through, there are amendments,
3 and they get included in the legislative history; and, of
4 course, what members of Congress say in debates or
5 discussions concerning the bills is also included in the
6 legislative history.

7 Q Okay. Now, with respect to legislative history, is it
8 your understanding in looking at it was to gain some insight
9 into what certain aspects of the actual Family Movie Act
10 statute might be interpreted to mean?

11 A Yes. I wanted to try to understand what Congress was
12 hoping to achieve in the enactment of the legislation.

13 Q Let me ask you this. Sorry to cut you off. I didn't
14 mean to.

15 So you reviewed some legislative history. After
16 reviewing that, did it change your view as to whether or not
17 VidAngel's proposed system would match up with the
18 intentions of the Family Movie Act?

19 A It reinforced it.

20 Q Okay. All right. And was there anything that you came
21 across as far as the law that you also thought was important
22 in your consideration before, finally, reaching a conclusion
23 about the legality of the system?

24 A Well, I also had to consider another portion of the
25 Copyright Act, which is referred to by a separate name, the

1 Digital Millennium Copyright Act or DMCA, but it's codified
2 as part of the Copyright Act.

3 Q Did you consider that Act, the DMCA, and its impact on
4 the potential legality of VidAngel's system before you
5 rendered opinion about it?

6 A Yes.

7 Q Okay. Just briefly, what part of the VidAngel system
8 did you view as potentially implicating the DMCA?

9 A The decryption portion, the accessing of the content on
10 the DVD in the first instance, which had to be done both to
11 create the tags the consumers could use to select what was
12 muted or skipped and which had to be done to transmit the
13 content to consumers.

14 Q And did certain portions of the DMCA appear to say that
15 you -- VidAngel may not be able to do that?

16 A Section 1201(a)(1)(A) had what's called an "access
17 control" provision that said that when --

18 Q I have a feeling it's going to get a little --

19 A Heavy?

20 Q -- hard to follow because we're not --

21 A There was an access control --

22 Q Let me ask you this, though. This might get us there
23 easier.

24 Did you at least analyze whether or not -- after
25 considering the DMCA, did you analyze whether or not you

1 still believed that VidAngel's system was lawful?

2 A Yes, I did.

3 Q And then after doing this process -- by the way, did
4 you collaborate or get input or any assistance from any
5 other attorneys in reaching this opinion?

6 A Yes, I did.

7 Q Who else? What other attorneys?

8 A Some of the initial legwork was performed by a lawyer
9 named Joseph Shapiro, who is admitted in both California and
10 Utah, and he did a lot of the preliminary work.

11 And then his work product was delivered to me,
12 together with my then-partner, Scott Commerson. We looked
13 at what Mr. Shapiro had done, made revisions, changes,
14 modifications, et cetera, and then I prepared my opinion.

15 Q Let me ask you this: Were there any other attorneys
16 involved?

17 A Not at this stage.

18 Q Before you rendered your opinion, did any of the other
19 attorneys involved indicate that they disagreed with the
20 conclusions you reached?

21 A Not at all.

22 Q Did Mr. Harmon indicate to you that he also had formed
23 his own belief about whether or not what he was proposing
24 would be lawful?

25 MR. KLAUS: Objection, your Honor. Hearsay.

1 THE COURT: Is it being offered for the truth,
2 Mr. Eisenhut?

3 MR. EISENHUT: No, Your Honor.

4 THE COURT: All right. Then on that basis, I will
5 allow it.

6 THE WITNESS: He thought -- it struck him as -- he
7 told me that it struck him as lawful. More importantly, he
8 made very clear to me that he didn't want to use any kind of
9 system that would be unlawful because he's a fan of motion
10 pictures. He wants to continue to enjoy their content. He
11 didn't want to do anything to harm the studios.

12 MR. KLAUS: Objection, Your Honor. I move to
13 strike all of the additional testimony about what Mr. Harmon
14 said. It was not responsive to the question.

15 THE COURT: Sustained. Stricken.

16 MR. EISENHUT: Your Honor, after the first
17 sentence --

18 THE COURT: After the sentence it struck him --
19 "as he told me, it struck him as lawful." Everything else
20 after that is stricken.

21 MR. EISENHUT: Thank you.

22 Q Now, in your opinion, and we've got it -- by the way,
23 this has a little bit broader view to where we see your law
24 firm at the top now. Is this what you were talking about?

25 A Yes, it is. Thank you.

1 Q If we go to the final paragraph. This is about a
2 12-page letter; is that correct?

3 A I think a little bit more, but yes.

4 Q And in this letter you were communicating some of the
5 bases for your conclusions that the VidAngel system was
6 lawful; is that correct?

7 A Yes.

8 Q All right. And if we can go to the last page -- we'll
9 talk about it now, and it will come up in a second. There
10 it is. "We, therefore, conclude" -- this is on page 12 --

11 A I'm sorry. I miscounted.

12 Q All righty. "We, therefore conclude, having analyzed
13 VidAngel's technology in light of the current copyright
14 regime and legal landscape that VidAngel can make a strong
15 argument that its technology does not infringe the rights of
16 copyright holders and is legal, if it is implemented as
17 described herein."

18 So in the initial paragraph you said "we believe
19 it's lawful," and in this paragraph you have some different
20 language, but it does seem to allow for strong argument, as
21 you say here, it seems to allow for some possibility that
22 you are wrong. Can you explain.

23 A Sure. I remember my first year in law school, I had a
24 professor who joked that he could tell us in one sentence
25 everything we needed to know to practice law, and that

1 sentence was, in law, the answer to every question is always
2 maybe.

3 And when you consider that the best and the
4 brightest are lawyers around the Supreme Court and the
5 Supreme Court often has five-four decisions or six-three
6 splits, it's easy to see that even good lawyers can look at
7 the same laws and understand them differently. So there are
8 no absolutes.

9 Q Okay. And that was the gist of what you were trying to
10 communicate to VidAngel?

11 A Yes.

12 Q All righty. Now, after you provided your opinion to
13 VidAngel, they started doing the system? Is that what you
14 understood?

15 A Yes.

16 Q And it was in a beta mode for a while, meaning kind of
17 a limited number of people; is that correct?

18 A First, an alpha mode and then a beta mode.

19 Q The public launch wasn't coming about until closer to
20 August of 2015; is that right?

21 A That's correct.

22 Q Now, before that in July of 2015, you sent some letters
23 to various studios about VidAngel's proposed system; is that
24 right?

25 A Yes. I wrote to 15 or 16 studios and/or television

1 networks.

2 Q And did that include the studios that are plaintiffs in
3 this case?

4 A Yes.

5 Q We have on the screen here what's Exhibit 2032, page 1
6 of it. Is this the first page of one of those multiple
7 letters that you sent?

8 A Yes, it is.

9 Q And this one was sent to the Walt Disney Company?

10 A Yes.

11 Q Are you the one who drafted and sent this letter?

12 A I was the principal draftsman, and I signed the
13 letter.

14 Q Why did you want to send this letter before having
15 VidAngel launched publicly?

16 A Well, for several reasons. One is that, if somebody
17 else saw a problem with the technology or the business model
18 that I had not seen, that VidAngel had not seen, we wanted
19 to try to address it then before we got -- before the ship
20 sailed, then I try to address it while the ship was at sea
21 and also we wanted to be fully buttoned up in terms of the
22 law.

23 And so we wanted to reach out to the stakeholders
24 to say, "Hey, we're here. Let us tell you about our
25 service, what we intended to, how we think -- why we think

1 our service would benefit you." And we were also hoping
2 that we might be able to purchase DVDs at wholesale directly
3 from the studios rather than having to go to Walmart.

4 Q Did your letter address all of those topics that you
5 just outlined?

6 A Yes.

7 Q Now, before sending this letter, did you discuss with
8 VidAngel that there was a belief that the studios may choose
9 to sue, even though you think it's a lawful system?

10 A Yes.

11 Q And did -- well, did you discuss that with Neal Harmon?

12 A Yes, I did.

13 Q And what did you tell him in that regard?

14 A That there is, sort of, a standing joke, at least among
15 intellectual property lawyers, that the studios and the MPAA
16 have historically opposed everything that turned out to be
17 to their benefit.

18 Most famously, the plaintiffs in this case and the
19 MPAA sued Sony to try to prevent its manufacture --

20 MR. KLAUS: I object. I don't -- the joke and the
21 like just seems like a narrative response.

22 THE COURT: Sustained.

23 BY MR. EISENHUT

24 Q You did discuss with him, for various reasons, there
25 was a good chance that they may sue?

1 A Yes, whether the suit had merit or not.

2 Q With respect to the various studios that you sent this
3 letter to, did any of them respond?

4 A No one responded to that letter.

5 Q Did you then -- Exhibit 2029, if we can pull it up.
6 Did you send another round of letters to the same studios in
7 August?

8 A Yes, I did.

9 Q And this one is dated August 21, 2015. It's also to
10 the Walt Disney Company, the same recipient. Is this the
11 follow-up letter you sent in August?

12 A Yes.

13 Q Did you receive any responses after you sent out a
14 round of follow-up letters?

15 A I received a few responses, none of which were
16 substantive.

17 Q Did any of the plaintiff studios respond and indicate
18 that they had any concerns whatsoever regarding VidAngel's
19 proposed system?

20 A I believe Fox responded and said it wanted -- it had
21 some questions or wanted to talk about some things. It
22 scheduled a time for call. It then canceled that call. It
23 said it would reschedule, and then it never did.

24 Q At the end, did Fox ever express any questions or
25 concerns regarding the system?

1 A No.

2 Q Did any of the other plaintiff studios even respond?

3 A Not at all.

4 Q Fast forward to when the lawsuit occurred that was
5 filed in June of 2016, I believe -- does that sound correct?

6 A Yes.

7 Q Between the time that you sent this letter in August 15
8 and the lawsuit filed almost a year later, were you still
9 working outside as a separate attorney representing numerous
10 different clients?

11 A Yes. When the suit was filed, I was still at Davis
12 Wright Tremaine.

13 Q During that time period after the August letter and
14 before the lawsuit, were you doing much of any work for
15 VidAngel?

16 A No. After I sent the August 21, 2015, letter, Davis
17 Wright decided that -- or determined that it had a business
18 conflict and asked me to stop providing legal services to
19 VidAngel.

20 Q Okay. Did you -- all right.

21 So during that time period you did no work, then,
22 it sounds like.

23 A No billable work. I probably exchanged two or three
24 e-mail messages or phone calls or something with
25 Neal Harmon. I recall that we maintained some form of very

1 occasional contact, but that was it.

2 Q All right. Now, when the lawsuit came in in June, were
3 you surprised by the timing of it?

4 A Yes, very much so.

5 Q Why is that?

6 A Well, for -- principally because --

7 MR. KLAUS: Your Honor, I object on relevance
8 grounds. If he wasn't working at VidAngel, the question of
9 his surprise -- or the question of surprise is irrelevant.

10 THE COURT: Sidebar, please.

11 (The following proceedings were held at sidebar.)

12 THE COURT: Mr. Eisenhut, I am trying to let you
13 get your case in, but where is there going?

14 MR. EISENHUT: So he did become their counsel
15 again, obviously, right at this point, and there has been a
16 lot of evidence against us saying we knew we were going to
17 get sued all along, and I was trying to lay the foundation
18 for responding to that, but we anticipated it upfront but
19 then believed that they must have become satisfied over the
20 time, and then we were surprised when it actually hit.

21 So he was made aware of the lawsuit right away
22 when it came in, and so he will be able to attest to that,
23 but that's all.

24 MR. KLAUS: My concern, Your Honor, is at the time
25 the lawsuit was filed, Mr. Quinto has just testified he was

1 not "we." And so what his --

2 MR. EISENHUT: That's true. That's --

3 MR. KLAUS: -- has zero relevance to VidAngel's
4 mind-set.

5 THE COURT: Yes, I think, in the time line he was
6 not "we," but he was informed the of the lawsuit
7 immediately. Are we suggesting in sense there was no
8 attorney-client relationship at that point? Is that your
9 point?

10 MR. KLAUS: My point is it's just not relevant
11 whether he was surprised. The question was whether
12 Neal Harmon was surprised. Neal Harmon has already
13 testified to being surprised.

14 When Mr. Quinto goes to work for VidAngel and is
15 part of the company and is an officer of the company, he can
16 talk about what the company believed at that point in time,
17 but I don't see what his -- the fact that he learned about
18 the lawsuit has and his surprise about it has to do with
19 what VidAngel believed.

20 THE COURT: What's your response, if any,
21 Mr. Eisenhut?

22 MR. EISENHUT: It's directly responsive to what is
23 being said, as I indicated earlier. I do have a suggestion,
24 though.

25 THE COURT: Okay. That seems to be the theme of

1 this case.

2 MR. EISENHUT: If it's not a bad time for a break,
3 if we take our break, I can meet with him and try to figure
4 out if I can get him to speed along. I think a break would
5 be helpful.

6 THE COURT: If you want to spend your two hours on
7 Mr. Quinto, so be it.

8 MR. EISENHUT: I agree. I think I can get him to
9 go faster.

10 THE COURT: Okay.

11 (The following was heard in open court in the presence
12 of the jury:)

13 THE COURT: Ladies and gentlemen, why don't we
14 take our morning recess. Let's take 15 minutes, if we
15 could. I will have you come back at five minutes to 11:00.

16 Please do not form or express any opinion about
17 the case until the matter is finally submitted to you.
18 Don't talk with anyone about the case, don't allow anyone to
19 talk to you about the case, and do not conduct any research
20 of any kind on any subject matter connected with this case.

21 So we'll see you back at five till 11:00, please.

22 THE CLERK: All rise for the jury.

23 (The following was heard in open court outside the
24 presence of the jury:)

25 THE COURT: All right. Mr. Quinto, you can step

1 down. Let's take a 15-minute recess.

2 Just as a time check, plaintiff you have one hour,
3 28 minutes and nine seconds.

4 Defense, you have one hour, 30 minutes and 54
5 seconds. So my intention --

6 Sir, you can step down.

7 THE WITNESS: Thank you.

8 THE COURT: We will push through till we get, at
9 least, this time amount done, and then I will deal with my
10 criminal case. I may have you come back at 4:30 this
11 afternoon so we can deal with instructions. It's likely
12 that we'll -- that you will close on Monday just based on
13 how the testimony has been going thus far.

14 So let's take a recess. Anything either side
15 wishes to address before we take a recess?

16 Mr. Klaus?

17 MR. KLAUS: No, Your Honor.

18 THE COURT: Mr. Eisenhut?

19 MR. EISENHUT: No, Your Honor.

20 THE COURT: We'll see you back at five till.

21 THE CLERK: All rise. This Court is in recess.

22 (Recess taken 10:41 to 11:00 A.M.)

23 THE COURT: All right. Mr. Eisenhut, you may
24 continue.

25 MR. EISENHUT: Thank you.

1 Q Mr. Quinto, after this lawsuit was filed, did you
2 become counsel to VidAngel again?

3 A Yes, I did.

4 Q And did you, in that timeframe, become in-house counsel
5 for them?

6 A Yes, I did.

7 Q Does that mean that they became, essentially, your only
8 client?

9 A Yes.

10 Q And that was shortly after the lawsuit was filed?

11 A Yes.

12 Q All righty. Now, after the lawsuit was filed, some
13 time went by and then a motion for injunction was filed; is
14 that correct?

15 A Yes.

16 Q And that was an attempt by the studios to ask the Court
17 to essentially get VidAngel to stop as to the plaintiffs'
18 works; is that correct?

19 A Yes.

20 Q All righty. During this timeframe, you see the
21 lawsuit, obviously, as counsel for VidAngel, and you see the
22 motion for injunction. Did you analyze the arguments that
23 were made in them?

24 A Yes, I did.

25 Q Did you continue to believe that VidAngel's system was

1 lawful despite the counter-arguments made?

2 A Yes, I did.

3 Q Did you convey that opinion to Mr. Harmon and others at
4 VidAngel?

5 A I did.

6 Q Now, while the injunction motion was pending and before
7 it was later ruled upon, did you have an opinion that you
8 expressed to VidAngel as to whether or not an injunction was
9 likely to issue?

10 A Yes.

11 Q And what did you tell them in that regard?

12 A I told them that, in my view, an injunction would be
13 unlikely.

14 Q Can we pull up Exhibit 129.

15 Did you actually give them what you said was
16 probably 80 percent odds of success, meaning 80 percent
17 chance that an order telling them to stop would not issue?

18 A I did.

19 Q Okay. And we're looking at Exhibit 129 here. I think
20 we're on the wrong page. Is this the one that has the
21 80 percent in it? There it is. All right.

22 It's page 2. Down near the bottom where it says
23 "Dear All," this is a communication from you; is that right?

24 A Yes.

25 Q And there is a figure 80 percent there. It says "I

1 estimated the likelihood of success on the preliminary
2 injunction as 80 percent."

3 That was your communication that you had already
4 made even before the date of this e-mail; is that right?

5 A Yes, it is.

6 Q And then you said, "That is as high as I ever estimate
7 because judges are unpredictable."

8 A Yes.

9 THE COURT: Very true. It's Friday. My apologies.

10 THE WITNESS: I got one thing right.

11 BY MR. EISENHUT

12 Q All righty. Thank you. You can take that down.

13 When the preliminary injunction issued, were you
14 surprised?

15 A I was, yes.

16 Q And approximately how long had gone by between the time
17 the injunction motion was filed and ultimately a ruling came
18 down?

19 A The motion was filed in late August, as I recall, and
20 we received a ruling the night of December 12. So been
21 four months.

22 Q Okay. Approximately four months. And there had been a
23 hearing in the Court before the judge regarding whether or
24 not he should issue such a ruling?

25 A Yes. We had an extensive argument before

1 Judge Birotte.

2 Q Okay. And then I believe it was approximately 28 days
3 lapsed and then a ruling issued; is that correct?

4 A Yes.

5 Q All righty. And so at the time that the ruling came,
6 you and the people at VidAngel were surprised by it?

7 A We were surprised by the timing, and we were surprised
8 by the fact that it issued.

9 Q Okay.

10 A And we were also surprised by the scope.

11 Q Now, when it issued on December 12th, 2016, did you
12 believe that it was effective as of that time?

13 A No. And --

14 MR. KLAUS: Your Honor, objection. This goes to a
15 motion that we had filed.

16 THE COURT: Sustained.

17 MR. KLAUS: Thank you.

18 MR. EISENHUT: Your Honor, can we have a second on
19 that.

20 THE COURT: All right.

21 (The following proceedings were held at sidebar.)

22 THE COURT: Mr. Eisenhut, I am assuming he is
23 going to say that he didn't think it was effective. This is
24 after the injunction date. How does this not go against
25 what the Court had indicated that you could not rely on the

1 defense of counsel post-injunction?

2 MR. EISENHUT: Okay. We were just -- because he
3 is the one with the legal understanding. We were just going
4 to show it was effective on the 15th but not that he was
5 giving them advice on whether to comply or not comply.
6 Obviously, I am not going to go there.

7 THE COURT: You said effective on the 15th?

8 MR. EISENHUT: Yeah. That's what he believed
9 because the bond posted on the 15th. So he believed it was
10 effective the 15th. I was going to stop there. I wasn't
11 going to have him say I gave them advice one way or the
12 other.

13 THE COURT: Mr. Klaus, your response, if any?

14 MR. KLAUS: So having him say that he believed
15 that they had been given advice makes no sense because he is
16 not just the lawyer, he is the client.

17 THE COURT: Hold on.

18 MR. EISENHUT: He is not the client.

19 THE COURT: Hold on. What about the fact that
20 they posted a bond on the 15th? The posting of the bond,
21 does that somehow give VidAngel at least a grace period of
22 those three days, independent of any counsel advisement?

23 MR. EISENHUT: Yes.

24 THE COURT: Hold on.

25 MR. KLAUS: The answer is no, there is no legal

1 authority they ever cited for that proposition. This is
2 something that Mr. Quinto wants to come in and say, "I am a
3 lawyer. I know what the meaning of Rule 65 is. I
4 interpreted that to mean that it -- that Rule 65 meant that
5 the injunction, even though it said it was effective
6 immediate -- frankly, Judge Birotte, even though you said at
7 the hearing on the contempt motion that it was effective the
8 day it was issued," which I will have to get into with him
9 and cross him on it, but he wants to say, "I, David Quinto,
10 believed that it would not -- it wouldn't be effective for
11 three days, VidAngel believed it was not effective for
12 three days, and, therefore, we have three days of grace for
13 the advice of counsel defense."

14 There is no support for it. It's prejudicial.
15 It's a blatant violation of the in limine ruling.

16 MR. EISENHUT: Actually, it's the law.

17 THE COURT: What's actually the law?

18 MR. EISENHUT: That an order of that nature
19 becomes effective upon posting of the bond. Of course, as
20 far as knowledge, everybody knows what the ruling is. Its
21 actual legal effect is when the bond is posted.

22 THE COURT: I'm curious. I being sincere when I
23 say it -- what the authority for that? I know lawyers that
24 believe that, somebody practicing, but is there authority to
25 suggest that there is some grace period that's allowed so

1 that it's not effective until the posting of the bond?

2 MR. EISENHUT: I can tell you that I read what I
3 believed to be the authority on that, and I can't tell you
4 exactly what it is. I'm happy to take a few minutes and
5 find it, but I did see authority on that that I thought was
6 persuasive.

7 THE COURT: All right. Let's deal with the issue
8 at hand.

9 MR. EISENHUT: Okay.

10 THE COURT: Mr. Quinto wants to say that he
11 thought it was not effective until December the 15th, but he
12 didn't tell the client that?

13 MR. EISENHUT: I wasn't going to have him say
14 that, obviously, because of the December 12th cutoff, just
15 that it was not effective.

16 THE COURT: I think that's the problem because, I
17 mean, until I see some authority to suggest that, under the
18 law that it is not effective -- and I worry --

19 MR. EISENHUT: We can grab that at lunch.

20 THE COURT: -- I am very concerned Mr. Quinto
21 stating he didn't believe it was effective. Whether he says
22 he conveyed it to the client or not gets into that area of
23 advice of counsel post the injunction; so I am not going to
24 allow any testimony on that.

25 So you can try -- if during the lunch hour you

1 find something that suggests otherwise, I am willing to
2 revisit it, but we are going to have to move on from this
3 area.

4 MR. EISENHUT: While we're here, can I ask a
5 question?

6 THE COURT: Sure.

7 MR. EISENHUT: I am honestly not sure about this
8 and. I was just going to wait for redirect anyway. But if
9 they get into -- with anything into him about anything after
10 December 12th and they ask him that, you know -- didn't
11 comply or whatever, I would like to be able to ask him
12 because he came into this Court in a public courtroom --
13 this is advice of counsel and in public court and made
14 arguments on behalf of VidAngel as to why he thought they
15 should not be deemed in violation of the law.

16 THE COURT: Mr. Klaus, do you intend to get into
17 this area with Mr. Quinto about the actions of -- well,
18 post -- the actions of either Mr. Quinto or VidAngel post
19 the injunction date?

20 MR. KLAUS: I think it is fair ground to have him
21 acknowledge that VidAngel did not comply and that the Court
22 said -- the Court ruled that VidAngel did not comply.

23 THE REPORTER: Please speak into the mic.

24 MR. KLAUS: I'm sorry. It is, I think, fair game
25 and does not open the door to say that VidAngel did not

1 comply, that there was a hearing before Your Honor and that
2 Your Honor ruled that they had not been in compliance.

3 We have to -- it is imperative that we point out
4 to the jury that VidAngel would not stop and that we had to
5 ask the Court to order them to stop.

6 MR. EISENHUT: But if they --

7 THE COURT: Hold on.

8 MR. KLAUS: And that does not implicate any advice
9 that he gave them. That is a matter of fact.

10 THE COURT: Mr. Eisenhut.

11 MR. EISENHUT: It is also a matter of fact that he
12 made the arguments he made in this court against a finding
13 that the order had been violated. That's not advice of
14 counsel. That's an open in public argument.

15 THE COURT: What's the relevance of that?
16 Presumably, there was a hearing, arguments were made, the
17 Court made its ruling. What difference does it make what
18 that substance of the argument --

19 MR. EISENHUT: To me, it seems like it's the same
20 level of fact. So if there is a fact that you made a
21 finding, there is also fact that he made an argument.

22 THE COURT: Are you going to try to have
23 Mr. Quinto reconvey what that argument was?

24 MR. EISENHUT: I was going to have him say what
25 his -- yeah, in essence, that was made openly in public.

1 THE COURT: I think that's problematic. We'll
2 cross that bridge if and when we need to, but I am not going
3 to allow him to testify right now about what he told -- or
4 his belief about the injunction because I am not aware of
5 any authority. I think we talked about this at the hearing.
6 I don't think you were counsel at that time --

7 MR. EISENHUT: No, I wasn't.

8 THE COURT: -- about what the effective date was,
9 and I don't think anyone conveyed to the Court an authority
10 that suggested that -- that allows for this grace period.

11 MR. EISENHUT: That I don't know.

12 THE COURT: So we'll have to move on from this
13 line of inquiry. All right?

14 MR. EISENHUT: Sure.

15 MR. KLAUS: Thank you, Your Honor.

16 (The following was heard in open court in the presence
17 of the jury:)

18 THE COURT: Mr. Eisenhut, you may proceed.

19 BY MR. EISENHUT

20 Q After the injunction was issued, did VidAngel file a
21 motion with the Court seeking to have the injunction stayed?

22 A Yes, it did.

23 Q And did you believe that that motion was likely to be
24 granted?

25 MR. KLAUS: Objection, Your Honor. This is

1 getting into the same --

2 THE COURT: I will allow it.

3 THE WITNESS: No. I anticipated that it would
4 likely be denied.

5 BY MR. EISENHUT

6 Q Okay. And why did you -- once it was filed, it was
7 likely to be denied?

8 A Because filing it was a precondition --

9 MR. KLAUS: Objection, Your Honor. Again, this is
10 getting into --

11 THE COURT: I will allow the answer for now.

12 MR. KLAUS: Thank you.

13 THE WITNESS: Bringing the motion was a
14 precondition to seeking relief from the Ninth Circuit. If
15 we hadn't brought the motion first before Judge Birotte, we
16 could not have gone to the Ninth Circuit.

17 BY MR. EISENHUT

18 Q Okay. At some point later in time, was the motion
19 filed with the Ninth Circuit?

20 A Yes.

21 Q Okay. Now, after the injunction was issued, were you
22 involved in sending letters to other studios who were not
23 plaintiffs in this litigation?

24 A Yes. Immediately -- beginning immediately when we
25 filed our stay application, I began reaching out to studios

1 and networks that had chosen not to sue VidAngel to say,
2 one, we're very grateful that you chose not to sue us; and,
3 two, the Disney, Fox, Warner Bros. plaintiffs have gotten a
4 preliminary injunction -- and I typically sent a copy of the
5 injunction, and I said that VidAngel didn't want them to
6 feel disadvantaged as a result of their decision not to sue
7 us. So on behalf of VidAngel, we offered to stop filtering
8 and streaming their movies if they wanted us to do so.

9 And we had no legal obligation to do that because
10 the injunction applied only to 35 percent or so of the
11 movies we were offering, but we extended the offer to all
12 100.

13 MR. KLAUS: Your Honor, I would move to strike
14 everything after the word "yes," which was the only portion
15 that was responsive to Mr. Eisenhut's question.

16 THE COURT: Sustained. Stricken.

17 BY MR. EISENHUT

18 Q All right. So you answered "yes," then, that you were
19 involved in having letters sent. Can you please tell the
20 jury what the content of those letters was.

21 A Sure. One, I advised television networks and studios
22 of the fact the injunction had issued and what it provided;
23 two, in addition to expressing VidAngel's gratitude for not
24 having to defend any lawsuit, I said that we didn't want --
25 VidAngel didn't want anyone to feel disadvantaged as a

1 result of their courtesy in not suing us.

2 So I asked them to let VidAngel know whether they
3 wanted VidAngel voluntarily to extend the protections of the
4 preliminary injunction to their content.

5 I said, "We'll stop decrypting and filtering and
6 streaming your content if you want us to do so. Just please
7 tell us, and we'll stop."

8 Q Did any of the studios or whoever else you sent that
9 letter to, did any of them respond?

10 A One did.

11 Q Who was that?

12 A MGM.

13 Q Now, with respect to all the others, did you receive
14 any response at all?

15 A No.

16 Q Now, did -- let me strike that.

17 Looking back in all the communications that you
18 had with Neal Harmon or his brother, Jeff Harmon, and others
19 at VidAngel, did anything they do or -- there were various
20 changes made to their system -- anything they do impact your
21 analysis and conclusion that what they were doing was
22 lawful?

23 A I'm sorry.

24 Q Let me try that, again. That wasn't very good.

25 A Okay.

1 Q Is there anything that you saw Neal Harmon or Jeff
2 Harmon do or anybody at VidAngel that made you think I might
3 need to re-evaluate whether or not what they're actually
4 doing is lawful?

5 A No, never.

6 Q Did everything they did appear to be -- to you to be
7 done in good faith?

8 A Absolutely.

9 MR. EISENHUT: No further questions for now,
10 Your Honor.

11 THE COURT: Cross-examination.

12 MR. KLAUS: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. KLAUS:

15 Q Good afternoon, Mr. Quinto.

16 THE COURT: I think it's still morning.

17 THE WITNESS: Good morning.

18 BY MR. KLAUS

19 Q I'm sorry. It is good morning. Thank you, sir.

20 Mr. Quinto, you described in your background that
21 you are an intellectual property lawyer; correct?

22 A I did.

23 Q And you are not -- you haven't just been an
24 intellectual property lawyer, you have been a litigator
25 throughout your career; right?

1 A Until VidAngel, yes.

2 Q And litigator is a way of describing people like me and
3 Mr. Eisenhut and Ms. Ehler and you or people who fight cases
4 for people; right?

5 A We advocate on behalf of our clients.

6 Q And you have oftentimes described yourself as an
7 aggressive litigator; correct?

8 A Yes.

9 Q It's been a point of pride for you being an aggressive
10 litigator; right?

11 A Yes, it has been.

12 Q And there are documents that have been produced in this
13 case that show you recounting an anecdote made by one of
14 your former partners, Mr. John Quinn. He is one of your
15 partners at Quinn Emanuel?

16 A Yes.

17 Q And do you recall writing to a lawyer that you were
18 considering retaining on behalf of VidAngel the anecdote
19 that Mr. Quinn used to say at your annual partner meetings,
20 "Next year we want to be more aggressive. David, that
21 doesn't apply to you"?

22 A Yes, I have said that. He did say that, and I have
23 repeated that.

24 Q And you were hired as the general counsel of VidAngel
25 in August of 2016 to supervise this litigation; correct?

1 A That was the principal obligation that I was given.

2 Q And you have been supervising this litigation ever
3 since for VidAngel; correct?

4 A Largely, yes.

5 Q You have been supervising it throughout this trial;
6 correct, sir?

7 A I have been -- I'm not responsible for the conduct of
8 the trial.

9 Q But you have been coordinating with VidAngel's counsel
10 on the conduct of the trial; correct?

11 A I have communicated with them on behalf of VidAngel,
12 just as I am sure the in-house lawyers of your clients
13 seated there have communicated with you.

14 MR. KLAUS: I move to strike, Your Honor, after
15 everything -- after the acknowledgment he has communicated.

16 THE COURT: Sustained. Stricken.

17 BY MR. KLAUS

18 Q Mr. Quinto, you have been in the courtroom for almost
19 all of the trial; correct?

20 A Yes.

21 Q And you have not been seated with the other gentlemen
22 here representing the defendants because you didn't want to
23 appear to the jury to be part of the trial team; right?

24 A Yes.

25 Q That's all. Thank you.

1 A I didn't --

2 Q Mr. Quinto, Mr. Quinto, Mr. Eisenhut can ask you the
3 questions on redirect. We have very limited time. I would
4 like you to focus on my questions.

5 Now, I would like to go back to the time when you
6 first started working with Mr. Harmon and VidAngel in the
7 fall of 2014. You were asked some questions about that. Do
8 you remember?

9 A Yes.

10 MR. KLAUS: And I'd like to bring up Exhibit 108.
11 And specifically, Mr. Jay, if you could go back to page 4
12 and just stop there for a moment.

13 Q I would like to show you an e-mail communication that
14 you sent on August 21st, 2014 (sic), and do you see -- this
15 is from you; correct?

16 A Yes.

17 Q It's to Neal Harmon; right?

18 A Appears to be.

19 Q And you are giving him in this e-mail advice about a
20 strategy for the disc-based service and rolling it out;
21 correct?

22 A I'm sorry. And -- advice to what?

23 Q Why don't I withdraw and try another question,
24 Mr. Quinto. Let's see if I can do it this way.

25 You are describing a plan about things that will

1 occur once VidAngel has investors. That's what it says in
2 the second line; correct?

3 A A roadmap that I was proposing that VidAngel follow.

4 MR. KLAUS: And if we could go down in the same
5 e-mail a little bit lower to the top of the next page,
6 Mr. Jay. Bring up the first full paragraph, please. Not
7 that one. Starts with "That said."

8 Q So one of the things that you -- one of the things that
9 you were talking about in this e-mail communication to
10 Neal Harmon was the memo that you were working on that you
11 had described to Mr. Eisenhut; correct?

12 A Yes.

13 Q And you said to Mr. Harmon, "We are already planning
14 for the future to the extent we can do so."

15 Do you see that?

16 A Yes.

17 Q You said, "Although couched as an attorney-client
18 privileged memo addressed to you, our preliminary memo is
19 being crafted with the idea that it will someday become part
20 of the court record"; correct?

21 A As it has.

22 Q Correct. And when you say "as it has," that's
23 Exhibit 2156, your 12-page memo that you were shown by
24 Mr. Eisenhut; correct?

25 A That was the final version of it, yes.

1 Q And you also make reference here to a letter to
2 stakeholders. Do you see that?

3 A I do.

4 Q And the letter to stakeholders -- you were also shown
5 that on your direct examination. We've seen it several
6 times before. This is the three-page letter that you sent
7 out to general counsels of various motion picture studios or
8 their parent companies; correct?

9 A That was the draft that finally emerged, yes.

10 Q And you said that all of this was -- and your words
11 were "designed to frame the picture of VidAngel that will be
12 presented in court and to frame the legal issues." Do you
13 see that?

14 A Yes.

15 Q And what you were talking about there is the picture of
16 VidAngel that would be presented in this trial; correct?

17 A That I hoped would be presented in any litigation that
18 might ensue. I did not specifically envision this trial;
19 but I will hand it to you, Mr. Klaus, that you succeeded in
20 framing the issues in the litigation.

21 MR. KLAUS: Your Honor, I move to strike the last
22 sentence.

23 THE COURT: Stricken.

24 BY MR. KLAUS

25 Q And the last sentence of your e-mail, Mr. Quinto, says,

1 "We're taking charge of the narrative even before anyone
2 else is listening." Do you see that?

3 A Yes.

4 Q Those were your words. That is what you wrote to
5 Mr. Harmon; right?

6 A Yes, of course.

7 Q And I want to come back to the stakeholder letters, if
8 we may. We have seen a lot of those.

9 And I will ask, Mr. Jay, if you will bring up
10 Exhibit 43 and if you could just bring up the top.

11 This is a version that you sent to the general
12 counsel of Twentieth Century Fox Film Corporation; right?

13 A It appears to be.

14 Q And in substance the same letter that you sent to the
15 general counsel of the Walt Disney Company; correct?

16 A Correct.

17 Q And in substance the same letter that you sent to the
18 general counsel of what was then Time Warner Entertainment;
19 correct?

20 A Correct.

21 Q And this letter doesn't request a streaming license,
22 does it?

23 A None of them did --

24 Q And --

25 A -- they requested DVDs.

1 Q Okay. And what you said was -- you were writing at the
2 very bottom of that first paragraph, "specifically to
3 inquire about buying DVD and Blu-ray discs directly from
4 20th Century Fox"; correct?

5 A That's what it says.

6 Q Now, there are some things that are missing from this
7 letter, aren't there, Mr. Quinto?

8 A Well, it was a page and-a-half letter. I am sure there
9 were many things I could have put in there. I'm not sure
10 what you are referring to, though.

11 Q Let's talk about some of the things that aren't in
12 there.

13 There is nothing in the letter about VidAngel
14 ripping DVDs, is there?

15 Do you need to see a full copy of the letter to
16 know whether that's the case, sir?

17 A I don't know whether it describes decrypting or not. I
18 haven't reread the letter recently.

19 Q If you would like to reread the letter, Mr. Quinto, to
20 see whether it says anything about decrypting -- strike
21 that.

22 You reviewed the letter before testifying today,
23 didn't you?

24 A Not recently but --

25 Q Okay. Do you have any reason to believe that this

1 letter, which the jury can read as well -- do you have any
2 reason to believe this letter says anything about VidAngel
3 ripping movies off of discs to operate its system?

4 A I don't recall whether it refers to decrypting, but, if
5 you have got the whole letter there and you are telling me
6 it doesn't, I'm not going to dispute that.

7 Q The letter doesn't say anything about VidAngel's use of
8 the AnyDVD product from RedFox, does it?

9 A No, it doesn't.

10 Q The letter doesn't say anything, sir, about the fact
11 that, as of July the 23rd, 2015, a VidAngel user did not
12 need to select a single filter to use -- to acquire a movie
13 on the system; right?

14 A Doesn't say that, no.

15 Q It doesn't say anything about VidAngel, once it had
16 used the AnyDVD program, making copies of these movies to
17 computer servers, does it?

18 A Well, it's a technological impossibility to stream --

19 Q Mr. Quinto, I am not asking about technological
20 impossibility. Am asking you, sir, the letter does not say
21 a word about VidAngel ripping the movies off of these discs
22 and making copies to computer servers, does it?

23 A Any reader of the letter would understand --

24 Q Mr. Quinto, can you please -- Mr. Quinto, the question
25 is yes or no. Will you please answer yes or no.

1 The letter says nothing about VidAngel making
2 copies to computer servers, does it?

3 A No, it did not repeat the obvious.

4 Q Thank you.

5 I move to strike that it did not repeat the
6 obvious, Your Honor.

7 THE COURT: Stricken.

8 BY MR. KLAUS

9 Q The letter doesn't say anything about the effective
10 price of the VidAngel system being \$1.00 a day, does it,
11 sir?

12 A It does not.

13 Q Now, let's go back, if we could, to your October 2014
14 e-mail correspondence with Mr. Harmon. That's Exhibit 108
15 at page 5.

16 Now, on your direct examination, I wrote this
17 down, sir. You said -- you sent the letter for three
18 reasons. One was that, if someone objected, you wanted to
19 address the objection before you got the ship out to sea;
20 second thing was you wanted to say we're here; and the third
21 thing was you said you wanted to make an offer to buy DVDs
22 at a bulk discount. That was your testimony; right?

23 A Yes. I probably had those things in the wrong order,
24 we're here being number one.

25 Q And the -- just so we're clear, what you also said to

1 Mr. Harmon in your 2014 e-mail was your view was -- and I
2 want to strike that -- "it would make the most sense for
3 VidAngel to wait until its proposal has been meaningfully
4 criticized by a stakeholder and then initiate an action for
5 declaratory relief," and you put an emphasis on the word
6 "initiate"; right, sir?

7 A Yes.

8 Q And you said that "Doing so would permit VidAngel to
9 select the forum that appears most advantageous to it";
10 correct, sir?

11 A Yes, of course.

12 Q Just so we're all on the same page about what this
13 means, the reference to a "stakeholder," that's, for
14 example, a reference to Twentieth Century Fox Film
15 Corporation; right? They're the kind of stakeholders you
16 are talking about; right?

17 A The owners of copyrights and motion pictures, including
18 television shows.

19 Q And an action for declaratory relief -- that's
20 something you and I understand what it means -- just so
21 everyone is on the same page.

22 An action for declaratory relief, that's a lawsuit
23 like this one; right?

24 A It's a lawsuit. It's not like this one, though.

25 Q And the way that it's not like this one is that, in an

1 action for declaratory relief, VidAngel would be the
2 plaintiff and we would be the defendant -- right? -- because
3 you would be asking the Court to say, "Hey, tell us that
4 we're legal, these guys over here." That's the difference
5 between this action and the declaratory relief action;
6 right?

7 A No.

8 Q You are saying that's not what a declaratory relief
9 action is?

10 A You are asking me whether that's the difference. That
11 is a difference, but it's not the important difference.

12 Q Okay. But you will grant me, Mr. Quinto, it's a
13 difference; right?

14 A I just said it is a difference.

15 Q Okay. And when you are saying that, an action for
16 declaratory relief, what you are recommending here is that
17 if one of the motion picture studios, if one of my clients
18 objected and meaningfully criticized you, VidAngel would
19 bring a lawsuit against it before that company could bring a
20 lawsuit against VidAngel; right?

21 A Yes.

22 Q And when you say, "Doing so would permit VidAngel to
23 select the forum that appears most advantageous to it," what
24 you meant was we'll bring a lawsuit not -- and the lawsuit
25 won't be in the Central District of California. That's what

1 you meant; right?

2 A Yes. That is --

3 Q Thank you, sir.

4 You didn't want this lawsuit to be litigated in
5 the U.S. District Court for the Central District of
6 California, did you?

7 A No. And --

8 Q You didn't want -- sir, you --

9 I move to strike everything after the word "no."

10 THE COURT: Stricken.

11 BY MR. KLAUS:

12 Q You didn't want this trial to take place before a jury
13 that was drawn from the Central District of California, did
14 you, sir?

15 A We didn't want to have to improperly defend an action
16 here, an action improperly brought here.

17 Q You wanted to -- if you were going to litigate this
18 lawsuit, if you were going to have this trial, you wanted
19 that to be in Utah; right?

20 A I did.

21 Q You thought that VidAngel would get a better result in
22 Utah than in the Central District of California; right?

23 A I thought there would be a number of advantages to
24 proceeding in Utah where jurisdiction and venue were proper
25 as opposed to proceeding here where they weren't, but

1 VidAngel couldn't afford to challenge them.

2 Q And, Mr. Quinto, one of the things that you thought was
3 that the judge and jury in the District Court of Utah would
4 be better for VidAngel than in the Central District of
5 California. That's a fact, isn't it?

6 A That's one difference.

7 Q Now, the letter that you sent, sir -- and, again, I
8 refer back to Exhibit 43, which Mr. Jay can bring up. In
9 the last paragraph of the letter on page 3 -- if you could
10 just bring that up.

11 -- you say, "If you have any questions concerning
12 VidAngel's technology or business model, please feel free to
13 ask."

14 You then say, "If you disagree with VidAngel's
15 belief that its technology fully complies with the
16 Copyright Act or otherwise does not adequately protect the
17 rights of copyright owners, please let us know."

18 Do you see that?

19 A I do.

20 Q That's the request for the criticism that you were
21 referring to in your earlier e-mail to Mr. Harmon; correct?

22 A Yes. It was our request to let us know whether anybody
23 had any issues.

24 Q Okay. And you've represented -- over the course of
25 your nearly three decades as a litigator, sir, you've

1 represented many companies; right?

2 A Yes.

3 Q You have made a point of saying you have represented
4 entertainment companies; right?

5 A Some, yes.

6 Q And you are familiar with the term "setup letter,"
7 aren't you, sir?

8 A I am.

9 Q And --

10 A And this is not one.

11 Q Mr. Quinto, I move to strike everything after you
12 saying that you are familiar with the setup letter.

13 THE COURT: Stricken.

14 BY MR. KLAUS

15 Q And a setup letter, just so we're all on the same page
16 again, sir, a setup letter means one that says, let me tell
17 you what I am doing and what my position is and you tell me
18 if you disagree.

19 And it's a setup because, if somebody does
20 disagree, you can then bring an action for a declaratory
21 judgment in a forum that you consider to be more favorable
22 to you. Isn't that a fact? That's what a setup letter is?

23 A It's beyond that.

24 Q Okay. And the motion picture studios, they weren't
25 born yesterday, were they, Mr. Quinto?

1 A They have been around longer than I have.

2 Q Okay. And you think, Mr. Quinto, that they viewed this
3 as a setup letter, don't you?

4 A No, I don't.

5 Q Now, you were here for Mr. Eisenhower's opening
6 statement; right?

7 A Yes.

8 Q And do you recall that one of the things that he said
9 was that the motion picture studio plaintiffs in this case
10 did nothing in response to the letter. Right?

11 A Well, did not express any objection or concern to
12 VidAngel, did not ask that VidAngel modify its service in
13 any way.

14 Q But you know that the motion picture studios were
15 actually doing quite a few things after they got this
16 letter, don't you?

17 A Would you clarify what you mean by motion picture
18 studios, Mr. Klaus, because --

19 Q You understand -- did you understand, Mr. Quinto, that
20 the plaintiffs in this case were doing quite a few things
21 regarding VidAngel after getting your letters; correct?

22 A Well, for one, they tried to recruit other firms to
23 join them and couldn't.

24 Q Mr. Quinto, it's a yes/no question. You understand
25 they were doing many things; right? Yes or no?

1 A I understand that for five months they were observing
2 VidAngel. After that, after five or six months, they had --
3 they asked Mr. Schumann to look at VidAngel's Website and
4 attempt to determine whether VidAngel was operating exactly
5 as it claimed to be operating.

6 Q And during that time -- during this time that you were
7 describing, Mr. Quinto -- you were in court for
8 Professor Barnett's testimony; correct?

9 A I was.

10 Q And do you recall the chart that showed the hockey
11 stick growth; correct?

12 A Yes.

13 Q And you recall that in your letters, the letters to the
14 stakeholders seeking their input, you said that VidAngel had
15 4,848 users as of that time. Do you recall that?

16 A I do.

17 Q And that number grew considerably over time after that,
18 didn't it, sir?

19 A It did.

20 Q And --

21 A After VidAngel --

22 Q -- you submitted -- first of all, strike that.

23 We talked a bit about the preliminary injunction
24 motion that was filed in the Court, and you said that there
25 was a hearing, a decision sometime after the motion was

1 filed. Do you recall telling Mr. Eisenhut that?

2 A I'm sorry. Hearing after the motion was filed?

3 Q Correct.

4 You said that there was a hearing after the motion
5 was filed and that the time between the motion being filed
6 and the time between His Honor deciding the motion was a
7 period of about four months. Do you recall telling
8 Mr. Eisenhut that?

9 A Yeah. The motion was filed in August. The hearing was
10 mid-November. The decision was rendered the night of
11 December 12th.

12 Q And one of the things that was happening during that
13 time period was the parties were taking discovery from each
14 other; correct?

15 A Incorrect.

16 Q The parties were filing briefs; correct?

17 A Well, that's correct, yes.

18 Q So VidAngel -- one of the things that happened was
19 VidAngel wanted several weeks to file its opposition to the
20 preliminary injunction motion; right?

21 A And the studios wanted several weeks to file a reply to
22 that.

23 Q And you worked on the opposition to the preliminary
24 injunction motion; correct?

25 A I did.

1 Q And you, in fact, appeared in court to argue the --
2 VidAngel's position; right?

3 A Not very successfully, but, yes, I did.

4 Q Mr. Quinto, if we could bring up a document that we've
5 marked for identification. It's not an exhibit. It's 3055.

6 If you can just bring the first page of that up
7 for a moment, Mr. Jay.

8 This is -- the document is marked Exhibit 3055.
9 This is entitled "VidAngel's Memorandum of Points and
10 Authorities in Opposition to the Motion for Preliminary
11 Injunction." This is what we litigators colloquially call
12 an opposition brief; right?

13 A Yes.

14 Q And this is the one that you worked on; correct?

15 A I worked on it, yes.

16 Q And you approved its filing on VidAngel's behalf;
17 correct?

18 A I did.

19 MR. KLAUS: If we could go to the numbered
20 page 33, Mr. Jay.

21 Q I want to make sure -- and there is information in this
22 brief that's based on facts that VidAngel acquired in
23 discovery; correct?

24 A Yes.

25 Q So one of the things you reference is that Disney

1 opened a VidAngel account on August 6th, 2015. Do you see
2 that?

3 A I do.

4 Q You said also on August 6th, 2015, 18, mostly legal
5 employees of plaintiffs and other MPAA studios and seven
6 MPAA lawyers, exchanged e-mails and messages about VidAngel.
7 Do you see that?

8 A Yes.

9 Q And August 16th, 2015, that's two weeks after you sent
10 your letters to the general counsels of all the studios;
11 right?

12 A Yes.

13 Q Okay. And you say that on August the 28th, 2015,
14 plaintiffs e-mailed me and two of my colleagues at Munger,
15 Tolles about VidAngel; correct? That's what you said.

16 A Somebody else obviously drafted that line because I
17 would not have expressed it that way, but, yes, that's what
18 it says.

19 Q And you said that, in all, 59 employees of plaintiffs,
20 the MPAA, or other MPAA studios exchanged 124 messages
21 concerning VidAngel in August of 2015 alone. Do you see
22 that?

23 A I do.

24 Q You said that the in-house lawyers at the plaintiff
25 motion picture studios and their outside lawyers discussed

1 VidAngel over 1,300 times by e-mail alone before filing
2 suit; correct?

3 A That was what the privilege log the plaintiffs produced
4 reflected.

5 Q At the hearing before Judge Birotte on the preliminary
6 injunction motion in 2015, you stated -- after recounting
7 these facts, sir, you stated the studios were clearly taking
8 this seriously as of August 2015, didn't you?

9 A The plaintiffs, yes.

10 Q You said the plaintiffs were clearly taking this
11 seriously as of August 2015; correct?

12 A The plaintiff members of the MPAA, not the MPAA members
13 who were not plaintiffs.

14 Q You said that -- your words, sir, were --

15 And if you could just bring up what we have marked
16 for identification as Exhibit 3006.

17 THE COURT: Counsel, I don't know if the
18 court reporter can hear you.

19 MR. KLAUS: My apologies, Madam Court Reporter.

20 If you could bring up 3006.

21 Q This is from a transcript of the hearing before His
22 Honor. These are your words; right? "The studios were
23 clearly taking this seriously as of August 2015." Right,
24 sir?

25 A I was referring there to the plaintiff studios.

1 Q But those are your words; right, Mr. Quinto?

2 A I don't know how many times I have to say yes.

3 Q Thank you, sir.

4 A That is what I said --

5 Q Thank you, sir. That's all you needed to say.

6 Now, you told Mr. Eisenhut that you had not heard
7 anything from -- on behalf of Warner Bros. in response to
8 your letters in 2015. Do you recall telling him that?

9 A Yes. I said that I had heard from one studio, which as
10 I recalled, was Fox.

11 MR. KLAUS: If we could bring up Plaintiff
12 Demonstrative 18, please.

13 Q You actually -- this from a portion of your declaration
14 in opposition to the preliminary injunction motion,
15 Mr. Quinto.

16 You said that you received a voice mail message
17 from an in-house lawyer at Fox and you received an e-mail
18 message from an in-house lawyer at Time Warner, Inc. Do you
19 see that?

20 A I see that.

21 Q Does that refresh your recollection that you did, in
22 fact, hear from somebody on behalf of Warner Bros.?

23 A It refreshes my recollection that there was a message
24 requesting to communicate, but there was never any
25 substantive communication.

1 Q And there was an e-mail that -- there was an e-mail
2 exchange between Jamie Marquart, who was VidAngel's lawyer,
3 and a lawyer on behalf of Warner Bros., was there not, sir?

4 A Yes. It was --

5 Q And there was --

6 If we could bring that up. That's Exhibit 2096,
7 if you could highlight the top.

8 Jamie Marquart, that's the lawyer who replaced you
9 as outside counsel for VidAngel; correct?

10 A Yes.

11 Q And do you see that this is an e-mail exchange with a
12 gentleman named Bradley Silver at timewarner.com. Do you
13 see that?

14 A Yes.

15 Q And your letter in the case of Warner Bros., that had
16 been sent to the general counsel of Time Warner which at the
17 time was the parent company of Warner Bros.; correct?

18 A Yes.

19 Q Now, you also received a letter from the general
20 counsel of Twentieth Century Fox; correct?

21 A I received some communication from Fox.

22 Q And that is Exhibit 229. Do you see that?

23 A Yes.

24 Q And one of the things that Mr. Zweifach told you, at
25 the very end, "21st Century Fox reserves all of its rights

1 and remedies." Do you see that?

2 A I do.

3 Q And Netflix sent you a response on August 14th; right?
4 That's Exhibit 238.

5 A I recall hearing from Netflix, yes.

6 Q Now, Mr. Quinto, on direct examination, you said that
7 one of the things that you had some -- you had investigated
8 was the DMCA; right?

9 A Yes.

10 Q You testified about your views about the DMCA; right?

11 A No, I didn't.

12 Q Okay. But you didn't -- after looking into the matter,
13 I think you said that you thought VidAngel would not run
14 afoul of the DMCA; right?

15 A Yes.

16 MR. KLAUS: So I'd like to ask you to bring up
17 Exhibit 118, please.

18 Q This is dated January 4th, 2016. Do you see that?

19 A Yes.

20 Q That's from you, Mr. Quinto, to Mr. Marquart and
21 Mr. Baker. Again, those are the lawyers who had been hired
22 to replace you; correct?

23 A Yes.

24 Q They had been retained by VidAngel, you understood, to
25 defend it in the event it were sued by a motion picture

1 studio. Correct?

2 A Yes.

3 Q And you reported to Mr. Baker and Mr. Marquart that you
4 "spoke to Neal this morning," and Neal is Mr. Harmon here;
5 right?

6 A Correct.

7 Q Regarding "a concern because VidAngel decrypts DVDs and
8 Blu-ray discs to make the reformatted versions that
9 streamed, it might somehow violate the DMCA." Do you see
10 that?

11 A I do.

12 Q And Mr. Harmon, in fact, had raised with you a concern
13 that VidAngel might violate the DMCA for using AnyDVD on
14 these discs; correct?

15 A He did not make any reference to AnyDVD. He did relay
16 a concern that -- or a thought that somebody else had
17 expressed to him that there could be an issue with the DMCA.

18 Q Okay. And that other person was Matt Jarman of
19 ClearPlay; right?

20 A I don't believe so.

21 Q Do you see at the bottom it says, "VidAngel is
22 evidently seeking to acquire Clear Play, which has raised
23 the DMCA as a concern"?

24 A I do see that.

25 Q That refreshes your recollection, sir?

1 A Not really but I --

2 Q Okay. Then as -- just so we are clear on this, it's
3 correct, is it not, sir, that for every title that VidAngel
4 offered on the disc-based service, it had to decrypt a disc
5 containing the movie; correct?

6 A Anytime you want to access the content of a DVD, you
7 have to decrypt it.

8 Q Is the answer to my question, Mr. Quinto, yes, that
9 every time -- for every title that VidAngel put on its
10 disc-based service, it decrypted the disc that the movie was
11 on? Is that correct? Yes or no?

12 A You can't stream without --

13 Q Yes or no, Mr. Quinto. Did they decrypt a disc for
14 every title?

15 A I just said you cannot stream without decrypting.

16 Q Can you not answer my question yes or no?

17 A I am answering it.

18 Q Is the answer to my question yes?

19 A If you would allow me to speak, yes, it is because you
20 have to decrypt to stream the content of a disc.

21 MR. KLAUS: I move to strike everything after
22 "yes, it is," Your Honor.

23 THE COURT: Stricken.

24 BY MR. KLAUS

25 Q Let's look at another e-mail. This one is from

1 November 2016. This is Exhibit 296. This is an e-mail from
2 you to a William Delgado from another law firm. Do you see
3 that?

4 A I do.

5 Q And this is after the preliminary injunction motion had
6 been filed; correct?

7 A It is.

8 Q Okay. And you said that -- in the second paragraph you
9 said, Mr. Quinto, "It is possible that the Court could
10 conclude that VidAngel's service violates the DMCA but not
11 the exclusive rights of copyright"; correct?

12 A That was a possibility.

13 Q And in the bottom paragraph, you say, "VidAngel's
14 technology does not, however, involve the use of a DVD
15 player. Instead, it uses a software program that was once
16 available in the U.S. (VidAngel obtained from BYU),"
17 exclamation point, "but which may longer be sold here
18 legally to decrypt DVDs." Do you see that?

19 A I do.

20 Q And you were asking Mr. Delgado for his legal analysis
21 of a different way of acquiring the content from disc than
22 AnyDVD; correct?

23 A I'm sorry. A different way to acquire the content
24 apart from using -- that did not involve the use of AnyDVD?

25 Q That was your purpose to of your e-mail to Mr. Delgado;

1 right, sir? You were asking him to analyze a different way
2 of getting that content?

3 A That's not my recollection. But if you will show me
4 something to refresh my recollection, I will be grateful.

5 Q Look on the second page of this e-mail, sir.

6 "Here's the question: Assuming the Court
7 concludes VidAngel's current technology violates the DMCA,
8 would VidAngel still be in violation of the DMCA if it
9 popped DVDs into DVD players and then applied" --

10 A I see.

11 Q Does that refresh your recollection now, sir?

12 A Yes. Thank you.

13 Q You're welcome.

14 But VidAngel didn't change its method of acquiring
15 content from DVDs, did it?

16 A Yes, it did.

17 Q It kept -- until the time that VidAngel complied with
18 the preliminary injunction decision, it kept using AnyDVD to
19 get the movies off of discs, didn't it?

20 A It continued to use AnyDVD into December 2016.

21 Q Thank you very much, sir.

22 If I could ask you to bring up -- if I could ask
23 you to bring up, Mr. Jay, Exhibit 129. This was a document
24 that you looked at with Mr. Eisenhut.

25 If I could ask you, sir, to turn to page 5.

1 And if I could ask you to highlight everything
2 from the word "but" and then "the legislative history."
3 Pull that out. Frame that up.

4 So you talked about looking at legislative history
5 in your discussion with Mr. Eisenhut this morning; right,
6 Mr. Quinto?

7 A Yes.

8 Q You said, "the legislative history also contains
9 statements to the effect that the Family Movie Act would not
10 create an exemption from the DMCA and that any filtering
11 service would have to comply with the DMCA."

12 Do you see that, sir?

13 A I do.

14 Q And you further say, "Without further explanation, the
15 statement preceding the parenthetical seems very
16 inconsistent with our argument that the FMA should be read
17 within its four corners and that Congress tried to balance
18 the rights of all stakeholders while divesting the studios
19 of any ability to veto filtering services."

20 Do you see that?

21 A I do.

22 Q The legislative history that you are referring to
23 there, sir, that was statements in the legislative history
24 from Senator Hatch of Utah; correct?

25 A Precisely, from the senate side.

1 Q What Mr. Hatch -- Senator Hatch at the time said was
2 that the Family Movie Act does not provide any exemption
3 from the anti-circumvention provisions of the DMCA; correct?

4 A That is what he said.

5 Q All right. Thank you, sir. If you could, I would just
6 like you to look at page 4 of this exhibit, Mr. Jay.

7 Just to give the jury context, what was going on
8 in this rather lengthy e-mail exchange in Exhibit 129? Was
9 it you and Mr. Harmon and a number of lawyers were talking
10 about VidAngel trying to raise millions of dollars from
11 investors to support its business? Correct?

12 A The regulation A-plus offering, yes.

13 Q And one of the things that you were talking about there
14 was the risk of raising money from those people who then
15 might sue VidAngel if it lost the lawsuit. That was a
16 consideration that you were discussing; right?

17 A That was -- yes, a -- that was a theoretical
18 possibility, yes.

19 Q And there is a paragraph that starts with "One final
20 thought." Do you see that?

21 And it says, "One final thought concerning the
22 less versus more consideration."

23 And, again, this is a word that probably obvious
24 to us, but "consideration" there means you are talking about
25 less versus more in terms of money; right?

1 A In terms of how much money from investors VidAngel
2 agreed to accept.

3 Q And you said that, if VidAngel wins the litigation, it
4 will likely face an immediate onslaught of competition. Do
5 you see that?

6 A Yes.

7 Q And that's because you believed that, if what VidAngel
8 was doing was legal, lots of other people could do exactly
9 the same thing. Right?

10 A Well, it means that there was not a great deal of magic
11 to VidAngel's technology. So --

12 Q And that the barrier -- what you wrote there, sir, was
13 the barriers to market entry are low; right?

14 A That's exactly why it would have faced competition.

15 Q Because if VidAngel could build a business based on
16 ripping DVDs and saying to people put on a filter, put on
17 the end credit filter, a whole bunch of other people could
18 have done exactly the same thing; right?

19 A The concern was surviving litigation.

20 Q Sir, I am asking what you wrote here. What you wrote
21 here was talking about the onslaught of competition, not the
22 onslaught of litigation; correct?

23 A Yes. Companies that did not want to --

24 Q Thank you.

25 I move to strike everything after the word "yes,"

1 Your Honor?

2 THE COURT: Stricken.

3 BY MR. KLAUS

4 Q Let me ask you, Mr. Quinto, to take a look at
5 Exhibit 125.

6 And if you could page down a bit -- this is an
7 e-mail exchange in June. Keep going. Keep going. Okay.

8 On page 5, sir, this is an e-mail exchange between
9 you and Mr. Harmon after the filing of the lawsuit; right?

10 A I will take your word for it.

11 Q June 14th, 2016. Do you see that?

12 A (No audible response.)

13 Q Never mind. I will tell up that that's the date.

14 And this is Mr. Harmon's e-mail to you, and I just
15 want to see if this is consistent with your memory of what
16 Mr. Harmon wrote to you. And he is talking about the
17 litigation, and he is says, "the strategy that I would
18 propose is that we: 1. remove auto-sellback so that the
19 Court can't argue we're not selling something."

20 Do you see that?

21 A I do.

22 Q He also said let's "make sure that more than the
23 opening and closing credits are required so that the Court
24 can't argue that this is not to prevent the access of
25 minors."

1 Do you see that?

2 A I do.

3 MR. KLAUS: Take that down, please.

4 Q Mr. Quinto, you said -- you testified on direct to
5 Mr. Eisenhut that immediately after His Honor issued the
6 preliminary injunction decision, that you wrote to -- you
7 again wrote to non-plaintiff studios; correct?

8 A Yes.

9 Q And it's a fact, sir, that, when you describe in
10 filings with Judge Birotte why you had done that, you wrote
11 the following words: You said, I am doing so because, apart
12 from plaintiffs joined this week by MGM, none has ever
13 objected to VidAngel's service, but VidAngel does not want
14 to risk exposure to intentional infringement claims in light
15 of the rationale behind this Court's ruling.

16 Those were words that you wrote to Judge Birotte;
17 right?

18 A I will take your word for it.

19 Q Mr. Quinto, VidAngel filed a petition for Chapter 11
20 bankruptcy; correct?

21 A Yes, it did.

22 Q And you understand that it's -- you are still the head
23 lawyer for the company; right?

24 A I am, yes.

25 Q And I know you are not a bankruptcy lawyer, but you

1 understand in general terms that what happens is -- one of
2 the things that happens is that the bankruptcy judge figures
3 out how much does -- how many assets does the company have
4 and what are its liabilities.

5 Just at a very general level, that's something
6 that happens; right?

7 A That's part and parcel the process.

8 Q And after the verdict -- after the jury enters its
9 verdict in this trial, it's a fact, isn't it, that the money
10 judgment against VidAngel in this case, that will then
11 represent a claim against the Chapter 11 estate; correct?

12 A Well, the amounts of the jury verdict plus any costs
13 and attorney's fees that Judge Birotte may award, together,
14 would form a judgment that would be, as you said, a claim
15 against the estate.

16 Q And the amount -- and how that claim is processed and
17 paid out, that will ultimately be decided by the bankruptcy
18 judge; correct?

19 A I presume so.

20 Q That's your understanding, isn't it, sir?

21 A My understanding.

22 Q So that's the claims against VidAngel's side. I would
23 like to talk about the assets that VidAngel has.

24 One of the things that happens during the
25 bankruptcy process is the Court tries to figure out what are

1 VidAngel's assets to pay the people it owes money to; right?

2 A Yes.

3 Q And VidAngel filed in the bankruptcy court, did it not,
4 sir, a statement listing its various assets and liabilities?

5 That's true, isn't it?

6 A Yes.

7 Q And that's Exhibit 8, if you would bring that up.

8 And you have seen this document before, haven't
9 you, sir?

10 A I am sure I have.

11 Q It's the Summary of Assets and Liabilities for
12 Non-Individuals. That would include VidAngel; right?

13 A That's VidAngel.

14 Q And on page 8, if you go to page 8, sir.

15 If you would bring up -- higher up on the page
16 too, please, Mr. Jay, on page 8. I just want to see. Let
17 me show you. Keep going down. That's it. Okay.

18 So this section, Part 11, talks about other
19 assets. And one of the things that it says is, "Causes of
20 action against third parties (whether or not a lawsuit has
21 been filed)."

22 Do you see that?

23 A Correct.

24 Q And it says, there is a "Potential claim against
25 Kupferstein Manuel & Quinto, LLP, related to Legal Opinion."

1 Do you see that?

2 A I would pronounce it Kupferstein
3 Manuel & Quinto (pronouncing) but, yes, I see that.

4 Q I mean no disrespect to your former colleagues,
5 Mr. Quinto. I assure you.

6 The legal opinion that you are talking about there
7 is this one, Exhibit 2156; right?

8 A Yes.

9 Q And the claim that is listed there is malpractice. Do
10 you see that?

11 A The potential claim.

12 Q And what that means -- and malpractice is when a client
13 sues a lawyer for having given them bad advice; right?

14 A Or -- well, that's one possibility, yes.

15 Q And so this is a potential claim against -- I am going
16 to blow the name again -- but Kupferstein Manuel & Quinto.

17 That's the law firm right there at the top of your
18 legal opinion; right?

19 A Kupferstein Manuel & Quinto, yes.

20 Q Thank you.

21 And it says the value of the debtor's interest is
22 unknown. Do you see that?

23 A I do.

24 Q That's unknown because of the value of a malpractice
25 claim against you for having given bad advice, that would be

1 determined once the jury renders its verdict; correct?

2 A Well, the value of a claim reflects several things --

3 Q The value of a claim would be the amount of the
4 verdict. Is that yes or no?

5 A No.

6 Q Mr. Quinto, after the -- I just want to make sure the
7 chronology is correct here.

8 The Court entered its order enjoining VidAngel on
9 December 12th; correct?

10 A Yes.

11 Q VidAngel did not comply with the order until
12 December 29th, 2016; correct?

13 A Correct.

14 Q In the intervening time, plaintiffs filed a motion with
15 Judge Birotte, asking him to rule that VidAngel was in
16 violation of a preliminary injunction order; correct?

17 A Yes.

18 Q And VidAngel -- in fact, Judge Birotte found that
19 VidAngel had violated the order; correct?

20 A He did.

21 Q And do you recall there was a hearing on the motion?
22 Do you recall that?

23 A I do.

24 Q And do you recall saying to Judge Birotte, your
25 explanation was, "our bad," Your Honor?

1 MR. EISENHUT: Objection. This is motion in
2 limine.

3 THE COURT: Overruled.

4 BY MR. KLAUS

5 Q Do you recall saying to Judge Birotte, "our bad,
6 Your Honor"?

7 A I don't recall that, but if you would --

8 Q I would be happy to refresh your recollection, sir.

9 A Perhaps you could show me the context, as well.

10 Q Sure.

11 If you could just bring up a document we've marked
12 as Exhibit 3047. And if you could go to page 24. These are
13 your words here. Keep going down.

14 You said, "So I will say, frankly, Your Honor,
15 that we never -- our bad, Your Honor."

16 Do you see that? That's what you said to
17 Judge Birotte?

18 A I see those words. I can't see the context, but I see
19 the words.

20 MR. KLAUS: No further questions, Your Honor.

21 THE COURT: All right.

22 Further examination, Mr. Eisenhut.

23 REDIRECT EXAMINATION

24 BY MR. EISENHUT:

25 Q What other words did you say to the judge at that

1 hearing?

2 A It was a long hearing.

3 Q Let me focus you, then.

4 A Okay.

5 Q Did you explain to the judge why it had taken a bit of
6 time to comply with that injunction?

7 A I recall offering that explanation. I don't recall the
8 exact language I used but, yes.

9 Q And did you explain to the judge that the injunction
10 was a surprise when it came?

11 A Yes, I did say that.

12 Q And did you explain to the judge that you believed that
13 it would be okay under the law of the Central District that
14 your client could take some time?

15 MR. KLAUS: Objection, Your Honor. This is going
16 right into the motion in limine.

17 THE COURT: Let's have a sidebar, please, briefly.

18 (The following proceedings were held at sidebar.)

19 THE COURT: Mr. Eisenhut, I assume you have the
20 law that you are referring to?

21 MR. EISENHUT: How did he not just open the door?

22 THE COURT: Hold on a second. How about you just
23 answer my question, first of all, and I will try to answer
24 yours.

25 MR. EISENHUT: Okay.

1 THE COURT: Do you have the law that you just
2 referred to Mr. Quinto about, that Central District law that
3 says if he -- VidAngel did not have to comply with the
4 order?

5 MR. EISENHUT: I am getting at what he said --

6 THE COURT: Okay. Let's try this again.

7 You just asked Mr. David Quinto a question about
8 the law that he assumed was Central District law.

9 MR. EISENHUT: No.

10 THE COURT: Hold on a minute, sir.

11 That suggests to me that you have some law that
12 indicates that he had some ability to not comply with the
13 order, something that we talked about at sidebar before,
14 something that you said you would try to get.

15 So I am assuming, based on the question, you found
16 it. So my question to you is: Can you tell me what that
17 law is?

18 MR. EISENHUT: Okay. No. In my mind, we're
19 mixing two issues.

20 THE COURT: So you are not going to answer the
21 question. So go ahead. I will let you answer how you think
22 you should, then.

23 MR. EISENHUT: I am answering the question. So as
24 far as the law that I am asking him about, no, I have not
25 looked it up.

1 THE COURT: Okay.

2 MR. EISENHUT: As far as the law about when the
3 bond becomes effective, it would -- in my mind, it's not
4 that relevant. It only changes about three days and the
5 compliance wasn't for two more days.

6 THE COURT: What are you asking this witness about
7 that?

8 MR. EISENHUT: He just asked him what he said and
9 that he went into the hearing and said "our bad," and he
10 introduced the transcript that occurred -- that happened
11 there. The transcript has all of his words on it, not just
12 some of his words.

13 THE COURT: Okay.

14 MR. EISENHUT: And I want to ask him what words he
15 said to you. He opened the door wide open.

16 THE COURT: Hold on a minute. You are talking
17 about mixing apples and oranges.

18 MR. EISENHUT: No.

19 THE COURT: That's a different analysis.

20 MR. EISENHUT: Words are words.

21 THE COURT: So we can fight about this all
22 afternoon if you want. Okay?

23 I am asking you a question. Your frustration at
24 Mr. Klaus should not be directed toward this Court. Let's
25 get that clear.

1 MR. EISENHUT: I appreciate that.

2 THE COURT: I have been very gracious and allowing
3 you to get into a whole host of areas. I know you disagree
4 with a lot of the rulings, but these are the rules. Use the
5 words of your client. Where I come from, typically, the
6 lawyers respect the call of the Court. They may not agree
7 with it; and, if they don't agree with it, they can file an
8 appeal; and that's the way it goes.

9 So when we get to this issue, you are saying that
10 you want to try to ask Mr. Quinto questions about what he
11 said. Your question to him was about the law, about
12 Central District law. So that's that suggests to me there
13 is a law that Mr. Quinto is relying on, and that's why I
14 keep coming back to the original question. What law are you
15 talking about?

16 MR. EISENHUT: So, again, one law which I told you
17 I would look up -- haven't had a chance yet -- is that an
18 injunction becomes effective when the bond is posted.

19 THE COURT: Okay.

20 MR. EISENHUT: Another law is not -- I don't know
21 of any written law nor have I tried to look it up; so there
22 may be.

23 But what I understand Mr. Quinto was saying was we
24 understood that the practice or law in the Central District
25 was, if we're making reasonable attempts to comply, that you

1 get some reasonable amount of time to do that.

2 And that's what I understood that he argued to the
3 Court. That's what he told me he argued with the Court.

4 THE COURT: Look, we're going to take a recess,
5 and I will strongly suggest you look at the transcript
6 because he may have said that. I don't know. But I have a
7 lot of problems with you questioning this witness about some
8 law that is nonexistent; particularly, when it goes directly
9 to the issue of an implication that he advised the client of
10 this, which happened after the injunction.

11 And I do not believe that the door has been opened
12 because the plaintiff is allowed to demonstrate the
13 defendant did not comply with the order.

14 And he asked the question. "Did you comply?"

15 "No."

16 And when there was a hearing about it, his words
17 were "our bad." I didn't say it. He said it.

18 MR. EISENHUT: Right.

19 THE COURT: I didn't say it. He said it. I don't
20 understand -- I shouldn't say I don't understand, but I
21 don't believe that opens the door to you saying, therefore,
22 I can then get into what I advised the client about
23 complying with the order.

24 MR. EISENHUT: I can get into what he said to the
25 Court in that same transcript that he just pulled from where

1 Mr. Quinto apparently is taking responsibility for the
2 noncompliance.

3 THE COURT: Okay. I think that's what his next
4 words were, "I take responsibility."

5 MR. EISENHUT: Yes.

6 THE COURT: How does that go towards this law that
7 you are talking about?

8 MR. EISENHUT: Why does he take responsibility?
9 What did he say under -- was relying on that responsibility?

10 THE COURT: We'll take a lunch recess, and we'll
11 look and see what the transcript says.

12 MR. KLAUS: The other thing I would point out is
13 that the reason for the advice of counsel in limine ruling
14 was that these guys flatly refused to give us what he said
15 to the client. They refused to give it to us.

16 THE COURT: We'll deal with it --

17 MR. EISENHUT: That's not true.

18 (The following was heard in open court in the presence
19 of the jury:)

20 THE COURT: Ladies and gentlemen, why don't we
21 take our lunch recess. If you don't mind, I'll ask you to
22 come back at 1:30 P.M.

23 Please do not form or express any opinion about
24 the case until the matter is finally submitted to you.
25 Don't talk with anyone about the case, don't allow anyone to

1 talk to you about the case, and do not conduct any research
2 of any kind on any subject matter connected with this case.

3 We'll come back at 1:30. Just FYI, we may go
4 little past 3:00 P.M. today. My objective again -- it's a
5 hope, not a guarantee -- is that we will conclude testimony
6 today.

7 What that means is, quite frankly, there is -- you
8 will have to come back Monday for closing argument,
9 deliberations, but my hope is that today we will get through
10 all the testimony so that, when you come back on Monday, you
11 will get instructed, you will have the closing arguments,
12 and you can begin your deliberation.

13 That's why I am saying we may push a little past
14 3:00 P.M. in order to accomplish that. Have a good lunch,
15 everyone.

16 THE CLERK: All rise for the jury.

17 (The following was heard in open court outside the
18 presence of the jury:)

19 THE COURT: Mr. Quinto, you can step down, and you
20 should probably leave the room for this discussion.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: Mr. Eisenhut, let's continue this
23 discussion so I have a better understanding.

24 So you want to try to introduce testimony from
25 this witness that goes towards what he advised the client

1 after the injunction despite the fact that the Court had
2 ruled that that kind of testimony would not be allowed in
3 this trial.

4 I want you to just explain to me why that should
5 be allowed.

6 MR. EISENHUT: Just like the advice of counsel
7 defense can't be used as a sword and a shield. That's the
8 whole underlying premise to why you can't assert it and then
9 not disclose communications related to it, and that's why
10 we've disclosed the communications that we have that you
11 have seen displayed here as exhibits numerous times in this
12 case.

13 You also can't, on the other side, do some limited
14 disclosure. So on their side, some limited disclosure of
15 the advice that was given and say you can't say the rest.

16 THE COURT: What was the limited disclosure?

17 MR. EISENHUT: Mr. Quinto said on that transcript,
18 and it was just -- Mr. Klaus chose to introduce this. I
19 didn't choose it. He says -- on that transcript, he said,
20 "our bad" or "my bad." I forget what the words were. And
21 he says, "I take responsibility."

22 And I would like to ask him on the stand what else
23 did you say about the reasons for taking the responsibility?
24 And Rule 106 is the rule of completeness that my partner
25 just handed me.

1 THE COURT: I can appreciate that. But how is
2 that advice of counsel? I mean, that --

3 MR. EISENHUT: If it isn't, it isn't. Then I can
4 ask about it.

5 THE COURT: My question is: How do you -- I
6 misspoke. How does that not be construed as advice of
7 counsel? Because he is going to say this rule that you have
8 yet to give the Court -- and, if it is, I want to see it --
9 you say there is a rule that it gives, for lack of a better
10 term, some sort of grace period to do that.

11 So what is your proffer as it relates to what
12 Mr. Quinto is going to say that would alleviate my concern
13 that testimony along that line would be construed as advice
14 of counsel?

15 MR. EISENHUT: So I don't have the transcript in
16 front of me.

17 MR. KLAUS: I have got it.

18 MR. EISENHUT: And I don't have Mr. Quinto's --
19 can I see it?

20 MR. KLAUS: Yes.

21 MR. EISENHUT: I don't have Mr. Quinto's input,
22 but I know what he told me is that he explained to the Court
23 why it is that he was taking responsibility.

24 What page was that, "my bad"? So there is a lot
25 here. To answer your question thoroughly, I would need a

1 few moments, obviously, but Mr. Quinto, because he is the
2 one who spoke these words, could probably answer it on the
3 spot. That's why I was going to ask him.

4 THE COURT: Do you want to have a hearing now
5 outside the presence of the jury? Is that what you want to
6 do?

7 MR. EISENHUT: A hearing?

8 THE COURT: I said do you want to have a hearing
9 right now? You are saying -- you are not telling me what
10 Mr. Quinto is saying because you don't know, and you are
11 saying that we would find out if he was testifying.

12 So my question to you: Do you want him to come up
13 here and we have a hearing outside the presence of the jury?
14 Is that what your request is?

15 MR. EISENHUT: That might be a way to go. I can
16 tell you that, off on the top of my head, I do not know
17 exactly what he said in this transcript. I do know what he
18 has explained to me -- and I don't know for sure if he said
19 it in the transcript or not.

20 But I know he has explained to me that he did
21 say -- at least, he recollected saying -- and I don't know
22 that he reviewed the transcript -- he recollected saying
23 there was a reason that I was taking responsibility and
24 saying "my bad."

25 So based on the rule of completeness, we would say

1 he gets to explain why he was taking responsibility, why he
2 was saying "my bad." And the reasons would be, as I
3 understand it, because I said to them and advised them that
4 they don't have to comply faster. They need to comply, and
5 they need to comply in a reasonable time, but it is okay for
6 them to take some time to do this surgical approach to
7 things instead of just shuttering up.

8 MR. KLAUS: May I be heard, Your Honor.

9 THE COURT: Yes, please.

10 MR. KLAUS: If Mr. Eisenhut would like the entire
11 transcript of the Order to Show Cause where Your Honor holds
12 VidAngel in contempt to be into evidence under the rule of
13 completeness, if that's what he wants, we'll stipulate to
14 that.

15 This can completely come in, and he can point to
16 what Mr. Quinto said in this transcript to his heart's
17 content, and we will point to what Mr. Quinto and the Court
18 said in the transcript to our heart's content.

19 But the difference is what Mr. Eisenhut is
20 ignoring is that the statements that were made in court by
21 Mr. Quinto were not, I advised my client X, Y, and Z.

22 The reason for the in limine ruling on advice of
23 counsel, the rationale behind the Court's reasons was that
24 Mr. Quinto did not tell the Court in his declaration, he did
25 not say it at the January 6th hearing where VidAngel was

1 held in contempt and sanctioned, he did not reveal his
2 communications, they did not reveal it in discovery.

3 And as we had pointed out before, we got --
4 because their board members produced documents that showed
5 that they were having communications about this idea of, if
6 there is a stay application that's filed, that's fine
7 because those communications were going back and forth. But
8 they were plainly hiding other communications behind the
9 privilege.

10 He didn't reveal in here the privileged
11 communications. He didn't go into it about the reasons for
12 not complying with the stay.

13 So if Mr. Eisenhut and Mr. Brooks want the rule of
14 completeness and think that because I said "our bad,
15 Your Honor," the entire transcript should come in, let the
16 entire transcript come in.

17 THE COURT: All right.

18 Mr. Eisenhut, anything further on this issue?

19 MR. EISENHUT: Yes. Obviously, I am operating at
20 a disadvantage because I haven't reviewed the full
21 transcript, but, as I told you, it doesn't mean -- again,
22 you can't do this little trick I am going to show you two
23 words, and now I am going to dare you to put the whole
24 transcript in that has stuff that would be distasteful.

25 But we do, from the rule of completeness, don't

1 have to put the entire transcript. We can put those
2 portions that are relevant in response. And, again, I have
3 to look --

4 THE COURT: That sounds like a rule of
5 completeness that favors one side or the other.

6 MR. EISENHUT: Well, right now it favors one side
7 clearly because they got to do a little peekaboo --

8 THE COURT: It's a statement that the witness made
9 on his own as it relates to the conduct of the client.

10 I mean, it wasn't in response to a question. It
11 wasn't, "Tell me, Counsel, what was your advice to the
12 client?" He.

13 Got up on the stand and said, "our bad" to refute
14 the suggestion that somehow -- well, I don't know what
15 Disney is going to do with it, quite frankly, but that's a
16 statement that he made. I'm not sure -- I'm having trouble
17 understanding the rule of completeness analysis.

18 MR. EISENHUT: So let's start with what the rule
19 of completeness says. It's Rule 106.

20 THE COURT: I will let you do that. Go ahead.

21 MR. EISENHUT: I don't know it verbatim. I need
22 to it. You probably know --

23 THE COURT: Go ahead. You can continue the
24 education process. That seems to be the theme in this
25 trial.

1 MR. EISENHUT: I am educating myself here.

2 If a party introduces all or part of a writing or
3 recorded statement, an adverse party may require the
4 introduction at that time of any part that in fairness ought
5 to be considered at the same time.

6 So it's not the whole entire thing. Any part that
7 in fairness --

8 THE COURT: You want to go through the transcript
9 at the lunch hour and tell me what you think, in fairness,
10 the other parts in response to the statement "our bad"
11 should be included?

12 MR. EISENHUT: Yes. Because I would like to show
13 what he meant by "our bad" and "I take responsibility."

14 THE COURT: Why don't you do that, and we'll
15 revisit this at 1:30, then.

16 Anything further that we need to discuss this
17 morning or -- now this afternoon, Mr. Klaus?

18 MR. KLAUS: No. Thank you, Your Honor.

19 THE COURT: Anything further, Mr. Eisenhut?

20 MR. EISENHUT: No, Your Honor. As part of our --
21 I would say this as part of our presentation, we have some
22 short -- just we would read in some depositions because we
23 had a video, but we've chopped it up now and didn't create
24 the video again. So would it be okay to read in the
25 deposition testimony instead of playing a video?

1 THE COURT: Of whom?

2 MR. EISENHUT: Of Mr. Gray.

3 THE COURT: I don't know what we're talking about.
4 We were talking about Mr. Quinto.

5 MR. EISENHUT: I'm sorry. I was asking
6 procedurally. After we're done with our witnesses, in
7 between, we have some deposition testimony that we want to
8 introduce, and we've kind of gone back and forth, and I
9 think we're going to end up with a shortened different
10 version, and we don't have the technology to create the
11 video presentation. So it's procedurally, I am just asking
12 if it's okay if we read the transcripts in --

13 THE COURT: This is deposition testimony you all
14 have met and conferred about, there is no dispute about its
15 admission, you just want to -- you don't have the technology
16 to play a video?

17 MR. EISENHUT: We haven't completed the process,
18 but I think we're going to end up with a different version
19 than what we have video of, and we don't have technology to
20 chop it up on the spot.

21 THE COURT: What is Disney's position?

22 MS. EHLER: We might be able to cut the video. So
23 I am going to offer that we can meet and confer on it, but
24 we're working through the process and will continue to work
25 through it over the lunch.

1 THE COURT: I am going to look -- anything
2 further?

3 MR. EISENHUT: No. Thank you.

4 THE COURT: I am going to look into this issue,
5 Counsel. I think -- I am going to say it. I think there is
6 a little bit of gamesmanship going on here, and it's not
7 appreciated. But I will look into this issue. And, if
8 anyone has a copy of this transcript, I will look it over
9 during the lunch hour, and I will ask you to come back at
10 1:15 so we don't continue to waste this jury's time.

11 MR. KLAUS: May we approach, Your Honor?

12 THE COURT: Yes.

13 The Court has made a ruling with respect to the
14 advice of counsel. And I think there has been a lot of
15 efforts to try to get around that, and it's not appreciated.
16 So I am going to look at it, and I want everyone back at
17 1:15.

18 THE CLERK: All rise. This Court is in recess.

19 (Lunch recess taken 12:32 P.M.)

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CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported
proceedings held in the above-entitled matter and that the
transcript page format is in conformance with the
regulations of the Judicial Conference of the United States.

Date: June 15, 2019.

/S/ CHIA MEI JUI _____

Chia Mei Jui, CSR No. 3287

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| <p>MR. BROOKS: [31] 678/2 678/6 678/19 678/25 679/7 680/23 681/14 682/18 682/21 683/8 683/24 684/7 685/4 685/9 685/20 690/20 691/22 692/13 692/19 692/24 693/7 694/23 695/6 697/21 698/10 700/21 701/6 703/17 704/3 704/23 708/3</p> <p>MR. EISENHUT: [81] 677/12 708/11 714/5 724/11 724/24 725/3 726/23 727/6 727/23 730/20 733/15 738/2 738/15 738/20 745/13 746/1 746/21 747/1 747/7 748/18 748/24 752/17 753/1 753/7 753/17 753/22 754/15 754/17 755/1 755/8 755/12 755/18 756/3 756/6 757/5 757/10 757/18 757/23 758/6 758/10 758/13 762/8 798/25 800/20 800/24 801/4 801/8 801/17 801/22 802/1 802/7 802/13 802/17 802/19 802/25 803/15 803/19 804/17 804/23 805/4 805/7 805/16 807/5 807/16 808/2 808/14 808/17 808/20 809/6 809/14 811/18 812/5 812/17 812/20 812/25 813/11 813/19 814/1 814/4 814/16 815/2</p> <p>MR. KLAUS: [59] 677/9 687/11 687/20 712/22 713/25 715/11 716/22 717/20 718/1 723/24 725/8 725/21 726/14 726/19 726/25 727/2 727/19 730/13 733/13 737/24 738/11 742/19 745/6 745/23 746/2 746/9 748/16 752/13 752/16 753/13 753/24 756/19 756/23 757/7 758/14 758/24 759/8 759/11 760/12 762/11 764/13 765/9 766/3 767/20 780/18 782/18 783/10 785/15 787/20 794/2 799/19 800/14 805/11 808/16 808/19 810/7 810/9 813/17 815/10</p> <p>MR. QUINTO: [5] 685/25 686/13 686/18 686/23 687/3</p> <p>MS. 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[1] 734/7</p> <p>Fast [1] 744/4</p> <p>faster [2] 747/9 810/4</p> <p>favor [1] 701/23</p> <p>favorable [1] 776/21</p> <p>favours [2] 812/5 812/6</p> <p>FCRR [1] 674/23</p> <p>February [2] 719/5 720/7</p> <p>February 25th, 2015 [2] 719/5 720/7</p> <p>FEDERAL [1] 674/23</p> <p>fee [1] 710/2</p> <p>feedback [11] 681/16 682/7 682/7 682/12 689/13 690/1 691/2 692/19 693/14 693/15 694/3</p> <p>feel [5] 693/23 716/11 760/6 760/25 775/12</p> <p>feeling [1] 736/18</p> <p>fees [3] 710/6 710/8 795/13</p> <p>fellowship [1] 709/17</p> <p>felt [1] 723/3</p> <p>few [11] 686/20 705/19 707/21 708/1 710/17 729/3 743/15 755/4 777/15 777/20 809/1</p> <p>fight [2] 763/3 802/21</p> <p>figure [4] 691/16 747/3 750/25 795/25</p> <p>figure 80 percent [1]</p> |
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