EXHIBIT EE

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Q. It says Exhibit 16, okay.
A. Okay. That thing in the middle is the bulletin board, and we saw having one of those in every city. So if you're going to move to a city, you'd ask for another disk. If you were going to be bi-coastal or be on the road, you'd ask for disks wherever you wanted to end up getting TV listings.
Q. Is there any way for the user to change the information through the computer?
A. No.
It was all done automatically by virtue of asking for the disk.
Q. And how would they ask for the disk?
A. Well, you know, we never got that far, let's say. But the system was written to accommodate that. And if you look in the back of the PEG manual, on page appendix -- well, go to the -- I'm looking at appendix G, which is three pages from the back or two pages from the back and explains the codes for the database and the key. See where aaa is, telephone number --
Q. Can you tell us me what the number is on the bottom of the page?
A. I'm looking at TMS 1184.

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Q. Okay. My question is how does the user go about requesting a different key file?
A. Through filing an application, you know, like a request, like an e-mail, an e-mail. I mean the way we did it initially was using that little mail-back form.
We moved to CompuServe too quickly to implement -- or we moved to CompuServe rather than implement going out, rolling out to other cities. But had we rolled out to other cities and if they wanted to change it, I would think an e-mail.
Q. Okay.
A. And then we would send them a disk and probably e-mail them a disk.
Q. And for the DOS version, would they have to contact --
A. We are only talking DOS version now.
Q. Okay. I'm sorry. You mentioned Compu-Serve.
A. Okay. CompuServe was never having to do with a proprietary database.
Q. Okay.
A. The proprietary database, the original model was to put one of those devices

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in every city and they would request it by sending us an e-mail or filling out a form. We would generate the key. That was the initial plan.
Q. Okay. And did that plan ever get carried out prior to your work with CompuServe?
A. No. CompuServe came along and we switched over to that.
Q. Did -- you had talked about your relationship with TMS earlier.
Did TMS ever consider using your PEG software?
A. Well, yes. The PEG, the DOS version --
Q. Any version.
A. Right.
The DOS version was already obsolete. The Windows version was the version that they wanted to use.
And initially when they rolled it out to newspapers and offered it, it was the Windows version exactly as was on CompuServe, and they sold it as the -- okay. Hold on. Let me -- I'm just trying to think if they sold it out as the Personal Entertainment Guide. I

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think they changed the name. I think they changed it to TVWI, which was TV Week Interactive. So they changed their name, but it was the same program.
Very, very quickly the clients, and specifically Continental Cablevision, said we want to see it on the web. So we furiously recruited the Windows version into a web version, and subsequently produced a web version and abandoned the Windows version.
Q. Are there no differences between TVWI and your PEG Windows version?
A. The original version of TVWI was one and the same with PEG, the Windows version. It was the same exact program.
And that was the program we literally signed. We signed the contract based on the Windows version, and it was only within a few months that users started saying that they wanted it completely online as a web version, and so we recoded the guts of the Windows version into what's called a CGI, Computer Gateway Interface or something -- Computer Gateway Interface I think is what it's called -- Common Gateway Interface.

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And it powered a Windows version -- I'm sorry, it powered a web version, so it became a web experience. There was no downloading of programs. There was no Windows version.

Q. Okay. At what point -- I'm assuming that in order to develop the TVWI product that there were software changes made to your PEG system?

A. The original TVWI, the only software change was they changed the name. Subsequently, when we went to the web version, it just became, you know, a web browser, then there was extensive changes.

Q. Okay. And when did that happen, the changes into the web version?

A. Okay. I can give you that exact date, but I can't give it to you today because it would be the day that we signed the Continental Cablevision contract, which we have.

I just am not prepared to answer that today, but it was not -- it was within a few months after we -- it was, say, the first six months of our contract with TMS which was December 94, so it would be, let's say, first

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quarter or second quarter of '95 that we got a web version.

And on the web version we used cable -- because Continental Cablevision originally was a cable company, we had every single cable lineup by cable lineup, in other words, Lowell rebuilt, all of new England as a matter of fact. Again, it wasn't by Zip Code. It was by specific cable lineup. It would be like one -- many lineups per Zip Code.

Q. Can you tell me at what point did Zip Code become a -- I guess a way of determining which lineups are provided to the users on the TVWI?

A. I don't believe Zip Codes were ever used. We never used Zip Codes.

See, Zip Code is not unique enough. When you have cable TV, your cable TV lineup, you can have many, many cable TV lineups in one Zip Code, and also satellite.

Like, for example, when you go to TV Guide Today or when you go to -- you know, the TMS product, was it Zap2it today, you put in a Zip Code and it will say which lineup do you want. Do you want Dish TV? Do you want, you

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know, Direct TV? Do you want rebuilt? Do you want the original? Do you want upper this or lower that or north side of town, that sort of thing.

We didn't do that. We went directly to the actual lineups because we sold it to newspapers, and newspapers were geographic in and of themselves, like, you know, the Boston Herald or Hartford Corant. And within the Hartford Corant, well, there may have been 100 lineups but they're all discernible.

And so we never -- we went beyond the step of the Zip Code. We went directly to the cable TV lineup. We're starting out.

Now, when you have a national listing or when national listings are provided to web-based newspapers, you can put in pretty much any Zip Code in the country. It's all one generic product from either TV Guide or TMS.

What I'm saying is Zip Codes are not unique. We went to the unique level. The unique level is cable TV lineup, for example, east side of New York rebuilt.

Q. Okay. So -- well, let me just get back to my question here. My question is: So

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in your work with the PEG system as well as the continuation of that product that you had worked on with TMS, did any of those systems that you had worked on ever use Zip Code --

A. No.

Q. -- as a way of determining which channel lineups to provide to the user?

A. Not to my -- no. Zip Codes were never used.

Q. At some point was the PEG product terminated?

A. Yes.

Q. Around what time?

A. 1990 -- December 19 -- I'm sorry. December 2000, five years after December '94.

Q. You said December 2000?

A. Well, '95, -6, -8, -9. It would be December '99 then. Okay.

MS. MARGARET KAPLINSKY: 2000. It went through 2000.

THE WITNESS: Yeah. We still got residual checks from TMS. I don't remember exactly when our last check is, but I think the contract expired in December of '99 and checks came in until the residuals stopped, for several

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months thereafter.
Q. And who was the PEG system being provided to at that time in the late '90s?
A. Almost every major newspaper across the country, CNN, many, many cable companies and channels and radio station -- I'm sorry, television stations, 100-plus clients.
Q. Did -- and this was through -- did you provide that service through Lookahead?
A. Lookahead was subcontracted -- ultimately Lookahead was subcontracted by TMS. TMS signed a contract with the end user, like, for example, the Washington Post. And Lookahead also signed a contract with the Washington Post.
Q. Why was the PEG product terminated in December of 2000?
A. TMS had purchased Ultimate, Ultimate TV listings or Ultimate -- the ultimate system, which was a competitor of ours, and they were on an Onyx User Basis --
THE COURT REPORTER: They were on a what?
THE WITNESS: Ultimate -- the name of the site is Ultimate TV. And they decided to work with Ultimate rather than us, you know, for

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reasons that they wouldn't have to answer, but they terminated -- they did not renew with us. They didn't terminate it. It terminated, which was a five-year contract, but they did not renew after December of '99.
BY MS. FUKUDA:
Q. Okay. Were you told why they picked Ultimate TV over your PEG system?
A. No, they didn't tell us, but I mean we -- Ultimate was a much more developed product in terms of the nonTV listings part of the package.
In other words, they had writers, they had bylines. They had a whole infrastructure of a magazine which was way more than we had. All we had was the search engines and the PEG system.
Q. Okay. Did you attempt to market the PEG system at that point to any other company?
A. No.
Q. Why not?
A. Well, there was several reasons. I mean one of them was that TMS had purchased every other company other than TV Guide, so there was TV Guide who already had their own

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system. TMS had their own system, so where was there to go? There was nowhere to go, so we went into other endeavors.
Q. At some point did you discontinue the use of your PEG system in conjunction with CompuServe?
A. Yes, we did.
We -- now, the actual year for that was maybe a year or so after we signed with TMS, but the CompuServe system was only a few hundred customers and the listings were costing us a lot and it was, as I said, not commercially viable; whereas the newspaper product and the work we were doing subcontracting or in partnership -- I don't think subcontractor is the right word -- in partnership with TMS was commercially viable, so we discontinued that part of the business.
The CompuServe system dried up and we refunded everybody's money and, you know, for an unexpired time, and we said we were stopping the product, and I don't remember the exact date.
Q. Was there any competition between your PEG system that you were supplying to CompuServe and the system that you were working

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on with TMS?
A. In the sense that somebody would choose one over the other, you know, I don't think I can answer that question.
I mean the people who used the CompuServe system liked the CompuServe system and they liked the downloadable aspect of it. They liked going to their computer and not having to go online; whereas the people who used the web system liked having all that availability without a long download or even a short download.
As the line speeds and protocols got more efficient and faster, the web system became more viable. But we had discontinued the PEG product, the PEG product prior to that anyway.
So I don't -- basically, there was two flavors of customer, one liking downloads and one liking the web experience.
And so no, I guess the proper answer to that is there was not competition between the two.
Q. Give me just one second.
(Pause in proceedings.)
MS. FUKUDA: I don't know how you

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want to mark this exhibit, but why don't we mark this as Kaplinsky Exhibit 1.
MS. DeBRUIN: Do you want to use my stickers and mark it as the next exhibit?
MS. FUKUDA: Okay.
MS. DeBRUIN: Let me find where I buried them.
MS. FUKUDA: Let's mark as -- what's the next exhibit?
THE VIDEOGRAPHER: 35.
MS. FUKUDA: Let's mark as Exhibit 35, a document bearing Bates Nos. TMS 0026172 through 0026173. Just put a sticker on it.
(Plaintiffs' 34 was marked for identification.)
BY MS. FUKUDA:
Q. Do you recognize this document?
A. I'm sure I wrote it. I don't remember it per se, but I mean it's definitely something that I wrote.
Q. Okay. If you turn to page 2, is that your signature on the page?
A. Yes.
Q. And if you want to take some time to just read the letter.

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A. No. I see the reason for your question, and No. 3 is: "Competition from various web listings services including TVWI."
But I would say relative to my previous answer to you, is that I still think that there were two flavors of people mostly.
No. 3 was relatively negligible competition from --
"As I have explained, our PEN/PEG downloadable subscription rate has shrunk significantly since the inception of our listings contract. We now have between 20 and 250 subscribers. The reasons for this decline are;
"1) lack of attention on our part due to the work on the web version of TVWI," which meant our resources;
"2) competition from ETV and others," which is a competitor of ours having nothing to do with TMS, although they used TMS listings
"3) competition from various web listing services including TVWI."

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But I mean what I would say relative to my previous answer is that there is still two different flavors of people, the downloaded people and the web people.
And people who like to download, let's say the 200 or 250 diehards, didn't want a web experience. They wanted to be able to go to their computer and look at it.
The problem was getting the numbers to grow. The numbers -- we needed thousands of subscribers rather than hundreds of subscribers to pay for the listings fees which were I mean a lot, I think in excess of $40,000 a year. And to justify that kind of expense, we needed to be able to grow the CompuServe version.
And with the advent of web listings now, you know, from various sources, from TV Guide for example, from TMS and whatnot, it would never grow to the point where it would get beyond 250 customers. And 250 customers at $65 a year, you can do the math yourself, that never justifies a $40,000 a year expense.
So then we discontinued it, and you do have the date now, March 27, 1996 when we would have discontinued it.

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Q. Was one of the reasons for your skrinkage of PEG customers the fact that PEG was getting competition from other web listing services such as TVWI?
A. No, not really.
I mean the reasons given here had to do with why it wouldn't grow. We always had a couple of hundred. It was also measured in the hundreds, the low hundreds for that matter, 200, 300, 400 maybe. It never got it to the point where it was commercially viable.
I mean when Ms. DeBruin asked me back when whether it was commercially viable, it was never commercially viable, not one day. And so ultimately, eventually when we realized that it was never going to be commercially viable, we discontinued it.
Q. So your sentence here in your letter in Exhibit 35 where you say "The reasons for this decline are" and I note that reason No. 3 is "competition from various web listings services including TVWI," that portion of the sentence is not true?
A. I guess -- I would have to say that -- I mean yes, it's true. There is no

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question that it's true. The question is how significant was it. In other words, what amount of -- how much damage was that part doing.

The problem was not so much -- and we started out with, let's say, 400 customers and it went down to 300 customers, then it went down to 200 customers. It was going in the wrong direction. It wasn't working. It wasn't financially viable.

And these various reasons are reasons that we put to it. I mean we didn't actually ask people why they didn't subscribe. We didn't do a focus group on it. So these are more or less like guesses as to why it wasn't working, but we did know the numbers were going down and we did know it was not -- it was never financially useful.

And as it started to creep down and down and down, we -- and I would imagine that the reason it was creeping down was because of competition and the three reasons I gave there.

I mean let me bounce up a level and say I mean I don't have an exact finger on the exact reasons. I mean these are guesses.

Q. Okay. You had also testified

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earlier that you had a meeting with Gemstar?

A. Yes.

Q. How many meetings did you have?

A. One.

Q. Just that one that you talked about?

A. Well, I had many phone calls, if you want to call that a meeting, with Mr. Mankovitz I believe his name is.

Q. About how many phone calls?

A. Four or five, six.

Q. And would you be able to give me an approximate time period?

A. It would be right around the date of that memo. I mean it was all very much within like a two-week period, maybe a three-week period, short period of time within that memo.

There was maybe two phone calls afterwards and three or four phone calls before. I mean again we're talking 16, 15 years ago or whatever, so to the best of my recollection.

Q. Okay. You had also testified to the fact that you had discussions with Michael Levine?

A. Oh, yes. Yes.

Q. And how long -- I guess over what

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period of time did you and Michael Levine have conversations?

A. I'll give you my impression. I mean I would say over a period of a year or so, but let me tell you what I can recollect, because I mean it was many, many years ago.

Initially Dick Guay introduced us and I talked to him. I don't remember if he called me or I called him, but it was in Florida. He was in Florida, I was in New York, and we talked at length.

The first couple of phone calls were very, very long, I mean hours, and we went over our histories, our medical conditions, our lifestyles. He told me -- I mean it was a very, very friendly supportive relationship.

And I was particularly interested in the things he had done because he was involved in a 10-year patent trial, something to do with electronic program listings called Onstar. And I mean he told he about this at length and actually helped me a lot in terms of forming my opinions as to the best way to go around patenting or how to patent or what not to do, how much money it cost, that sort of thing.

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And then there were conversations subsequent to that and then there was the conversation where -- I'm sorry.

Then there was the conversations where he was telling me about Gemstar. So I remember we had one at least the first -- or maybe within the first or second very long conversation and then maybe some shorter conversations and then the one Onstar.

So I guess the best way I can recollect it is I had one, then many months later or several months later I had the one about Gemstar.

Q. Your conversation regarding Gemstar, was that close to the time when you met with Gemstar?

A. Yes. It was very close to the time because he introduced me to the whole concept and he described to me who was who and what was what with Gemstar and that he had just signed with Gemstar.

To pinpoint the time, he had just signed himself with Gemstar, they had just purchased his patent, so that may pinpoint the time that he talked to me.

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Q. Okay.
A. And he vouched for them and he said these are really good guys and you want to get involved with them and that sort of thing, and we were very, very excited, needless to say.
Q. Okay. And you say that I guess the entire time period over which you had conversations with Mr. Levine spanned about a year?
A. It's really -- it's very, very hard to remember that after so many years, but my initial conversation -- and again I reconstruct these things as best as I can.
My initial conversation came because Dick Guay was trying to introduce us to the very many players who thought we would collaborate, so it was early on in the relationship with TV Data.
And the last conversation I had with him would have been at the time of the Gemstar offer, and whatever the time difference in those because I can't pinpoint the date that Dick Guay introduced me to Levine. I mean I knew it was sometime in there, but I don't have it written down anywhere. I don't have any correspondence.

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Q. During which of your conversations with Mr. Levine did you describe to him your PEG system?
A. First one.
Q. Your very first meeting?
A. Yes.
Q. Which you're unable to remember the date of?
A. Well, I mean I can know it's certainly before the second one, but I mean the best I can pinpoint it is sometime after Dick Guay and I -- it was after Dick Guay and United Media and, you know, that bunch that got really excited, so they looked around for collaborators. So I mean it's just too hard to remember a date after that many years.
Q. How long were they looking around for collaborators?
A. He started up on day one. I mean he was introducing me left and right.
Q. And how long did that process last, looking for a collaborator that is?
A. Up until the time that we were dealing with AT&T and Gemstar, up until that time there.

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Q. So for that entire period of time?
A. Yeah. Now, they were trying to partner us with somebody.
Q. Okay.
A. And also giving us as much assistance as they could throughout. I think they looked at it as if: If we were successful, they were successful.
Q. Do you still have any ongoing business relationship with TMS?
A. None whatsoever.
Q. Okay. Are you being compensated for your time here today?
A. Yes.
Q. By TMS?
A. Yes.
Q. What compensation are you receiving?
A. $100 an hour.
Q. Okay. Does that include just the deposition time?
A. No. It also includes the research time in gathering all these documents.
Q. About how much time have you spent in both research and meetings and deposition?
A. Well, whatever the time today, and

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30 hours prior.
Q. When did you and TMS come to this agreement?
A. There was a -- there was a letter from TMS -- I'm sorry. There was a letter from Kirkland & Ellis and that would document the date, but it was when they first contacted us about two months ago, thereabouts. The exact date would be on the letterhead.
Q. Okay. And have you met with people from TMS prior to today?
MS. MARGARET KAPLINSKY: Excuse me. I don't know if this is significant, but I would just like to correct what Mark is saying and he can verify this.
THE WITNESS: What?
MS. MARGARET KAPLINSKY: That you did not have an arrangement with TMS. It was with Kirkland & Ellis.
THE WITNESS: Yeah. There is no arrangement with TMS.
MS. MARGARET KAPLINSKY: And no, he didn't meet with anyone from TMS. You know --
THE WITNESS: Thank you.
MS. MARGARET KAPLINSKY: -- please

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verify that.
THE WITNESS: Thank you.
BY MS. FUKUDA:
Q. So let me understand you.
A. Please ask the question again.
Q. Who is compensating you for your time?
A. Kirkland & Ellis.
Q. And --
A. Well, actually at this point nobody, but Kirkland & Ellis is supposed to be sending us a check.
Q. Okay. And as far as you understand, does that money ultimately come from TMS?
A. Well, I have no understanding or knowledge of where it's coming from.
Q. Okay. And you said that that arrangement was set up about two months ago?
A. Yeah. But it would be corrected by the date on the letter from Kirkland & Ellis to me.
Q. Okay. Were you asked to collect documentation relevant to your testimony?
A. Yes, I was.
Q. And this was about two months ago?

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A. I'm sorry. Can I ask -- I mean she would know better than me.
About two months ago, about three months ago? When would you say?
MS. DeBRUIN: I'm not certain.
THE WITNESS: Well, it's two or three months ago because we've been working for the last two months I would say on collecting all this information, going through boxes that are 15 years old.
BY MS. FUKUDA:
Q. When did you provide documentation to Kirkland & Ellis?
A. We provided one single fax about two or three weeks ago, maybe three weeks ago, one page, which consisted of the CompuServe writeup in the magazine, the second one, the second CompuServe article in the second CompuServe Magazine.
Q. And that was one of the exhibits here today?
A. One of the exhibits here today.
And that was the only thing we've ever supplied -- the only thing we've ever supplied to them other than the work, the

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documentation we brought today. And I guess the reason for that was that it was -- I mean we just didn't know how to fax that many pages. It was too much to fax.
Q. Did you have meetings with anyone from Kirkland & Ellis before today?
A. Meetings in the sense of?
Q. In-person meeting.
A. No inperson meetings.
Q. Did you have teleconferences?
A. I had several conversations with them.
Q. Over what period of time?
MS. MARGARET KAPLINSKY: But not teleconference.
THE WITNESS: Over the -- what do you mean by not teleconference?
MS. MARGARET KAPLINSKY: Well, maybe you should ask the question in terms of what you mean by teleconference.
THE WITNESS: What do you mean by teleconference?
MS. FUKUDA: Well, hang on a second here. I'd like to clear this up, but it looks like we're running out of tape. Unfortunately,

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I can't finish on this tape, so let's switch tapes.
THE WITNESS: Okay. Sure.
THE VIDEOGRAPHER: This is the end of tape No. 3 in the Videotaped Deposition of Mark Kaplinsky. The approximate time as indicated on the video screen is 1645 hours.
(Off the record.)
THE VIDEOGRAPHER: This is the beginning of tape No. 4 of the Videotaped Deposition of Mark Kaplinsky. The time as indicated on the video screen is approximately 1649 hours.
BY MS. FUKUDA:
Q. Prior to today, did you have any discussions with Kirkland & Ellis regarding your testimony today?
A. Yes.
Q. When was the first discussion?
A. Subject to the production of this memo, let's just say for the sake of argument approximately two to three months ago.
Q. Okay. And who did you talk to?
A. Michael Parks.
Q. And what did you and Mr. Parks

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discuss?
A. Is it Parks or Park? Parks.
Q. Parks.
A. Michael Parks.
The first conversation, he introduced himself. He did not reveal to me until maybe the third conversation who the client was. And he asked me about what we did with PEG. Since it was all public knowledge, I answered his questions and it was not particularly -- so I didn't know who I was dealing with other than a lawyer.
On approximately the third conversation, he revealed to me that it was TMS, and he described what was going on with the suit and asked me more questions, and specifically wanting to know about Zip Codes and dates, dates of first commercial use and whether or not we used Zip Codes or whether or not we used geographic designations, and then asked me whether or not there were -- I had any objection to being deposed, and which I said I didn't.
And then the -- I talked to him more about setting up this particular deposition. Then I was -- one day he was out and I called

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him because I had some questions, and also he sent me some e-mails with contact information, and one day I didn't hear from him about what I thought was a date that was coming up for the deposition. So I got -- Ms. DeBruin took the phone call and she introduced herself at that time, and maybe five, six conversations in, and then today came.
Q. And you met with Ms. DeBruin this morning?
A. Yes. We started -- we were here and we met earlier in this room.
Q. And for about how long did you meet today?
A. We met her at 10:00 o'clock in the morning and we've been together since.
Q. And what the purpose of today's meeting?
A. Throughout the discussions with Michael, Mr. Parks, there was a question as to what kind of documentation.
Now, we had tons and tons of documentation, most of it nongermane, for example, our relationship with TMS after '92, after '93, after '94, and we weren't sure what

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needed to be sent in terms of documentation. Ultimately, we only sent them one page, a fax, but Michael had said that he wanted all the documentation.
Well, I told him that it was hundreds and hundreds of pages. For example, the manual alone is 100 pages. And we didn't know what they had and they didn't know what we had.
So I think the purpose of today's meeting was us to present what other documentation that we found, which we did.
Q. Did you discuss how you would present your testimony during your deposition at the meeting today?
A. Only in the most general terms, not a Q and A type of rehearsal type of situation.
Q. Were you presented with the questions that would be asked of you today?
A. Not really, no, because I asked. I said what is the other side going to ask me? And to this minute, I still have not -- she's never told me what you were going to ask me other than she said that you would ask me about Zip Codes.

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Q. Have you ever -- have you spoken with anybody else from Kirkland & Ellis?
A. Just Michael and Linda.
Q. Did either Mr. Parks or Ms. DeBruin provide you with any information regarding the lawsuit between TV Guide and TMS?
A. Very, very sketchy. And despite many requests, they said that just come and answer as honestly as you can. And my problem was always well, I don't know what's significant and I don't know what's not significant because I could go on for hours. I guess that would be my answer to your question.
Q. Did either Mr. Parks or Mr. DeBruin provide any information on the issues that are present in this case?
A. Yeah. There was some information provided. A certain amount, not a lot I mean.
Q. What information about the issues in this action were provided to you?
A. That there was a patent, that TMS was allegedly infringing according to TV Guide, that the patent had to do with the geographic -- geographic specification via Zip Code, and that the date was -- the key date was March of '92,

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which they specifically asked me for information prior to March of '92.
Q. Can you remember anything else?
A. That Michael Levine was involved, that it was his patent. That was about it. I mean, as I say, it was really sketchy.
Q. Have you seen a copy of the patent at issue?
A. No.
Q. Have you ever heard of Michael Levine's patents?
A. No.
Q. Did Mr. Levine ever tell you about his patent during the conversations that you've had with him?
MS. DeBRUIN: Objection to form.
THE WITNESS: No, I didn't. I had no idea there was such a patent and certainly not from Michael Levine or anybody else.
And, frankly, I find it surprising since I was the one who described all of our package to him.
BY MS. FUKUDA:
Q. You had mentioned that Michael Levine also gave you substantial information

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regarding his patents and/or his patent application process?
A. Primarily on how one goes about being in court for 10 years on a patent, and then the frustration and then the amount of stamina it takes. More to do with the process than the actual patent.
We both knew what Onstar's one button patent was about, so I mean there wasn't a lot of questions about that.
It was about the mechanics of going through a patent dispute going all the way up to the Supreme Court, things like that. At that time it hadn't gone to the Supreme Court.
Q. Well, did you ever ask Mr. Levine what inventions he was working on?
A. Well, let me put it to you this way. I think I would have remembered if I knew -- if he had told me he was working on things because I talked with any number of inventors and I usually knew, and I can't remember what he was working on besides the one button Onstar patent.
I knew he was -- I knew that's what he did for a living. I knew that's what he did for his life's work, so I would assume he's

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inventing things.
Q. Right.
Did you ever ask him what he was inventing?
A. No.
The conversation was very personal, like health and environment, what it's like to live in Florida and how he lives, and also the mechanics of fighting patents and -- I mean it dissuaded me from wanting to get involved in terms of how to do and how to defend a patent, which is why I don't patent very much. I don't deal with the patent situation because I don't want to be in court for 10 years.
But from my end, it was technical. From his end, it was procedural. And that's the best recollection of, you know, what, 15 -- however many years it's been.
MS. FUKUDA: Okay. I don't have any more questions for you at this point.
THE WITNESS: Okay.
MS. FUKUDA: And subject to our discussion at the beginning of the deposition, I am done for today.
MS. DeBRUIN: Okay. I have just a

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couple of questions and then we will be done for today.

FURTHER EXAMINATION
BY MS. DeBRUIN:
Q. I want to ask you a couple of questions about the key for the DOS system.
And specifically I want to talk about how that key was used in the system that you had up and running in 1991 in the New York area.
A. Okay.
Q. By looking at the key, could you tell whether someone was located in Brooklyn, For example?
A. Oh, yeah. You could tell exactly what cable system they were located in, and usually those cable systems had -- not usually. Those cable systems had boundaries which were dictated by the cable companies, and we knew what those boundaries were.
For example, Manhattan Cable TV was, let's say, up to 114th Street on the east side and 120th Street on the west side. These are not the true boundaries, but I mean it was down

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to the street and the avenue as to exactly where that person had to live.

Q. So by looking at the key that you received or that your system received from the user, you could tell the geographic location of that user's television station?

A. It was --

MS. FUKUDA: Objection to form.

THE WITNESS: -- absolutely uniquely. It was a unique specifier.

BY MS. DeBRUIN:

Q. So your answer to my question is yes, you can?

A. Yes. The answer is yes.

MS. DeBRUIN: I have no further questions.

MS. FUKUDA: That's fine.

THE VIDEOGRAPHER: Please stand by. This concludes the Videotaped Deposition of Mark Kaplinsky consisting of four tapes and disks. The time is approximately 1700 hours as indicated on the video screen.

The original tapes of today's testimony will remain in the custody of Certified Legal Video, whose address is 3555

Maryvale Drive, Suite 2144, Las Vegas, Nevada 89147. We are now off the record.

(Deposition concluded at 5:00 p.m.)

CERTIFICATE OF DEPONENT

PAGE LINE CHANGE

_____

*****

I, MARK KAPLINSKY, deponent herein, do hereby certify and declare under penalty of perjury the within and foregoing transcription to be my deposition in said action; that I have read, corrected, and do hereby affix my signature to said deposition.

_____

MARK KAPLINSKY

DEPONENT

REPORTER'S CERTIFICATE

STATE OF NEVADA)

)

COUNTY OF CLARK)

I, Maria C. Wooley, CCR No. 488, do hereby certify:

That I reported the deposition of the witness, MARK KAPLINSKY, on Thursday, October 5, 2006, commencing at the hour of 1:36 p.m.

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth.

That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true and accurate transcription of said shorthand notes taken down at said time.

I further certify that I am not a relative or employee of an attorney or counsel involved in said action, nor a person financially interested in said actions.

Dated at Las Vegas, Nevada, this 9th day of October, 2006.

_____

Maria C. Wooley, CCR No. 488

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

TV GUIDE ONLINE, INC, and TV GUIDE MEDIA SERVICES, LLC,	)
Plaintiffs,	)
vs.	) C.A. No. 05-CV-725-KAJ
TRIBUNE MEDIA SERVICES, INC.,	)
Defendant.	)

I, Mark Kaplinsky, being first duly sworn, on oath say that I am the deponent in the aforesaid deposition taken October 5, 2006, that I have read the foregoing transcript of the deposition, consisting of pages 1 to 153 inclusive, and affix my signature to same.

Mark Kaplinsky

Subscribed and sworn to
Before me this 08 day of
NOVEMBER, 2006

Notary Public

NOTARY PUBLIC
STATE OF NEVADA
County of Clark
RICHARD L. PYNE
No: 05-97949-1
My Appointment Expires Aug. 5, 2009

CASE: TV Guide Online, Inc. and TV Guide Media Services, LLC vs. Tribune Media Services, Inc.
DEPONENT: Mark Kaplinsky
DATE TAKEN: October 5, 2006

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(SIGNED) _____ DATE _____

REPORTER: Maria C. Wooley

CASE: TV Guide Online, Inc. and TV Guide Media Services, LLC vs. Tribune Media Services, Inc.
DEPONENT: Mark Kaplinsky
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(SIGNED) _____ DATE _____

REPORTER: Maria C. Wooley