

EXHIBIT 11

REDACTED

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H I G H L Y C O N F I D E N T I A L
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

-----x
UNITED STATES, et al.,
Plaintiffs,
vs. Case No.
1:23-cv-000108
GOOGLE LLC,
Defendant.

-----x

HIGHLY CONFIDENTIAL
VIDEOTAPED DEPOSITION OF LUKE LAMBERT
New York, New York
Tuesday, August 29, 2023
9:37 a.m.

Reported by:
Jennifer Ocampo-Guzman, CRR, CLR
Job No. CS6079449

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<p>1 2 3 4 5 6 7 8 August 29, 2023 9 9:37 a.m. 10 11 12 HIGHLY CONFIDENTIAL 13 Videotaped Deposition of LUKE 14 LAMBERT, held at the offices of Latham 15 & Watkins, LLP, 1271 Avenue of the 16 Americas, New York, New York, pursuant 17 to subpoena, before Jennifer 18 Ocampo-Guzman, a Certified Realtime 19 Shorthand Reporter and Notary Public of 20 the State of New York. 21 22 23 24 25</p>	<p>1 2 APPEARANCES (Continued): 3 4 LATHAM & WATKINS 5 Attorneys for Omnicom Holdings and the 6 Deponent 7 505 Montgomery Street, Suite 2000 8 San Francisco, California 94111 9 BY: NIALL LYNCH, ESQ. 10 AARON CHIU, ESQ. 11 KAILEN MALLOY, ESQ., (via Zoom) 12 13 ALSO PRESENT: 14 MARCELO RIVERA, Videographer 15 16 17 18 19 20 21 22 23 24 25</p>
Page 3	Page 5
<p>1 2 APPEARANCES: 3 4 UNITED STATES DEPARTMENT OF JUSTICE 5 Attorneys for Plaintiff United States 6 450 5th Street, NW, Suite 7000 7 Washington, DC 20530 8 BY: KATHERINE E. CLEMONS, ESQ. 9 RACHEL ZWOLINKSKI, ESQ. 10 ALVIN CHU, ESQ., (via Zoom) 11 12 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP 13 Attorneys for Defendant Google LLC 14 1285 Avenue of the Americas 15 New York, New York 10019 16 BY: ERIN J. MORGAN, ESQ. 17 LEAH HIBBLER, ESQ. 18 19 20 21 22 23 24 25</p>	<p>1 HIGHLY CONFIDENTIAL 2 THE VIDEOGRAPHER: Good morning. 3 We are going on the record at 9:37 a.m., 4 on August 29, 2023. Please note that 5 the microphones are sensitive and may 6 pick up whispering and private 7 conversations. Please mute your phones 8 at this time. Audio and video recording 9 will continue to take place unless all 10 parties agree to go off the record. 11 This is the media unit 1 of the 12 video-recorded deposition of Mr. Luke 13 Lambert, in the matter, United States, 14 et al., versus Google LLC. This 15 deposition is being held at Latham & 16 Watkins, located at 1271 Avenue of the 17 Americas, New York, New York. My name 18 is Marcelo Rivera, representing Veritext 19 Legal Solutions, and I am the 20 videographer. The court reporter is 21 Jennifer Ocampo-Guzman in association 22 with Veritext Legal Solutions. 23 I am not related to any party in 24 this action, nor am I financially 25 interested in the outcome. If there are</p>

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Page 118	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 Q. Uh-huh.</p> <p>3 A. We're looking at shifts of</p> <p>4 increasing in Google Discovery, 220 percent,</p> <p>5 Q3-Q4. As noted on the previous page, Reddit</p> <p>6 received an increase of 66 percent, YouTube</p> <p>7 decreased. That is also a shift, shifts go</p> <p>8 up and down. And then the rest are, they're</p> <p>9 on the page, and we can go through them.</p> <p>10 Q. So the ones that are neutral, does</p> <p>11 that mean that there was not a significant</p> <p>12 shift?</p> <p>13 A. Yes.</p> <p>14 Q. And for the ones that are</p> <p>15 classified as "What Didn't Work" --</p> <p>16 A. Yes.</p> <p>17 Q. -- does that mean spend was shifted</p> <p>18 away from those categories?</p> <p>19 MS. CLEMONS: Objection, form.</p> <p>20 A. Yes, it does.</p> <p>21 Q. And for the "What Worked" category,</p> <p>22 does that mean spend was shifted to those</p> <p>23 categories?</p> <p>24 A. It does.</p> <p>25 MS. CLEMONS: Objection, form.</p>	Page 120	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 down, about halfway, one third in.</p> <p>3 THE WITNESS: This looks like a</p> <p>4 total distribution list across all of</p> <p>5 Team DDB.</p> <p>6 Q. It's the total distribution list</p> <p>7 for what?</p> <p>8 A. For all of Team DDB. As an</p> <p>9 executive on OMD, I'm on pretty much every</p> <p>10 distribution list, so.</p> <p>11 Q. Do you see on the page that's</p> <p>12 marked 45192 that there's a subject line that</p> <p>13 says, "Programmatic Updates, Digital Center</p> <p>14 of Excellence"?</p> <p>15 A. I do.</p> <p>16 Q. Are you familiar with this type of</p> <p>17 e-mail?</p> <p>18 A. I am.</p> <p>19 Q. And have you seen this before?</p> <p>20 A. This one's quite dated but, yes.</p> <p>21 Q. And in fact you're copied on it?</p> <p>22 A. Uh-huh.</p> <p>23 Q. Is that right?</p> <p>24 A. That's true.</p> <p>25 Q. Sorry. You have to give an audible</p>
Page 119	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 MS. MORGAN: Okay. I think we can</p> <p>3 go ahead and put that document down for</p> <p>4 now. I am going to do one more quick</p> <p>5 one and then we will maybe take lunch.</p> <p>6 THE WITNESS: That's fine.</p> <p>7 MS. MORGAN: Can we mark this as</p> <p>8 Exhibit 3.</p> <p>9 (Omnicom Exhibit 3, E-mail dated</p> <p>10 5/17/19, Bates Nos. OMC-GOOG-00045175</p> <p>11 through OMC-GOOG-00045282, marked for</p> <p>12 identification, this date.)</p> <p>13 Q. Let me hand you that document</p> <p>14 that's been marked as Omnicom Exhibit 3. The</p> <p>15 document is Bates stamped OMC-GOOG-000454175</p> <p>16 on the first page, and it's an e-mail from</p> <p>17 Charles Johnson sent on May 17, 2019.</p> <p>18 Do you recognize this document? I</p> <p>19 will tell you, the "To" field goes on for</p> <p>20 like eight pages, so feel free to look</p> <p>21 through it to get to the subject line.</p> <p>22 MR. LYNCH: Do you know if he's</p> <p>23 copied on it, on what page?</p> <p>24 MS. MORGAN: On the next page,</p> <p>25 second page. You will see like halfway</p>	Page 121	<p>1 LAMBERT - HIGHLY CONFIDENTIAL</p> <p>2 response.</p> <p>3 A. It's true, yes.</p> <p>4 Q. Otherwise, it doesn't come through</p> <p>5 for the court reporter.</p> <p>6 Are these kind of updates created</p> <p>7 in the normal course of Omnicom's business?</p> <p>8 A. Yes.</p> <p>9 Q. Who creates them?</p> <p>10 A. The Center of Excellence.</p> <p>11 MS. CLEMONS: Objection, form.</p> <p>12 Q. What's the Center of Excellence?</p> <p>13 A. So I work for OMD. There is an</p> <p>14 umbrella over us called OMG, which is Omnicom</p> <p>15 Media Group, which is an umbrella underneath</p> <p>16 the umbrella of Omnicom. OMG operates a</p> <p>17 central team here in North America where the</p> <p>18 Center of Excellence sits or the COE, of COE</p> <p>19 operates rule of the road, processes</p> <p>20 protocols, and creates documents like this.</p> <p>21 Q. Who is the intended audience for</p> <p>22 this programmatic update?</p> <p>23 A. Initially our teams, our clients,</p> <p>24 and that's kind of it.</p> <p>25 Q. Are there clients on this distro or</p>

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2 would it be sent from people who received

3 this to a client?

4 A. No, this is strictly to the distro,

5 without clients.

6 Q. Is it sent out to clients as like a

7 matter of regular course or is it if a an

8 individual person decides to send it to a

9 client, it goes to a client?

10 MS. CLEMONS: Objection, form.

11 A. It's normally the content that

12 would be shared with the client. We would

13 curate this content based on what's

14 applicable to their business. Yeah, I mean

15 in this example, this was sent by Charles

16 Johnson, who is part of the COE and he now

17 works at Google.

18 Q. Oh, interesting.

19 On the next page, after the page

20 with the subject line on it, so it's Bates

21 stamped 45193, there is a heading that says

22 "Partner Updates."

23 A. Uh-huh.

24 Q. Do you see that?

25 A. I do.

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2 Q. What does it mean to be an Omnicom

3 partner?

4 MS. CLEMONS: Objection, form.

5 A. Partners are our platform partners,

6 our publishing partners. Anyone we have

7 contracts with or buy media through or with.

8 Q. Do you contract directly with all

9 of your partners?

10 MS. CLEMONS: Objection, form.

11 A. Is this in relation to the U.S.

12 Army or as an OMG?

13 Q. Just generally as OMD.

14 A. Yeah, all of our contracts are

15 direct with the likes of Google, Amazon,

16 Verizon, Xandr.

17 Q. And is that the case also for the

18 Army?

19 A. It is.

20 Q. What about the Air Force?

21 A. It is.

22 Q. What about CMS?

23 A. It is.

24 Q. And what about NHTSA?

25 A. It is.

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2 Q. The first partner listed on this

3 list is Google.

4 A. It is.

5 Q. What partnerships does Omnicom have

6 with Google or what kind of partner is

7 Google? Is that a better way of asking that

8 question?

9 A. I don't think there's a

10 differentiation.

11 Our partnership with Google is a

12 contract on the Google marketing platform.

13 The contract itself shows the rates in which

14 we pay for various capabilities from Google,

15 DV360 rate, Campaign Manager, ad serving

16 rate; search rate, although it's nominal; and

17 sometimes a form of a JVP, but for Google

18 they call it a DVIP, so display video

19 investment plan, which typically it can

20 happen at either the Omnicom level or OMG

21 level, which it does, or at a client level

22 where they negotiate their own DVPs -- DVIPs

23 through us.

24 Q. When you say "at a client level,"

25 would that be a contract between an

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2 individual advertiser client and Google?

3 MS. CLEMONS: Objection, form.

4 A. It would be, it would be on their

5 behalf.

6 Q. So the contract would be still

7 between an Omnicom entity and Google?

8 A. Yes.

9 Q. You mentioned DV360, Campaign

10 Manager, Search, are there other Google tools

11 that, that are part of the Omnicom contract

12 with Google?

13 A. I don't believe anything outside of

14 media is part of the DVIP or JVP that we

15 have, although we do have additional

16 contracts around Cloud.

17 Q. Does your contract cover Google

18 ads?

19 A. It does. That's the search side.

20 Q. What about Google Ad Manager, do

21 you ever use Google Ad Manager?

22 A. That is Campaign Manager now.

23 Google has renamed just about everything

24 every other year.

25 Q. So I've learned.

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2 A. Yes.

3 Q. You testified earlier that in the

4 second meeting you had with the Department of

5 Justice, that they could not tell Omnicom

6 what they needed, so Omnicom could make it

7 easier on them. Do you remember testifying

8 about that?

9 A. I do.

10 Q. In the meeting that you were

11 discussing, did the Department of Justice

12 tell you that there were specific pieces of

13 data that they were looking for?

14 A. No.

15 Q. Did you ask if there were specific

16 pieces of data you could provide them that

17 would be helpful?

18 A. Yes.

19 Q. Did they ever ask you for data

20 after that meeting in response to your

21 question about whether there were specific

22 pieces of data that could be helpful?

23 MS. CLEMONS: Objection to form.

24 A. If -- they did not ask me, no.

25 MS. MORGAN: Thank you. All right.

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2 Mr. Lambert, I think we can thank you

3 for your time.

4 THE WITNESS: Thanks.

5 MR. LYNCH: So this is concluded?

6 MS. MORGAN: Yes.

7 THE VIDEOGRAPHER: The time is

8 4:46 p.m. We're going off the record.

9 (Time noted: 4:47 p.m.)

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2 STATE OF _____)

3) :ss

4 COUNTY OF _____)

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6

7 I, LUKE LAMBERT, the witness

8 herein, having read the foregoing

9 testimony of the pages of this

10 deposition, do hereby certify it to be a

11 true and correct transcript, subject to

12 the corrections, if any, shown on the

13 attached page.

14

15 _____

16 LUKE LAMBERT

17

18 Sworn and subscribed to before

19 me, this _____ day of

20 _____, 2023.

21 _____

22 Notary Public

23

24

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2 C E R T I F I C A T E

3 STATE OF NEW YORK)

4 : ss.

5 COUNTY OF NEW YORK)

6 I, Jennifer Ocampo-Guzman, a

7 Certified Realtime Shorthand Reporter and

8 Notary Public within and for the State of New

9 York, do hereby certify:

10 That LUKE LAMBERT, the witness

11 whose deposition is hereinbefore set forth,

12 was duly sworn, and that such deposition is

13 a true record of the testimony given by the

14 witness.

15 I further certify that I am not

16 related to any of the parties to this action

17 by blood or marriage, and that I am in no

18 way interested in the outcome of this

19 matter.

20 IN WITNESS WHEREOF, I have

21 hereunto set my hand this 1st day of

22 September 2023.

23

24 *J. Ocampo-Guzman*

25 JENNIFER OCAMPO-GUZMAN, CRR, CLR