

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
12:12 - 12:20	Lipkovitz, Eisar A. 2023-11-09 12:12 Q. Good morning, Mr. Lipkovitz. 12:13 You understand you're under oath just 12:14 as if you were in a courtroom with a judge and a 12:15 jury present? 12:16 Do you understand? 12:17 A. I do. 12:18 Q. Okay. Is there any reason you can't 12:19 give complete and accurate testimony today? 12:20 A. No.	00:00:13	LE-4714.1
22:08 - 22:14	Lipkovitz, Eisar A. 2023-11-09 22:08 Q. Now, you worked as V.P. for 22:09 engineering for what I'll characterize generally as 22:10 display. 22:11 A. Sure. 22:12 Q. From April 2014 to February or March 22:13 2018; is that correct? 22:14 A. That is correct.	00:00:11	LE-4714.2
26:25 - 27:09	Lipkovitz, Eisar A. 2023-11-09 26:25 Q. Now, at the time in 2014 when you 27:01 joined the display group, I want to talk about just 27:02 in very broad terms the various products that Google 27:03 owned. 27:04 A. Uh-huh. 27:05 Q. Google owned a publisher ad server 27:06 referred to often as DFP; is that right? 27:07 A. That's right. 27:08 Q. And fair to say that DFP was a market 27:09 leader for publisher ad servers?	00:00:20	LE-4714.3
27:11 - 27:19	Lipkovitz, Eisar A. 2023-11-09 27:11 A. It is my understanding it was one of 27:12 the more popular products. I'm not sure exactly the 27:13 definition of leader. 27:14 Q. Okay. And Google also owned an ad 27:15 exchange or, depending on your nomenclature, supply 27:16 side platform referred to as AdX; correct? 27:17 A. That's correct. 27:18 Q. And was AdX one of the larger ad 27:19 exchanges at the time in 2014?	00:00:23	LE-4714.4

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27:21 - 28:03	Lipkovitz, Eisar A. 2023-11-09 27:21 A. I believe it was, yeah. 27:22 Q. And Google also owned an ad network; 27:23 correct? 27:24 A. We had the Google Display Network. I 27:25 believe you can call it an ad network, yes. 28:01 Q. As if I refer to that as GDN today, 28:02 you'll know what I'm talking about? 28:03 A. Yes.	00:00:16	LE-4714.5
32:09 - 33:25	Lipkovitz, Eisar A. 2023-11-09 32:09 Q. What about the expression "own the 32:10 tag"? 32:11 A. Yes, I've heard that expression. 32:12 Q. What does it mean to you as it 32:13 pertains to display advertising? 32:14 A. It's sort of back to the point of 32:15 having -- either using the Google ad server or -- 32:16 and I think that's the -- maybe back to your 32:17 previous question about the FAN strategy, is having 32:18 the tag on the page, basically put you at the sort 32:19 of the top of the funnel and make sure you have 32:20 access. 32:21 Q. Top of what funnel? 32:22 A. So there is essentially at the time 32:23 and, you know, especially during those years it 32:24 became more complex, but there is a myriad of some 32:25 mediation or other approaches to have multiple ad 33:01 tech providers, in quote, competing on the same 33:02 impression. 33:03 Q. How does owning the tag assist in 33:04 that regard? 33:05 A. It's ensured that you have access. 33:06 Q. What kind of access? 33:07 A. So the key point was that we felt 33:08 that we would like to compete on price, and when 33:09 there are other layers ahead of us, we don't 33:10 actually know what is going on. It's entirely 33:11 possible we will never be called, so we won't even 33:12 have an opportunity to compete on that impression. 33:13 Q. When you say we want to compete on	00:02:18	LE-4714.6

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	33:14 price --		
	33:15 A. Uh-huh.		
	33:16 Q. -- what are you referring to?		
	33:17 A. So, you know, my general belief is		
	33:18 that every impression should be competed on using an		
	33:19 auction mechanism. So we want to be able to submit		
	33:20 a bid, and also secondarily, we'd like to understand		
	33:21 whether we won or lost and why.		
	33:22 (Stenographer clarification.)		
	33:23 Q. And owning the tag improves your		
	33:24 ability to get that opportunity to bid on every		
	33:25 impression?		
34:02 - 34:14	Lipkowitz, Eisar A. 2023-11-09	00:00:38	LE-4714.7
	34:02 A. I think owning the tag, because we		
	34:03 understood our ad server ensure that, you know, we		
	34:04 have transparency to what will happen, but to be		
	34:05 clear, my personal opinion is we don't have to own		
	34:06 the tag. I actually rather it be public good, run		
	34:07 by the U.S. Government for all I care, right.		
	34:08 Q. And why do you say that? Why would		
	34:09 that be a public good?		
	34:10 A. Because to me, it's just the plumbing		
	34:11 of the system. You know, the same way you have it		
	34:12 in other -- maybe other types of marketplaces that		
	34:13 are much more mature, whether financials as an		
	34:14 example.		
41:12 - 42:15	Lipkowitz, Eisar A. 2023-11-09	00:01:31	LE-4714.8
	41:12 Q. Does the publisher ad server		
	41:13 communicate some information to the SSP about the		
	41:14 nature of the impression?		
	41:15 A. Yeah, I believe so. So there are		
	41:16 essentially a collection of things: One is the		
	41:17 reserve price, if there is one; two is something to		
	41:18 do with the format and what kinds of ads the		
	41:19 publisher is willing to show; and I think thirdly is		
	41:20 some type of advertiser filter, and my understanding		
	41:21 is, and especially because the publisher can use		
	41:22 multiple SSPs, all of these things have to come --		
	41:23 be in the call, yeah, the ad call or whatever you		
	41:24 want to call it.		

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	41:25 Q. So you refer to that as an ad call?		
	42:01 A. Right now I did, yeah.		
	42:02 Q. That's fine. I just want to have a		
	42:03 common language we can use to discuss that?		
	42:04 A. Sure. Yes.		
	42:05 Q. And that ad call goes from the		
	42:06 publisher ad server to who?		
	42:07 A. Whoever the publisher chooses to,		
	42:08 though the word defaults obviously.		
	42:09 Q. What was the default for Google's		
	42:10 DFP?		
	42:11 A. I think it depends on the year and		
	42:12 I'm not 100 percent sure about the details, but it		
	42:13 is my understanding that DFP was calling AdX quite		
	42:14 often.		
	42:15 Q. And AdX was the default for DFP?		
42:17 - 43:02	Lipkovitz, Eisar A. 2023-11-09	00:00:48	LE-4714.9
	42:17 A. I'm not sure. I don't know. So in		
	42:18 general, I'm happy to speculate, but I actually do		
	42:19 not know, because I didn't look at the UI, right,		
	42:20 and I have to trust some people, but yeah, from a		
	42:21 strategic standpoint, it's likely the answer is yes.		
	42:22 Q. And at the time that the waterfall		
	42:23 was in place, the waterfall method was in place, and		
	42:24 that ad call was sent to AdX --		
	42:25 A. Uh-huh.		
	43:01 Q. -- if AdX was able to meet the		
	43:02 reserve price, did AdX win the impression?		
43:04 - 43:12	Lipkovitz, Eisar A. 2023-11-09	00:00:35	LE-4714.128
	43:04 A. So in short, yes, but let me		
	43:05 paraphrase.		
	43:06 So I think by definition, the concept		
	43:07 of a waterfall, unlike exchange bidding, you know,		
	43:08 have this limitation that whoever is in the highest		
	43:09 portion of the waterfall, if they win, the		
	43:10 impression has been won. There is no opportunity		
	43:11 for people below the waterfall. And that's the main		
	43:12 distinction, yes.		
43:13 - 43:21	Lipkovitz, Eisar A. 2023-11-09	00:00:31	LE-4714.129
	43:13 Q. Okay. And in the ad call, who		

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	43:14 determines the floor price?		
	43:15 A. It was generally the publisher, but		
	43:16 over time, we have built features that rely on the		
	43:17 model that we believed is maximizing publisher		
	43:18 revenue.		
	43:19 Q. And --		
	43:20 A. And there are multiple features like		
	43:21 that, yeah.		
45:13 - 45:15	Lipkovitz, Eisar A. 2023-11-09	00:00:07	LE-4714.11
	45:13 Q. Okay. And are there legitimate		
	45:14 reasons that a publisher might want to have		
	45:15 different floor prices for different demand sources?		
45:17 - 46:01	Lipkovitz, Eisar A. 2023-11-09	00:00:48	LE-4714.130
	45:17 A. So this is why it's subtle, right.		
	45:18 Yes, because it can show -- it can lead to		
	45:19 short-term higher revenue, but the reason I find it		
	45:20 challenging is the same reason I'm in favor of		
	45:21 second price auction versus first price auction,		
	45:22 which is these approaches work because advertisers		
	45:23 in some cases aren't sophisticated enough and,		
	45:24 therefore, you just have to assume that over time,		
	45:25 they will get more sophisticated. So therefore, I		
	46:01 don't think it actually adds much value.		
46:02 - 46:04	Lipkovitz, Eisar A. 2023-11-09	00:00:09	LE-4714.131
	46:02 Q. Do you think publishers have a		
	46:03 legitimate reason to not want to be overly reliant		
	46:04 on any particular one demand source?		
46:06 - 46:11	Lipkovitz, Eisar A. 2023-11-09	00:00:15	LE-4714.13
	46:06 A. I do.		
	46:07 Q. Why?		
	46:08 A. I don't think it's specific to this		
	46:09 conversation. I mean, you know, I think it's just a		
	46:10 risk management decision or their riskification.		
	46:11 It's a pretty standard management principle.		
66:09 - 66:13	Lipkovitz, Eisar A. 2023-11-09	00:00:11	LE-4714.14
	66:09 Q. Advertisers as a rule also generally		
	66:10 would prefer more of their money to go to publishers		
	66:11 than to ad tech providers; is that fair?		
	66:12 A. That's correct. I think everybody		

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	66:13 would agree with that.		
85:14 - 85:16	Lipkovitz, Eisar A. 2023-11-09	00:00:06	LE-4714.152
	85:14 Q. Okay. I'm going to hand you what we		
	85:15 will mark as Lipkovitz Lit two.		
	85:16 A. Uh-huh.		
85:17 - 87:02	Lipkovitz, Eisar A. 2023-11-09	00:03:18	LE-4714.153
	85:17 (Whereupon, document		
	85:18 GOOG-TEX-00046730 through 46737, is received and		
	85:19 marked as Exhibit 2 for Identification.)		
	85:20 BY ATTORNEY WOOD:		
	85:21 Q. And while you're looking at that, I		
	85:22 will tell you it has been premarked as Lipkovitz Lit		
	85:23 two. There is Bates stamp DOJ GOOG Texas or TEX		
	85:24 00046730 through 737.		
	85:25 This is a series of email exchanges.		
	86:01 I'm not going to ask you about all of the emails		
	86:02 here. There is only two emails I'm going to ask you		
	86:03 about.		
	86:04 A. Uh-huh.		
	86:05 Q. So I'll tell you in advance it's the		
	86:06 first email on the first page from you, and then		
	86:07 it's on the third page that ends in 732, I'm going		
	86:08 to ask you about the email from you in the middle of		
	86:09 the page. Those are the only two parts I'm going to		
	86:10 ask you about, but feel free to read whatever you		
	86:11 need to to get some context.		
	86:12 A. Okay.		
	86:13 Q. I may ask about Mr. Rabii's email on		
	86:14 the first page as well.		
	86:15 A. Okay. Give me a second. Oh, I		
	86:16 spelled his name correctly. It's amazing.		
	86:17 Okay.		
	86:18 Q. Okay. Let me start with the first in		
	86:19 time that I'm going to ask you about, which is on		
	86:20 the page ending in Bates stamp 732.		
	86:21 A. Uh-huh.		
	86:22 Q. It's your email on 30 July 2015.		
	86:23 A. Uh-huh.		
	86:24 Q. First of all, do you recognize this		
	86:25 document as emails you received in the ordinary		

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	87:01 course of business at Google?		
	87:02 A. Yeah, it looks like it.		
89:12 - 89:24	Lipkovitz, Eisar A. 2023-11-09	00:00:38	LE-4714.16
	89:12 Q. And at the time, GDN was only bidding		
	89:13 on third-party exchanges where there was some sort		
	89:14 of remarketing?		
	89:15 A. Correct.		
	89:16 Q. Correct?		
	89:17 A. AWBid was at the time -- I think they		
	89:18 talked about expanding, but definitely in '15, which		
	89:19 was very early for even AWBid, was only remarketing,		
	89:20 that's right.		
	89:21 Q. And so GDN wouldn't be bidding on		
	89:22 Rubicon and PubMatic for anything other than		
	89:23 remarketing impressions; correct?		
	89:24 A. That's my belief, yeah.		
89:25 - 90:06	Lipkovitz, Eisar A. 2023-11-09	00:00:16	LE-4714.17
	89:25 Q. So if someone wanted GDN demand		
	90:01 outside of the remarketing context, they had to come		
	90:02 to AdX; right?		
	90:03 A. Correct.		
	90:04 Q. And that created a competitive		
	90:05 advantage for AdX; right?		
	90:06 A. Yes.		
90:20 - 91:17	Lipkovitz, Eisar A. 2023-11-09	00:01:00	LE-4714.18
	90:20 Q. And you supported extending GDN's		
	90:21 ability to purchase on third-party exchanges;		
	90:22 correct?		
	90:23 A. I did.		
	90:24 Q. And other people at Google vigorously		
	90:25 opposed that; correct?		
	91:01 A. I'm hesitating. They're more		
	91:02 sophisticated than me. So, therefore, it took us a		
	91:03 long time to accomplish the outcome I wanted. How		
	91:04 they did it, I wouldn't use labels, but, you know --		
	91:05 Q. What do you mean?		
	91:06 A. I don't know.		
	91:07 Q. If you were going to use a label,		
	91:08 what label would you use?		
	91:09 A. Playing games.		

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	91:10 Q. What do you mean by that?		
	91:11 A. Well, there are a lot of people in		
	91:12 the organization, and I have still PTSD from them,		
	91:13 that are not willing to have a Socratic debate,		
	91:14 where you make a decision, where you present facts.		
	91:15 This email is an example of that. It just irritates		
	91:16 me, but, you know, they didn't win, but they		
	91:17 definitely wore me down.		
106:01 - 106:21	Lipkovitz, Eisar A. 2023-11-09	00:01:16	LE-4714.19
	106:01 Q. Okay. Are you familiar with the term		
	106:02 "first look" as it's used in the context of		
	106:03 programmatic open auction display transactions?		
	106:04 A. Yes.		
	106:05 Q. What is it?		
	106:06 A. I think it's the ability for a buyer,		
	106:07 you know, to see the impression before somebody else		
	106:08 had the chance to, you know, bid and close the		
	106:09 transaction.		
	106:10 Q. The valuable opportunity?		
	106:11 A. Yeah.		
	106:12 Q. Why?		
	106:13 A. Because as you -- if you know that		
	106:14 you have the first look and you still lost, you know		
	106:15 it's because you didn't bid high enough, and that's		
	106:16 important because that's how you train your models		
	106:17 to react to these specific auctions. It just makes		
	106:18 it simpler and cleaner.		
	106:19 Q. It also gives you an advantage in		
	106:20 winning the transaction; correct?		
	106:21 A. Yeah.		
111:08 - 111:12	Lipkovitz, Eisar A. 2023-11-09	00:00:10	LE-4714.20
	111:08 Q. You would agree though that giving		
	111:09 another exchange the opportunity to bid after AdX		
	111:10 has met the floor price would have potentially been		
	111:11 good for publishers; correct?		
	111:12 A. It would.		
125:03 - 127:14	Lipkovitz, Eisar A. 2023-11-09	00:03:09	LE-4714.21
	125:03 Q. And are you familiar with something		
	125:04 that's referred to as AdX direct?		
	125:05 A. Again, it rings a bell. Probably in		

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	125:06	the same space.	
	125:07	Q. Or are you familiar with AdX	
	125:08	mediation?	
	125:09	A. So let me back up a little bit before	
	125:10	answering each individual question. I heard that	
	125:11	term AdX mediation. What I do know is that the AdX	
	125:12	team was very entrepreneurial, and they did not like	
	125:13	the DFP team. They didn't.	
	125:14	And so, you know, when I land on the	
	125:15	job and it took me like a year to fully understand	
	125:16	that, I realized they're building competing	
	125:17	technology, and, you know, clearly the DFP team,	
	125:18	including mediation, right, and the DFP team was	
	125:19	unhappy about it, because, you know, it takes market	
	125:20	share from them, whatever, their ego. When I look	
	125:21	at it, it's just stupid and idiotic and duplicative.	
	125:22	I didn't take sides. However, I would say that back	
	125:23	to the point I made earlier, the AdX team was very	
	125:24	aggressive. They moved quickly. They built a lot	
	125:25	of stuff, and the DFP team, especially before our	
	126:01	partnership, was lazy and slow. I mean, I don't	
	126:02	know how else to say it.	
	126:03	Q. Lazy and slow in terms of innovation?	
	126:04	A. Correct, and it's sort of a top-down	
	126:05	decision, or let me say it differently because you	
	126:06	can try to pin me on decision. Well, the people	
	126:07	predating me decided not to do anything about it.	
	126:08	My boss, Sridhar, brought me over for this job	
	126:09	explicitly, and he told me as much because he wanted	
	126:10	things to change, and I'm good at that.	
	126:11	Q. He wanted more innovation?	
	126:12	A. Yeah. I mean, Sridhar, in general,	
	126:13	you know -- and he and I align on it, we just want	
	126:14	to do stuff. You know, you get -- you people want	
	126:15	to call it innovation. I'm not insulting anybody.	
	126:16	Good for you. I don't know, right? I don't know	
	126:17	how the other -- the rest of the world think. I	
	126:18	just know it's different. So I gave up on trying to	
	126:19	come up with labels, whatever.	
	126:20	They don't want to do anything, and	
	126:21	they want to talk about stuff and they want to lie.	

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	126:22 That's generally speaking. I'm sorry for being --		
	126:23 because it's just really PTSD for me, this whole		
	126:24 discussion.		
	126:25 Q. What do you mean they want to lie?		
	127:01 A. Sorry, sorry. Omit information,		
	127:02 right.		
	127:03 Q. Who was omitting what information?		
	127:04 A. I mean, you know, this document you		
	127:05 showed me earlier has some bunch of things that are,		
	127:06 you know, intellectually dishonest in my opinion. I		
	127:07 don't think anybody get fired for that or be called		
	127:08 a lie, but if you use words like the truth, the		
	127:09 whole truth, and nothing but the truth, which is a		
	127:10 standard I hold myself accountable for, they don't		
	127:11 clear that line.		
	127:12 Q. Did you think it was part of the		
	127:13 culture in the group at the time?		
	127:14 A. Correct.		
129:03 - 129:10	Lipkovitz, Eisar A. 2023-11-09	00:00:17	LE-4714.22
	129:03 Q. Was AdX direct used by a large number		
	129:04 of publishers?		
	129:05 A. I don't believe so.		
	129:06 Q. And did it have a large volume of		
	129:07 impressions flowing through AdX direct compared to		
	129:08 the number of impressions flowing through AdX, for		
	129:09 example?		
	129:10 A. I highly doubt it.		
129:16 - 129:18	Lipkovitz, Eisar A. 2023-11-09	00:00:07	LE-4714.23
	129:16 Q. Was in your opinion use of AdX direct		
	129:17 a good or equal alternative to using AdX with		
	129:18 realtime bidding?		
129:20 - 130:06	Lipkovitz, Eisar A. 2023-11-09	00:00:40	LE-4714.24
	129:20 A. Equal to whom?		
	129:21 Q. Equal to the publisher? You have a		
	129:22 publisher who is using AdX direct versus a publisher		
	129:23 who is using DFP and AdX?		
	129:24 A. Yeah, yeah, so I don't think so, and		
	129:25 for multiple reasons: One is the one I already		
	130:01 said. We would bid more aggressively higher prices,		
	130:02 more impression if DFP is the output server; and		

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	130:03 two, I also think that, you know, as much as the AdX		
	130:04 team innovated, they did, probably by the time that,		
	130:05 you know, we started working the DRX project, and I		
	130:06 think it's with Aparna and other people showing up.		
135:11 - 135:13	Lipkovitz, Eisar A. 2023-11-09	00:00:04	LE-4714.25
	135:11 Q. Okay. The waterfall was in place		
	135:12 when you arrived; correct?		
	135:13 A. Uh-huh.		
135:14 - 136:03	Lipkovitz, Eisar A. 2023-11-09	00:00:38	LE-4714.26
	135:14 Q. And did you think it was the most		
	135:15 efficient method for open auction Web display		
	135:16 transactions?		
	135:17 A. No.		
	135:18 Q. Did you think it was the best method		
	135:19 for publishers?		
	135:20 A. No.		
	135:21 Q. Why not?		
	135:22 A. Well, I understood why they had to do		
	135:23 it. I also understood that they have people in the		
	135:24 organization that can show unequivocally that it has		
	135:25 yielded more revenue. They're not doing it, but I		
	136:01 felt that it's not the ideal solution and it would		
	136:02 be better, you know, trying to figure out a		
	136:03 different approach.		
136:22 - 136:25	Lipkovitz, Eisar A. 2023-11-09	00:00:10	LE-4714.27
	136:22 Q. Based on your perspective, did a		
	136:23 realtime auction or does a realtime auction between		
	136:24 different demand sources increase publisher revenue		
	136:25 relative to a waterfall setup?		
137:02 - 137:06	Lipkovitz, Eisar A. 2023-11-09	00:00:18	LE-4714.28
	137:02 A. It should.		
	137:03 Q. And what about from an advertiser		
	137:04 perspective, do you think there were disadvantages		
	137:05 to an advertiser from the waterfall method?		
	137:06 A. Uh-huh. There were.		
137:07 - 138:01	Lipkovitz, Eisar A. 2023-11-09	00:01:11	LE-4714.29
	137:07 Q. What were those?		
	137:08 A. I mean, it sort of basically goes		
	137:09 back to either bidding against themselves or not		

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	137:10 getting the benefit of second price auction, which 137:11 the only conclusion for them is they need to bid 137:12 less, but that requires building technology to do 137:13 so. 137:14 Q. Wasn't another disadvantage to 137:15 advertisers of the waterfall method the fact that 137:16 depending on whose SSP they used, they might not get 137:17 a match at all or an opportunity to bid on a match? 137:18 A. Yes, that's true. I mean, it 137:19 basically pushed the advertisers, if they are 137:20 worried about it, to, you know, bid against themselves 137:21 and then protect against the problem, because 137:22 fundamentally they should try to bid on many -- if 137:23 they have the -- you know, if cost is not an issue, 137:24 they should use as many, either, demand-side 137:25 platform or make those -- or ask those DSPs to bid 138:01 on as many SSPs.		
138:02 - 138:09	Lipkovitz, Eisar A. 2023-11-09 138:02 Q. Or ask those DSPs to bid on as many 138:03 SSPs? 138:04 A. It will be the logical thing for them 138:05 to do to maximize the impression volume, but they 138:06 might be paying too much because of it, so it's not 138:07 a great setup. 138:08 Q. The waterfall method also made it 138:09 difficult for other SSPs to compete; did it not?	00:00:22	LE-4714.30
138:11 - 138:14	Lipkovitz, Eisar A. 2023-11-09 138:11 A. It did. 138:12 Q. Would you agree that the waterfall 138:13 method also made it more difficult for newer 138:14 exchanges to enter the market and compete?	00:00:12	LE-4714.31
138:16 - 138:19	Lipkovitz, Eisar A. 2023-11-09 138:16 A. I agree with that. 138:17 Q. Do you agree that frustration with, 138:18 among other things, the waterfall method led to the 138:19 rise in header bidding?	00:00:12	LE-4714.32
138:21 - 139:03	Lipkovitz, Eisar A. 2023-11-09 138:21 A. Yes, it did. I mean, there is also 138:22 the user angle, right, that a waterfall is serial by	00:00:28	LE-4714.33

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DESIGNATION	SOURCE	DURATION	ID
	138:23 definition, so it's a bad user experience.		
	138:24 Q. And at the time you were at Google --		
	138:25 A. Uh-huh.		
	139:01 Q. -- in the display group, Google knew		
	139:02 that participants in the industry were frustrated		
	139:03 with the waterfall method; correct?		
139:05 - 139:05	Lipkowitz, Eisar A. 2023-11-09	00:00:01	LE-4714.34
	139:05 A. Sure.		
139:06 - 141:23	Lipkowitz, Eisar A. 2023-11-09	00:03:39	LE-4714.35
	139:06 Q. Did Google do anything about that?		
	139:07 A. Yeah, here is an important point that		
	139:08 I want to make: There was also a real question when		
	139:09 this conversation came up, and I think you're		
	139:10 alluding to it, of what actually is the harm and to		
	139:11 who, because the real question is what is the value		
	139:12 the other SSP provide to begin with? Especially if		
	139:13 you -- because if you take the ecosystem and you		
	139:14 separate from the ad server with all that complex		
	139:15 functionality for managing direct and having ad ops,		
	139:16 and then you have a clean exchange, because I don't		
	139:17 know where -- because SSP is more a combination of		
	139:18 both, exchange is just plumbing.		
	139:19 So I cannot look at it like, Okay. I		
	139:20 don't get it. Like so there is another exchange,		
	139:21 and this is back to my LUMAscape point, they go to a		
	139:22 publisher and say, We can make you more money, and		
	139:23 they say, Show me, and somebody put a waterfall,		
	139:24 right, because that's the only way to do that, and		
	139:25 they made more money, and then you ask yourself,		
	140:01 Where does this money come from, and I could not		
	140:02 come up with any reasonable answer. So the argument		
	140:03 you can make is margin, sure, I get that, but most		
	140:04 of the time it wasn't about margin. It was about,		
	140:05 you know, they're running either unclean auction.		
	140:06 They don't have spam technology. There are things		
	140:07 that they were doing, not intentionally. They just		
	140:08 didn't build the technology that were in negative to		
	140:09 advertisers. So it was hard for me to get excited		
	140:10 about fixing, in quote, that problem, right, because		
	140:11 again, I'm not an antitrust expert, but I think		

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DESIGNATION	SOURCE	DURATION	ID
140:12	there is a big difference between being		
140:13	anticompetitive versus not -- versus looking at an		
140:14	ecosystem and saying, Well, gee whiz, it should be		
140:15	more competitive, the world would be better.		
140:16	I don't wake up in the morning		
140:17	thinking about that stuff, right. And so I felt		
140:18	that, you know, at the time, until proven otherwise,		
140:19	you know, I get the publisher would want it, but I		
140:20	didn't have a design for a mechanism, right. So,		
140:21	you know, if all SSPs came together and said like,		
140:22	Here is a protocol, this is what we all should do,		
140:23	and if I had my job at the time, I would have really		
140:24	hard time saying, We don't want to participate, and		
140:25	yes, there were people at Google that probably would		
141:01	have taken that position maybe.		
141:02	Q. Wasn't it true that when header		
141:03	bidding began --		
141:04	A. Uh-huh.		
141:05	Q. -- multiple SSPs worked together with		
141:06	the IAB or others to come up with a standardized		
141:07	format for header bidding to allow that kind of		
141:08	unified exchange to take place?		
141:09	A. So, you know, this is a little bit,		
141:10	quote, revisionist history, meaning, yes, what		
141:11	happened with the waterfall was not sustainable.		
141:12	Somebody came up with header bidding, and I don't		
141:13	even know who. I think maybe Criteo is one of the		
141:14	innovator.		
141:15	As that was happening, it was very		
141:16	hectic, right. There were multiple vendors, at		
141:17	which point we started having a discussion, and at		
141:18	which point we launched Jedi and exchange bidding,		
141:19	and it was done mostly because we felt that, you		
141:20	know, the external proposals are not stable enough.		
141:21	They're not good enough. It's going to be shit. We		
141:22	have to deal with it. So we'd rather build it		
141:23	ourself.		
141:24 - 142:01	Lipkowitz, Eisar A. 2023-11-09	00:00:09	LE-4714.36
141:24	Q. I guess my question is: Google was		
141:25	aware that people were frustrated with the		

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DESIGNATION	SOURCE	DURATION	ID
142:03 - 142:09	142:01 status quo of the waterfall; correct? Lipkovitz, Eisar A. 2023-11-09	00:00:17	LE-4714.37
	142:03 A. Yes.		
	142:04 Q. And yet it was not until header		
	142:05 bidding became more prevalent than Google		
	142:06 actually --		
	142:07 A. Uh-huh.		
	142:08 Q. -- designed a product to replace the		
	142:09 waterfall; correct?		
142:11 - 142:21	Lipkovitz, Eisar A. 2023-11-09	00:00:36	LE-4714.38
	142:11 A. That is correct, but again, if you're		
	142:12 asking me why, I know you didn't, it's a lot of it		
	142:13 to do with the fact that we had so many more urgent,		
	142:14 important projects to do than this one.		
	142:15 So even if, you know, you have pushed		
	142:16 a timeline of all of it earlier, I would not have		
	142:17 made a different decision, right. So getting SkyRay		
	142:18 done, getting DFP and AdX to merge, and everything		
	142:19 took so long getting AWBid, all things that I		
	142:20 still believe in were to me more important for the		
	142:21 ecosystem.		
142:22 - 142:24	Lipkovitz, Eisar A. 2023-11-09	00:00:11	LE-4714.39
	142:22 Q. Right. But once AdX's own viability		
	142:23 was threatened by header bidding, Google jumped too		
	142:24 and accelerated their plans; correct?		
143:01 - 143:02	Lipkovitz, Eisar A. 2023-11-09	00:00:09	LE-4714.40
	143:01 A. Yeah, but I think that's a normal		
	143:02 course of business. I don't know. I mean --		
162:15 - 162:19	Lipkovitz, Eisar A. 2023-11-09	00:00:19	LE-4714.41
	162:15 Q. What is last look?		
	162:16 A. I think it's sort of the opposite of		
	162:17 first look by some definition. It's essentially the		
	162:18 ability to get the final price and see if you can		
	162:19 match or beat that one.		
162:20 - 162:20	Lipkovitz, Eisar A. 2023-11-09	00:00:03	LE-4714.42
	162:20 Q. And did Google engage in last look?		
162:22 - 162:25	Lipkovitz, Eisar A. 2023-11-09	00:00:20	LE-4714.43
	162:22 A. I remember the topic coming up. It		

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DESIGNATION	SOURCE	DURATION	ID
	162:23 was very different than first look insofar that I 162:24 don't think it's widely used or it's not default on, 162:25 and I don't remember why we needed to do that.		
163:03 - 163:05	Lipkovitz, Eisar A. 2023-11-09	00:00:06	LE-4714.44
	163:03 In connection with last look, was AdX 163:04 given the opportunity to beat the winning price from 163:05 a header bidding auction?		
163:07 - 163:25	Lipkovitz, Eisar A. 2023-11-09	00:00:49	LE-4714.45
	163:07 A. I think that might be the context 163:08 where last look was brought up as a way to give the 163:09 publisher a choice, where, Okay, you want to do this 163:10 header bidding. We'd rather not play, but if we 163:11 play, we'd rather play at the end, because then we 163:12 don't have to deal with the extra latency and bunch 163:13 of other things. 163:14 Q. Are there competitive advantages to 163:15 bidding at the end? 163:16 A. Yeah. 163:17 Q. What are those? 163:18 A. Well, you know what price you need to 163:19 beat. 163:20 Q. And how does that help? 163:21 A. It depends what you're trying to sort 163:22 of optimize for, but I think it helps you get either 163:23 more -- increase your win rate, and potentially, I 163:24 don't know if we've done it, lower the price you 163:25 pay.		
164:23 - 165:15	Lipkovitz, Eisar A. 2023-11-09	00:01:05	LE-4714.132
	164:23 Q. Okay. And when exchange bidding 164:24 launched, Google gave up last look; correct? 164:25 A. So I think in the negotiation leading 165:01 to getting exchange bidding adopted -- and by 165:02 negotiation, what I actually mean is the following: 165:03 My recollection of it is we had a proposal, what we 165:04 want exchange reading to work. Again, it was a case 165:05 where in sort being led, we want to lead, and, you 165:06 know, the folks on the sell side went to talk to 165:07 different parties, other SSPs, and, you know, made a 165:08 proposal and negotiation, what would be agreeable, 165:09 and I believed that, you know, nobody having last		

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DESIGNATION	SOURCE	DURATION	ID
	165:10 look was a requirement, which I think makes sense to		
	165:11 me, because last look was a hack -- I'm sorry, last		
	165:12 look was a hack to deal with the fact that header		
	165:13 bidding was not clean and transparent, but if you		
	165:14 are proposing something you design properly, I don't		
	165:15 think last look is necessary.		
165:16 - 165:17	Lipkovitz, Eisar A. 2023-11-09	00:00:03	LE-4714.133
	165:16 Q. Let's talk now about Project Poirot.		
	165:17 A. Okay.		
168:03 - 168:18	Lipkovitz, Eisar A. 2023-11-09	00:00:59	LE-4714.47
	168:03 Q. Before Poirot, did the way DBM bid		
	168:04 take into account whether the bid was going to AdX		
	168:05 versus a different third-party exchange?		
	168:06 A. It might have for policy reasons.		
	168:07 Q. When you say "policy reasons," you		
	168:08 mean what?		
	168:09 A. That if -- it could be policy or spam		
	168:10 I should say, but these bunch of umbrella positions		
	168:11 that Google take about, you know, whether we take		
	168:12 risk on spam or whether we take risk on upsetting a		
	168:13 publisher or an advertiser by showing the wrong ads,		
	168:14 you know, on the wrong place, and when DBM was		
	168:15 talking to other SSPs, it may not be able to do, to		
	168:16 discern these things. So it could have impact		
	168:17 whether we bid for the most part. I don't think it		
	168:18 would affect the price.		
168:22 - 168:24	Lipkovitz, Eisar A. 2023-11-09	00:00:09	LE-4714.48
	168:22 Q. But other than those policy-type		
	168:23 reasons, DBN didn't price different exchanges		
	168:24 differently than it priced AdX?		
169:01 - 169:04	Lipkovitz, Eisar A. 2023-11-09	00:00:17	LE-4714.49
	169:01 A. Not to my knowledge.		
	169:02 Q. And with the production of Project		
	169:03 Poirot, DBN did start to adjust its bid depending on		
	169:04 which exchange the bid was submitted to; correct?		
169:06 - 169:13	Lipkovitz, Eisar A. 2023-11-09	00:00:28	LE-4714.50
	169:06 A. Whether that happened, I don't know,		
	169:07 but if DBN uses Poirot and, you know, we had reasons		
	169:08 to, it should, yeah. That's the goal of the		

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DESIGNATION	SOURCE	DURATION	ID
	169:09 project. That's not a side effect.		
	169:10 Q. That is the goal of the project, not		
	169:11 a side effect.		
	169:12 So the goal was to bid differently on		
	169:13 exchanges other than AdX?		
169:15 - 170:03	Lipkovitz, Eisar A. 2023-11-09	00:00:56	LE-4714.51
	169:15 A. Yes, but let me back up, because I		
	169:16 think you know the answer, but I'd rather say it		
	169:17 myself. Project Poirot was a solution for the fact		
	169:18 that we realized that other exchanges or other SSPs,		
	169:19 exchanges actually, are using different auction		
	169:20 mechanism, and some of them were using first price		
	169:21 auction and some of them were doing what Ali called		
	169:22 dirty auctions. Without being judgmental, the point		
	169:23 being is you don't actually know what is going on.		
	169:24 And we had data supported because, you know, in some		
	169:25 cases, we had access to the entire life cycle		
	170:01 transaction, you know, we didn't see all the bids		
	170:02 obviously, but we had reason to believe it's neither		
	170:03 one. We don't know what's going on.		
171:14 - 172:23	Lipkovitz, Eisar A. 2023-11-09	00:01:51	LE-4714.52
	171:14 Q. But through Project Poirot, if the		
	171:15 same impression was presented to AdX and presented		
	171:16 to a different --		
	171:17 A. Yeah.		
	171:18 Q. -- presented to DBM through a		
	171:19 third-party exchange, DBM would bid higher on the		
	171:20 AdX expression -- impression; correct?		
	171:21 A. Yeah, so there is subtlety here,		
	171:22 right. So, first of all, I was referring to, you		
	171:23 know, in quote, a simple case where we're talking		
	171:24 about actually different impressions, but the		
	171:25 auction mechanism is different. On top of it, there		
	172:01 was an issue of bidding against yourself. So even		
	172:02 if all the exchanges were using second price		
	172:03 auction, I think, I have to think about it, it		
	172:04 depends how header bidding is implemented, but you		
	172:05 actually -- so, you know, make it simple, right, so		
	172:06 let's say that all the exchanges are the same		
	172:07 algorithm, and let's say header bidding is second		

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DESIGNATION	SOURCE	DURATION	ID
	172:08 price auction, just for the sake of the argument, 172:09 even in that situation, if you are the highest 172:10 bidder and you bid for multiple SSPs, you are 172:11 bidding against yourself, meaning you are the first 172:12 and the second price, therefore, you will pay first 172:13 price auction. It's not -- you know, it's not 172:14 advantageous to the advertiser. So Project Poirot 172:15 is trying to solve both problems, but it was a 172:16 sequence of launches and machine-learning models. 172:17 Q. And when was Project Poirot launched 172:18 approximately? 172:19 A. Very late, like probably '18 or '19 172:20 from my perspective. 172:21 Q. Late in your time in the display 172:22 group? 172:23 A. Correct.		
173:23 - 174:01	Lipkovitz, Eisar A. 2023-11-09 173:23 Q. And through the experiments that 173:24 Google ran, Google understood that Project Poirot 173:25 would end up leading to DBM purchasing more on AdX 174:01 than other exchanges; correct?	00:00:16	LE-4714.53
174:03 - 174:13	Lipkovitz, Eisar A. 2023-11-09 174:03 A. Understanding is a strong statement. 174:04 I think it's, we assume that's the most likely 174:05 outcome, but it wasn't anywhere near a goal, right, 174:06 because the goal was to protect the advertisers. 174:07 Q. Well, you're using the word assumed. 174:08 A. Yeah. 174:09 Q. You actually studied it and you knew 174:10 from studying it that based on the experiments, that 174:11 was the likely outcome, correct, it wasn't just an 174:12 assumption -- 174:13 A. I mean --	00:00:26	LE-4714.54
174:16 - 174:22	Lipkovitz, Eisar A. 2023-11-09 174:16 A. There must be a person that's seen 174:17 the data, but I don't remember that being a topic of 174:18 discussion brought to my attention as something I 174:19 should care about. 174:20 Q. You don't remember people telling you 174:21 that one of the benefits of Project Poirot was that	00:00:19	LE-4714.55

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DESIGNATION	SOURCE	DURATION	ID
174:24 - 175:10	174:22 it would direct more DBM spend to AdX? Lipkowitz, Eisar A. 2023-11-09	00:00:33	LE-4714.56
	174:24 A. When you're asking it that way, I		
	174:25 can't tell you unequivocally it was not mentioned,		
	175:01 and it's primarily because, you know, a team is		
	175:02 trying to launch anything would say whatever they		
	175:03 can that sounds good to get additional points. So		
	175:04 sure, it's possible.		
	175:05 Q. And that was obviously an		
	175:06 advantage --		
	175:07 A. Yeah --		
	175:08 Q. That was obviously an advantage that		
	175:09 Poirot, if and when launched, would lead to greater		
	175:10 win rates on AdX than other exchanges; right?		
175:12 - 175:18	Lipkowitz, Eisar A. 2023-11-09	00:00:30	LE-4714.57
	175:12 A. I don't know if it would lead to		
	175:13 greater win rate. I think what would happen though		
	175:14 is that all things equal, because Project Poirot		
	175:15 does nothing on AdX, and in other exchanges it would		
	175:16 either lower the win rate or lower the price, and		
	175:17 campaigns are the same, more money would move to AdX		
	175:18 for sure. That's an obvious one.		
182:11 - 182:12	Lipkowitz, Eisar A. 2023-11-09	00:00:06	LE-4714.58
	182:11 Q. Well, Project Poirot was not		
	182:12 disclosed publicly; correct?		
182:14 - 182:17	Lipkowitz, Eisar A. 2023-11-09	00:00:09	LE-4714.59
	182:14 A. Maybe not to publishers. I don't		
	182:15 know for sure.		
	182:16 Q. And definitely it wasn't disclosed to		
	182:17 other exchanges; right?		
182:19 - 182:20	Lipkowitz, Eisar A. 2023-11-09	00:00:06	LE-4714.60
	182:19 A. Unlikely, yeah. Of all the		
	182:20 constituents, it would be the least likely one.		
185:12 - 186:24	Lipkowitz, Eisar A. 2023-11-09	00:02:00	LE-4714.61
	185:12 Q. What do you mean by a dirty auction?		
	185:13 A. Where it's unclear how the price was		
	185:14 set, and you touched -- I'm talking about the price		
	185:15 a publisher is getting paid, right, because		
	185:16 fundamentally that's the only thing they care about,		

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DESIGNATION	SOURCE	DURATION	ID
	185:17 and I think that's the only thing you have to		
	185:18 disclose as a platform, right, and the trouble with		
	185:19 that is it conflates two different things, right.		
	185:20 So, first of all, let's assume that		
	185:21 the winner is a person submitting the highest bid,		
	185:22 right. I hope that nobody violated that, right, and		
	185:23 so I'm not even talking about, so let's assume		
	185:24 that's true, so the only debate is how much the		
	185:25 publisher is going to get paid. Now, the		
	186:01 advertisers knows how much they bid and they know		
	186:02 what the stated sell-side margin is, right, but what		
	186:03 they don't know is what was the competition bids,		
	186:04 nor should they. So, therefore, an SSP can pick any		
	186:05 number they would wish between the second and the		
	186:06 first, and also pick any number they wish on the		
	186:07 sell-side margin, and combine them into a particular		
	186:08 thing and say, That's what our system said. So we		
	186:09 call it dirty because we don't know what happened		
	186:10 there at all.		
	186:11 Q. By that definition, was AdX running a		
	186:12 dirty auction?		
	186:13 A. No.		
	186:14 Q. Why not?		
	186:15 A. Because I think we had a 20 percent		
	186:16 sell-side margin or whatever it was. I think it's		
	186:17 20. I was conflating the 15 and 20. I can't		
	186:18 remember. And we're running the second price		
	186:19 auction. You can make arguments that products like		
	186:20 DRS, you know, made it less simple. I have to think		
	186:21 about it. I think there is a difference.		
	186:22 Q. You agree that DRS made it less		
	186:23 clean?		
	186:24 A. Yeah, for sure.		
194:22 - 194:25	Lipkowitz, Eisar A. 2023-11-09	00:00:15	LE-4714.62
	194:22 Q. Okay. Were you aware that there came		
	194:23 a time when Google told its publishers they could no		
	194:24 longer put a higher floor or reserve price on AdX		
	194:25 than they did on other exchanges?		
195:02 - 195:09	Lipkowitz, Eisar A. 2023-11-09	00:00:31	LE-4714.134
	195:02 A. I didn't know that.		

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DESIGNATION	SOURCE	DURATION	ID
	195:03 Q. Does that sound appropriate to you?		
	195:04 A. I need to see the context, but it		
	195:05 doesn't sound great.		
	195:06 Q. Why not?		
	195:07 A. Well, you know, I think it's within		
	195:08 our right to do that, but it's not a solution I		
	195:09 would propose.		
195:10 - 196:11	Lipkowitz, Eisar A. 2023-11-09	00:01:48	LE-4714.135
	195:10 Q. Why is it not a decision you would		
	195:11 propose -- a solution you would propose?		
	195:12 A. Because it's sort of lazy, right,		
	195:13 and, you know, the main reason you can propose it,		
	195:14 I'm speculating here, right, is, you know,		
	195:15 everything we discussed in the last two, three, four		
	195:16 hours was a result of the fact that people are doing		
	195:17 it. You know, so it led to the complexity of		
	195:18 reserves price optimization, need for Jedi, all that		
	195:19 kind of stuff, and I just think that when you -- you		
	195:20 know, given its complex enough for me to even		
	195:21 explain to you my point of view, you know, us trying		
	195:22 to explain to other publishers why, in quote, it's		
	195:23 wrong is crazy, especially when it sounds like, you		
	195:24 know, when you're a major player and the only		
	195:25 vendor. You know, so at some point my position was		
	196:01 let's just adopt header bidding and launch Jedi as a		
	196:02 solution for these problems, but, you know, in		
	196:03 general, I just don't believe -- you know, as a free		
	196:04 speech guy, my answer -- people say something you		
	196:05 don't like, you say more things. You don't tell		
	196:06 them not to do something. So I don't know how to		
	196:07 justify it.		
	196:08 Q. Do you think Google's in position of		
	196:09 a rule that DFP publishers could not restrict --		
	196:10 could not place AdX at a higher floor than any other		
	196:11 SSP is a reflection of Google's market power?		
196:13 - 196:15	Lipkowitz, Eisar A. 2023-11-09	00:00:07	LE-4714.64
	196:13 A. I think it's a reflection of some		
	196:14 individuals that I wish not to work with again.		
	196:15 It's that simple. That's what it reflects.		
196:16 - 196:19	Lipkowitz, Eisar A. 2023-11-09	00:00:05	LE-4714.65

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DESIGNATION	SOURCE	DURATION	ID
	196:16 Q. Who are those individuals?		LE-4714.65
	196:17 A. I don't know, because you told me		
	196:18 about something I was not aware of. I can only		
	196:19 speculate.		
198:05 - 199:07	Lipkowitz, Eisar A. 2023-11-09	00:01:26	LE-4714.66
	198:05 Q. And why? Why do you have a negative		
	198:06 reaction to it?		
	198:07 A. It's just my world views. I mean, I		
	198:08 already explained it. I don't think you win trust		
	198:09 of customers by telling them what they cannot do		
	198:10 after you're unable to convince them why it's worse		
	198:11 for them in the ecosystem in the long run. You		
	198:12 tried and you failed so, and I think there are cases		
	198:13 where I would -- you know, like we talked about		
	198:14 transparency on the buy side and the margin, all		
	198:15 that kind of stuff. It's only different, right,		
	198:16 because we never had that. You know, you don't like		
	198:17 our product. Go use some other product, but when		
	198:18 you change the rules of the game because people		
	198:19 start using your product and they have legitimate		
	198:20 concerns, it just sounds like a really strange way		
	198:21 out of it.		
	198:22 And just to be super clear, it		
	198:23 doesn't change the fact that if this, what you said		
	198:24 happened, and the net effect of it is they weren't		
	198:25 able to use their reserve price, I wouldn't feel bad		
	199:01 for the publishers, because I don't think anything		
	199:02 in the ecosystem is actually being lost, right.		
	199:03 Because I felt that this mechanism is giving them		
	199:04 some short-term boost on a long-term cost to the		
	199:05 ecosystem and to advertisers, right. So I don't		
	199:06 think it's a horrible thing, but I think it's a very		
	199:07 bad mechanism.		
211:06 - 212:02	Lipkowitz, Eisar A. 2023-11-09	00:01:24	LE-4714.67
	211:06 Do you think there is another GDN		
	211:07 clone now that Facebook Audience Network has exited		
	211:08 the Web display market?		
	211:09 A. I believe Amazon probably. I can't		
	211:10 think of anybody else. You know, and if you are, I		
	211:11 don't know, Pinterest or a Snapchat, you might		

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	211:12 consider at some point if you haven't already.		
	211:13 Q. And what are the strengths of Amazon		
	211:14 relative to GDN in Web display?		
	211:15 A. There is some -- I think as it		
	211:16 pertains to retail, it's a little bit of a double		
	211:17 edge sword, meaning they have probably the best data		
	211:18 for detail on their O and O, which they may or may		
	211:19 not give to competitor and their competitors are		
	211:20 maybe less likely to use their product even if it's		
	211:21 beneficial to them, right.		
	211:22 Walmart uses GCP and not AWS as an		
	211:23 example. So I think that's probably a wash. Yeah,		
	211:24 otherwise -- and, you know, I really think it's		
	211:25 pretty much that. There is also a relationship		
	212:01 between retargeting and search, search ads and		
	212:02 Amazon search, products search.		
212:03 - 212:08	Lipkovitz, Eisar A. 2023-11-09	00:00:09	LE-4714.68
	212:03 Q. And in that ad network market for Web		
	212:04 display --		
	212:05 A. Uh-huh.		
	212:06 Q. -- is GDN the biggest player in that		
	212:07 market?		
	212:08 A. Now?		
212:10 - 212:10	Lipkovitz, Eisar A. 2023-11-09	00:00:01	LE-4714.69
	212:10 Q. Yes.		
212:12 - 212:12	Lipkovitz, Eisar A. 2023-11-09	00:00:02	LE-4714.70
	212:12 A. I can't think of anybody else.		
212:13 - 212:15	Lipkovitz, Eisar A. 2023-11-09	00:00:06	LE-4714.71
	212:13 Q. Okay. Can you think of any other ad		
	212:14 networks that left the market for Web display while		
	212:15 you were working in display?		
212:17 - 212:19	Lipkovitz, Eisar A. 2023-11-09	00:00:06	LE-4714.72
	212:17 A. Nothing major.		
	212:18 Q. Can you think of any ad networks that		
	212:19 entered the market for open Web display?		
212:21 - 212:21	Lipkovitz, Eisar A. 2023-11-09	00:00:02	LE-4714.73
	212:21 A. No.		
213:13 - 213:15	Lipkovitz, Eisar A. 2023-11-09	00:00:09	LE-4714.74

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	213:13 Q. At the time you joined the display 213:14 group in 2014, fair to say DFP was the largest 213:15 publisher ad server in terms of market share?		LE-4714.74
213:17 - 213:25	Lipkovitz, Eisar A. 2023-11-09 213:17 A. Yes, that's what my team told me. 213:18 Q. And do you know roughly the 213:19 percentage of publishers who were using an external 213:20 publisher ad server that used DFP as their publisher 213:21 ad server? 213:22 A. No. 213:23 Q. Do you know whether it was well over 213:24 50 percent? 213:25 A. It was well over 50 percent.	00:00:21	LE-4714.75
214:01 - 214:02	Lipkovitz, Eisar A. 2023-11-09 214:01 Q. It was well over 70 percent, wasn't 214:02 it?	00:00:02	LE-4714.76
214:04 - 214:09	Lipkovitz, Eisar A. 2023-11-09 214:04 A. I mean, I know we were a major 214:05 player. I just don't know the percentage, right. I 214:06 don't think it actually matters, but, yeah. 214:07 Q. If you had to estimate in your mind 214:08 your understanding of what percentage of open Web 214:09 display DFP had, what would you say?	00:00:16	LE-4714.77
214:11 - 214:19	Lipkovitz, Eisar A. 2023-11-09 214:11 A. I really think it depends on the 214:12 definition of the market. That's the problem, 214:13 right, because, you know, you asked me about 214:14 publishers that had an external ad server. It's 214:15 easier for me to answer it, and your second 214:16 definition it depends what you put there. I don't 214:17 know. 214:18 Q. Well, if you put open auction 214:19 programmatic display and Web?	00:00:21	LE-4714.78
214:21 - 215:04	Lipkovitz, Eisar A. 2023-11-09 214:21 A. Well, if you look at it from an 214:22 auction standpoint, you know, if I'm a realtime 214:23 bidder, how many of the impressions came from a 214:24 publisher with DFP, I would say it's large. It's in 214:25 that three quarter range.	00:00:22	LE-4714.79

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	215:01 Q. And what about in terms of revenue		
	215:02 with that same population?		
	215:03 A. I don't see any reason it would be		
	215:04 different.		
215:05 - 215:07	Lipkovitz, Eisar A. 2023-11-09	00:00:09	LE-4714.136
	215:05 Q. Okay. During the time you worked in		
	215:06 display, what was the next largest publisher ad		
	215:07 server after DFP again for open Web display?		
215:09 - 216:17	Lipkovitz, Eisar A. 2023-11-09	00:01:45	LE-4714.137
	215:09 A. I honestly don't know. I mean,		
	215:10 because there are multiple players like that had		
	215:11 more than just an exchange, right, and I don't		
	215:12 remember which one is it like whether it's Rubicon		
	215:13 or like seven names that the PM team knew very well,		
	215:14 but, you know, I was new to ad tech and that didn't		
	215:15 seem like something I should spend my time on.		
	215:16 Q. Do you remember the names of any of		
	215:17 DFP's competitors in the publisher ad --		
	215:18 A. No, I don't.		
	215:19 Q. Okay. Do you recall any new		
	215:20 publisher ad server entering the market?		
	215:21 A. No.		
	215:22 Q. Do you recall publisher ad servers		
	215:23 deprecating their product?		
	215:24 A. I heard about it. No specific names,		
	215:25 but I heard that, yeah.		
	216:01 Q. And would you agree that a publisher		
	216:02 ad server is a sticky product?		
	216:03 A. Yes.		
	216:04 Q. What do you mean by that?		
	216:05 A. There is a lot of workflow, and also		
	216:06 people like ad ops people, the workflow they use and		
	216:07 the whatever campaigns or things that they have		
	216:08 already set up that if you need to switch an ad		
	216:09 server, you need, you know, a way to migrate all		
	216:10 your existing data and get people trained and stuff		
	216:11 like that. So, of course, it's a big decision for		
	216:12 somebody to move off it, and again, specifically		
	216:13 large publishers, right.		
	216:14 Q. Let's talk now about AdX.		

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	216:15 How large was AdX in terms of market		
	216:16 share for open option Web display at the time you		
	216:17 worked in the display group?		
216:19 - 217:13	Lipkovitz, Eisar A. 2023-11-09	00:00:57	LE-4714.84
	216:19 A. Again, I don't remember percentage,		
	216:20 but I think especially in the early days when I --		
	216:21 at '14, '15, '16, I don't think we had 50 percent		
	216:22 market share. Maybe, you know, what they call, the		
	216:23 plurality, the largest, but not more than 50, but		
	216:24 something like that.		
	216:25 Q. What about by the time you left?		
	217:01 A. It got better. I actually don't --		
	217:02 so here is the thing, right, like I'm struggling to		
	217:03 answer your question because honestly, I did not		
	217:04 care about the competition. It's just not how I		
	217:05 operate. The only time I care about the competition		
	217:06 is when they do something clever, but what exactly		
	217:07 their day-to-day marketshare, I don't care.		
	217:08 Q. Do you know whether revenue generated		
	217:09 by AdX increased year over year while you were in		
	217:10 the display group?		
	217:11 A. Yeah.		
	217:12 Q. It did?		
	217:13 A. It did.		
220:12 - 220:16	Lipkovitz, Eisar A. 2023-11-09	00:00:09	LE-4714.85
	220:12 Q. And I think we talked about this		
	220:13 earlier, but when Google representatives were		
	220:14 selling the benefits of AdX, one of the benefits was		
	220:15 access to GDN demand; correct?		
	220:16 A. Yeah.		
222:04 - 222:17	Lipkovitz, Eisar A. 2023-11-09	00:00:29	LE-4714.86
	222:04 Q. How many advertisers were associated		
	222:05 with GDN?		
	222:06 A. I don't know. It's like tens of		
	222:07 thousands, if not hundreds.		
	222:08 Q. If not hundreds of thousands?		
	222:09 A. Yeah.		
	222:10 Q. Do you know whether it's more than		
	222:11 that, like millions?		
	222:12 A. It's possible. I mean, many of them		

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	222:13 were search advertisers, right, and we have		
	222:14 different products to help people use both. I just		
	222:15 don't know what subset, but I know it was a subset,		
	222:16 so it's hard for me to say. I know search had		
	222:17 millions.		
226:24 - 227:01	Lipkovitz, Eisar A. 2023-11-09	00:00:09	LE-4714.87
	226:24 Q. Did you ever hear publishers refer to		
	226:25 AdX as a must call exchange because of the GDN		
	227:01 demand?		
227:03 - 227:04	Lipkovitz, Eisar A. 2023-11-09	00:00:03	LE-4714.138
	227:03 A. Yeah, people used these expressions.		
	227:04 It's all part of the same umbrella.		
227:05 - 227:18	Lipkovitz, Eisar A. 2023-11-09	00:00:25	LE-4714.139
	227:05 Q. I want to talk now about the AdX take		
	227:06 rate.		
	227:07 A. Uh-huh.		
	227:08 Q. When you joined the display group,		
	227:09 AdX's revenue share -- sales side revenue share was		
	227:10 20 percent; correct?		
	227:11 A. Uh-huh.		
	227:12 Q. You have to answer verbally.		
	227:13 A. Yes.		
	227:14 Q. And how was that revenue share set,		
	227:15 if you know?		
	227:16 A. Why it was 20?		
	227:17 Q. Yes.		
	227:18 A. Neal decided probably.		
235:04 - 235:09	Lipkovitz, Eisar A. 2023-11-09	00:00:17	LE-4714.90
	235:04 Q. At the time you left display, the		
	235:05 take rate for AdX was the same as when you joined;		
	235:06 right?		
	235:07 A. Yeah, I believe so. We had		
	235:08 discussion about, you know, changing it, but I don't		
	235:09 think it happened.		
245:15 - 245:16	Lipkovitz, Eisar A. 2023-11-09	00:00:04	LE-4714.91
	245:15 Q. I'm going to hand you what we're		
	245:16 marking as Lipkovitz lit five.		
245:17 - 245:19	Lipkovitz, Eisar A. 2023-11-09	00:00:14	LE-4714.140
	245:17 A. The same one.		

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	<p>245:18 Q. And for the record, it bears Bates 245:19 stamp GOOG-DOJ-13463955 through 60.</p>		
245:20 - 246:19	<p>Lipkovitz, Eisar A. 2023-11-09</p> <p>245:20 A. Okay. 245:21 Q. All right. 245:22 Let me start by asking you if you see 245:23 from the metadata on the first page of the exhibit 245:24 this was a document that was created on October 20, 245:25 2016. 246:01 A. Okay. 246:02 Q. Do you remember that was around the 246:03 time period for at least one of the discussions that 246:04 included consideration of a reduction in AdX's take 246:05 rate? 246:06 A. Yes. 246:07 Q. Okay. And who was Jim Giles? 246:08 A. Jim Giles was essentially head of DRX 246:09 at that point from an engineering standpoint. 246:10 Q. And who was Max Loubser? 246:11 A. He was a PM, and I don't remember 246:12 exactly what his scope was. I actually remember he 246:13 worked on first look. I don't exactly know what his 246:14 scope was because he did not have all of DFP, but he 246:15 was one of Bellack's lieutenants. 246:16 Q. And who was Sam Cox? 246:17 A. His counterpart. So they kind of 246:18 worked together, and I don't know what the division 246:19 of labor between them.</p>	00:01:06	LE-4714.141
246:20 - 247:14	<p>Lipkovitz, Eisar A. 2023-11-09</p> <p>246:20 Q. Do you recall a meeting in October 246:21 2016 to discuss, among other things, Google's 246:22 response to header bidding? 246:23 A. Uh-huh. 246:24 Q. You have to answer verbally. 246:25 A. Yes. 247:01 Q. And if you look on the first page of 247:02 this document, Lipkovitz lit number five -- 247:03 A. Yep. 247:04 Q. -- the second bullet point -- let's 247:05 look at the first bullet point, goal for meeting is</p>	00:00:38	LE-4714.93

LE-4714 - Lipkowitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	247:06 to establish HB as a serious long-term threat.		
	247:07 Do you see that?		
	247:08 A. Uh-huh.		
	247:09 Q. HB refers --		
	247:10 A. Yes.		
	247:11 Q. -- to header bidding?		
	247:12 A. Correct.		
	247:13 Q. And Google certainly viewed header		
	247:14 bidding as a serious threat at the time; correct?		
247:16 - 247:16	Lipkowitz, Eisar A. 2023-11-09	00:00:02	LE-4714.94
	247:16 A. Some people have.		
248:02 - 248:20	Lipkowitz, Eisar A. 2023-11-09	00:00:48	LE-4714.95
	248:02 Q. Did you view header bidding as a		
	248:03 threat to AdX?		
	248:04 A. Well, I felt that at that point it is		
	248:05 just like we can't ignore it. I don't like to use		
	248:06 the word threat, right, because it just sounds like		
	248:07 some panicky whatever. I just thought that even		
	248:08 without that meeting, we need to do something here.		
	248:09 Q. Okay. And the second bullet point		
	248:10 says our options include three areas with courses of		
	248:11 action that can be pursued in parallel and with		
	248:12 different levels of concrete detail and levels of		
	248:13 agreement in each.		
	248:14 Do you see that?		
	248:15 A. Uh-huh, yes.		
	248:16 Q. And the first action is improving an		
	248:17 accelerating exchange bidding; right?		
	248:18 A. Yes.		
	248:19 Q. So exchange bidding existed in some		
	248:20 form prior to October 2016; is that right?		
248:22 - 249:16	Lipkowitz, Eisar A. 2023-11-09	00:01:03	LE-4714.96
	248:22 A. In some form, yes, and, you know,		
	248:23 this is back to sort of the cultural narrative that		
	248:24 I was describing before, right.		
	248:25 When I -- I don't remember the exact		
	249:01 timeline, but you have it here like easily six		
	249:02 months before, I kind of understood what the end		
	249:03 game is. I told the team let's just start working		
	249:04 on exchange bidding, and actually Aparna's team to		

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	249:05 my knowledge started working on it with the help		
	249:06 from the GDN team, but, you know, the kind of people		
	249:07 that think that they get to decide on Paul's team		
	249:08 were pretending that we were still having this		
	249:09 discussion.		
	249:10 Q. So from your perspective, Google was		
	249:11 slower than it should have been to adopt exchange		
	249:12 bidding, among other things?		
	249:13 A. Yeah, but, you know, this meeting is		
	249:14 slower than I'd like. You know, the fact that I		
	249:15 can't respond to you after you finish is slower. So		
	249:16 what does it mean anything, right?		
254:21 - 255:01	Lipkovitz, Eisar A. 2023-11-09	00:00:10	LE-4714.97
	254:21 Q. I'm glad you raised that. Why don't		
	254:22 we turn to page ending in 958.		
	254:23 Have you ever heard the expression in		
	254:24 politics drain the swamp?		
	254:25 A. Yes.		
	255:01 Q. What does that mean?		
255:04 - 255:20	Lipkovitz, Eisar A. 2023-11-09	00:00:54	LE-4714.98
	255:04 A. I first heard about it from, you		
	255:05 know, a previous president, and I think I don't know		
	255:06 what he meant because he was just trying to, you		
	255:07 know, convince the people he's different, but, you		
	255:08 know, if you're true to form to what I think he		
	255:09 meant is this sort of bureaucracy and sort of		
	255:10 nonsense that prevent decisions from happening and a		
	255:11 lot of fat is being accumulated, right.		
	255:12 Q. And do you see here in terms of how		
	255:13 to respond to header bidding on this page the -- one		
	255:14 of the things that's listed here is drain the swamp?		
	255:15 Do you see that by number two?		
	255:16 A. It says that? I'm trying to say I		
	255:17 do --		
	255:18 Q. Do you see at the top of the page		
	255:19 there is a number one, protect DRX and then below		
	255:20 that there is a number two, drain the swamp?		
255:23 - 255:24	Lipkovitz, Eisar A. 2023-11-09	00:00:03	LE-4714.99
	255:23 A. I'm sorry, which page are we on?		
	255:24 Q. The last page.		

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
256:02 - 256:05	Lipkovitz, Eisar A. 2023-11-09 256:02 A. Oh, okay. Drain the swamp. Got it. 256:03 Q. Do you see it? 256:04 A. Yes. Yes. Okay. Interesting. I 256:05 mean --	00:00:08	LE-4714.100
256:08 - 256:17	Lipkovitz, Eisar A. 2023-11-09 256:08 Q. And do you see below that the author 256:09 writes: This is about fixing the ecosystem, and 256:10 then in parentheses with quotations, cleaning the 256:11 swamp. 256:12 A. Uh-huh. 256:13 Q. It says: The ecosystem is allowing 256:14 header bidding HB to exist. 256:15 Do you see that? 256:16 A. Uh-huh. 256:17 Q. Do you agree with that statement?	00:00:22	LE-4714.101
256:19 - 257:21	Lipkovitz, Eisar A. 2023-11-09 256:19 A. Okay. So I think what Max is 256:20 referring to, I didn't even see during the swamp 256:21 comment before I made my comment is that we believed 256:22 at the time and I still believe today that a lot of 256:23 other SSPs didn't actually add much value for real, 256:24 and so we looked at all of the approaches they've 256:25 taken whether it's these what we call dirty auction 257:01 or this convoluted daisy-chaining is a short win for 257:02 publishers that will get eaten out -- 257:03 (Stenographer clarification.) 257:04 A. Eaten out. It's gains that will be 257:05 eaten out when -- 257:06 Q. "It will be eaten out when the 257:07 advertisers fully understand." 257:08 A. Correct, what is going on. 257:09 And header bidding was sort of like 257:10 the last nail in that coffin. 257:11 Q. And do you see in the next paragraph 257:12 under examples of things to drain -- 257:13 A. Uh-huh. 257:14 Q. -- presumably from the swamp is 257:15 pricing/Google margin? 257:16 A. Uh-huh.	00:01:35	LE-4714.102

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	257:17 Q. You have to answer verbally.		
	257:18 A. Yes.		
	257:19 Q. And so according to this author, the		
	257:20 Google AdX margin, is that what you understand this		
	257:21 to refer to?		
257:23 - 257:25	Lipkovitz, Eisar A. 2023-11-09	00:00:08	LE-4714.103
	257:23 A. Most likely.		
	257:24 Q. Was a symptom of the problem in the		
	257:25 larger swamp; correct?		
258:03 - 258:19	Lipkovitz, Eisar A. 2023-11-09	00:00:57	LE-4714.104
	258:03 A. I -- you know, I need to read this		
	258:04 super carefully to give you the most detailed		
	258:05 answer, however, yes, there were people in the		
	258:06 organization that combined different reasons and put		
	258:07 them together and say all of them are a problem.		
	258:08 The reason I am struggling here is at		
	258:09 the end of the day when you use a word like drain		
	258:10 the swamp, it's usually to describe a lot of these		
	258:11 complicated things that nobody understand and they		
	258:12 cause problems where our margin, yeah, I understand		
	258:13 it's very simple and the fix is very simple. So		
	258:14 it's very hard for me to lump them with the other		
	258:15 things.		
	258:16 Q. Well, putting aside the words or the		
	258:17 nomenclature that's used here, did you agree that		
	258:18 Google's margin on AdX was part of the problem that		
	258:19 led to header bidding?		
258:21 - 258:21	Lipkovitz, Eisar A. 2023-11-09	00:00:01	LE-4714.105
	258:21 A. Yes.		
268:06 - 268:08	Lipkovitz, Eisar A. 2023-11-09	00:00:05	LE-4714.142
	268:06 Q. I'm going to hand you what we will		
	268:07 mark as the next exhibit, Lipkovitz lit seven.		
	268:08 A. Uh-huh.		
268:09 - 269:02	Lipkovitz, Eisar A. 2023-11-09	00:01:01	LE-4714.143
	268:09 Q. This is Bates stamp		
	268:10 GOOG-DOJ-14380845, and you can see from the metadata		
	268:11 that's attached this was dated October of 2016.		
	268:12 A. Okay. It's the same as the other one		
	268:13 or same day or --		

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	268:14 Q. It's October 11.		
	268:15 A. Okay.		
	268:16 Q. So around the same time of these		
	268:17 discussions that were happening in October.		
	268:18 A. And why does it look weird?		
	268:19 Q. I don't know. I think it is possible		
	268:20 that when comments are in Google Docs, it somehow		
	268:21 issues an email or something?		
	268:22 A. Oh, yes, yes, yes, yes, yes, yes,		
	268:23 yeah, I understand what it is.		
	268:24 Q. So in the bottom email from you you		
	268:25 write: I think 5 percent is too low. You're		
	269:01 referring to the proposed reduction in the AdX		
	269:02 margin; correct?		
269:04 - 270:11	Lipkovitz, Eisar A. 2023-11-09	00:00:54	LE-4714.107
	269:04 Q. I'm sorry, let me stop and give you		
	269:05 some context.		
	269:06 The top comment is from Ms. Pappu --		
	269:07 A. Oh, yes, yes, yes, yes, yes, yes, the		
	269:08 answer is yes.		
	269:09 Q. And she says: Cut current sell-side		
	269:10 rev share dramatically 5 percent flat.		
	269:11 A. Yes.		
	269:12 Q. She's throwing that number out there;		
	269:13 right?		
	269:14 A. Uh-huh, yes.		
	269:15 Q. 5 percent across the board?		
	269:16 A. Uh-huh.		
	269:17 Q. And compensate in various ways she		
	269:18 describes.		
	269:19 A. Yes.		
	269:20 Q. Do you see that?		
	269:21 A. Yeah, uh-huh.		
	269:22 Q. You have to answer verbally.		
	269:23 A. Yes.		
	269:24 Q. And then Mr. Giles responds and he		
	269:25 says: Do we really need to go as low as 5 percent.		
	270:01 Wouldn't 10 or 15 percent achieve what we need		
	270:02 without giving up so much; right?		
	270:03 A. Yes.		

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	270:04 Q. And you say: I think 5 percent is		
	270:05 too low. We think Jedi++ can handle that much. So		
	270:06 I'd aim for seven to 10 percent for AdX.		
	270:07 Do you see that?		
	270:08 A. Yes.		
	270:09 Q. Was that your considered view at the		
	270:10 time?		
	270:11 A. I believe so.		
279:15 - 279:16	Lipkovitz, Eisar A. 2023-11-09	00:00:08	LE-4714.144
	279:15 Q. So turning back to lit exhibit -- why		
	279:16 don't we start with lit exhibit 11, and if you turn		
279:17 - 279:18	Lipkovitz, Eisar A. 2023-11-09	00:00:06	LE-4714.154
	279:17 to the page that in the bottom right-hand corner		
	279:18 ends in 891.		
279:19 - 280:07	Lipkovitz, Eisar A. 2023-11-09	00:00:33	LE-4714.155
	279:19 A. Okay.		
	279:20 Q. You see it says four buckets of		
	279:21 options to consider?		
	279:22 A. Uh-huh, yes.		
	279:23 Q. And under the first under sell-side		
	279:24 changes there's an arrow and it says recommend		
	279:25 either limited or fully opened Jedi++.		
	280:01 Do you see that?		
	280:02 A. Yes.		
	280:03 Q. And then under revenue share it says:		
	280:04 Recommend lower AdX rev share; lower DFL rev share;		
	280:05 and shift rev share to buy-side.		
	280:06 A. Yes.		
	280:07 Q. Whose recommendations were those?		
280:09 - 281:21	Lipkovitz, Eisar A. 2023-11-09	00:01:49	LE-4714.109
	280:09 A. It's usually whoever created the		
	280:10 deck, which is probably Max Loubser.		
	280:11 Q. And was that done under your		
	280:12 supervision or with your knowledge?		
	280:13 A. I think that was done -- that was a		
	280:14 recommendation the team came up to present to us		
	280:15 where we had this discussion.		
	280:16 Q. Okay. And if you turn --		
	280:17 A. It's a proposal.		

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	280:18 Q. If you turn to page 893 that ends in		
	280:19 Bates stamp 893 --		
	280:20 A. Yeah.		
	280:21 Q. -- do you see it says in the bottom		
	280:22 right-hand corner 6A lower AdX sell-side rev share		
	280:23 to 10 to 15 percent.		
	280:24 Do you see that?		
	280:25 A. Yes.		
	281:01 Q. That's consistent with the rev -- you		
	281:02 were proposing a rev share of between seven and 10		
	281:03 percent. Do you recall that?		
	281:04 A. I was reacting -- I wasn't		
	281:05 negotiating with Aparna, but I was reacting to her		
	281:06 five that seemed like completely insanely low, which		
	281:07 is also what Jim said. If we're going down from 20,		
	281:08 we can't go down to 18. It doesn't make any sense.		
	281:09 So the range of options is not that different.		
	281:10 Q. Okay. But your recommendation was		
	281:11 seven to 10 and this recommendation is 10 to 15; is		
	281:12 that right?		
	281:13 A. Sure. I mean, I wouldn't go as far		
	281:14 as recommendation because I think that comment was		
	281:15 on the doc reacting to where this is an actual		
	281:16 recommendation index. So I really don't hold my		
	281:17 position that you get from that text as a		
	281:18 recommendation, right.		
	281:19 Q. Okay. But this is an actual		
	281:20 recommendation to lower it from 10 to 15 percent?		
	281:21 A. Correct. Okay.		
286:24 - 289:18	Lipkovitz, Eisar A. 2023-11-09	00:03:29	LE-4714.110
	286:24 Q. Okay. And in exhibit 13 you say:		
	286:25 Took essentially eight months since my November 17		
	287:01 New York visit to produce this document with such		
	287:02 wimpy goals and obviously we chose the wimpiest		
	287:03 ones, which I predict we will fail to execute on.		
	287:04 What are you referring to there?		
	287:05 A. I have to read the details to give		
	287:06 you a complete answer, but again, it's the usual		
	287:07 sort of compromise because this is a difficult		
	287:08 discussion, so we made very little progress and, you		

LE-4714 - Lipkowitz Day 1

DESIGNATION	SOURCE	DURATION	ID
287:09	know, I don't have a recollection of all the facts,		
287:10	but given that the discussion started in earnest a		
287:11	year prior, right, so just to get the timing right,		
287:12	we're talking about late Q4 of '16 this is previous		
287:13	material, right, and then a year later it seems like		
287:14	I was in New York and we finally made some progress,		
287:15	which is, you know, disappointing to me, and I		
287:16	thought we agreed what to do and then that's the		
287:17	document that came out of it.		
287:18	Q. Was a year later?		
287:19	A. You know, eight months after.		
287:20	Q. Okay.		
287:21	A. You know, I think I read it. I have		
287:22	to go look specifically at which things, but, you		
287:23	know, it's basically, you know, me ranting that		
287:24	these PM relied on the regime change to, you know,		
287:25	buy more time and do nothing. That's what I read.		
288:01	If you want to be more specific, I have to read it		
288:02	carefully.		
288:03	Q. When you write: I'm obviously		
288:04	irritated by this and you can call me bitter, why		
288:05	were you bitter?		
288:06	A. Again, it's related to, you know, how		
288:07	I ended up leaving the organization.		
288:08	Q. And explain that.		
288:09	A. You know, basically I -- okay, so the		
288:10	reason I was hesitating in replying beyond that,		
288:11	well, you're not working, it's not your business, it		
288:12	will come across as if I'm telling people, you know,		
288:13	how to do their job and, you know, appearing bitter		
288:14	and all that kind of stuff. That's, you know, what		
288:15	I'm referring to.		
288:16	Q. But why were you bitter?		
288:17	A. I mean, it's simple as you can see		
288:18	from the passion that I had about this topic when I		
288:19	operated there, you know, I worked for a big		
288:20	company, but I felt that I'm trying to do the right		
288:21	thing with this handful of people in this		
288:22	organization in align with that and just the way		
288:23	things ended and what they did afterwards, it's just		
288:24	the machine won and, you know, so I'm sort of bitter		

LE-4714 - Lipkowitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	288:25 about it. I still am actually.		
	289:01 Q. You felt --		
	289:02 A. And, you know, if I were to talk to		
	289:03 my wife and I'll use it as a colloquial example		
	289:04 because she doesn't know any of the details. She's		
	289:05 like you're so full of -- what the fuck are you		
	289:06 talking about?		
	289:07 (Stenographer clarification.)		
	289:08 THE WITNESS: Sorry. Off the record.		
	289:09 A. The point being is it sounds very		
	289:10 self-centered, and it is, but I'm trying to answer		
	289:11 the question.		
	289:12 Q. You said that you were trying to do		
	289:13 the right thing with a handful of people in that		
	289:14 organization. Did you feel that the people doing		
	289:15 the right thing were just a handful of people?		
	289:16 A. You know, it's an expression. It's a		
	289:17 minority. I mean, if you need more specific, I can		
	289:18 try to answer.		
295:07 - 296:12	Lipkowitz, Eisar A. 2023-11-09	00:01:23	LE-4714.111
	295:07 Q. Earlier when we were talking about		
	295:08 your feeling bitter --		
	295:09 A. Uh-huh.		
	295:10 Q. -- you said that the machine won. Do		
	295:11 you recall that?		
	295:12 A. Yeah.		
	295:13 Q. What did you mean by that?		
	295:14 A. I don't know. That's the problem. I		
	295:15 don't -- it -- you know, like you can see from the		
	295:16 email, the one with Bellack and Aparna that I was		
	295:17 surprised to learn today they're not against		
	295:18 lowering margin. So I -- I never found the people		
	295:19 on the other side. I don't know who they are. So		
	295:20 when you asked me the question, I'm not trying to		
	295:21 protect anybody. I am definitely not polite to		
	295:22 anybody if you haven't missed that. I don't know.		
	295:23 Q. But whoever they are, they won?		
	295:24 A. Well, let me say it differently.		
	295:25 Another way of saying of what I said is I did not		
	296:01 have authority to make decisions, right? And, you		

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	296:02 know, nobody at Google does, which is very strange		
	296:03 company honestly, but, you know, to say this sounds		
	296:04 like again I'm self-centered, I can't work with		
	296:05 people, blah, blah, blah, blah, blah. I'm just		
	296:06 telling you I had my opinion, which was shared		
	296:07 widely with people I respect which maybe doesn't say		
	296:08 anything and somehow we couldn't get stuff done and		
	296:09 I don't know why --		
	296:10 Q. Okay.		
	296:11 A. -- today, and I'm frustrated and		
	296:12 bitter at the moment even.		
296:17 - 297:15	Lipkovitz, Eisar A. 2023-11-09	00:01:15	LE-4714.112
	296:17 Q. I'm going to hand you a document that		
	296:18 was marked in a different deposition during the		
	296:19 investigation of this --		
	296:20 A. Sure.		
	296:21 Q. -- as Bellack exhibit eight.		
	296:22 A. Uh-huh.		
	296:23 Q. Okay. I'm just going to ask you		
	296:24 about one line and I know it's a long document.		
	296:25 These were emails that were sent and		
	297:01 received in the ordinary course of business at		
	297:02 Google?		
	297:03 A. Yes.		
	297:04 Q. What I want to ask you about is on		
	297:05 the page that ends in 464.		
	297:06 A. Uh-huh. Okay.		
	297:07 Q. So there is a paragraph about a third		
	297:08 of the way down.		
	297:09 Are you on page ending in 464?		
	297:10 A. I am.		
	297:11 Q. It says: Second, is there a deeper		
	297:12 issue with us owning the platform, the exchange, and		
	297:13 a huge network? The analogy would be if Goldman or		
	297:14 Citibank owned the NYSE?		
	297:15 A. Yes.		
298:19 - 298:20	Lipkovitz, Eisar A. 2023-11-09	00:00:05	LE-4714.146
	298:19 Q. So my question to you is: Do you		
	298:20 recall making that analogy?		
298:23 - 299:01	Lipkovitz, Eisar A. 2023-11-09	00:00:10	LE-4714.147

LE-4714 - Lipkowitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	298:23 A. So, first of all, I am a little bit 298:24 struggling even just looking at the email because 298:25 it's hard to tell if this specific quote was made by 299:01 me or not.		LE-4714.147
299:02 - 299:14	Lipkowitz, Eisar A. 2023-11-09 299:02 Q. That's why I'm asking putting aside 299:03 the email, do you recall making that analogy? 299:04 A. The thought crossed my mind. I would 299:05 say though that I knew a lot less than I know today 299:06 at the time about that ecosystem, how it works. A 299:07 lot of the people in the sell-side were based in New 299:08 York. Some of them worked in financial, have 299:09 friends in financial. So it's most likely 299:10 originated there. 299:11 Q. And you said -- 299:12 A. But, you know, like the statement by 299:13 itself without passing judgment is not something -- 299:14 is something that did cross my mind for sure.	00:00:34	LE-4714.117
299:15 - 299:23	Lipkowitz, Eisar A. 2023-11-09 299:15 Q. Okay. And you say I think or someone 299:16 says I think Jim originated this thought. Is that 299:17 Jim Giles? 299:18 A. Yes. 299:19 Q. Okay. 299:20 A. There was no other Jim, so that's why 299:21 I'm saying that. 299:22 Q. Okay. And why did that analogy 299:23 strike you?	00:00:22	LE-4714.148
299:25 - 300:03	Lipkowitz, Eisar A. 2023-11-09 299:25 Q. The analogy to Google owning the 300:01 platform, the exchange and a huge ad network being 300:02 similar to Goldman or Citibank owning the New York 300:03 Stock Exchange?	00:00:14	LE-4714.119
300:05 - 300:20	Lipkowitz, Eisar A. 2023-11-09 300:05 A. I mean, because it's quite a bit of 300:06 similarity in the concept. Actually my 300:07 understanding is exchanges -- ad exchanges were 300:08 essentially copied, you know, from the concept of, 300:09 you know, financial markets.	00:00:54	LE-4714.121

LE-4714 - Lipkowitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	300:10 Q. Okay.		
	300:11 A. I think it was more to do with a		
	300:12 helpful, you know, like prior art kind of, you know,		
	300:13 framework to borrow from, borrow ideas in how you		
	300:14 should do stuff. And, by the way, my understanding		
	300:15 is financial industry got through a sequence of		
	300:16 regulations, you know, all the way from Frank-Dodd		
	300:17 where, you know, banks can do less than they used to		
	300:18 do before and things of that nature for a reason,		
	300:19 but there were no laws and rules in our industry		
	300:20 around that to my knowledge.		
302:04 - 302:18	Lipkowitz, Eisar A. 2023-11-09	00:00:45	LE-4714.122
	302:04 Q. Did you ever feel while you were in		
	302:05 the display business a conflict of interest trying		
	302:06 to represent multiple sides of the ad tech industry?		
	302:07 A. I felt -- yeah, I definitely felt the		
	302:08 discussion, but this is back to, you know, my		
	302:09 observation with people I prefer, people I do not		
	302:10 prefer.		
	302:11 The people I prefer saw the conflict		
	302:12 of interest right away. Had the discussion, often		
	302:13 have a proposal how to overcome it where the other		
	302:14 people were just making self-interested arguments.		
	302:15 Again, not for any malice. For all I know maybe		
	302:16 they're idiots. I don't know, but, yeah, that's the		
	302:17 challenge I've seen running the organization for		
	302:18 sure.		
303:02 - 303:19	Lipkowitz, Eisar A. 2023-11-09	00:00:59	LE-4714.149
	303:02 Q. Earlier we were talking about the		
	303:03 stickiness of publisher ad servers.		
	303:04 A. Uh-huh.		
	303:05 Q. Do you recall that?		
	303:06 A. Yep, yes.		
	303:07 Q. Are you aware of any publisher		
	303:08 switching its publisher ad server from DFP to		
	303:09 another publisher ad server?		
	303:10 A. I don't remember one, but I'm sure it		
	303:11 was very rare.		
	303:12 Q. Okay.		
	303:13 A. By the way, that's why header bidding		

LE-4714 - Lipkovitz Day 1

DESIGNATION	SOURCE	DURATION	ID
	303:14 happened, right, because they could have done it		
	303:15 without changing the ad server.		
	303:16 Q. During your time -- did you ever hear		
	303:17 a publisher say that they were afraid to turn off		
	303:18 AdX because what that would do to their revenue		
	303:19 given the GDN demand?		
303:21 - 303:24	Lipkovitz, Eisar A. 2023-11-09	00:00:13	LE-4714.150
	303:21 A. Yes, because from a volume standpoint		
	303:22 we discussed it earlier, right, you know, it has		
	303:23 meaningful impact and it was basically filling any		
	303:24 impression we would have bid for.		
305:14 - 305:20	Lipkovitz, Eisar A. 2023-11-09	00:00:13	LE-4714.125
	305:14 Q. And why do you say it would be very		
	305:15 rare to switch away from DFP? Because it's so		
	305:16 sticky?		
	305:17 A. Because it's a lot of work, yeah.		
	305:18 Q. And because there aren't that many		
	305:19 competitors; right?		
	305:20 A. That is true.		
305:21 - 306:04	Lipkovitz, Eisar A. 2023-11-09	00:00:29	LE-4714.151
	305:21 Q. Okay. You laugh. Why do you laugh?		
	305:22 A. Because it's not a great business so,		
	305:23 therefore, you know, the inevitable will happen and		
	305:24 so, you know, people like to complain about it, but		
	305:25 it's not like -- you know, the competitive situation		
	306:01 where somebody, you know, built a product and then,		
	306:02 quote, the competition have no way of getting in in		
	306:03 other markets. That's not the case. It's just a		
	306:04 business that nobody wants.		

Our Designations 01:16:28

TOTAL RUN TIME **01:16:28**