

# EXHIBIT BB

Case No. 1:14-cv-00857-TSC-DAR

1 UNITED STATES DISTRICT COURT  
 2 for the  
 3 DISTRICT OF COLUMBIA  
 4 AMERICAN EDUCATIONAL )  
 5 RESEARCH ASSOC., INC., )  
 6 et al. )  
 7 Plaintiffs )  
 8 ) Civil Action No.:  
 9 v. ) 1:14-cv-00857-TSC  
 10 )  
 11 PUBLIC.RESOURCE.ORG, INC., )  
 12 Defendant. )  
 13 )

14 San Francisco, California

15 Tuesday, December 2, 2014

16 Videotaped deposition of CHRISTOPHER BUTLER,  
 17 a witness herein, called for examination by counsel  
 18 for Plaintiffs in the above-entitled matter, the  
 19 witness having been by me first duly sworn, taken  
 20 at the offices of Harvey Siskind, LLP, Four  
 21 Embarcadero Center, 39th Floor, San Francisco,  
 22 California at 9:10 a.m., on Tuesday, December 2,  
 23 2014, and the proceedings being taken down by  
 24 Stenotype by CINDY TUGAW, RPR, CSR and transcribed  
 25 under her direction.

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2

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25 ALSO PRESENT: Sean McGrath, Video Operator

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## 6 E X H I B I T S

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25 ---o0o---

1 VIDEO OPERATOR: Good morning. We're on  
2 the video record, ladies and gentlemen, at 9:10  
3 a.m. I am Sean McGrath from Alderson Court  
4 Reporting in Washington, DC. The phone number is  
5 (202) 289-2260.

6 This is a matter pending before the United  
7 States District Court for the District of Columbia,  
8 in the case captioned, American Educational  
9 Research Association, Incorporated, et al., versus  
10 Public.Resource.Org, Inc., Case No.  
11 1:14-cv-00857-TSC.

12 This is the beginning of disk 1, volume 1  
13 of the deposition of Chris Butler on December 2nd,  
14 2014. We're located at Four Embarcadero Center,  
15 San Francisco, California. This is taken on behalf  
16 of the plaintiffs.

17 Counsel, would you please identify  
18 yourselves, starting with the questioning attorney.

19 MR. HUDIS: Jonathan Hudis, representing  
20 plaintiffs.

21 MS.LU: Kathleen Lu, Fenwick & West, for  
22 defendant Public Resource.

23 MS. AHMAD: Stephanie Ahmad, Greenberg  
24 Traurig, for non-party Internet Archive.

25 VIDEO OPERATOR: Will the court reporter

1 please swear in the witness and then you can  
2 proceed.

3 CHRISTOPHER BUTLER,  
4 being first duly affirmed by the Certified  
5 Shorthand Reporter to tell the truth, the whole  
6 truth, and nothing but the truth, testified as  
7 follows:

8 EXAMINATION BY MR. HUDIS

9 MR. HUDIS:

10 Q. Sir, if I could have your full name and  
11 address for the record.

12 A. Christopher Scott Butler. And my address  
13 is 152 Caine Avenue, Caine is spelled C-a-i-n-e, in  
14 San Francisco, California 94112.

15 Q. Mr. Butler, have you been deposed before?

16 A. Yes.

17 Q. In what kinds of matters?

18 A. In matters relating to archived records of  
19 websites that Internet Archive has preserved and  
20 maintained on its site. I was deposed as a third  
21 party.

22 Q. And how many such times have you been  
23 deposed in that capacity?

24 A. If I remember correctly, it's five times.

25 Q. Other than those five times being deposed

1 follow up with any necessary communication  
2 thereafter.

3 Q. And so if a take-down request meets  
4 certain criteria, what criteria would that be?

5 MS. LU: Objection as to relevance.

6 MR. HUDIS:

7 Q. You may answer.

8 A. Sure. I hadn't understood that the scope  
9 of the subpoena would include this information.  
10 but there can be take-down requests on -- on  
11 various grounds, so the criteria would be specific  
12 to -- to sometimes even the particular case, but  
13 the most basic example is a complaint of -- of  
14 copyright infringement brought to our attention on  
15 the site.

16 And we would ask for a take-down notice  
17 with the standard information requested as outlined  
18 in the Digital Millennium Copyright Act. And if it  
19 meets that criteria, we will typically take down  
20 the item, notify both the uploading party and the  
21 requesting party.

22 Q. And what about your being the point of  
23 contact for information requests from attorneys?

24 MS. LU: Objection as to relevance.

25 MR. HUDIS:

1 Q. You may answer.

2 A. The most common example of that is an  
3 attorney who is interested in using archived  
4 material from our web archive in one of their cases  
5 and would like to have those records authenticated  
6 by Internet Archive.

7 Q. And as point of contact, you were also  
8 part of Internet Archive's compliance with document  
9 subpoenas such as the one we served on Internet  
10 Archive?

11 A. That's correct.

12 Q. Have you told me all of your  
13 responsibilities as office manager for Internet  
14 Archive?

15 A. Yes.

16 MR. HUDIS: Off the record.

17 VIDEO OPERATOR: The time is 9:51 a.m.,  
18 and we are off the record.

19 (Discussion off the record.)

20 VIDEO OPERATOR: The time is 9:52 a.m.,  
21 and we are on the record.

22 (Plaintiffs' Exhibit 4 marked for  
23 identification.)

24 MR. HUDIS:

25 Q. Mr. Butler, what is the Internet Archive?



1           A. Internet Archive is a nonprofit  
2 organization. We are attempting to maintain a  
3 digital library online at our website, archive.org.  
4 We preserve many types of media and make much of  
5 that media available in digital format via our  
6 website, archive.org, and also openlibrary.org.

7           Q. Mr. Butler, do you recognize what I now  
8 have marked as deposition Exhibit 4 as a portion of  
9 Internet Archive's website?

10          A. Yes.

11          Q. And it's the About page?

12          A. Yes.

13          Q. And the first paragraph up at the top  
14 right beneath "About the Internet Archive," it  
15 says, "The Internet Archive is a 501(c) non-profit  
16 that was founded to build an Internet library. Its  
17 purposes include offering permanent access for  
18 researchers, historians, scholars, people with  
19 disabilities, and the general public to historical  
20 collections that exist in digital format.

21                 Do you see that?

22          A. Yes.

23          Q. Is that an accurate description of  
24 Internet Archive's mission and business?

25          A. Yes.

1 Q. And it says below that, in the end of the  
2 second paragraph, "the Internet Archive includes  
3 text, audio, moving pictures" -- "moving images,  
4 and software as well as archived web pages in our  
5 collections."

6 Do you see that?

7 A. Yes.

8 Q. And that's a part of the business of  
9 Internet Archive?

10 A. Yes.

11 Q. All right. If you would go to Page 5 of 5  
12 of Exhibit 4, please. It's the last page of the  
13 exhibit.

14 Do you see the descriptive text under  
15 where it says, "Storage"?

16 A. Yes.

17 Q. And it says, "Storing the Archive's  
18 collections involves parsing, indexing, and  
19 physically encoding the data. With the Internet  
20 collections growing at exponential rates, this task  
21 poses an ongoing challenge."

22 Is this part of the business of Internet  
23 Archive storage as it's described here?

24 A. Yes.

25 Q. And then immediately below that, there is

1 a descriptive text under the title, "Preservation,"  
2 do you see that?

3 A. Yes.

4 Q. And it says there, "Preservation is the  
5 ongoing test of permanently protecting stored  
6 resources from damage or destruction. The main  
7 issues are guarding against the consequences of  
8 accidents and data degradation and maintaining the  
9 accessibility of data as formats become obsolete."

10 Is that part of the mission and business  
11 of Internet Archive?

12 A. Yes.

13 Q. Mr. Butler, what is an Internet library?

14 A. From our standpoint, as I understand  
15 Internet library, it would be an organization that  
16 offers library services, including access to -- to  
17 the types of resources on Internet Archive texts,  
18 movies, audio, software, information and artwork  
19 and literature and scientific data. It makes it  
20 available for the public benefit.

21 Q. Have you completely described what you  
22 believe to be an Internet library?

23 A. That's -- that's my definition in a  
24 nutshell.

25 Q. At the Internet Archive, what is a

1 collection?

2 A. A collection is roughly defined as a set  
3 of posted items. An item would be defined as a  
4 page beginning with archive.org/details and ending  
5 in an identifier. It would be assigned a media  
6 type such as text, movie, audio. Multiple files  
7 could be uploaded to that page. It would be  
8 assigned a title. And perhaps other metadata  
9 submitted by the uploader of the item.

10 A collection would be a list of items that  
11 is associated with a separate landing page, its own  
12 summary page where a visitor could -- can see  
13 summary information about that list of items. It's  
14 often organized around a theme.

15 Some of the functions of a collection  
16 include being able to search within just that list  
17 of items, being able to sort those items, for  
18 example, sorting them by title, alphabetically or  
19 by author.

20 A collection is generally set up for any  
21 archive.com user who contacts Internet Archive.  
22 And generally we ask that they have uploaded  
23 50 items to the site already that we can then form  
24 into a collection and assign a collection page.

25 Q. Have you described the entirety of what

1 you believe is a collection?

2 MS. LU: Objection, argumentative.

3 MR. HUDIS:

4 Q. Did you leave anything out?

5 A. I don't think of anything offhand.

6 Q. How does Internet Archive build an  
7 Internet library?

8 A. Through multiple ways. Our web archive is  
9 collected both by Internet Archive and by outside  
10 organizations that donate data to Internet Archive.

11 Q. Let's take that separately.

12 A. Okay.

13 Q. What part of building Internet Archive's  
14 library is done by Internet Archive itself?

15 A. Much of the web archive is -- is crawled  
16 and collected by Internet Archive directly.

17 Q. So that we have a good record, what do you  
18 mean by "crawled and collected"?

19 A. I mean that automated programs operated by  
20 Internet Archive visit web pages and store web  
21 files that are transmitted to Internet Archive by  
22 the web servers that they visit. That information  
23 is then processed in such a way that it's rendered  
24 searchable and browseable by visitors to the  
25 website.

1 Q. And the searchable and browseable  
2 functions, that's done by Internet Archive's web  
3 engineers?

4 A. Correct.

5 Q. And I believe the other way you said that  
6 Internet Archive builds Internet library is by  
7 donations of content by outside organizations?

8 A. Correct.

9 Q. How does that work?

10 A. So in the instance of the web archive  
11 organizations, the biggest one of which is Alexa  
12 Internet, who regularly perform web crawling, would  
13 donate bulk data of historical web files to  
14 Internet Archive to be incorporated into the  
15 Wayback Machine.

16 Q. And are there other organizations that  
17 donate content to the Internet Archive?

18 MS. LU: Objection, misstates prior  
19 testimony.

20 MR. HUDIS:

21 Q. Are there any other organizations that  
22 donate content to the Internet Archive?

23 A. Yes. So private individuals and  
24 institutions may establish a user account with  
25 archive.org and post material in the movies, texts,

1 audio and software collections.

2 Q. How many individuals or organizations have  
3 established user accounts for uploading purposes to  
4 Internet Archive? Tens, hundreds, thousands, tens  
5 of thousands?

6 A. At a minimum, thousands, perhaps tens of  
7 thousands, perhaps hundreds of thousands.

8 MS. LU: I'll object that this is outside  
9 the scope of the deposition topics.

10 MR. HUDIS: I would disagree, Counsel.

11 Q. You may go. Are you finished with your  
12 answer?

13 A. I am.

14 Q. Have you described all the ways that  
15 Internet Archive builds its collections or builds  
16 its libraries, to be correct?

17 A. Internet Archive may also digitize text  
18 materials or other materials.

19 Q. Is this printed text materials?

20 A. Yes.

21 Q. You may go on.

22 A. Yes. Typically, those are supplied by  
23 libraries and state agencies.

24 Q. So the three ways that Internet Archive  
25 can build a library is Internet Archive's own

1 crawling and archiving, donations by outside  
2 organizations, and digitization of text materials  
3 donated by libraries and state agencies, correct?

4 MS. LU: Objection, misstates prior  
5 testimony.

6 MR. HUDIS: I disagree.

7 Q. Go on. You may answer.

8 A. I would also add that private individuals  
9 can digitize materials themselves and upload them  
10 to our service.

11 Q. Have you told me all the different ways  
12 that Internet Archive can build its libraries?

13 A. Again, I think that's -- that's a fair  
14 nutshell description. I don't think of anything  
15 specific to add.

16 Q. So we have some definitions of terms, what  
17 does it mean to post content to a website?

18 MS. LU: Objection to the extent it calls  
19 for expert testimony.

20 MR. HUDIS:

21 Q. Do you understand the question?

22 A. Yes. In the basic sense, I understand it  
23 to -- to be something that an individual or an  
24 automated program does to -- to transmit content to  
25 a website.



1 Q. Is that otherwise known as uploading?

2 A. I think that the two terms are used  
3 interchangeably a lot.

4 MS. AHMAD: Can we take a break?

5 MR. HUDIS: Yes.

6 VIDEO OPERATOR: The time is 10:04 a.m.,  
7 and we are off the record.

8 (Brief recess.)

9 VIDEO OPERATOR: The time is 10:11 a.m.,  
10 and we are on the record.

11 MR. HUDIS:

12 Q. Mr. Butler, just so we have a frame of  
13 reference, individuals not employed by Internet  
14 Archive are allowed to post content to Internet  
15 Archive's website?

16 A. That's correct.

17 Q. And I believe we discussed people who have  
18 such posting or uploading access could be anywhere  
19 in the thousands to hundreds of thousands?

20 A. Correct.

21 Q. And why are these nonemployee individuals  
22 allowed to post content to Internet Archive's  
23 website?

24 MS. AHMAD: Objection, outside the scope  
25 of the deposition topics.

1 MR. HUDIS:

2 Q. You may answer.

3 A. One of the reasons why is to enable  
4 sharing of information and to -- to expand the  
5 amount of materials that's available for public use  
6 and sharing at archive.org.

7 MR. HUDIS: Off the record.

8 VIDEO OPERATOR: The time is 10:12 a.m.,  
9 and we are off the record.

10 (Discussion off the record.)

11 (Plaintiffs' Exhibit 5 marked for  
12 identification.)

13 VIDEO OPERATOR: The time is 10:13 a.m.  
14 We are on the record.

15 MR. HUDIS: We've now marked as Exhibit 5  
16 a document which says at the top, "Terms of Use  
17 10 March 2001," bearing production numbers IA-AERA  
18 38 through 40.

19 Counsel for Internet Archive, can you  
20 stipulate this is a business record of your client?

21 MS. AHMAD: Yes.

22 MR. HUDIS: Any objections, Ms. Lu?

23 MS. LU: No objection.

24 MR. HUDIS:

25 Q. Mr. Butler, do you recognize this document

1 of Exhibit 5?

2 A. Yes.

3 Q. What is it?

4 A. This is the Internet Archive's terms of  
5 use.

6 Q. And to what activity associated with  
7 Internet Archive are these terms of use applied?

8 MS. LU: Objection, vague and ambiguous.

9 MR. HUDIS:

10 Q. You may answer if you understand the  
11 question.

12 A. Use of the website both by individuals who  
13 establish an account and also by users who visit  
14 the website without establishing an account.

15 Q. So if I understand your answer, and if I'm  
16 wrong, correct me, if I'm an individual or an  
17 outside organization, not employed with Internet  
18 Archive, who wants to post content to Internet  
19 Archive's website, I would have to comply with  
20 these terms of use, is that correct?

21 A. Yes.

22 MS. LU: Objection, misstates prior  
23 testimony.

24 MR. HUDIS:

25 Q. You may answer.

1 and location structure of materials posted to its  
2 website by submitters?

3 MS. LU: Objection, vague and ambiguous.

4 THE WITNESS: Can you reread the question,  
5 please?

6 MR. HUDIS:

7 Q. Does Internet Archive control the URL name  
8 or location structure of materials posted to  
9 Internet Archive's website by submitters?

10 MS. LU: Objection, lack of personal  
11 knowledge.

12 MS. AHMAD: Objection, vague as to  
13 "control."

14 MR. HUDIS: Q. I'll give you an example  
15 of what I mean.

16 In our subpoena of Exhibit 1, deposition  
17 subpoena, Exhibit A-1 to deposition Exhibit 1, has  
18 a URL associated with the posting of the  
19 1999 standards to Internet Archive's website and it  
20 reads as follows --

21 MS. LU: What page are you on, Jonathan?

22 I'm afraid this might be a little  
23 confusing for the record.

24 MR. HUDIS: And I will read the URL into  
25 the record: <https://archive.org/details/gov.law>.

1 aera.standards.1999."

2 Q. Mr. Butler, when the material posted to  
3 Internet Archive's website on Exhibit A-1 of  
4 deposition Exhibit 1 was put there, who created the  
5 name of this URL at the bottom left-hand corner?

6 MS. LU: Objection, vague and ambiguous  
7 and lack of personal knowledge.

8 THE WITNESS: The prefix  
9 "archive.org/details" is the default URL prefix  
10 assigned by the archive.org website. The following  
11 text is what we call the identifier. That is  
12 something that is submitted by the submitter.

13 MR. HUDIS:

14 Q. Mr. Butler, to the best of your knowledge,  
15 what is Public.Resource.Org, Inc., which I will  
16 refer to for the rest of this deposition as Public  
17 Resource?

18 MS. LU: Objection, lack of personal  
19 knowledge.

20 MR. HUDIS:

21 Q. You may answer to the extent you know.

22 A. What I know about Public.Resource.Org is  
23 that it makes available government documents to the  
24 public, and that's part of its mission.

25 Q. And how do you know about Public Resource?

1           A. I know about Public.Resource.Org through  
2 their posting of material on archive.org.

3           Q. That's the other name of Internet  
4 Archive's website?

5           A. That's correct.

6           Q. What else, if anything, do you know about  
7 Public Resource?

8           MS. AHMAD: Objection, vague and  
9 ambiguous.

10           MR. HUDIS:

11           Q. Other than its posting of what you call  
12 government documents on internetarchive.org's  
13 website, what else, if anything, do you know about  
14 Public Resource?

15           A. I believe that that -- that generally  
16 covers what I know about Public Resource.

17           Q. Do you know Carl Malamud?

18           A. Yes.

19           Q. How do you know him?

20           A. I've met him on brief occasion when he was  
21 at Internet Archive.

22           Q. And why did Carl Malamud visit Internet  
23 Archive?

24           MS. LU: Objection, lack of personal  
25 knowledge.

1 THE WITNESS: The instance when I met him,  
2 he was speaking at a public function that Internet  
3 Archive was hosting. It was a memorial service for  
4 Aaron Swartz.

5 MR. HUDIS:

6 Q. Who was Aaron Swartz?

7 MS. LU: Objection, relevance.

8 THE WITNESS: Aaron Swartz was a public  
9 figure and former employee of Internet Archive.

10 MR. HUDIS:

11 Q. Other than speaking at this memorial  
12 function, do you remember any other times that  
13 Mr. Malamud visited Internet Archive when you were  
14 present?

15 A. Yes. Perhaps a total of four or five  
16 times.

17 Q. What were the purpose of those visits?

18 A. I don't know.

19 Q. Did he make any speeches other than the  
20 one at the memorial service?

21 MS. LU: Objection, lack of personal  
22 knowledge.

23 THE WITNESS: I'm not aware of any.

24 MR. HUDIS:

25 Q. Do you know what the nature of his

1 meetings at Internet Archive was those other four  
2 or five times?

3 A. No.

4 Q. What else do you know about Mr. Malamud?

5 MS. AHMAD: Objection, outside the scope  
6 of the deposition topics.

7 MR. HUDIS:

8 Q. You may answer.

9 A. I know he's involved with Public Resource.

10 Q. That was my next question.

11 What, if anything, do you know about  
12 Mr. Malamud's relationship to Public Resource?

13 A. As I understand it, he -- he's very  
14 central at Public Resource. I don't know his exact  
15 title and responsibilities at the organization.

16 Q. Is that the extent of your knowledge of  
17 the relationship between Mr. Malamud and Public  
18 Resource?

19 A. Yes.

20 Q. Is Public Resource allowed to post content  
21 to Internet Archive's website?

22 A. Yes.

23 Q. Is Carl Malamud allowed to post content  
24 into Internet Archive's website?

25 A. Yes.



1 MS. LU: Objection, vague and ambiguous.

2 MR. HUDIS:

3 Q. When was Public Resource given access to  
4 publish content to Internet Archive's website?

5 MS. LU: Vague and ambiguous.

6 THE WITNESS: I don't know.

7 MR. HUDIS:

8 Q. When was Carl Malamud given access to post  
9 content to Internet Archive's website?

10 MS. LU: Lack of personal knowledge, vague  
11 and ambiguous.

12 MR. HUDIS:

13 Q. You may answer.

14 A. I don't know.

15 Q. Is there a formal agreement between  
16 Internet Archive and Public Resource that  
17 memorializes, if there is one, posting rights to  
18 the Internet Archive website?

19 MS. LU: Objection, lack of personal  
20 knowledge, assumes facts not in evidence.

21 MR. HUDIS:

22 Q. You may answer.

23 A. If a -- if a user account was set up  
24 through the -- through the site and our terms of  
25 use were agreed to, then our terms of use would

1 fall under that description. I'm not aware of any  
2 other agreements.

3 Q. Do you know whether the terms of use were  
4 agreed to by Public Resource or Carl Malamud or  
5 both?

6 MS. LU: Objection, lack of personal  
7 knowledge, assumes facts not in evidence.

8 MR. HUDIS:

9 Q. You may answer if you know.

10 A. I don't know.

11 Q. Other than the terms of use of Exhibit 5,  
12 you said there was no formal agreement between  
13 Public Resource or Carl Malamud and Internet  
14 Archive for posting rights.

15 Was there any informal agreement?

16 MS. LU: Objection, misstates prior  
17 testimony.

18 MR. HUDIS:

19 Q. You may answer.

20 A. Can you define "posting rights"?

21 Q. Permission to upload content to Internet  
22 Archive's website.

23 A. I'm not aware of any.

24 MR. HUDIS: Off the record.

25 VIDEO OPERATOR: The time is 10:33 a.m.

1 We are off the record.

2 (Discussion off the record.)

3 (Plaintiffs' Exhibit 6 marked for  
4 identification.)

5 VIDEO OPERATOR: The time is 10:41 a.m.

6 We are on the record.

7 Mr. HUDIS: I've now marked as Exhibit 6 a  
8 web page with different views which I will discuss  
9 with the witness in a moment. It's a total of  
10 eight pages.

11 Q. Mr. Butler, what we did -- it's on the  
12 date stamped up in the upper left-hand corner,  
13 March 14, 2014.

14 The way that we understand the material  
15 which we call the 1999 standards was uploaded to  
16 Internet Archive's website. The material in this  
17 frame here, showing the witness, has the ability so  
18 that electronically you read it like a book.

19 So we took a first shot of the web page  
20 with the first page of the '99 standards, and then  
21 the second page which is the front cover of the  
22 '99 standards, and then we took another shot,  
23 screenshot, of the inside cover and copyright page,  
24 and then finally the table of contents.

25 Do you see that?

1 A. Yes.

2 Q. So these are, in fact, different shots of  
3 the same page with different turns, electronically,  
4 of the book.

5 Do you understand that?

6 A. I understand.

7 Q. Okay. So --

8 MS. AHMAD: Yes. So you should answer  
9 questions about this exhibit assuming that that  
10 description is accurate.

11 THE WITNESS: I understand.

12 MR. HUDIS:

13 Q. Mr. Butler, do you recognize Exhibit 6 as  
14 a web page from Internet Archive's website that  
15 existed at one time?

16 MS. LU: Objection, lack of personal  
17 knowledge.

18 THE WITNESS: This has the layout of an  
19 Internet Archive details page. I recognize it as  
20 the layout and design of an Internet Archive  
21 details page.

22 MR. HUDIS:

23 Q. Do you know what material is posted on  
24 this web page of Exhibit 6?

25 MS. LU: Objection, lack of personal

1 knowledge.

2 THE WITNESS: I see a title for the  
3 material.

4 MR. HUDIS:

5 Q. What title is that?

6 A. The title is "AERA: Standard for  
7 Educational and Psychological Testing," and then  
8 there's a date in parentheses following that,  
9 "1999."

10 Q. According to this exhibit, the bottom of  
11 the second page, who posted the 1999 standards to  
12 this web page?

13 MS. LU: Objection, lack of personal  
14 knowledge.

15 THE WITNESS: On the -- on the second  
16 page, I see a metadata tag entitled, "Credits" that  
17 reads "Uploaded by Public.Resource.Org."

18 As I understand the function of our  
19 website, the submitter would have submitted that  
20 tag and the text displayed beside it, reading  
21 "Uploaded by Public.Resource.Org."

22 MR. HUDIS: Counsel, can you stipulate  
23 that Exhibit 6 is a business record of Internet  
24 Archive that existed at one time, at least on  
25 March 14th, 2014?

1 MS. AHMAD: No, I can't.

2 MR. HUDIS:

3 Q. On the second page of Exhibit 6, it says,  
4 "Identifier-access."

5 Do you see that?

6 A. Yes.

7 Q. Based upon your knowledge of an Internet  
8 Archive details page, who created this identifier  
9 access string?

10 MS. LU: Objection, vague and ambiguous,  
11 lack of personal knowledge.

12 MR. HUDIS:

13 Q. You may answer.

14 A. I don't know. I don't know whether a  
15 submitter would have created that or whether the  
16 Internet Archive's automated processes created it.

17 Q. To the best of your knowledge it's one or  
18 the other?

19 MS. LU: Objection, lack of personal  
20 knowledge.

21 THE WITNESS: To the best of my knowledge,  
22 it would either have been performed by Internet  
23 Archive's automated processes or an account holder  
24 with requisite permission to edit this item's  
25 metadata.

1 MR. HUDIS:

2 Q. To the best of your knowledge, if you  
3 could look on Page 1, beneath the -- beneath the  
4 frame containing the 1999 standards, who wrote the  
5 text under where it says, "Description"?

6 MS. LU: Objection, lack of personal  
7 knowledge.

8 THE WITNESS: The service requires a  
9 description to be provided by the submitter at the  
10 time of upload. That information may subsequently  
11 be edited by an account that has permissions to do  
12 so.

13 MR. HUDIS:

14 Q. And in this context, that account would  
15 have been by Public.Resource.Org?

16 MS. LU: Objection, lack of personal  
17 knowledge and argumentative.

18 THE WITNESS: Sorry, could you repeat the  
19 question, please?

20 MR. HUDIS:

21 Q. Yes, yes.

22 Is it correct to say that the text on this  
23 web page of Exhibit 6, beneath the frame containing  
24 the 1999 standards, was provided by the submitter?

25 MS. LU: Objection, lack of personal

1 knowledge, vague and ambiguous.

2 THE WITNESS: In the instance of the item  
3 with this identifier, our records show that the  
4 description was provided by the submitter.

5 MR. HUDIS:

6 Q. Who was the submitter, to the best of your  
7 knowledge, looking at this exhibit?

8 MS. LU: Objection, lack of personal  
9 knowledge, vague and ambiguous.

10 THE WITNESS: Our records list an account,  
11 a user account, as the submitter for this -- for  
12 the item with this identifier.

13 MR. HUDIS:

14 Q. And do you know whose account that is?

15 MS. LU: Objection, lack of personal  
16 knowledge, vague and ambiguous.

17 THE WITNESS: The -- I know that the user  
18 account is associated with an e-mail address which  
19 is carl@media.org.

20 MR. HUDIS:

21 Q. Do you know whether carl@media.org is Carl  
22 Malamud's e-mail address?

23 MS. LU: Objection, lack of personal  
24 knowledge.

25 THE WITNESS: I recognize that e-mail



1 address as Carl Malamud's e-mail address.

2 MR. HUDIS:

3 Q. At the bottom of Page 1 of Exhibit 6, it  
4 says, "Downloaded 1,113 times."

5 What does that downloaded number reflect?

6 MS. LU: Objection, lack of personal  
7 knowledge.

8 THE WITNESS: That number, the -- the  
9 downloaded number?

10 MR. HUDIS:

11 Q. Yes.

12 A. Is the same as the download account to  
13 which we referred earlier today.

14 MR. HUDIS: Off the record.

15 VIDEO OPERATOR: The time is 10:50 a.m.,  
16 and we are off the record.

17 (Discussion off the record.)

18 (Plaintiffs' Exhibit 7 marked for  
19 identification.)

20 VIDEO OPERATOR: The time is 10:52 a.m.,  
21 and we are on the record.

22 MR. HUDIS:

23 Q. I've marked as deposition Exhibit 7 a  
24 document that is a single page entitled, "Item  
25 History for gov.law.aera.standards.1999."

1 MS. LU: Can you say that again?

2 MR. HUDIS: Okay, I'll do it again.

3 MS. LU: Jonathan, if you could repeat the  
4 Bates number on that.

5 MR. HUDIS: Sure. I'll do both.

6 It's a document that's named at the top,  
7 "Item History for gov.law.aera.standards.1999."  
8 Bears production number IA-AERA-036.

9 Q. Mr. Butler, I'll show you again what's  
10 been marked as Exhibit 2 which is the document  
11 subpoena. Please look at items 1 through 4 for a  
12 minute.

13 A. Okay.

14 Q. Thank you, Mr. Butler.

15 In order to comply with the document  
16 subpoena, or Exhibit 2, who at Internet Archive  
17 searched your company's records to determine how  
18 the 1999 standards were posted to the Internet  
19 Archive's website?

20 MS. LU: Objection, assumes facts not in  
21 evidence and argumentative.

22 MR. HUDIS:

23 Q. You may answer.

24 A. Would you read that for me, please?

25 Q. Sure. In order to comply with our

1 document subpoena of Exhibit 2, you've read items 1  
2 through 4.

3 Who at Internet Archive searched your  
4 company's records to determine how the  
5 1999 standards were posted to your company's  
6 website?

7 A. I did.

8 Q. Mr. Butler, I now show you Exhibit 7 and  
9 ask you if you recognize the document.

10 A. Yes.

11 Q. What is it?

12 A. This document is a history showing a  
13 summary of all of the technical tasks submitted for  
14 the item with the identifier gov.law.aera.  
15 standards.1999.

16 Q. And how is the results of that search in  
17 any way related to the content of Exhibit 6?

18 MS. LU: Objection, lack of personal  
19 knowledge.

20 THE WITNESS: This is Exhibit 6?

21 MR. HUDIS: Yes.

22 MS. LU: Let the record reflect the  
23 witness was pointing to what I believe is Page 2 of  
24 8 of Exhibit 6.

25 MR. HUDIS: Yes. It's my copy.

1 THE WITNESS: And would you repeat  
2 question, please?

3 MR. HUDIS:

4 Q. Yes. And I will state it a different way.

5 Is Exhibit 7 the results of a search to  
6 determine who posted the content on the web page of  
7 Exhibit 6?

8 MS. LU: Objection, lack of personal  
9 knowledge.

10 THE WITNESS: The Exhibit 7 is a result of  
11 a search to determine who posted the item  
12 associated with the URL listed on the printout for  
13 Exhibit 6.

14 MR. HUDIS:

15 Q. And what was the results of that search?

16 MS. LU: Objection, vague and ambiguous.

17 THE WITNESS: One document located was  
18 the -- the item history that is Exhibit 7.

19 MR. HUDIS: Counsel for Internet Archive,  
20 can you stipulate that Exhibit 7 is a business  
21 record of Internet Archive?

22 MS. AHMAD: Yes.

23 MS. LU: No objection.

24 MR. HUDIS: No objection, okay.

25 Q. And you performed the search, the results

1 of which are reflected as Exhibit 7?

2 A. Yes, I -- I clicked the link to get to  
3 this history page.

4 MR. HUDIS: Off the record.

5 VIDEO OPERATOR: The time is 10:57 a.m.,  
6 and we are off the record.

7 (Discussion off the record.)

8 (Plaintiffs' Exhibit 8 marked for  
9 identification.)

10 VIDEO OPERATOR: The time is 10:59 a.m.,  
11 and we are on the record.

12 MR. HUDIS: I now mark as Exhibit 8 a  
13 multipage document bearing the production numbers  
14 IA-AERA 5 through 34.

15 MS. LU: And I'll just state for the  
16 record that it appears to me that this is actually  
17 several documents that were produced consecutively  
18 and now are entered as one exhibit together. Is  
19 that --

20 MR. HUDIS: That is correct, Counsel.

21 Q. Mr. Butler, do you recognize the  
22 collection of documents now marked as Exhibit 8?

23 A. Yes.

24 Q. What are they?

25 A. These documents are the logs for -- for

1 the tasks that are summarized in the item history.  
2 They represent the technical tasks submitted for  
3 the item with identifier gov.law.aera.standards  
4 .1999.

5 Q. Is it correct to say that the search  
6 summary of Exhibit 7 resulted in retrieval of the  
7 logs of Exhibit 8?

8 MS. LU: Objection, vague and ambiguous.

9 THE WITNESS: I was able to access the  
10 logs of Exhibit 8 through hyperlinks that were  
11 available on the page for Exhibit 7.

12 MR. HUDIS: Counsel, can you stipulate  
13 that Exhibit 8 is a collection of the business  
14 records of Internet Archive?

15 MS. AHMAD: Yes.

16 MR. HUDIS: Any objection, Counsel?

17 MS. LU: No objection.

18 MR. HUDIS:

19 Q. Mr. Butler, how does -- how long does  
20 Internet Archive maintain logs of the type shown in  
21 Exhibit 8?

22 MS. LU: Objection, lack of personal  
23 knowledge.

24 THE WITNESS: As a general practice, these  
25 logs are not deleted unless the item itself is

1 deleted.

2 MR. HUDIS:

3 Q. And when you say "the item itself," what  
4 do you mean?

5 MS. LU: Objection, vague and ambiguous.

6 MR. HUDIS:

7 Q. Do you mean the item of Exhibit 6?

8 MS. LU: Objection, vague and ambiguous,  
9 argumentative.

10 THE WITNESS: By "item," I mean the -- the  
11 collection of files and metadata that are posted  
12 associated with a URL archive.org/details/ the  
13 identifier.

14 MR. HUDIS:

15 Q. And you were able to retrieve these logs  
16 of Exhibit 8 associated with the identifier  
17 gov.law.aera.standards.1999?

18 A. That's correct.

19 Q. So the item has not yet been deleted from  
20 Internet Archive's website?

21 MS. LU: Objection, vague and ambiguous.

22 MR. HUDIS:

23 Q. You may answer.

24 A. That's correct.

25 Q. From where did you gather the logs of

1 Exhibit 8?

2 A. The logs of Exhibit 8 were gathered from  
3 Internet Archive's servers that serve the site  
4 archive.org.

5 Q. Who at Internet Archive maintains those  
6 servers?

7 MS. LU: Objection, lack of personal  
8 knowledge.

9 MR. HUDIS:

10 Q. If you know.

11 A. Internet Archive's engineers maintain  
12 those servers.

13 Q. Who has access to those servers?

14 MS. LU: Objection, lack of personal  
15 knowledge.

16 THE WITNESS: Internet Archive's  
17 engineers.

18 MR. HUDIS:

19 Q. Internet engineers?

20 MS. LU: Objection.

21 MR. HUDIS:

22 Q. What type of engineers have access to  
23 these servers?

24 MS. LU: Objection, lack of personal  
25 knowledge, and vague and ambiguous.



1 MR. HUDIS:

2 Q. You may answer.

3 A. Internet Archive's Petabox team is the  
4 name of the team.

5 Q. Could you spell Petabox?

6 A. Yes. P-e-t-a-b-o-x.

7 Q. And who comprises Internet Archive's  
8 Petabox team?

9 A. Several engineers who work with data  
10 clusters, physical hardware and also support the --  
11 the back end of Internet Archive, of the  
12 archive.org website.

13 Q. So, generally, the Petabox team is  
14 comprised of computer hardware and software  
15 engineers?

16 A. That's correct.

17 Q. What tool was used to extract these logs  
18 of Exhibit 8?

19 MS. LU: Objection, lack of personal  
20 knowledge.

21 THE WITNESS: I obtained these records  
22 through the web browser Firefox.

23 MR. HUDIS:

24 Q. And through the Firefox web browser, did  
25 you use the Mac Terminal application?

1 MS. LU: Objection, incomprehensible.  
2 Misstates prior testimony. Facts not in evidence.

3 MR. HUDIS:

4 Q. Besides the Firefox web browser, what  
5 other tools, if any, did you use to procure the  
6 logs of Exhibit 8?

7 MS. LU: Objection, lack of personal  
8 knowledge.

9 THE WITNESS: The -- I used the Firefox  
10 web browser with the site archive.org to -- to  
11 obtain these -- these records from archive.org's  
12 records of the task history of the item.

13 MR. HUDIS:

14 Q. And the task history is Exhibit 7?

15 A. Yes, the -- the summary is Exhibit 7 and  
16 then the specific tasks are Exhibit 8.

17 Q. Now, in Exhibit 7, it says, "submitter  
18 carl@media.org."

19 You associate that -- that e-mail address  
20 with Carl Malamud?

21 A. Yes.

22 Q. Looking at the logs of Exhibit 8, at the  
23 top of each grouping of pages, first grouping is  
24 three pages, the second grouping is thirteen pages,  
25 the third grouping is two pages, the fourth

1 grouping is three pages, the fifth grouping is two  
2 pages, the sixth grouping is five pages, and the  
3 final grouping is two pages.

4 Each one of them has a task ID at the  
5 upper left-hand corner. Do you see that?

6 A. Yes.

7 Q. How did you determine which tasks to  
8 search for?

9 MS. LU: Objection, misstates prior  
10 testimony.

11 THE WITNESS: I obtained the task -- the  
12 task logs by selecting the hyperlink for each task  
13 under "task id" on Exhibit 7.

14 MR. HUDIS:

15 Q. Now, each of these documents of Exhibit 8  
16 includes a line that states, "submitter  
17 carl@media.org."

18 This is the e-mail associated with Carl  
19 Malamud?

20 A. Yes.

21 Q. And Mr. Malamud has access to Internet  
22 Archive's system by a user name and password?

23 MS. LU: Objection, lack of personal  
24 knowledge.

25 THE WITNESS: Yes, I understand this

1 account to be associated with Carl Malamud.

2 MR. HUDIS:

3 Q. And he accesses Internet Archive's systems  
4 for upload purposes by a user name and password?

5 MS. LU: Objection, lack of personal  
6 knowledge, calls for speculation.

7 THE WITNESS: Would you say the question  
8 one more time, please?

9 MR. HUDIS: Yes.

10 Q. How does Mr. Malamud gain access to  
11 Internet Archive's systems to submit a post?

12 MS. LU: Objection, lack of personal  
13 knowledge, calls for speculation.

14 THE WITNESS: In the instance of this  
15 item, it would be through the use of -- this item  
16 was submitted through the user account associated  
17 with carl@media.org and was used by submission  
18 of -- and gained access by submission of the e-mail  
19 address and log-in credentials.

20 Q. What are log-in credentials?

21 A. Log-in credential would be an e-mail  
22 address and password.

23 Q. Did Internet Archive monitor the materials  
24 posted to its servers as reflected by these logs of  
25 Exhibit 8?

1 MS. LU: Objection, vague and ambiguous,  
2 lack of personal knowledge.

3 MR. HUDIS:

4 Q. You may answer.

5 A. One more time, please.

6 Q. Yes. Did Internet Archive monitor the  
7 materials posted to its servers as reflected by  
8 these logs of Exhibit 8?

9 A. To the best of my knowledge, no person  
10 working on behalf of Internet Archive monitored --  
11 personally reviewed the processes at work for each  
12 one of these tasks.

13 Q. And after the material was posted, did  
14 Internet Archive exercise any quality control of  
15 the materials once submitted?

16 MS. LU: Objection, lack of personal  
17 knowledge. And vague and ambiguous.

18 THE WITNESS: To the best of my knowledge,  
19 no.

20 MR. HUDIS:

21 Q. And according to Exhibit 8, when did you  
22 search for these logs?

23 A. According to Exhibit 8, the search was  
24 performed on October 30th, 2014 at 9:40:49 Pacific  
25 time.

1 Q. Thank you for a precise answer.

2 A. You're welcome.

3 Q. What are the dates of these logs?

4 MS. LU: Objection, vague and ambiguous.

5 MR. HUDIS: All right.

6 Q. Can you tell from Exhibit 8 the dates of  
7 these logs on Exhibit 8?

8 MS. LU: Objection, vague and ambiguous.

9 MR. HUDIS: Okay.

10 Q. Do you want to go through them one at a  
11 time?

12 A. There's a -- there's a line at the  
13 beginning of each log that reads, "Task started at"  
14 that has a record -- has Internet Archive's record  
15 of the time of submission for each task.

16 Q. And then at the end of each log is there a  
17 time of finish?

18 A. Yes.

19 Q. So, the first task, 107010707, what time  
20 was this task started?

21 MS. LU: Objection, lack of personal  
22 knowledge.

23 THE WITNESS: The task log states the task  
24 was started on May 26, 2012 at 11:48 a.m. Pacific  
25 time.

1 MR. HUDIS:

2 Q. Let's go to task No. 107010788. That's on  
3 Page -- production Page 8.

4 What time was this task started?

5 MS. LU: Objection, lack of personal  
6 knowledge.

7 THE WITNESS: I can only state that our  
8 record -- our record states that the task was  
9 started at the same date, May 26th, 2012, at  
10 11:48 a.m. Pacific time.

11 MR. HUDIS:

12 Q. And if we go to production Page 21 of  
13 Exhibit 8, when was task 107019567 started?

14 MS. LU: Objection, lack of personal  
15 knowledge.

16 THE WITNESS: Again, I only have the  
17 record created by our system. That record states  
18 the task was started at -- on the same date,  
19 May 26th, 2012, at, let's see, 1:07 Pacific time.  
20 1:07 p.m.

21 MR. HUDIS:

22 Q. And if you could turn to page --  
23 production Page 23 of Exhibit 8, what time was task  
24 107034141 started?

25 MS. LU: Objection, lack of personal

1 knowledge.

2 THE WITNESS: The task log reads that the  
3 task started on the same date, May 26th, 2012, at  
4 4:46 p.m. Pacific time.

5 MR. HUDIS:

6 Q. Mr. Butler, please turn to Page 26 of  
7 Exhibit 8.

8 What time was task 107040689 started?

9 MS. LU: Objection, lack of personal  
10 knowledge.

11 THE WITNESS: The task log states that the  
12 task was started on May 27th, 2012, at 6:43 p.m.  
13 Pacific time.

14 MR. HUDIS:

15 Q. Mr. Butler, please turn to Page 28 of  
16 Exhibit 8.

17 Task No. 107040792, according to your  
18 records, when did this task start?

19 MS. LU: Objection, lack of personal  
20 knowledge.

21 THE WITNESS: The task log reads that the  
22 task started on May 27th, 2012 at 6:43 p.m. Pacific  
23 time.

24 MR. HUDIS:

25 Q. Mr. Butler, please turn to Page 33 of



1 Exhibit 8.

2 What time did Task ID 107040809 start?

3 MS. LU: Objection, lack of personal  
4 knowledge.

5 THE WITNESS: The task log reads that the  
6 task started at -- on May 27th, 2012 at 6:44 p.m.  
7 Pacific time.

8 MS. AHMAD: Let's take a break.

9 MR. HUDIS: Yes.

10 VIDEO OPERATOR: This marks the end of  
11 volume 1, disk 1 in the deposition of Chris Butler.  
12 the time is 11:16 a.m. We're off the record.

13 (Brief recess.)

14 VIDEO OPERATOR: This marks the beginning  
15 of volume 1, disk 2 in the deposition of Chris  
16 Butler. The time is 11:24 a.m., and we are on the  
17 record.

18 MR. HUDIS:

19 Q. Mr. Butler, each of these logs of  
20 Exhibit 8 reflects a process of content submission  
21 by Mr. Malamud or somebody using his credentials?

22 MS. LU: Objection, lack of personal  
23 knowledge, and misstates prior testimony.

24 MR. HUDIS:

25 Q. You may answer.

1 A. What was the question again, please?

2 MR. HUDIS:

3 Q. Yes. Do the logs of Exhibit 8 reflect the  
4 activity of submitting content to Internet  
5 Archive's website by Carl Malamud or somebody using  
6 his log-in credentials?

7 MS. LU: Objection, lack of personal  
8 knowledge, assumes facts not in evidence.

9 THE WITNESS: The -- these records --

10 MR. HUDIS: Of Exhibit 8.

11 THE WITNESS: -- of Exhibit 8 reflect the  
12 tasks submitted for -- for this item.

13 MR. HUDIS:

14 Q. What item is that?

15 A. The item is gov.law.aera.standards.1999.

16 Q. Uh-huh.

17 A. The record of the submitter in -- in these  
18 logs is the account associated with the e-mail  
19 address carl@media.org.

20 Q. Which you associate with Carl Malamud?

21 MS. LU: Objection, misstates prior  
22 testimony.

23 THE WITNESS: I associate the e-mail  
24 address carl@media.org with Carl Malamud.

25 MR. HUDIS:

1 Q. And each of these logs reflect processes  
2 that were performed on May 26th and May 27th of  
3 2012?

4 MS. LU: Objection, lack of personal  
5 knowledge.

6 THE WITNESS: The question one more time,  
7 please.

8 MR. HUDIS: Yes.

9 Q. Each of these logs reflects processes that  
10 were performed on May 26th and May 27th, 2012?

11 A. The logs list the dates that these were  
12 performed as May 27th -- May 26th and May 27th of  
13 2012.

14 Q. Each of these documents of Exhibit 8 is a  
15 log that resulted from a command being run on  
16 Internet Archive's web servers?

17 MS. LU: Objection, lack of personal  
18 knowledge.

19 THE WITNESS: The question one more time,  
20 please.

21 MR. HUDIS: Yes.

22 Q. Each of these documents of Exhibit 8 is a  
23 log that resulted from a command being run on  
24 Internet Archive's servers?

25 MS. LU: And also add, vague and ambiguous

1 objection.

2 THE WITNESS: This is the Internet  
3 Archive's log of the -- of the tasks submitted,  
4 including commands submitted to Internet Archive's  
5 website for the identifier previously mentioned.

6 MR. HUDIS:

7 Q. And each of these logs has a command line  
8 that is reflected by the line [cmd] right arrow, do  
9 you see that?

10 MS. LU: Counsel, sorry, where are you,  
11 on which page of which --

12 MR. HUDIS: According to Page 5 of  
13 Exhibit 8, the command line.

14 MS. LU: I think, for the record, you're  
15 talking about [cmd] two equal signs and then  
16 greater than symbol?

17 MR. HUDIS: Yes, which I define as right  
18 arrow.

19 Q. Do you see that?

20 A. Yes.

21 Q. And if you go back to Exhibit 7, the  
22 different commands that were performed starting  
23 from the bottom are archive.php, derive.php,  
24 bup.php, again twice archive.php, derive.php and  
25 bup.php.

1 Do you see that?

2 A. Yes.

3 Q. And we will leave for later the last one  
4 at the top, says, "make\_dark." We'll leave that  
5 for later.

6 Each of these commands has a "php" file  
7 extension. Do you know what a "php" is?

8 MS. LU: Objection, lack of personal  
9 knowledge.

10 THE WITNESS: I don't know what "php"  
11 stands for. It's an extension that I've seen  
12 associated with -- with web pages.

13 MR. HUDIS:

14 Q. Is it a scripting language, to the best of  
15 your knowledge?

16 MS. LU: Objection, lack of personal  
17 knowledge.

18 THE WITNESS: I don't know.

19 MR. HUDIS:

20 Q. Do you know where the php files are  
21 stored?

22 MS. LU: Objection, lack of personal  
23 knowledge, vague and ambiguous.

24 THE WITNESS: No.

25 MR. HUDIS:

1 Q. Do you know who wrote the php scripts?

2 MS. LU: Objection, lack of personal  
3 knowledge.

4 THE WITNESS: No.

5 MR. HUDIS:

6 Q. Do you know if the php file extensions  
7 were Carl Malamud's scripts?

8 MS. LU: Objection, lack of personal  
9 knowledge, and vague and ambiguous.

10 THE WITNESS: I know that -- that these  
11 commands that you see listed in the command  
12 column --

13 MR. HUDIS: The witness is pointing --

14 THE WITNESS: -- on Exhibit 7 and also  
15 listed by the bracketed command tag by the right  
16 arrow previously mentioned are generic commands  
17 that are associated with many, many items. They  
18 are very common commands and functions of the  
19 archive.org website.

20 MR. HUDIS:

21 Q. Looking at Exhibit 7, you see there is a  
22 column that says "args," do you see that?

23 A. Yes.

24 Q. Do you know whether that stands for  
25 arguments?

1 MS. LU: Objection, lack of personal  
2 knowledge.

3 THE WITNESS: No.

4 MR. HUDIS:

5 Q. Do you know what arguments were supplied  
6 for each of the commands for each of these logs so  
7 that -- so that the process described in the log  
8 would run?

9 MS. LU: Objection, lack of personal  
10 knowledge, and vague and ambiguous.

11 THE WITNESS: There are records of -- of  
12 information associated with the term "args" in  
13 each -- in each task log.

14 MR. HUDIS:

15 Q. So, for example, looking at Exhibit 7,  
16 does the submission of the argument  
17 "done=delsrc&from\_url=ry" -- excuse me, "rsyn..."  
18 enable archive.php to run?

19 MS. LU: Objection, lack of personal  
20 knowledge.

21 THE WITNESS: I don't know that that's  
22 what enables archive.php to run.

23 MR. HUDIS:

24 Q. Looking at Exhibit 7, do you know what  
25 each of these commands do?

1 MS. LU: Objection, lack of personal  
2 knowledge, and vague and ambiguous.

3 THE WITNESS: I have a general  
4 understanding of the function of each of these  
5 commands.

6 MR. HUDIS:

7 Q. What does the archive.php command do?

8 A. Archive.php is associated with the  
9 submission of files or information by a user to be  
10 incorporated into the item and displayed, made  
11 available with that item.

12 Q. Do you know why the archive.php command  
13 was run three times?

14 MS. LU: Objection, lack of personal  
15 knowledge. And objection, assumes facts not in  
16 evidence.

17 THE WITNESS: Generally, the first  
18 archive.php is associated with the submission of --  
19 of a -- a file relating to a work that is a text or  
20 movie or audio recording. It also contains  
21 metadata that needs to be submitted with the  
22 initiating task for an item.

23 Subsequent archive.php commands may  
24 correspond to the submission of further files --  
25 excuse me, further files for information to be



1 incorporated with the item.

2 MR. HUDIS:

3 Q. Do you know what the derive.php file does?

4 MS. LU: Objection, lack of personal  
5 knowledge.

6 THE WITNESS: Derive.php is associated  
7 with the creation of derivative file formats that  
8 the archive.org website automatically generates  
9 from the original file and -- and presents on the  
10 item -- on the item's details page.

11 MR. HUDIS:

12 Q. On the website?

13 A. On archive.org.

14 Q. What does the bup.php command do?

15 MS. LU: Objection, lack of personal  
16 knowledge.

17 THE WITNESS: "Bup" is associated with  
18 creation of a backup of -- of the files, of the  
19 item's files, as Internet Archive uses two copies,  
20 creates and maintains two copies of a file in case  
21 one server has issue that prevent those files from  
22 being available.

23 MR. HUDIS:

24 Q. Do you know why the backup.php command was  
25 run twice?

1 MS. LU: Objection, lack of personal  
2 knowledge. And assumes facts not in evidence.

3 THE WITNESS: The backup.php command is  
4 typically run after a change is made to an item,  
5 and it is the updating of the backup copy.

6 MR. HUDIS:

7 Q. Mr. Butler, all of the logs produced by  
8 Internet Archive which are now reflected in  
9 Exhibit A have the identifier gov.law.area  
10 .standards.1999. What is this?

11 MS. LU: Objection, lack of personal  
12 knowledge, and misdescribes the documents.

13 THE WITNESS: The question is asking what  
14 the identifier is?

15 MR. HUDIS:

16 Q. Yes.

17 A. The identifier is a string of characters  
18 that is submitted with an item by the submitter  
19 that is unique to the item and then is incorporated  
20 into the URL for the public page for the item.

21 MR. HUDIS:

22 Q. And that in this instance is reflected in  
23 Exhibit 6?

24 MS. LU: Objection, vague and ambiguous.

25 THE WITNESS: The same identifier listed

1 for the tasks on Exhibit 8 appears in the URL at  
2 the bottom of the printouts for Exhibit 6.

3 MR. HUDIS:

4 Q. So if Mr. Malamud was the submitter in  
5 this case, was it Mr. Malamud who named this  
6 particular identifier "gov.law.aera.standards  
7 .1999"?

8 MS. LU: Objection, lack of personal  
9 knowledge, calls for speculation.

10 THE WITNESS: The records of the task log  
11 state that the identifier submitted for this item  
12 by the submitter is gov.law.aera.standards.1999.

13 MR. HUDIS:

14 Q. In each of the logs of Exhibit 8, there is  
15 a line that says, "server."

16 Do you see that?

17 A. I see a line that begins with "server."

18 Q. All right. And then it follows with  
19 "ia600500.us.archive.org."

20 What is this identifier?

21 MS. LU: Objection.

22 MR. HUDIS: Next to -- sorry, next to  
23 "server"?

24 MS. LU: Objection, lack of personal  
25 knowledge, vague and ambiguous.

1 THE WITNESS: The string of characters  
2 next to "server" is the location of a server  
3 maintained by Internet Archive that has a server  
4 name of "ia600500."

5 MR. HUDIS:

6 Q. Do you know what is stored on this  
7 particular server? The one you just named,  
8 "ia600500"?

9 MS. LU: Objection, lack of personal  
10 knowledge and misstates prior testimony.

11 THE WITNESS: Generally, servers  
12 referenced in task logs store information posted to  
13 archive.org's website.

14 MR. HUDIS:

15 Q. And if you notice, the server name for  
16 task 107010707 is different from the server of the  
17 task 107010788.

18 Do you see that?

19 MS. LU: Objection, vague and ambiguous.

20 THE WITNESS: Yes, I see a different  
21 server name for these two tasks.

22 MR. HUDIS:

23 Q. What's -- if you know, what is the  
24 difference between the server from the task  
25 107010707 and the server of task 107010788?

1 MS. LU: Objection, lack of personal  
2 knowledge, assumes facts not in evidence.

3 THE WITNESS: I don't know of a  
4 substantial difference between these two servers.

5 MR. HUDIS:

6 Q. So if I were to go through the rest of the  
7 logs of Exhibit 8 and there were different named  
8 servers, you would not know the difference from one  
9 server to the next?

10 MS. LU: Objection, assumes facts not in  
11 evidence.

12 THE WITNESS: Correct.

13 MR. HUDIS:

14 Q. Mr. Butler, let's go back to Exhibit 6,  
15 and that's the 1999 standards posted to Internet  
16 Archive's website.

17 MS. LU: Objection, misstates prior  
18 testimony.

19 MR. HUDIS:

20 Q. Do the logs of Exhibit 8 reflect Carl  
21 Malamud or someone with his log-on credentials  
22 posting the 1999 standards to Internet Archive's  
23 website?

24 MS. LU: Objection, lack of personal  
25 knowledge, calls for speculation, and misstates

1 prior testimony. And argumentative.

2 THE WITNESS: The logs in Exhibit 8 have a  
3 recorded submitter of carl@media.org for the item  
4 with the identifier gov.law.aera.standards.1999.  
5 This is the same identifier that is listed at the  
6 bottom of the printout for Exhibit 6.

7 MR. HUDIS:

8 Q. When the 1999 standards were posted to  
9 Internet Archive's website in May of 2012, were any  
10 other materials posted with them?

11 MS. LU: Objection, lack of personal  
12 knowledge and relevance.

13 THE WITNESS: Can you define "materials"?

14 MR. HUDIS:

15 Q. Metadata.

16 A. The -- the task log indicates that a file  
17 named "aera.standards.1999.pdf\_meta.text" was  
18 submitted. It also indicates that a file named  
19 "gov.law.aera.standards.1999\_meta.xml" was created.  
20 Typically, these are associated with the submission  
21 of metadata from a submitter.

22 Q. For what purpose?

23 MS. LU: Objection, lack of personal  
24 knowledge, calls for speculation.

25 THE WITNESS: Generally, the -- the

1 metadata is submitted to archive.org and displayed.  
2 Sometimes it has -- it has informational value for  
3 the item. An example would be the submission of a  
4 title for an item or an author.

5 MR. HUDIS:

6 Q. So, for example, on Exhibit 6, it says,  
7 "Author: American Educational Research  
8 Association."

9 Is that the type of metadata you were  
10 talking about?

11 MS. LU: Objection, lack of personal  
12 knowledge.

13 THE WITNESS: Yes, that would be an  
14 example of metadata that would typically be  
15 submitted by a submitter to be -- to be displayed,  
16 along with a posted item.

17 MR. HUDIS:

18 Q. Did any Internet Archive employees have  
19 any participation in posting the 1999 standards or  
20 associated metadata to Internet Archive's website?

21 A. One more time, please.

22 Q. Sure. Did any Internet Archive employees  
23 have any participation in posting the  
24 1999 standards or associated metadata to Internet  
25 Archive's website?

1           A. To the lack [sic] of my knowledge, no  
2 Internet Archive employee directly participated in  
3 the posting of this item to archive.org.

4           Q. What involvement, if any, did Internet  
5 Archive have in the posting of the 1999 standards  
6 or associated metadata to Internet Archive's  
7 website?

8           MS. LU: Objection, vague and ambiguous.

9           THE WITNESS: The Internet Archive  
10 website, according to this task log, appears to  
11 have run standard automated processes responsive to  
12 commands submitted by a submitter.

13           MR. HUDIS:

14           Q. Once posted by Mr. Malamud, where on  
15 Internet Archive's website could the 1999 standards  
16 be found? I'm talking about the URL.

17           MS. LU: Objection, assumes facts not in  
18 evidence.

19           THE WITNESS: The -- the URL associated  
20 with this identifier would be archive.org/details/  
21 gov.law.aera.standards.1999.

22           MR. HUDIS:

23           Q. Was the uploaded metadata also posted to  
24 this same URL?

25           MS. LU: Objection, lack of personal



1 knowledge.

2 THE WITNESS: It seems that a metadata  
3 file was created and associated with the item. I  
4 don't see any signs of -- of error in that process  
5 from looking at these logs.

6 MR. HUDIS: So let's go through each one  
7 of the logs one at time.

8 Q. What is happening -- this is in  
9 Exhibit 8 -- in the log of task 107010707?

10 MS. LU: Objection, lack personal  
11 knowledge, and vague and ambiguous. It calls for a  
12 narrative.

13 THE WITNESS: Can you be more specific --

14 MR. HUDIS: Yes.

15 THE WITNESS: -- with the question?

16 MR. HUDIS:

17 Q. What function is being recorded by the log  
18 of 107010707?

19 MS. LU: Same objections.

20 THE WITNESS: The log is associated with  
21 an archive.php command which I understand to relate  
22 to the submission of files and/or metadata.

23 MR. HUDIS:

24 Q. Now, you see below the definition of the  
25 task, it says, "Getting file(s) from," and it gives

1 you a very long URL which starts with "rsync."

2 Do you see that?

3 A. Sorry, this is near the bottom of the  
4 first page?

5 Q. Yes.

6 MR. HUDIS: May I point to the witness,  
7 Counsel?

8 MS. AHMAD: Yes.

9 MR. HUDIS:

10 Q. So you see "Getting file(s)" and "Getting  
11 file(s)"?

12 MS. LU: Objection, lack of personal  
13 knowledge.

14 THE WITNESS: I see -- I see where the log  
15 says, "Getting file(s)."

16 MR. HUDIS:

17 Q. Now, is that the URL from which the  
18 document was uploaded?

19 MS. LU: Objection, lack of personal  
20 knowledge.

21 THE WITNESS: This is a URL associated  
22 with a submission of information to archive.org for  
23 posting with the item.

24 MR. HUDIS:

25 Q. And the item, the first item is

1 1,825 bytes, do you see that?

2 MS. LU: Objection, lack of personal  
3 knowledge.

4 THE WITNESS: I see a line that it states  
5 that 1,825 bytes received.

6 MR. HUDIS:

7 Q. And the second "Getting file" then results  
8 in a receipt of --

9 A. I see a line that states that 1,000,493 --  
10 excuse me -- 14,934,120 bytes received.

11 Q. Does the log say received from where?

12 MS. LU: Objection, lack of personal  
13 knowledge.

14 THE WITNESS: The notes indicating the --  
15 or stating the receipts of this amount of  
16 information directly -- directly follow tasks  
17 stating that files are being retrieved from the  
18 long URL following the term "rsync."

19 MR. HUDIS:

20 Q. Could you please turn to Page --  
21 production Page 6 of Exhibit 8, the next page.

22 Now, you see towards the middle, it says,  
23 "Now synchronizing item to the backup server."

24 Do you see that?

25 A. Yes.

1 Q. At how many locations are the  
2 1999 standards stored within Internet Archive, if  
3 know?

4 MS. LU: Objection, lack of personal  
5 knowledge, assumes facts not in evidence.

6 THE WITNESS: Generally, items submitted  
7 to archive.org are stored on two different servers.

8 MR. HUDIS:

9 Q. For what purpose?

10 MS. LU: Objection, lack of personal  
11 knowledge.

12 THE WITNESS: As -- as I had stated  
13 earlier, Internet Archive uses paired storage in  
14 the instance that one server becomes inaccessible.

15 MR. HUDIS:

16 Q. Now, lower down on the same page,  
17 production Page 6 of Exhibit 8, it says, "Deleting  
18 from hd.www37," et cetera, et cetera,  
19 "us.archive.org."

20 Why are these files being deleted?

21 MS. LU: Objection, lack of personal  
22 knowledge, and assumes facts not in evidence.

23 THE WITNESS: I don't know exactly what  
24 files are being deleted pursuant to this line.

25 MR. HUDIS: Let's turn to production

1 Page 8 of Exhibit 8. And we're now on the 13-page  
2 task with the ID 107010788.

3 Q. What task is this log reflecting?

4 MS. AHMAD: Objection, lack of personal  
5 knowledge.

6 THE WITNESS: This log is associated with  
7 task No. 107010788. This task ID is associated  
8 with a derive.php command both in the task log and  
9 in the item history.

10 MR. HUDIS:

11 Q. And what function is being performed  
12 according to this log which has a derive.php  
13 command?

14 MS. LU: Objection, lack of personal  
15 knowledge, assumes facts not in evidence.

16 THE WITNESS: Derive.php is associated  
17 with the automated creation of derivative file  
18 formats by the archive.org website.

19 MR. HUDIS:

20 Q. Do you know what the BookOp module does?

21 MS. LU: Objection, lack of personal  
22 knowledge.

23 THE WITNESS: No, I don't know what that  
24 specific -- I don't know what the BookOp module  
25 does.

1 MR. HUDIS: Could we turn to production  
2 Page 10 of Exhibit 8.

3 Q. Do you see towards the top of the page, it  
4 says, "Heuristic Resolution Analysis"?

5 A. Yes.

6 Q. And underneath it, it says, "number of  
7 pages in PDF: 211"?

8 A. Yes.

9 Q. Is this the PDF file corresponding to the  
10 uploaded 1999 standards?

11 MS. LU: Objection, lack of personal  
12 knowledge.

13 THE WITNESS: This task appears to be  
14 being performed on a file named "aera.standards  
15 .1999.pdf." The initial task for this item with  
16 task No. 107010707 states that this file was  
17 submitted to the item by the submitter.

18 MR. HUDIS:

19 Q. And my question from Page 10, Exhibit 8,  
20 task 107010788 is, what was the size of that PDF  
21 file?

22 MS. LU: Objection, lack of personal  
23 knowledge.

24 THE WITNESS: The task history has a  
25 reading that says that the PDF file has 211 pages.

1 MR. HUDIS:

2 Q. And if you could turn to Page 11 --  
3 production Page 11 of Exhibit 8, do you know what  
4 is happening where it says formatting gifs?

5 MS. LU: Objection, lack of personal  
6 knowledge.

7 THE WITNESS: As clarification, the log  
8 states "forming gifs."

9 MR. HUDIS: Thank you, "forming gifs."  
10 Thank you.

11 THE WITNESS: This appears to be the  
12 generation of random images taken from a submitted  
13 text which are then displayed alongside the item.  
14 This is a standard process performed for texts that  
15 are posted to archive.org.

16 MR. HUDIS:

17 Q. Do you know what the AnimatedGIFT --  
18 excuse me, the AnimatedGIF, G-I-F, module does?

19 MS. LU: Objection, lack of personal  
20 knowledge.

21 THE WITNESS: AnimatedGIF module creates  
22 random images from a submitted text to be displayed  
23 alongside a posted text to archive.org.

24 MR. HUDIS:

25 Q. And what is the function of these random

1 images?

2 MS. LU: Objection, lack of personal  
3 knowledge.

4 THE WITNESS: The random images, as I  
5 understand it, are generated to -- to provide an  
6 example of pages that may exist in a text.

7 MR. HUDIS:

8 Q. And do you know what the AbbyXML module  
9 does?

10 MS. LU: Objection, lack of personal  
11 knowledge.

12 THE WITNESS: As I understand it, the  
13 AbbyXML module plays a role in generating a text  
14 file, a plain text file, of a submitted text.

15 MR. HUDIS:

16 Q. Mr. Butler, could you turn to Page 13 of  
17 Exhibit 8. At the bottom, it says, DjvuXML module.

18 Do you know what this module does?

19 MS. LU: Objection, lack of personal  
20 knowledge.

21 THE WITNESS: As I understand it, this  
22 module creates a derivative of the initially  
23 submitted text in a -- that functions with a  
24 special reader called a DjVu reader or deja vu  
25 reader.



1 MR. HUDIS:

2 Q. Do you know what a DjVu reader does?

3 MS. LU: Objection, lack of personal  
4 knowledge.

5 THE WITNESS: The extent of my knowledge  
6 is that a -- a reader will display a -- a DjVu text  
7 for -- for display for a user.

8 MR. HUDIS:

9 Q. On a website?

10 MS. LU: Objection, lack of personal  
11 knowledge.

12 THE WITNESS: I'm afraid I don't recall if  
13 it's used within a browser or if it's -- if it is  
14 used as a stand-alone application.

15 MR. HUDIS:

16 Q. Looking at Exhibit 6, the top third of the  
17 page, the 1999 standards were within a framed  
18 document which I told you basically turns the  
19 pages.

20 Do you know what kind of reader this is?

21 MS. LU: Objection, lack of personal  
22 knowledge, and assumes facts not in evidence.

23 THE WITNESS: Yes, this is the Internet  
24 Archive's BookReader application.

25 MR. HUDIS:

1 Q. And is that created by the DjVu module or  
2 the BookOp module, or do you not know?

3 MS. LU: Objection, lack of personal knowledge  
4 and compound.

5 THE WITNESS: I know that it's not created  
6 by the DjVu module. I don't know whether are not  
7 the BookOp module plays a role in that.

8 MR. HUDIS:

9 Q. Do you know what the EPUB module does?

10 MS. LU: Objection, lack of personal  
11 knowledge.

12 THE WITNESS: Generally, the EPUB module  
13 creates another derivative format that is a -- a  
14 .epub file, e-p-u-b.

15 MR. HUDIS:

16 Q. And what does that do?

17 MS. LU: Objection, lack of personal  
18 knowledge. Vague and ambiguous.

19 MS. AHMAD: For the record, we're on  
20 Page 14 now?

21 MR. HUDIS: Page 15 -- excuse me. Yes, we  
22 are on Page 14 of Exhibit 8. Thank you.

23 THE WITNESS: I'm sorry, the question was?

24 MR. HUDIS: Yes.

25 Q. Do you know what the EPUB file does once

1 created by the EPUB module?

2 A. An EPUB file is a file format that is  
3 associated with an electronic text and must be read  
4 by software that's specifically designed to display  
5 an EPUB file.

6 Q. Do you know what TOC module does? This is  
7 on Page 15 of Exhibit 8.

8 MS. LU: Objection, lack of personal  
9 knowledge.

10 THE WITNESS: No.

11 MR. HUDIS:

12 Q. Do you know what a scandataXML module  
13 does?

14 MS. LU: Objection, lack of personal  
15 knowledge.

16 THE WITNESS: No.

17 MR. HUDIS:

18 Q. Do you know what a PDF module does? And  
19 that's on page 16 of Exhibit 8.

20 MS. LU: Objection, lack of personal  
21 knowledge.

22 THE WITNESS: PDF module creates a  
23 derivative file of an initial file. It may create  
24 a black and white PDF that's smaller in size than  
25 any initial PDF that had been submitted.

1 MR. HUDIS:

2 Q. Do you know what a HackPDF does?

3 MS. LU: Objection, lack of personal  
4 knowledge.

5 THE WITNESS: No.

6 MR. HUDIS: Excuse me, HackPDF module.

7 Q. And the answer is no?

8 A. No.

9 Q. Could you turn to Page -- production  
10 Page 20 of Exhibit 8. This is the last page of  
11 task 107010788.

12 Do you know why each of these files on  
13 Page 20 of Exhibit 8 are being autocleaned?

14 MS. LU: Objection, lack of personal  
15 knowledge, and assumes facts not in evidence.

16 THE WITNESS: No, I don't know.

17 MR. HUDIS:

18 Q. Could you go to the next task, please,  
19 production Page 21 of Exhibit 8. This is now  
20 starting task 107019567. And being performed here,  
21 according to this log, is the backup command?

22 MS. LU: Objection, lack of personal  
23 knowledge, assumes facts not in evidence.

24 THE WITNESS: The command associated with  
25 this task is bup.php, which I understand to be

1 associated with the creation of a backup of an  
2 item.

3 MR. HUDIS:

4 Q. And the back -- and the item being backed  
5 up is gov.law.aera.standards.1999?

6 A. The identifier listed on this task in this  
7 task history is that identifier.

8 Q. And this was, as we discussed before,  
9 placing the item on a backup server to make sure,  
10 if one server is not accessible, another server  
11 could be accessible at Internet Archive?

12 MS. LU: Objection, lack of personal  
13 knowledge, and assumes facts not in evidence.

14 THE WITNESS: That is the operation that's  
15 associated with the bup.php command.

16 MR. HUDIS:

17 Q. Could we go to Page 23 of Exhibit 8. This  
18 is now starting the task 107034141.

19 What task is being performed here?

20 MS. LU: Objection, lack of personal  
21 knowledge.

22 THE WITNESS: The command associated  
23 listed on this task log is archive.php which is  
24 associated with the submission of files or metadata  
25 for an item.

1 MR. HUDIS:

2 Q. So this was the submission of metadata in  
3 this task?

4 MS. LU: Objection, lack of personal  
5 knowledge.

6 THE WITNESS: The task -- the task log  
7 states that it was an archive -- states that it was  
8 an archive.php command which is associated with the  
9 submission of -- of metadata or files.

10 MR. HUDIS:

11 Q. Could you turn to Page -- production  
12 Page 24 of Exhibit 8. And there are warning  
13 messages at the bottom of this page. It says  
14 "Warning: Possible DNS Spoofing Detected!"  
15 "Warning: Remote Host Identification has Changed!"  
16 It is possible that someone is doing something  
17 nasty!"

18 Do you know what the purpose of these  
19 warnings are?

20 MS. LU: Objection, lack of personal  
21 knowledge.

22 THE WITNESS: No, I don't.

23 MR. HUDIS:

24 Q. Please turn to production Page 26 of  
25 Exhibit 8. This is now starting task

1 No. 107040689.

2 And is this another archive.php command  
3 being performed here?

4 MS. LU: Objection, lack of personal  
5 knowledge.

6 THE WITNESS: The command associated -- or  
7 the command listed on this task log is a command  
8 archive.php.

9 MR. HUDIS:

10 Q. Do you know what function is being  
11 performed in this task?

12 MS. LU: Objection, lack of personal  
13 knowledge.

14 THE WITNESS: Archive.php, again, is  
15 associated with the submission of files or metadata  
16 for an item.

17 MR. HUDIS:

18 Q. And, again, the item is gov.law.aera  
19 .standards.1999?

20 A. The identifier listed in these task logs  
21 is that identifier.

22 Q. And, again, we see on Page 27 of Exhibit 8  
23 the same warnings. And you don't know what those  
24 warnings are about?

25 A. That's correct.

1 Q. Could we please turn to Page 28 of  
2 Exhibit 8. This starts task 107040792.

3 And the derive.php command is being  
4 performed here?

5 MS. LU: Objection, lack of personal  
6 knowledge.

7 THE WITNESS: The command listed on this  
8 task log for this task is derive.php.

9 MR. HUDIS:

10 Q. In this specific log, do you know what is  
11 happening here?

12 MS. LU: Objection, lack of personal  
13 knowledge, vague and ambiguous.

14 THE WITNESS: Generally, a -- an  
15 archive.php task may trigger a derive task to  
16 update the derivative files after any change has  
17 been made to the initially submitted metadata or  
18 file.

19 MR. HUDIS:

20 Q. Could we turn to Page 31 of Exhibit 8.

21 At the bottom of that page, do you know  
22 why the files are being autocleaned?

23 MS. LU: Objection, lack of personal  
24 knowledge, assumes facts not in evidence.

25 THE WITNESS: No.



1 MR. HUDIS:

2 Q. Could we turn now to Page 33 of Exhibit 8.  
3 This is the final task and it is identified with  
4 107040809.

5 Do you know what task is being performed  
6 here, bup.php?

7 MS. LU: Objection, lack of personal  
8 knowledge.

9 THE WITNESS: The command listed on this  
10 task log is bup.php. This is associated with the  
11 creation of a backup file -- backup copies of the  
12 file for the item.

13 MR. HUDIS:

14 Q. And the item being backed up here is  
15 gov.law.aera.standards.1999?

16 MS. LU: Objection, lack of personal  
17 knowledge, assumes facts not in evidence.

18 THE WITNESS: That is the identifier that  
19 is listed on this task log.

20 MR. HUDIS:

21 Q. And this is a backup task log?

22 MS. LU: Objection, lack of personal  
23 knowledge, assumes facts not in evidence, and  
24 argumentative.

25 THE WITNESS: The command listed for this

1 task log is bup.php which is a backup task.

2 MR. HUDIS: Off the record.

3 VIDEO OPERATOR: The time 12:12 p.m. We  
4 are off the record.

5 (Brief recess.)

6 (Plaintiffs' Exhibit 9 marked for  
7 identification.)

8 VIDEO OPERATOR: The time is 12:20 p.m.,  
9 and we are on the record.

10 MR. HUDIS:

11 Q. Mr. Butler, I'd like you to refer back to  
12 Exhibit 7. And you see at the very top, there's a  
13 command that says, "make\_dark.php."

14 Do you see that?

15 A. Yes.

16 Q. What does the make\_dark command do?

17 MS. LU: Objection, lack of personal  
18 knowledge.

19 THE WITNESS: Make\_dark takes down files  
20 from public access.

21 MR. HUDIS:

22 Q. I'd like you to now look at what has been  
23 marked as Exhibit 9.

24 What is this one-page exhibit?

25 A. This exhibit is a log for a task

1 associated with the item with identifier  
2 gov.law.aera.standards.1999.

3 Q. And what is the command being run as  
4 reflected in this log of Exhibit 9 which bears task  
5 ID 315793300?

6 A. The command listed in this task log is  
7 make\_dark.php.

8 Q. When we looked at the commands and tasks  
9 of Exhibit 8, you saw that the commands were being  
10 run on multiple servers, correct?

11 MS. LU: Objection, lack of personal  
12 knowledge, and assumes facts not in evidence.

13 THE WITNESS: I saw that there were  
14 different server addresses listed in -- throughout  
15 the task -- throughout the various tasks associated  
16 with this item.

17 MR. HUDIS:

18 Q. And the task of Exhibit 9, 315793300, on  
19 how many servers was this task run?

20 MS. LU: Objection, lack of personal  
21 knowledge, assumes facts not in evidence, vague and  
22 ambiguous.

23 MR. HUDIS:

24 Q. According to this tag, there is one server  
25 identified. Do you see it?

1 MS. LU: Objection, lack of personal  
2 knowledge, assumes facts not in evidence, and  
3 argumentative.

4 MR. HUDIS:

5 Q. And you see that the server is ia600500?

6 MS. LU: Objection, vague and ambiguous.

7 MR. HUDIS:

8 Q. You may answer.

9 A. I see that an address for a server is  
10 listed in this task log with the server name of  
11 ia600500.

12 Q. Do you see any other servers listed on  
13 this log of Exhibit 9?

14 A. I see a listing associated with a backup  
15 server near the bottom with server address  
16 ia700500.us.archive.org.

17 Q. So do you know if the make\_dark command  
18 was being run, according this log, on one server or  
19 two?

20 MS. LU: Objection, lack of personal  
21 knowledge, and vague and ambiguous. And assumes  
22 facts not in evidence.

23 THE WITNESS: The item -- the task log  
24 states that the item is being synchronized to the  
25 backup server. I would associate that with the --

1 content on Exhibit 6 was there and then the content  
2 in Exhibit 10 is gone?

3 MS. LU: Objection --

4 MR. HUDIS:

5 Q. Replaced by the placeholder?

6 MS. LU: Objection, assumes facts not in  
7 evidence, and calls for speculation.

8 THE WITNESS: Typically, when the  
9 placeholder message is displayed on a page that  
10 previously displayed a live item, it is an  
11 indication that the item has been taken down.

12 MR. HUDIS:

13 Q. And is that the result of a make\_dark  
14 command?

15 MS. LU: Objection, lack of personal  
16 knowledge.

17 THE WITNESS: It can be the result of a  
18 make\_dark command. Uh -- it can be the result of a  
19 make\_dark command.

20 MR. HUDIS:

21 Q. Do you know whether the change of the live  
22 content of Exhibit 6 and then the placeholder that  
23 says this item is not available of Exhibit 10  
24 resulted from the make\_dark command shown in log  
25 315793300 of Exhibit 9?

1 MS. LU: Objection, vague and ambiguous,  
2 assumes facts not in evidence and lack of personal  
3 knowledge.

4 THE WITNESS: I can state that this is the  
5 message and this is how I would expect the page to  
6 appear following the submission of a make\_dark  
7 command for a live item.

8 MR. HUDIS: Note that the witness is  
9 pointing to Exhibit 10.

10 Q. On Exhibit 10, who, if you know, inserted  
11 the language "The item is not available due to  
12 issues with the item's content"?

13 MS. AHMAD: Objection, outside the scope  
14 of the deposition topics.

15 MR. HUDIS: I would disagree with that.

16 MS. LU: And lack of personal knowledge.

17 MR. HUDIS: I would disagree with that,  
18 Counsel. Public Resource's counsel can assert her  
19 objections.

20 So I'll reask the question subject to all  
21 objections.

22 Q. Do you know who inserted the language in  
23 Exhibit 10, "The item is not available due to  
24 issues with the item's content"?

25 THE WITNESS: This is a placeholder

1 message that was determined years ago. I don't  
2 know who drafted that message and selected it.  
3 It's the general message that is displayed on an  
4 item's page after a make\_dark command has been  
5 submitted for that item.

6 MR. HUDIS: Off the record.

7 VIDEO OPERATOR: The time is 12:41 p.m.  
8 and we are off the record.

9 (Discussion off the record.)

10 (Plaintiffs' Exhibit 11 marked for  
11 identification.)

12 VIDEO OPERATOR: The time is 12:42 p.m.,  
13 and we are on the record.

14 MR. HUDIS:

15 Q. Mr. Butler, once content is taken down  
16 from an Internet Archive web page from public  
17 access, can your company still track the number of  
18 visits to that page while the content was still  
19 there?

20 MS. LU: Objection, vague and ambiguous.

21 THE WITNESS: The record that we have  
22 is -- is called a download count and relates to the  
23 number of visits to -- to pages with files for the  
24 item. So it's our -- it's our best record of the  
25 number of HTTP requests from -- from an IP address

1 where multiple visits from the same IP address in  
2 the same day have been counted as one download.

3 MR. HUDIS:

4 Q. Mr. Butler, have you ever heard of the  
5 term "hit count"?

6 A. Yes.

7 Q. What does "hit count" refer to?

8 A. Hit count --

9 MS. LU: Objection to the extent it calls  
10 for expert testimony.

11 MR. HUDIS:

12 Q. You may answer.

13 A. Hit count, as I understand it, relates to  
14 the amount of visits to a given web page.

15 Q. So we've talked about today a number of  
16 views, a number of downloads, correct, to a web  
17 page?

18 A. Yes.

19 MS. LU: Objection, misstates prior  
20 testimony.

21 MR. HUDIS:

22 Q. You may answer.

23 A. We've talked about the definition of our  
24 download count number and discussed a little bit  
25 how that relates to downloading and viewing.



1 MR. HUDIS:

2 Q. So your company defines download count.  
3 Does the download count distinguish between an  
4 Internet user's view of a page versus capturing and  
5 copying content to go to another computer?

6 MS. LU: Objection, vague and ambiguous.

7 THE WITNESS: The download count does not  
8 distinguish between, for example, a visit to a web  
9 page without, for instance, saving that file  
10 through the -- a browser's downloader or selecting  
11 files' save-as from the browser.

12 MR. HUDIS:

13 Q. Does Internet Archive's download count  
14 distinguish between visits from human beings over  
15 the Internet versus Internet crawling robots, or  
16 bots, or uploaders, or internal visits from  
17 Internet Archive processes or staff?

18 MS. LU: Objection, vague and ambiguous.

19 THE WITNESS: No. The download count does  
20 not distinguish between all of those different  
21 types of access.

22 MR. HUDIS:

23 Q. For the purposes of my next question, I  
24 need your definition of what an IP address is.

25 A. Okay.

1 Q. What is an IP address?

2 MS. LU: Objection, to the extent it calls  
3 for expert testimony.

4 THE WITNESS: What I know about an  
5 IP address is that it is a unique number associated  
6 with a computer that is connected to a network.

7 MR. HUDIS:

8 Q. Does Internet Archive's download count  
9 include or exclude multiple visits from the same  
10 IP address during a given day?

11 MS. LU: Objection, vague and ambiguous.

12 THE WITNESS: During a day, as defined by  
13 UTC time, Internet Archive's systems are designed  
14 to log multiple visits from the same IP -- count,  
15 excuse me, count multiple visits from the same  
16 IP address as only one download.

17 MR. HUDIS:

18 Q. Does Internet Archive maintain any records  
19 or other information that would enable it to be  
20 more specific about what is included or excluded  
21 from a download count?

22 MS. LU: Objection, vague and ambiguous.

23 THE WITNESS: Can you read the question  
24 again, please?

25 MR. HUDIS: Yes.

1 Q. Does Internet Archive maintain any records  
2 or other information that would enable it to be  
3 more specific about what is included or excluded  
4 from a download count?

5 MS. LU: Same objection.

6 THE WITNESS: I'm not aware of any further  
7 information that we would be able to supply.

8 MR. HUDIS:

9 Q. How does Internet Archive obtain the  
10 download count of a specific web page after the  
11 uploaded content is removed?

12 MS. LU: Objection, lack of personal  
13 knowledge, assumes facts not in evidence. Counsel,  
14 if you want to ask him about how someone retrieved  
15 this Exhibit 11, then I would not object to that.

16 MR. HUDIS:

17 Q. All right. I'm going to ask you  
18 specifically about Exhibit 11. I'd like to know  
19 generally how the information was obtained.

20 We've established that a make\_dark command  
21 was run for the content of the 1999 standards in  
22 June of 2014, correct?

23 MS. LU: Objection, misstates prior  
24 testimony, lack of personal knowledge.

25 MR. HUDIS:

1 Q. When was this make\_dark command of  
2 Exhibit 9 run?

3 A. The date listed on the task log for this  
4 task which has a command listed of make\_dark.php is  
5 June 11th, 2014.

6 Q. I've now marked as Exhibit 11 a one-page  
7 document that's in front of you.

8 What is the date of this document?

9 A. The date of Exhibit 11 is November 25th,  
10 2014.

11 Q. What is this document?

12 A. This document is a screen capture of the  
13 Mac Terminal application. The Terminal was used by  
14 myself to submit a query to archive.org's systems  
15 to obtain archive.org's records for the download  
16 count for the item with identifier gov.law.aera  
17 .standards.1999.

18 Q. The make\_dark command of Exhibit 9  
19 associated with that identifier was run in June of  
20 2014, correct?

21 A. The task log lists that date -- the task  
22 log associated with the make\_dark command lists  
23 that date.

24 Q. And the same identifier you got at a  
25 download -- a set of download information on

1 November 25th, 2014, according to Exhibit 11,  
2 correct?

3 MS. LU: Objection, vague and ambiguous.

4 THE WITNESS: Sorry, one more time,  
5 please.

6 MR. HUDIS: Yes.

7 Q. We established that make\_dark command for  
8 gov.law.aera.standards.1999 was run in June of  
9 2014, correct?

10 MS. LU: Objection, lack of personal  
11 knowledge.

12 THE WITNESS: The task logs list that  
13 date.

14 MR. HUDIS:

15 Q. So you got download information for the  
16 same identifier on November 25th, 2014, correct?

17 MS. LU: Objection, vague and ambiguous.

18 THE WITNESS: I ran a query for Internet  
19 Archive's download count for that same identifier.

20 MR. HUDIS:

21 Q. So I now ask the same question that I  
22 asked before.

23 How does Internet Archive obtain a  
24 download count for a specific Internet Archive web  
25 page after the uploaded content has been removed?

1 MS. LU: Objection, lack of personal  
2 knowledge, misstates prior testimony, and assumes  
3 facts not in evidence, and vague and ambiguous.

4 THE WITNESS: A SQL query can be run on  
5 Internet Archive's system to obtain a metadata  
6 value that has been associated with this item and  
7 generated by archive.org.

8 MR. HUDIS:

9 Q. And the item again is gov.law.aera  
10 .standards.1999?

11 A. That's correct.

12 Q. And according to your search and the  
13 results that came back on Exhibit 11, how many  
14 downloads are reflected for this item while live  
15 content was up on the web page associated with  
16 gov.law.aera.standards.1999?

17 MS. LU: Objection, vague and ambiguous,  
18 assumes facts not in evidence, lack of personal  
19 knowledge.

20 THE WITNESS: The download count of record  
21 from the archive.org system for the identifier that  
22 you read is 1,290.

23 MR. HUDIS: Counsel, will you stipulate  
24 that Exhibit 11 is a business record of Internet  
25 Archive?

1 MS. AHMAD: Yes.

2 MR. HUDIS: Any objections?

3 MS. LU: No objections.

4 (Plaintiffs' Exhibit 12 marked for  
5 identification.)

6 MR. HUDIS: I'm going to have to make a  
7 quick copy.

8 VIDEO OPERATOR: Do you want to go off?

9 MR. HUDIS: Yes, please.

10 VIDEO OPERATOR: The time is 12:54 p.m.,  
11 and we're off the record.

12 (Brief recess.)

13 VIDEO OPERATOR: The time is 12:58 p.m.,  
14 and we're on the record.

15 MR. HUDIS:

16 Q. Mr. Butler, all of my following questions  
17 are all relative to the 1999 standards.

18 Do we understand each other for purposes  
19 of these questions?

20 A. Yes.

21 Q. Between May of 2012 and June of 2014, have  
22 you ever communicated with Carl Malamud?

23 A. I have received e-mail from Carl Malamud.

24 Q. So that was my next question.

25 Mr. Malamud initiated the communication?

1 A. Yes.

2 Q. And how did he make that contact? By  
3 e-mail?

4 A. Yes.

5 Q. Besides that one e-mail, on the subject of  
6 the 1999 standards, did you have any other exchange  
7 of communications with Mr. Malamud?

8 MS. LU: Objection, relevance.

9 MR. HUDIS:

10 Q. You may answer.

11 A. No.

12 Q. Are you aware of anyone else from Internet  
13 Archive communicating with Mr. Malamud regarding  
14 the 1999 standards between May of 2012 and June of  
15 2014?

16 A. No.

17 Q. Do you remember the purpose of  
18 Mr. Malamud's communication with you regarding the  
19 1999 standards?

20 MS. LU: Objection, vague and ambiguous.

21 MR. HUDIS:

22 Q. You may answer.

23 A. Mr. Malamud sent me an e-mail with an  
24 attachment relating to a take-down request that he  
25 had received relating to the standards.