

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEVADA

3

4 Teller, an individual,)
)

5 Plaintiff,)CASE NO.
)2:12-cv-00591-JCM-GWF

6)

vs.)

7)

Gerard Dogge (Gerard Bakardy)

8 an individual,)
)

9 Defendant.)

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16 VIDEO DEPOSITION OF TELLER

17 Taken on July 1, 2013

18 At 11:02 a.m.

19 At 900 South Fourth Street, Suite 100

20 Las Vegas, Nevada

21

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24

25 Reported by: Yvette Rodriguez, CCR NO. 860

1 APPEARANCES:

2

3 For the Plaintiff:

4 BY: MARK G. TRATOS, ESQ.

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9 For the Defendants:

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14 Videographer: Joseph Camp

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14 Number Description Page

15 NONE MARKED

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1 LAS VEGAS, NEVADA, JULY 1, 2013

2 11:02 A.M.

3 -oOo-

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5 (In an off-the-record discussion
6 held prior to the commencement
7 of the deposition proceedings,
8 counsel agreed to waive the
9 court reporter requirements
10 under Rule 30(b)(4) of the
11 Nevada Rules of Civil
12 Procedure.)

13 -oOo-

14 THE VIDEOGRAPHER: Good morning. Today is
15 Monday, July 1, 2013. This begins the video
16 deposition of the plaintiff, Teller. The time
17 is approximately 11:02 a.m. We are located at
18 the Offices of Lawyers Solutions Group, 900
19 South Fourth Street, Suite 100, Las Vegas,
20 Nevada 89101.

21 My name is Joseph Camp, court videographer
22 of Lawyers Solutions Group. This is Case No.
23 2:12-cv-00591-JCM-GWF in the United States
24 District Court, District of Nevada, entitled
25 Teller, an individual, plaintiff, vs. Gerard

1 Dogge (Gerard Bakardy), an individual
2 defendants. This video deposition is requested
3 by the pro se attorney for the defendant.

4 Counsel and all present will you please
5 identify yourselves for the record.

6 MR. TRATOS: Mark Tratos of Greenburg
7 Traurig on behalf of the plaintiff, Teller.

8 THE VIDEOGRAPHER: Mr. Bakardy, please
9 state your name for the record.

10 MR. DOGGE: My name is Gerard Dogge. I am
11 calling you from Belgium, Europe.

12 THE VIDEOGRAPHER: The deponent may now be
13 sworn in by Yvette Rodriguez of Lawyers
14 Solutions Group.

15 -oOo-

16 Whereupon,

17 TELLER,

18 having been first duly sworn to testify to the
19 truth, the whole truth and nothing but the truth,
20 was examined and testified as follows:

21 -oOo-

22 THE VIDEOGRAPHER: You can begin, sir.

23 EXAMINATION

24 -oOo-

25 MR. DOGGE: Hello -- hello, Mr. Dogge. Am

1 I pronouncing your name correctly?

2 Q My name is pronounced Dogge. Yes.

3 A Dogge.

4 Q Thank you very much for this, Mr. Teller.

5 Good morning, Mr. Teller.

6 A Good morning.

7 Q How are you?

8 A I am fine. I am hoping that, you know,

9 this conversation will help resolve all of this as

10 quickly and as amiably as possible. As you know, I

11 felt that way since the beginning.

12 Q Okay. So yeah, I prepared a lot of

13 questions, and I hope the same, that we can clear

14 out this -- this issue -- this dispute as soon as

15 possible in a comfortable way.

16 A Splendid. Yes.

17 Q Sorry -- sorry for my bad English. So

18 Mr. Teller, if you don't understand my bad English,

19 just tell me.

20 A Of course.

21 Q And I will not be offended. And I will do

22 my best to explain what I meant with my question.

23 A Thank you very much.

24 Q Okay. Yeah. I learned this on the

25 internet, so I do -- I am going to do what I just

1 learned. Mr. Teller, is there any reason that you
2 cannot fulfill your obligations as a witness in this
3 deposition, such as a medical reason, diverse range,
4 or another?

5 A No.

6 Q So that's good. Sorry for asking you
7 this, but --

8 A No. No.

9 Q But do --

10 A Of course.

11 Q -- do you take any drugs -- do you take
12 any drugs, alcohol, or medicine that can affect your
13 ability to answer my question?

14 A No, sir.

15 Q Okay. Mr. Teller, I want to start with
16 the most important question. Did you inform your
17 lawyer. Mr. Tratos, from the Greenburg Taurig law
18 firm completely regarding all the emails that have
19 been phone conversations that have happened between
20 the two of us?

21 A Yes. To the best of my ability, yes, sir.

22 Q Okay. And do you receive a copy from all
23 communications, all documents, emails, letters,
24 phone conversation between your attorneys and me?

25 A I believe I am updated on that, yes.

1 Q Okay. So you have had an opportunity to
2 see and to read all the documents?

3 A So far as I know, yes, sir.

4 Q Okay. Okay. Mr. Teller, do you also
5 inform your lawyer about all the communications you
6 had with all of the other persons regarding this
7 litigation, in general? For instance, as for
8 example, Mr. Gunther Gunier?

9 A Yes.

10 Q Yes. Okay. I think I need to ask you
11 this in a legal way. Can you please state your full
12 name and address for the record?

13 A Yes. My full name is Teller. My home
14 address is 7570 Gary Avenue, Las Vegas, Nevada
15 89178. My office address is care of Penn & Teller
16 at 3555 West Reno, Unit L, Las Vegas, Nevada 89118.
17 Sorry.

18 Q Thank you much. Thank you very much,
19 Mr. Teller. Since when do you live there,
20 Mr. Teller, in Las Vegas?

21 A I've been in Las Vegas, I -- I -- forgive
22 me. It's -- I've lived in my current house about
23 for about fifteen years. And I think I have been in
24 Las Vegas for about 20.

25 Q Yeah. Okay. Impolite question, but how

1 old are you, Mr. Teller?

2 A Oh, not an impolite question. I am 65.

3 Q Sixty five. Are you married -- are you

4 married, Mr. Teller?

5 A I am not.

6 Q No. Do you have children, Mr. Teller?

7 A I do not.

8 Q Okay. What is your educational

9 background, Mr. Teller?

10 A I am a -- have a bachelor of arts in

11 classics. That is a Latin and Greek from Amherst

12 College. That's A-M-H-E-R-S-T College in

13 Massachusetts.

14 Q What -- do I understand -- sorry. I am

15 European, but do I understand by classics?

16 A Classics is Latin and Greek.

17 Q Okay --

18 A The old Latin and Greek. Not the modern

19 term Latin.

20 Q Okay. And I -- I think I know, but I have

21 to ask you this. What is your profession,

22 Mr. Teller?

23 A I am an entertainer. I'm a writer. I am

24 sometimes a theater director and sometimes film

25 director. My primary occupation is as a performer,

1 primarily in the area of magic and comedy.

2 Q Yeah, I thought so. And at what age did

3 you start working, Mr. Teller?

4 A I started working -- could you clarify

5 that.

6 Q Yes. At what age -- how old were you that

7 you -- when you start working?

8 A When I started --

9 Q At what age?

10 A I started --

11 Q Working. Working.

12 A -- working as an entertainer?

13 Q Yeah. Yeah -- no. Your first -- your

14 first -- I started working when I was 14. I start

15 working in a garbage as a car mechanic. So at what

16 age did you start working? I mean, what kind of

17 professional?

18 A I had various jobs as a teenager and a

19 student. I distributed free samples of paper

20 towels. I worked in a gum ball machine place, where

21 they distributed those -- again, those little

22 machines that had balls with gum and candy on the

23 outside. Let me see, what else did I do? Then --

24 then for six years, after college, I worked as a

25 teacher of Latin in the secondary school in New

1 Jersey in a public school. And then since then,
2 since 1975, I have been a professional entertainer,
3 and writer, and so forth.

4 Q Okay. Did you ever perform magic in the
5 schools, Mr. Teller?

6 A I'm sorry. Excuse me. My microphone just
7 fell off. Okay. But you have to forgive me with
8 that.

9 THE VIDEOGRAPHER: The clip fell there,
10 so.

11 THE WITNESS: Okay. So just put it did --
12 did I ever perform magic in the schools?

13 Q Yes.

14 A On rare occasions, yes. On special
15 occasions, I think I did some. It's been quite a
16 long, long, long while. I was working part time as
17 a magician while I was teaching. But it wasn't
18 really productive with much of an income. It was
19 more, you know, it was more -- it was a passion,
20 which it still is.

21 Q Yes. That's -- that's how it started,
22 probably, huh?

23 A It started when I was -- actually, when I
24 was five years old. The passion began when I was
25 five years old, and I had a terrible heart ailment.

1 And my parents had to -- my parents encouraged me to
2 watch a TV show that had a magic clown on it. And
3 the magic clown offered a magic set. And they sent
4 away for the magic set, had I became just fascinated
5 with magic. I pursued it all my life.

6 Q Sorry to that you had a heart problem.

7 Sorry for that, Mr. Teller.

8 A Well, I know we -- we both had fairly
9 sever physical problems in our lives and we have
10 overcome them. So more power to both of us.

11 Q Yeah. How old were the kids, Mr. Teller,
12 in the -- in the school when you were performing
13 these magic tricks for the kids at school?

14 A I was a high school teacher. So they
15 range -- high school and part of junior high school,
16 so they ranged from 18 -- 16. Probably to 18 to 14
17 and 13.

18 Q Okay. Yeah.

19 A But again, this was only on -- this is on
20 special occasion. This is not something that I
21 routinely did.

22 Q Difficult audience, the kids. They see
23 all. The see all?

24 A They make known what they -- they make
25 known what they see, for sure.

1 Q Yeah. Mr. Teller, are you a member of any
2 magic union or federation?

3 A I am not. No, I am not. I have never
4 been a joiner of organizations.

5 Q Not belong to the magic circle or the --

6 A No. I was -- I was given an honorary
7 membership to the Magic Cattle, when they wanted to
8 honor me as magician of the year, which they have
9 done twice.

10 Q Okay.

11 A But I wasn't -- but I have never joined
12 the IBM or the SAM or any of those organizations.
13 Again, I am just not -- I am not much of a joiner.

14 Q Yeah. And did you have a special reason
15 for not joining these kinds of unions?

16 A No.

17 Q Did it have something to do with the
18 oaths? They normally they ask you to swear to an
19 oath. Did you ever swear the oath to the magicians?

20 A I don't know what you mean.

21 Q Magicians -- I learned it on the internet.
22 I learned that this kind of unions are -- they make
23 an oath. If you want to do magic, and you want to
24 be a professional magician, you have to swear that
25 you will never reveal your secrets or no tricks to

1 another magician. This kind of things. You heard of
2 it; no?

3 A I don't -- I know that there is a certain
4 confusion among magicians between legal correctness
5 and artistic correctness, where magicians often
6 forget that the reason that we rarely explain magic
7 tricks to the audience is because it decreases their
8 enjoyment. It's not -- it's nothing beyond that.
9 It's an artistic role.

10 Q Yeah. But you never swore -- swore on --
11 you never --

12 A Absolutely not.

13 MR. TRATOS: Objection. Asked and
14 answered twice now.

15 MR. DOGGE: Sorry.

16 MR. TRATOS: Objection. You've asked and
17 the question has been answered twice now.

18 MR. DOGGE: Oh, I didn't hear the answer.

19 Sorry for that.

20 THE WITNESS: The answer is no, sir.

21 MR. DOGGE: Okay.

22 BY MR. DOGGE:

23 Q Okay. Mr. Teller, let's speak about the
24 show of pen and Teller Fool Us.

25 A Yes.

1 Q I have seen this show on the internet.

2 Can you please describe this show for me,

3 Mr. Teller.

4 A Yes. It was a competition show in which

5 we challenged magicians to come on and fool Penn &

6 Teller.

7 Q Okay. So I understood that it was a

8 challenge for them to do a trick which you couldn't

9 explain how it was done; is this right? Do I

10 understand this right?

11 A A trick in which we could not understand

12 how it was done, correct.

13 Q Yeah. So I am sorry, I have to do my

14 paperwork now.

15 A Sure. Sure.

16 Q In other words -- in other words, it was

17 actually a double challenge. It was a challenge

18 from Penn & Teller to the magicians, like, try to

19 fool us, if you can. And the other challenge was

20 from the magicians or the performers to Penn &

21 Teller, like, we will do a trick on you and you

22 can't figure it out, how it goes. Is this was a

23 challenge for you then?

24 A Yes.

25 Q Is this right --

1 A The -- the actual idea of the show is
2 that, in so many competition shows that you see on
3 television, the nature of the competition is that
4 the judge is whimsical, the judge decides just by
5 what he happens to like.

6 Q Yeah.

7 A And we always felt that it was very
8 unfair, because that just -- that doesn't depend on
9 any real criteria. Where this was a simple
10 objective way to test a magician's ability to fool
11 another well posted magician.

12 Q Yea.

13 A And it was very well -- it was very well
14 received by really, by magicians in general,
15 especially.

16 Q I could see that. I like it very much.

17 A Thank you.

18 Q Yeah. And I sometimes I wonder now, did
19 you know in advance, did you know in advance who
20 would perform and which tricks they in turn would do
21 for --

22 A No.

23 Q -- in their attempts to fool you?

24 A No, we did not.

25 Q You didn't?

1 A No. We had -- we had a whole staff whose
2 job was to keep from us that information, so that we
3 would come in completely without any knowledge.

4 Q You don't think it was a risk for the Penn
5 & Teller shows?

6 A Well, yes. That's the whole -- the whole
7 joy of it was we failed several times and magicians
8 fooled us. And we -- we were expressing our joy at
9 being fooled.

10 Q Okay. I mean, risky in another way.
11 Suppose that someone can fool you, for instance,
12 with a performance similar to your shadows and
13 suppose they did it in a transparent vase using a
14 different flower. This was a risk for you, don't
15 you think so?

16 A I beg your pardon? Clarify what you mean.

17 Q Suppose, since you say you don't know that
18 which performer was coming in front of you and you
19 didn't know in advance what kind of tricks he was to
20 perform. What if he was to perform a trick done by
21 you or done by Penn & Teller, the bullet trick, I
22 don't know, the goldfish or the trick with the
23 shadow --

24 MR. TRATOS: Let me interpose an objection
25 here. I am going to object that it is an

1 incomplete hypothetical, which calls for
2 speculation by the -- by the deponent.

3 You can answer the question.

4 THE WITNESS: No. Mr. Dogge, we had a
5 staff of people that did not tell us who they
6 were bringing on, but they were very careful
7 about whom they selected. So -- and I'm sure
8 one of the criteria they used is that they
9 would bring on no cheap imitators of Penn &
10 Teller.

11 BY MR. DOGGE:

12 Q Yeah. Okay. So actually you made a list
13 which tricks were not allowed on the show?

14 A No. No. The people who -- the people who
15 were selecting the contestants knew our repertoire
16 very well.

17 Q Yeah. Okay. So this -- yeah. This is a
18 question about the performers in this show, in the
19 fool us show. Some of them were -- most of them
20 were magicians, I think, no?

21 A Yes. Yes. That's correct.

22 Q Yeah. Were they performing copyrighted
23 tricks? Did they have a copyright on there too?

24 A I have no way of knowing that.

25 Q Okay. What I understood seeing this show,

1 Mr. Teller, was that most of them, and I want to
2 think the same. They were hoping to fool you with
3 their trick without having a copyright --

4 MR. TRATOS: I'm going to -- objection.

5 Calls for speculation. Also, an incomplete
6 hypothetical.

7 Answer his question.

8 THE WITNESS: I have no way of knowing
9 that, Mr. Dogge. The only single episode --
10 the only single thing that I know about the
11 politics of the show was one time a performer
12 came on and was inadvertently imitating another
13 magician's performance. And our -- the people
14 who were screening the people didn't know about
15 that other performance. And we were terribly
16 embarrassed about that because we feel very
17 strongly that magicians who copy other people's
18 performance should not be celebrated.

19 Q Yeah. I understand you, Mr. Teller.

20 A Yes, you do.

21 Q I think -- no. Do you think -- what --

22 what is a clever way to get for you -- a new
23 inspiration for the Penn & Teller shows?

24 MR. TRATOS: Objection. Objection.

25 Incomplete question. Not clear at all. You

1 want to rephrase that, Mr. Dogge.

2 MR. DOGGE: I will reask my question.

3 BY MR. DOGGE:

4 Q The Fool Us shows, was this a clever way
5 to get many new ideas and new inspirations for the
6 Penn & Teller shows?

7 A No, sir.

8 Q Did you sign an agreement with these
9 performers that you will never use or abuse their
10 tricks or ideas?

11 A No, sir.

12 Q How about the litigation, Mr. Teller, you
13 filed a complaint against me for an allege copyright
14 infringement. I was surprised to see the evidence
15 filed in your exhibits. Mr. Teller, I have this
16 question: Would you have filed the same kind of
17 exhibits if I was a female person?

18 A Yes, absolutely.

19 Q Okay. And about your trick, shadows, how
20 long is the trick -- I don't know how to ask this
21 question. How many minutes does it take to perform
22 this trick on stage? How long does it take?

23 A I'm sorry. I've never timed it. I
24 believe it's in the neighborhood of two and three
25 minutes.

1 Q Yes. Would you call shadows an a illusion
2 or a magic trick?

3 A In magic the term illusion is often used
4 as a pretentious way of naming the word trick. I
5 prefer the simple word trick, but it -- it's both.
6 It's -- these are just two words for the same kind
7 of operation. In magic, actually, generally the
8 term illusion is confined to large pieces of stage
9 equipment, but -- but it certainly is an illusion.
10 There's -- this is quibbling over language.

11 Q So. Okay. It is an illusion and a magic
12 trick, let's say it like that.

13 A I think that would be fair to say, yes.

14 Q Yeah. Mr. Teller?

15 A Yes.

16 Q I don't want to go into the methods.
17 Absolutely not. I think it's your secret, and it
18 should stay your secret. But is there any slight of
19 hand involved to perform shadows?

20 A I -- I believe that we have not entered
21 into a protective agreement to talk about things
22 likes method. And that's what you're asking me.
23 You're asking me about things that -- when you say,
24 is there any slight of hand, you're asking me about
25 my method. And unless we were entered into a

1 protective agreement, I just can't answer that kind
2 of question for you.

3 MR. TRATOS: Mr. Dogge, this is Mark
4 Tratos. Since you have intentionally declined
5 to enter the protective order, which was
6 ordered by the Court, I am going to instruct
7 Teller that he cannot answer questions that
8 would reveal his trade secretes. That is not
9 protected, because you didn't order -- you
10 didn't sign the protective order that Judge
11 Foley instructed be signed.

12 Given that you have not done that,
13 anything that relates to trade secretes for Mr.
14 Teller and his performance, I will instruct him
15 not to answer because you have not specifically
16 asked correctly a question which is answerable
17 without having a protective order in place.

18 MR. DOGGE: I understand. I understand
19 your position, Mr. Tratos, but I didn't ask
20 anything -- what is a big secret -- I didn't
21 ask for the -- that's why I told you,
22 Mr. Teller, I don't want to go into the method.
23 I just asked you if this is -- if there is any
24 slight of hand --

25 MR. TRATOS: Slight of hand -- slight of

1 hand is a method, Mr. Dogge. And because
2 slight of hand is a method, if he answers that,
3 yes or no, either one of those answers will
4 then reveal information about the trick itself.
5 For that reason, it is an improper question
6 unless there is a protective order in place.

7 MR. DOGGE: I understand that. Actually,
8 this question Mr. Tratos, Mr. Teller is maybe
9 superfluid because this question is actually
10 answered already on the internet. But I wanted
11 the jury to understand if shadows could be a
12 difficult illusion or magic trick to perform.

13 On the internet you can see that it is not
14 so difficult and you can see it is not -- I
15 just wanted to clear it up for the jury.

16 BY MR. DOGGE:

17 Q So Mr. Teller, did you ever perform
18 shadows in a removal and transparent vase or bottle
19 filled with water and a removal rose stem? Do you
20 ever perform like that?

21 A No.

22 Q Oh. Now, I don't want you to go into my
23 methods, but do you think my methods, the rose
24 and/or shadow were difficult to perform?

25 A I don't know, sir.

1 Q You should know, Mr. Teller. Because it
2 was on the You Tube movie, and it was easy to
3 perform.

4 A I know that you asserted that it was easy
5 to perform, sir --

6 Q Yeah.

7 A -- but I don't believe that is true.

8 Q Yeah.

9 A I have no way of knowing that it was true.
10 It was in an advertisement, you know.

11 Q Yeah. Okay. I tell you that it is easy
12 to perform.

13 A Well, good.

14 Q So Mr. Teller, why did you never performed
15 shadow -- shadows that are removal in transparent
16 glass or bottle with a removal stem? Why did you
17 never do that?

18 MR. TRATOS: Objection. Incomplete
19 hypothetical. Calls for speculation.

20 You can answer the question.

21 THE WITNESS: The central image of the
22 trick is the rose, the shadow in a vase that is
23 reminiscent very much of Japanese art. The
24 whole look of it is very Japanese and very
25 simple. The idea of performing it in a

1 transparent vase didn't occur to me at any
2 point. It didn't interest me in any point,
3 because it didn't go with that imagery.

4 BY MR. DOGGE:

5 Q Okay. And the removal stem, what is
6 that -- you never considered to -- to improve your
7 shadows version with a removal stem, completely
8 visible stem?

9 A Over the years, I've considered all sorts
10 of possibilities. I am very, very happy with the
11 way my piece plays. The only reason that I have
12 ever considered to possibly remove the stem was if,
13 in my final gesture, I would prick my finger on --
14 on the thorn of the rose. But that is not very
15 practical for me, because I play in large theaters
16 in which the vase and the moving of the stem would
17 be irrelevant to the final gesture of the piece.

18 Q Mm-hmm. Okay. And do you see ever -- did
19 you ever see another person except me, expect
20 Bakardy, performing this magic trick with a removal
21 rose in a removal transparent bottle with water,
22 filled in water?

23 A No. I never saw my trick performed that
24 way.

25 Q Mm-hmm.

1 A Except with you -- except, of course, with
2 your -- with your copy.

3 Q No. Mr. Teller, I didn't ask you -- you
4 have to listen to my question. I didn't ask if you
5 ever saw another person performing -- I ask you if
6 you ever seen a person, except Bakardy, performing a
7 magic trick with a removal rose, in a removal
8 transparent bottle filled with water on a floating
9 and removable table, making the rose falling apart
10 on the magician's hand? Did you ever see another
11 person doing this, except Bakardy?

12 A I never saw another person copy my trick
13 in this way except Bakardy.

14 Q You don't answer my question, Mr. Teller,
15 but --

16 A I believe I have answered your question --

17 MR. TRATOS: I am -- I am going to object
18 to this. It's been asked and answered twice.

19 MR. DOGGE: It's never been answered.

20 So --

21 Q He said, no, he has never seen anyone but
22 you to perform his illusion in the manner you
23 described it.

24 MR. DOGGE: That's the correct answer. I
25 thank you.

1 BY MR. DOGGE:

2 Q So Bakardy was the only one you know who
3 does this?

4 THE VIDEOGRAPHER:

5 MR. TRATOS: Mr. Bakardy, your question --
6 your question is incomplete. It's already been
7 answered twice. Move to the next question,
8 please.

9 BY MR. DOGGE:

10 Q How do you do -- how you became aware of
11 Bakardy's illusion, Mr. Teller?

12 A I became aware of your copy of my trick
13 when my friend Matt Holtzclaw from New York e-mailed
14 me, saying that he had -- that he had seen it on the
15 internet.

16 Q All right.

17 A And he was shocked and offended.

18 Q Of course. Do you know the name of this
19 friend of yours? Can you spell his name?

20 A Yes. Matthew, M-A-T-T-H-E-W. Holtzclaw,
21 H-O-L-T-Z-C-L-A-W.

22 Q Okay. When did he inform you.

23 Mr. Teller -- sorry. You said that he e-mailed you
24 or he called you?

25 A He e-mailed me.

1 Q Okay. So, if -- if necessary, you could
2 show this e-mail?

3 A Yes.

4 Q Very good. Do you remember on what date
5 he emailed you, Mr. Teller?

6 A I don't. But we could -- I can consult my
7 records for that later, if you wish me to.

8 Q Yes. Please, Mr. Teller, do so. I would
9 like to see this e-mail.

10 A Of course.

11 Q Yeah. I have a question. How many
12 persons are you aware performing a similar illusion
13 to Teller's illusion?

14 A Clarify that, please, would you? You mean
15 in stage acts? In performing stage acts --

16 Q I -- I try again. How many persons do you
17 know -- are -- are you aware are performing similar
18 illusions than yours shadows illusion? Doesn't
19 matter where. On stage, or on the internet, or on a
20 big theater or a small theater. It doesn't matter
21 where. How many persons do you know, Mr. Teller,
22 are performing your illusion?

23 MR. TRATOS: Objection. Compound
24 question.

25 You may answer the question, if you

1 understand it.

2 MR. DOGGE: I just explained it --

3 THE WITNESS: As far as I know, there is
4 one magician who goes by the name of Hector is
5 Magic, who is performing a similar illusion
6 based on mine. He contacted me, asked me for
7 permission to perform this similar illusion.
8 We came to an agreement that restricted very
9 strongly his circumstances under which he could
10 perform it. All right. And he has held to
11 that agreement with me.

12 BY MR. DOGGE:

13 Q Okay. Is Hector the only one you know?

14 A He's the only one that I know who is a
15 professional performer working with this on stage.
16 Since --

17 Q Mm-hmm.

18 A -- since you have called my attention to a
19 couple of internet sites where people are doing what
20 they call a Teller tribute, I think I'm aware of
21 those as well. There is perhaps two. I am not
22 sure. I don't -- let me say this, I don't routinely
23 scan the internet for this. This is not -- this is
24 not a thing that I am -- I am very much vigilant
25 about. Only when it's called to my attention, and

1 the person is going to sell their prop of my trick

2 do I become concerned.

3 Q Mm-hmm. Okay. Again about this Hector,

4 Mr. Teller. When is the first time that you

5 discovered this Hector doing your shadows mimimation

6 or copy of Teller's?

7 A To the best of my recollection it was when

8 Hector contacted me, saying that he had seen my show

9 years ago, had -- had purchased a prop, not

10 realizing that that it was not -- that it was not

11 made with my permission and -- and that he had been

12 inspired by it to it -- around a different routine.

13 That's the same routine that you claimed to have

14 invented. And -- and he said to me, I will take

15 this out of my show. It is wrong of me to be doing

16 this, but if you would consider permitting me to do

17 this with some sort of formal agreement, I would be

18 very grateful. That's how he approached me.

19 Q Okay. I think you forgot my question.

20 The question was: When, Mr. Teller? When did he

21 inform you of that?

22 A I -- I don't recall. About, you have been

23 delivered all of Hector's correspondence, to my

24 recollection. So you should be able to confirm

25 that.

1 Q No. No. I didn't, Mr. Teller. The only
2 information I have from Hector is what I see from
3 the internet, but of course I don't have any
4 information about the agreement between the two of
5 you. So there --

6 MR. TRATOS: Mr. Dogge -- Mr. Dogge, if
7 you let me impose an objection. Again, we have
8 asked you to enter a protective order. The
9 agreement between Teller and Hector is an
10 agreement that is proprietary. It contains
11 confidential trade secret information.

12 MR. DOGGE: I --

13 MR. TRATOS: As a result we have -- hold
14 on. Let me finish -- let me finish the
15 objection, Mr. Dogge --

16 MR. DOGGE: I did not --

17 MR. TRATOS: Mr. Dogge, let me finish the
18 objection --

19 MR. DOGGE: I did not ask you any details
20 about this agreement. I just ask you when.
21 That's the only thing. You don't need a
22 protective order to tell me when you contacted
23 Mr. Hector or when he contacted you --

24 MR. TRATOS: He told you he does not
25 recall.

1 MR. DOGGE: Sorry?

2 MR. TRATOS: He told you he does not

3 recall.

4 BY MR. DOGGE:

5 Q Can you look it up, Mr. Teller? You must

6 have a copy of this on an e-mail copy?

7 A If you would like me to, I can do that.

8 Q Yes, please, Mr. Teller. If you can

9 provide me this e-mail as well.

10 So you that solved that situation

11 with Hector in a friendly way --

12 A Yes.

13 Q And you would agree --

14 A Absolutely, because -- yes, because Hector

15 came to me, asked my permission, and made sure that

16 what he was doing would in no way compete with what

17 I was doing.

18 Q Okay. Very good, Mr. Teller. Did you ask

19 for money --

20 A I believe that's protected, sir.

21 MR. TRATOS: Objection again. It invades

22 the --

23 MR. DOGGE: Yeah --

24 MR. TRATOS: -- objective that we have

25 had, which was not a protective order. That

1 kind of information is available to you if you
2 would have signed the protective order. Then
3 you would have had that --

4 MR. DOGGE: It's not that important. It's
5 that important for me to sign a protective
6 order. Thank you very much.

7 BY MR. DOGGE:

8 Q Mr. Teller, in your first e-mail to me --

9 A Yes, sir.

10 Q So it has nothing to do with the
11 protective order because you had the email sent to
12 me.

13 A Yes.

14 Q You stated that you normally pay \$7500 for
15 developing such an illusion, but you offered me the
16 double, 15,000. Why do you do that?

17 A Because I -- I wanted to be to generous to
18 you, sir. Forgive me. You're incorrect. That was
19 not my first e-mail to you.

20 Q Okay. Let's think about that -- that
21 e-mail.

22 A Yes.

23 Q Where you offered me the \$7500.

24 A Yes, sir.

25 Q The first e-mail was can we start with --

1 A That is correct.

2 Q Yes. So again, Mr. Teller, why did you
3 offer me the double, 15,000 instead 7500?

4 A Well --

5 MR. TRATOS: Objection. Asked and
6 answered.

7 You can answer the question.

8 MR. DOGGE: I didn't hear the answer.

9 Sorry.

10 THE WITNESS: Yes. What I explained to
11 you -- are you still with us there? I've seen
12 the screen go blank? Are you still with us?

13 Q I hear you. Yes.

14 A The screen --

15 Q Okay.

16 A Forgive me. I was just distracted by the
17 screen. I believe I explained in the e-mail that
18 I --

19 MR. DOGGE: Excuse me. Excuse me for a
20 second. I have to speak with Humberto.

21 THE VIDEOGRAPHER: The time is
22 approximately 11:36 a.m. We're going off the
23 record.

24 (Off the record.)

25 THE VIDEOGRAPHER: The time is

1 approximately 11:38 a.m. We are back on the
2 record.

3 Mr. Dogge?

4 MR. DOGGE: Yes, I am here.

5 THE VIDEOGRAPHER: Are you ready to begin?

6 MR. DOGGE: Can we start again?

7 THE VIDEOGRAPHER: Yes. We're back on the
8 record.

9 BY MR. DOGGE:

10 Q Okay. Mr. Teller, can you understand me?

11 Can you hear me?

12 A Yes, I can. Clearly, sir.

13 Q Very good, Mr. Teller. So I repeat the

14 last question. So in that e-mail you offered

15 15,000.

16 A Oh, yes.

17 Q You say that you pay 7500. So --

18 A Yes.

19 Q -- so I wonder why you pay me the double?

20 A I -- I will explain that. There -- there

21 are two parts -- two things that I was trying to

22 accomplish for you. I was -- I was trying to make

23 it possible for you to do the right thing, but not

24 to lose your development costs. That was my

25 principal -- my principal aim. Now, in this, I -- I

1 saw a remote possibility that there might be some
2 piece of what you had done that could possibly be of
3 value to me. I didn't know what it would be,
4 because your -- your rose operates in a very
5 different manner, in the sense that it is not
6 magical the way mine is. So I was -- I was very --
7 I was discouraged by that, thought there was the
8 only slimmest possibility that there would be value
9 to me.

10 But if I had been asking a developer,
11 one of my own developers, one of my -- one of my
12 people that I would use in Las Vegas to try to make
13 an improvement on an existing trick, I thought 7500
14 would be a very reasonable amount. But I realized
15 that you had put a great deal of effort into the
16 development of your version of my trick. And I,
17 after explaining the moral position, which I feel
18 very strongly about, that magicians who copy other
19 people's tricks are not to be tolerated. And
20 particularly, a magician who copies a signature
21 trick and offers to sell it should not be tolerated.
22 I thought at that time that you were an honest and
23 good man. I really did. You convinced me that you
24 were a hard working man. And I thought, as a
25 generous offer that I would double that I would pay

1 a developer in Las Vegas to defray your costs.

2 I'm sorry. Do you hear me? We lost
3 him.

4 THE VIDEOGRAPHER: The time is
5 approximately 11:40 a.m.

6 We're going off the record.

7 (Off the record.)

8 THE VIDEOGRAPHER: The time is
9 approximately 12:02 p.m. We are back on the
10 record.

11 Mr. Dogge?

12 MR. DOGGE: Okay.

13 THE VIDEOGRAPHER: Please begin.

14 BY MR. DOGGE:

15 Q Yes. Here we are again. So shall I
16 repeat the last question, Mr. Teller? In your first
17 e-mail, you said that you normally pay 7500 for
18 people for developing such an illusion, but now you
19 offered me the double, 15,000. Why did you do that?

20 MR. TRATOS: The question has been asked
21 and answered. I am going to ask the court
22 reporter to read back Teller's answer.
23 Apparently, you did not hear it, but the court
24 reporter was able to take it down. So I will
25 have her read that back for you, Mr. Dogge.

1 MR. DOGGE: Okay.

2 (Record read.)

3 BY MR. DOGGE:

4 Q Okay. That is the answer?

5 MR. TRATOS: That's the answer, sir.

6 BY MR. DOGGE:

7 Q Okay. I want to -- to understand. I
8 think I managed, but I am a little bit confused,
9 Mr. Teller. In your answer, you said that a guy
10 like me couldn't be tolerated because I was copying
11 your trick. That's what I understood, correct, no?
12 That's what you said?

13 A That someone --

14 Q Is that what you said?

15 A That someone -- yes, I said that someone
16 who copies another magician's signature piece
17 without any sort of permission or any sort of
18 agreement is unacceptable to me. And it's
19 unacceptable to a large portion of the magic
20 community who understands that there is -- there is
21 sort of a gentleman's agreement in place, that
22 people ought not to do that. Now, there are crooks
23 who do that, but I didn't think that you were one.

24 Q Mm-hmm. So but still I am confused,
25 because you almost called me a crook, but you wanted

1 to pay 15,000, right --

2 A No, sir --

3 Q I -- I go to the next question. I go to

4 the next question, Mr. Teller.

5 A Thank you.

6 Q I send you -- I sent you several emails

7 asking you to explain -- to explain me your

8 intention or reason why you are file print of screen

9 shots with some of these documents of weird letter

10 combinations and words. And I call it for you.

11 Highlight, scales, CD and Y, and magazine, the

12 excellent, carbon, and too long (PHONETIC).

13 Remember, answer the question, Mr. Teller, why did

14 you think it was important to have these words above

15 my head and picture. So I ask you now, what was the

16 reason for doing so?

17 MR. TRATOS: Let me interpose an

18 objection. It's a compound question.

19 Teller, you can answer the question.

20 Objection.

21 THE WITNESS: It was simply an oversight.

22 It was an oversight. The important part was to

23 show that you were advertising, for a price, my

24 piece, my signature piece. And you mentioned

25 my -- you were obviously trading on my success

1 with this piece. That is what was important.

2 It was an oversight and it was corrected two

3 days later. The moment you called it to our

4 attention and said that you were offended, we

5 instantly removed it because it's irrelevant to

6 the case.

7 BY MR. DOGGE:

8 Q You call it irrelevant --

9 A Yes, sir.

10 Q -- yet it was one of my -- now, okay. But

11 again, Mr. Teller, I need to ask you again because

12 there is legal evidence and how these documents, my

13 name and my picture is under these words. And I

14 would like to know what these words are spelling

15 for. So it's not a compound question. But can you

16 tell me what are the shortcuts to web links is for?

17 A That's called a bookmark bar. And it

18 indicates sites that the -- the person who owns the

19 computer has retained to return to investigate out

20 of curiosity or out of regular visits.

21 What was -- what was included there

22 was also, there were no live links. That is to say,

23 if you happen to look, in the two days that -- that

24 was -- that was available for viewing, in those two

25 days, if you happen to look at that document, there

1 was no way that you could click on that and know
2 anything about what those -- those things were. Let
3 me --

4 Q Thank you --

5 A There is no way that you can click on that
6 and be directed to the cites, sir.

7 Q No. I understand that, sir.

8 A Yes, you do.

9 Q You have to click on a document. I
10 understand that.

11 A Yes.

12 Q But I think you are mistaken a little bit
13 now because in the screen shot, that we speak about
14 now, there was no price mentioned, like you say,
15 that I want to sell my product, my invention, my
16 creation. There was no price on that document,
17 Mr. Teller.

18 And I think you were also confusing
19 the two days. This document was downloadable on the
20 internet for fourteen, full fourteen days, two
21 weeks, Mr. Teller. And this document was now spread
22 all over the internet -- but that is not my
23 question --

24 MR. TRATOS: Objection -- objection. That
25 is not a question. That's a statement. So if

1 you have a question for Mr. Teller --

2 MR. DOGGE: Yeah. I don't need an
3 objection, Mr. Tratos. I just -- this is not a
4 question. I will ask him my question right
5 now.

6 BY MR. DOGGE:

7 Q Mr. Teller?

8 A Yes, sir.

9 Q Explain me the shortcut highlight stand
10 for. Highlight. This is one of the words from this
11 bookmark bar?

12 A Okay I won't guarantee --

13 Q What does it stand for?

14 A -- I won't guarantee what I will remember
15 every single -- every single thing on that bookmark
16 bar because it's been quite a long while.

17 Highlights --

18 Q Mm-hmm.

19 A Highlights refers, I believe, to -- in
20 fact, I am certain of that. Highlights, there's is
21 a book reader called Kindle. And when you read
22 passages in the Kindle, you can highlight passages.
23 Those -- those highlights go via wirelesses to the
24 internet, and your favorite passages in those books
25 are then -- are then listed on a website that you

1 can go to. And sometimes when I read a book --

2 Q Okay. Mr. Teller --

3 A I'm sorry. Would you like me to complete

4 the answer? Sometimes --

5 Q No.

6 A I'm sorry.

7 Q I understand.

8 A Okay. You don't get -- that's all

9 right --

10 Q Thank you very much.

11 A Mm-hmm.

12 Q And the other ones, the other ones, the

13 one next to highlight, scales. What does this stand

14 for, Mr. Teller? Just the short --

15 A Scale, I think, if I remember correctly,

16 at that time I was using a weight control program in

17 which my scale, the scale that I would step on in

18 the morning to record my weight would record my

19 weight on a website. I think that's what that was.

20 Q Okay. Thank you very much for answering

21 me this question, Mr. Teller. And the shortcut

22 Tyler, what does this stand for?

23 A I -- I am afraid I don't remember what

24 that was. I honestly don't. This is -- you're

25 talking about a year and a half ago. And my -- the

1 bookmark bar changes all the time for me.

2 Q Yeah, I can imagine that. But at that

3 time there was also D P N Y, something, I think

4 New York or something. I don't know what, P D N Y.

5 A PDNY, I --

6 Q Can you tell me this shortcut?

7 A -- I believe that PDNY referred the

8 presbyterials (PHONETIC) for a website for a play

9 that I wrote and directed in New York called Play

10 Dead.

11 Q Okay. And then the other one, Mr. Teller,

12 can you explain what the shortcut men to stands for.

13 A Men to is an adult website, I believe.

14 Q I believe so too, yes. Can you describe

15 more about this men to, what kind of adult movies

16 you can find over there?

17 MR. TRATOS: I am going to object to the

18 question. It's irrelevant to the question.

19 It's irrelevant to this litigation. It is

20 designed to elicit information for you in the

21 Belgium case. That is improper. I am going to

22 direct Mr. Teller not to answer that question.

23 MR. DOGGE: Mr. Tratos, this question is

24 the same relevant for highlight, scale, DPNY --

25 MR. TRATOS: And he --

1 MR. DOGGE: -- words --

2 MR. TRATOS: And he -- and he had -- and
3 he had answered --

4 MR. DOGGE: Those are evidence what is
5 filed against me, Mr. Teller -- Mr. Tratos. I
6 have to defend myself on this document.

7 MR. TRATOS: Mr. Dogge --

8 MR. DOGGE: I have another question.

9 MR. TRATOS: Mr Dogge?

10 MR. DOGGE: I have another question.

11 MR. TRATOS: Mr. Dogge, let me finish my
12 answer, sir. He has answered the question,
13 identified what it was. That's what you're
14 entitled to. Go onto your next question.

15 BY MR. DOGGE:

16 Q Okay. Good, Mr. Teller. Can you explain
17 to me the shortcut CX (PHONETIC), what is this
18 standing for?

19 A That is also an adult website.

20 Q Okay. And can you explain the other
21 words, Corbin. How this bookmark bar, what does
22 this stand for, Corbin?

23 A Well, let me point out something to you
24 Mr. Dogge, if you were to do an internet search
25 right now and put the word Corbin in, the first

1 entry that you would find on Corbin, I think, is a
2 motorcycle company. All right. But I will say
3 again, in absolute honesty, in this case, this was
4 an adult website.

5 Q Oh, okay. And the last one, which was on
6 the end of the bar. Can you explain the shortcut
7 twittle (PHONETIC)?

8 A Yes. I -- that I am familiar with. There
9 is a -- there is a social network called Twitter.
10 And Twitter limits the number of characters that you
11 can post to 140, I believe. If you have a message
12 that is too long for Twitter, they have a website
13 that you can go to where you can post a longer
14 message, and part of it will be then delivered to
15 the Twitter website.

16 Q Okay. I don't know that, Mr. Teller. I
17 don't use Twitter, so sorry for being old fashion,
18 maybe. Sorry we have to --

19 A Do you know the abbreviation OED --

20 Q So --

21 A Excuse me. Mr. Dogge, do you know the
22 abbreviation, OED? That stands for Oxford English
23 dictionary. That's I think always on that bookmark
24 bar as well. And I think Amazon is a -- is a
25 commercial company that is also on that bookmark

1 bar. I believe there were 18 sites -- or 17, 18, 19
2 sites on that bookmark bar. All of it absolutely
3 irrelevant to the fact that you were posting an
4 advertisement for my trick.

5 Q Mm-hmm. I hear you -- I hear you say that
6 it is irrelevant, but I don't think, in the next
7 question, Mr. Teller. Then again, I am going to ask
8 you this question: Explain me in what way did this
9 help you to prove the alleged copyright, this
10 bookmark of this evidence of this exhibit --

11 MR. TRATOS: Objection. Asked and --

12 BY MR. DOGGE:

13 Q Which way did it help you?

14 MR. TRATOS: Objection. Asked and
15 answered. He has advised you that it is
16 irrelevant.

17 MR. DOGGE: Okay.

18 THE WITNESS: And it was inadvertence.

19 BY MR. DOGGE:

20 Q Then I have to go -- sorry?

21 A And it was inadvertent.

22 Q I don't understand it, Mr. Teller. Can
23 you --

24 A Accidental.

25 Q Can you?

1 A Accidental. It was an oversight.

2 Q Yeah.

3 A If it had been important to the case, it

4 would have been retained and not redacted.

5 Q Okay. I have to go back to my -- to my

6 next -- not to go back. Go further, I think, to my

7 next question.

8 A Okay, please.

9 Q In the -- in the second set of my requests

10 in the discovery, Request No. 45, I asked you this

11 question, actually. I asked you to, when I asked

12 you to admit that these were irrelevant to the

13 standing litigations, you denied this is relevant.

14 So at that time, I understood you thought they were

15 relevant and now you say they are irrelevant.

16 MR. TRATOS: Object --

17 BY MR. DOGGE:

18 Q Explain to me --

19 MR. TRATOS: Objection. Argumentative.

20 BY MR. DOGGE:

21 Q My question -- my question is -- I'm not

22 finished, Mr. Tratos.

23 MR. TRATOS: Okay.

24 BY MR. DOGGE:

25 Q So Mr. Teller, explain me in which way

1 were they relevant at the time you've answered the
2 discovery requests?

3 MR. TRATOS: Objection. It's
4 argumentative --

5 MR. DOGGE: Okay.

6 MR. TRATOS: To the extend that you want
7 to answer that question, you may.

8 THE WITNESS: I -- I don't understand the
9 question.

10 MR. TRATOS: Okay.

11 BY MR. DOGGE:

12 Q May I explain it to you, Mr. Teller.

13 A Yes. If you could, in some way, explain
14 what you're talking about. I have not a clue what
15 you're talking about.

16 Q Okay. Sorry for my English is so bad. I
17 try again.

18 A No. It's fine. Please, sir.

19 Q We are now -- we are now in the discovery.
20 You know that. We are in discovery, asking
21 questions to each other, answering each other.

22 A Of course.

23 Q And in the second set of my requests,
24 Request No. 45, 'cause I understand you don't
25 remember now which request is No. 45. But in that

1 request I asked you about these links. And I asked
2 you to admit that these links were irrelevant to
3 the pending litigation. And you denied the request.
4 You denied that it's irrelevant of website -- of the
5 web -- so I understood, for you, in that time, they
6 were irrelevant because you denied that they were
7 irrelevant. And now you say it's irrelevant. I get
8 confused, Mr. Teller --

9 A Mr --

10 BY MR. DOGGE:

11 Q So why do you think they were relevant at
12 the time that you were answering my discovery
13 requests?

14 MR. TRATOS: Mr. Dogge. This is Mark
15 Tratos. Let me pose an objection. You're
16 asking a question without either showing
17 Mr. Teller the complete answer, because his
18 complete answer is a much longer answer than
19 you're now stating it. You have not shown him
20 the answer, and you have not read the answer.
21 If you would like him to respond, please either
22 show him the complete answer or read him the
23 complete answer, and then he can respond.

24 BY MR. DOGGE:

25 Q Okay. I shall read it for you. The

1 request No. 45 -- Mr. Tratos, you can look it up
2 afterwards, if you like. Request No. 45, in the
3 second sentence of the admissions. And my request,
4 Mr. Teller, was this: Admit that the web links such
5 as man door, Corbin, fisher, too long has showed in
6 two screen shots in your exhibit filed on the 11th
7 of April, 2012 are conflict irrelevant in this
8 litigation about allege copyright. You understand
9 my question, Mr. Teller?

10 A I understand that question, I believe,
11 yes. What is our answer?

12 Q Yes. I ask -- and your answer was:
13 "Objection. This request is not relevant to the
14 pending copyright action, nor is it reasonably
15 calculated to lead to a discovery of admissible
16 evidence. Instead this request of information I
17 believe relate to the link in the Belgium defamation
18 case. And it accordingly outside of the scope of
19 the federal rules. This request is also vague and
20 ambiguous. With respect to the weblinks such as
21 Corbin fish too long. Because the question is not
22 intelligible the request is denied. That's what you
23 answered. It is denied. So my conclusion of that,
24 if you think, that this -- I ask that you admit that
25 this web links were irrelevant, but you denied it.

1 So I understand they were relevant for you, and now
2 you say they are irrelevant. So why did you, in
3 that time, answer deny it? You know, why you find
4 it irrelevant at this time?

5 MR. TRATOS: Objection. The question is
6 argumentative. It's been asked and answered.
7 And Teller has testified that it is irrelevant
8 for this purpose in the copyright case.

9 BY MR. DOGGE:

10 Q All right. Mr. Teller, just a question in
11 between Mr. Teller. Did you answer this question or
12 did Mr. Tratos answer the question in the admission?

13 MR. TRATOS: Objection. Invades the
14 attorney-client privilege. I will assure you,
15 Mr. Dogge, that every question that was
16 answered was answered with Teller's knowledge,
17 consent, approval.

18 THE WITNESS: I am afraid -- I am afraid,
19 Mr. Dogge, I think you may be confused by the
20 language. It may be a problem with the
21 language, because it's really clear that what
22 we were saying was that your question -- we
23 weren't speaking about the facts. We were
24 saying your question is irrelevant and
25 confusion; not this -- we weren't answering

1 your question. We were saying that your
2 question was improper.

3 MR. DOGGE: Mm-hmm.

4 THE WITNESS: And I think you're confused
5 by the language. And I can understand that, as
6 a non-English speaker, nonnative speaker, I can
7 understand that because legalese is very
8 difficult. It is one of the reasons why I so
9 wish you would have retained a proper attorney.

10 MR. DOGGE: No. No. Not -- my English --
11 I think my English -- yeah.

12 BY MR. DOGGE:

13 Q Mr. Teller, I go to my next question.

14 MR. TRATOS: Thank you.

15 THE WITNESS: Thank you.

16 BY MR. DOGGE:

17 Q This shortcuts or web links, they, at
18 first look weird to me. Especially on a document
19 used for legal evidence in a litigation about magic
20 tricks. I researched this web page and I was quite
21 surprised to find that they led me to gay oriented
22 parts. Now, again, Mr. Teller, I ask you the same
23 question about half hour ago, would you have filed
24 the same kind of exhibit if I was a female person --

25 MR. DOGGE: Objection. Asked and

1 answered.

2 BY MR. DOGGE:

3 Q If I was a mother?

4 MR. TRATOS: Objection. Asked and
5 answered, and argumentative.

6 You can respond.

7 THE WITNESS: The answer is yes --

8 BY MR. DOGGE:

9 Q I don't --

10 A No. Mr. Tratos objected, but I will
11 nevertheless answer. Absolutely, I would have filed
12 the same -- I would have made the same error of
13 accidentally including the bookmark bar.

14 Q Okay.

15 A Absolutely, it was simply -- it was simply
16 a filing oversight, and yes, a female illusionist
17 who would -- who would take my -- my creation and
18 try sell it on the internet in direct competition
19 with me would be just as bad -- would be just as bad
20 in my eyes as what you were doing, really.

21 Q Yeah. You would file the same exhibits
22 with the same bookmarks on it?

23 A As I said --

24 MR. TRATOS: Objection. Mischaracterizes
25 his testimony.

1 BY MR. DOGGE:

2 Q Mm-hmm. Okay. Mr. Teller, just limit
3 your -- your answer to the answer of my question.

4 A Certainly.

5 Q I seen that you come up with several
6 witnesses in this litigation. Did you do a
7 background check of these witnesses, criminal record
8 checks of these persons?

9 A Can you verify whom you mean?

10 Q You know, Mr. Teller.

11 A You're asking the question, sir. You
12 should really clarify about whom you mean.

13 Q Oh, I mean all of them?

14 A I -- you will have to be specific --

15 Q Question --

16 A You will have to be specific, please, sir.

17 Q Okay. Did you do a background check, a
18 criminal record check on Rafael, on Jackie Tejas? I
19 said it, Mr. Teller now.

20 A No, I did not.

21 Q It's a simple question --

22 A No, sir, I did not.

23 Q Okay. Don't you think that integrity of
24 these witnesses are important in this litigation --

25 MR. TRATOS: Objection. Argumentative --

1 BY MR. DOGGE:

2 Q Why didn't you check this out?

3 A Objection. Argumentative --

4 MR. DOGGE: Okay --

5 MR. TRATOS: -- you can answer the
6 question.

7 MR. DOGGE: Okay.

8 THE WITNESS: You ask --

9 BY MR. DOGGE:

10 Q Why didn't you check this out, Mr. Teller?

11 MR. TRATOS: Objection. Argumentative.

12 BY MR. DOGGE:

13 Q Okay. I ask the question --

14 A I also I didn't -- I must say I did not do
15 a background check for criminal activity on you
16 either, sir. I'm a rather --

17 Q Oh --

18 A I am a rather trusting individual.

19 Q Mm-hmm. Okay.

20 A I also didn't -- I don't believe you're
21 using the terms witnesses correctly; are you?
22 You're -- you're citing -- you're citing
23 correspondence that you requested, and you're --
24 these people were not called as witnesses, to the
25 best of my knowledge.

1 Q I receive another document coming from
2 you, Mr. Teller, or maybe from Mr. Tratos, and I
3 asked in the beginning if you were aware of all the
4 documents going on between the two of us and between
5 Mr. Tratos and Mr. Tratos and you did not know the
6 witnesses --

7 MR. TRATOS: The witness list --

8 THE WITNESS: Oh, as potential witnesses.

9 I understand. I understand. No -- the answer
10 to your question is no. I did not do a
11 background check on any of these people; nor on
12 you.

13 BY MR. DOGGE:

14 Q Okay. I think it's very important to do
15 that, Mr. Teller. Okay explain to me how are you
16 related with Gunther Gunier (PHONETIC)?

17 A When I discovered your infringing video on
18 the internet, I contacted people that I knew who
19 knew magicians who were well informed in Europe and
20 asked them if they could please -- and asked my
21 friend if he could please recommend a few people who
22 could give me some sense of who you were and whether
23 you were an honest and good person to deal with so
24 that I would know how to approach you.

25 Q Mm-hmm. So you -- so I understand this,

1 you got in contact with Mr. Gunther Gunier because
2 other people in Belgium referred you to him?

3 A No, because an America -- because an
4 American friend of mine who knows magicians
5 throughout the world said that Gunther was well
6 posted on the goings on in Belgium and around.

7 Q Okay. So how long then -- how long did
8 you know Gunther?

9 A Only since the beginning of this process.
10 My first inquiry --

11 Q Okay.

12 A -- my first inquiry was in response to
13 your infringing video.

14 Q Mm-hmm. Okay. Did you know he's
15 considered as one of the best magicians in Belgium;
16 did you know that?

17 A I don't --

18 Q He is a very good magician.

19 A Excellent. I am glad to hear that.

20 Q Yes. He's a very, very good magician.

21 A Excellent.

22 Q I adore his shows and performances. Do
23 you know that he organizes meeting and lectures for
24 the magic community on a monthly basis for the
25 Dutch, and the French, and the Belgium? Did you

1 know that?

2 A I did not.

3 Q Yeah. He does. He does. Do you know,

4 Mr. Teller, that he was a publisher of one of the

5 most famous and popular newspaper magazines for

6 magicians for Belgium and Holland --

7 A Yes, I did know that. I did know that,

8 yes.

9 Q Okay. Mr. Teller, I asked you to bring

10 your -- your -- how do you say? Your exhibits and

11 your evidence and I want to go over documents, Bates

12 No. 00064. Can you do that with you there,

13 Mr. Teller?

14 MR. TRATOS: Mr. Dogge, you have the

15 obligation of producing the exhibits at the

16 deposition. It's not your Mr. Teller's

17 obligation to produce these documents as

18 exhibits. That's your obligation. So we don't

19 have any such document physically here. It

20 would have required us to bring an entire

21 banker's box of files. If you want to have him

22 review a different document, you could fax the

23 document to this office, you can have it

24 produced here, and he can review it.

25 MR. DOGGE: Mr. Tratos, just like you

1 asked me to bring my evidence and my exhibits
2 to my deposition about three weeks ago, and
3 that's what -- and that's what I did. I asked
4 you to do the same and to bring these documents
5 with you, but --

6 MR. TRATOS: We had no idea what documents
7 you would be referring to, sir. And we
8 presented you the documents --

9 MR. DOGGE: No --

10 MR. TRATOS: Mr. Dogge, we presented you
11 the documents we wanted to have you review
12 during your deposition. We handed them to you,
13 you had them in front of you, we asked you
14 questions about that. That's what you should
15 be doing in this instance as well.

16 MR. DOGGE: No problem, Mr. Tratos.

17 BY MR. DOGGE:

18 Q There Mr. Teller I will request you.

19 A Yes, sir.

20 Q Maybe it will -- maybe it will refresh

21 your memory.

22 A Of course.

23 Q I have in front of me, I have a document

24 in front of me. It's a document with your Bates NO.

25 64 on the end. 00064. And this document states the

1 date of April 3, 2012. Its an e-mail coming from
2 Mr. Teller to Gunther at 8:00 o'clock in the
3 morning, 8:00 o'clock -- eight minutes past 8:00
4 o'clock. And it's just a very -- it's just one
5 line. "Gunther, my friend, do you have a physical
6 address for Gerard Bakardy. Thanks. Teller".
7 That's all there is. Do you remember this e-mail,
8 Mr. Teller?

9 A Yes, sir.

10 Q You have sent this e-mail to Gunther. You
11 remember this, okay.

12 A Yes.

13 Q I will refresh your memory. It was on
14 eight minutes after 8:00 o'clock on April 3.

15 A Yes. By that time -- may I explain a bit.
16 That's not the first exchange that I had with
17 Mr. Gunier. Over the course of -- over the course
18 of several emails, he was so friendly and so
19 forthcoming about the situation, that I began to
20 feel him -- feel him as a friend.

21 Q Yeah. I have no problem with your
22 friendship, Mr. Teller --

23 A Yes.

24 Q You can have many friends. I hope you can
25 have many friends. I have no problem with that.

1 A Good.

2 Q But my question is -- my question is

3 Mr. Teller: We were on the phone in that time daily

4 or on the e-mail. We were sending emails to each

5 other. Calling each other. You did not ask me for

6 my physical address. I just wonder, why did you

7 need my physical address, Mr. Teller, at that time?

8 At eight minutes past 8:00 o'clock on this 3rd of

9 April? Why did you need my physical address?

10 A I don't recall. I -- it is very possible

11 that at that point -- our relationship, as you will

12 remember, declined. It began very cordial, and you

13 gradually became -- pardon my expression, more and

14 more demanding. At first, for example, you said you

15 had come to my show and had your picture taken with

16 me. And then later in our correspondence -- our

17 speech, you said, no, I didn't have my picture taken

18 with you. And at one point you said, oh, and I --

19 when I saw your show, I didn't see shadows in your

20 show. And then I pointed out to you that shadows

21 has been continuously in my show. So my confidence

22 in your honesty was eroding. And gradually. I

23 suspect that that email comes from a portion of the

24 correspondence where I was no longer as confident of

25 your honesty as I was at first.

1 Q Mm-hmm. It's a nice storey, but why did
2 you need my address was the question?

3 A I am afraid I -- I don't recall.

4 Certainly, since the beginning, you and I had talked
5 about the possibility that we might not be able to
6 resolve this. And in that case, I would need to be
7 able to deliver a lawsuit to you. And this may have
8 been some research I was doing on that possibility.
9 That sounds like a reasonable -- a reasonable thing
10 for me to be asking at that point.

11 Q Yeah. I don't know, Mr. Teller. I am
12 just asking you why you needed my address. So is
13 this right that I -- do I understand now that you
14 are telling me that you were planning to sue me --

15 MR. TRATOS: Objection --

16 BY MR. DOGGE:

17 Q -- and you wanted my address to --

18 MR. TRATOS: Objection --

19 BY MR. DOGGE:

20 Q Tell me more clear. Tell me more clear
21 then.

22 MR. TRATOS: Objection. Mischaracterizes
23 his prior testimony. If you would like to have
24 the court reporter reread his testimony, we're
25 happy to do that.

1 MR. DOGGE: No. No. It's not necessary,
2 but I just trying to understand how big story
3 and it could be have a very simple answer,
4 but --

5 BY MR. DOGGE:

6 Q Okay. I go back to your document, No.
7 00061. It is also an e-mail. And I have a question
8 about this e-mail, Mr. Teller. Since you didn't
9 brought your documents, I will read it for you.

10 A Thank you.

11 Q I will read the last paragraph of this
12 e-mail. This e-mail was sent on the 3rd of April on
13 the same date as the previous e-mail, only two hours
14 later. 10:00o'clock. Nine minutes past
15 10:00o'clock. So about two hours later. And the
16 last paragraph, I will read it for you: "I really
17 don't want to sue you. And not just because it's
18 expensive and troublesome for me, but because it
19 will ruin his life. And I am not eager to do that".
20 This was the e-mail you wrote to Gunther on the
21 third of April, two hours after you were asking
22 Gunther if he could provide me -- if he could
23 provide you my physical address. I go to another
24 document. This document 66.

25 A Was there a question?

1 MR. TRATOS: Objection. There was no
2 question. That was a statement. It was not a
3 question --

4 BY MR. DOGGE:

5 Q No -- no question. There is no question
6 yet. I only want to show you the e-mail. I -- I
7 will ask you, can you please have a look at document
8 number 66 -- of your document No. 61, but you don't
9 have it over there. So I will read the other line
10 in your paragraph of this e-mail. This is another
11 e-mail that you sent a day later, on the 4th of
12 April. Also in the morning. 8:52 o'clock, almost
13 if 9:00o'clock, April 4th. And then I just pick up
14 one line here. If I prevail, he will be stuck with
15 all my -- it will be dreadful for him and a waste of
16 both our time. You're speaking again about this
17 litigation, what is going on now, Mr. Teller.

18 But now my question to you is: Those
19 emails on the 3rd or the emails on the 4th, both of
20 them, more or less in the morning, at 8:00 o'clock
21 or 9:00o'clock at the same time, did you plan at
22 that time to ruin my life by filing this exhibit,
23 the screen shot, showing the aforementioned web link
24 right above my head and name? Is that the time that
25 you planned to ruin my life, Mr. Teller?

1 MR. TRATOS: Objection. Argumentative.
2 Harassing. Intentionally calculated to apply
3 to the Belgium litigation. I will direct
4 Teller to respond.

5 But I am going to tell you, sir, if you're
6 going to continue these line of questions that
7 is deliberately designed to get information
8 regarding the Belgium case, we will end the
9 deposition, sir.

10 This is about the copyright case. It's
11 only about the copyright case, and you are
12 intentionally harassing this witness by asking
13 questions that are not relevant to the
14 copyright case in question or your answers to
15 it.

16 Teller?

17 THE WITNESS: Mr. Dogge, I told you, I
18 told Gunther, I told everyone that -- that --
19 that is involved in this that I -- I had
20 absolutely no desire to sue you under any
21 circumstances. It was the worse possible
22 option. It was the option that I would not
23 have chosen, had you been in any way reasonable
24 with me, because I realized it could be harmful
25 to you and horrific for me. This experience

1 for me has been destructive past my
2 description.

3 Really, Mr. Dogge, you're saying as you
4 quote these emails that I was trying to be kind
5 to you and I was. Genuinely.

6 MR. DOGGE: First, I would like to answer
7 to Mr. Tratos, because he calls now my question
8 is irrelevant, but I am just referring to the
9 document which was filed by Mr. Tratos in this
10 litigation. And this document, I think is
11 called irrelevant. I don't know why he filed
12 it. These are emails from you to Gunther, and
13 email was sent to me. So I am very surprised
14 that you call your own e-mails, your own
15 evidence in your own litigation relevant now.
16 Maybe cause of me, I am a little dumb nowadays.

17 BY MR. DOGGE:

18 Q Mmm. Let's see what we have here.
19 Normally, I would ask you to read from document 66
20 in paragraph right above your name, but I will read
21 it for you. This is -- again, the same e-mail to
22 Gunther, which you call my friend in your e-mail at
23 8:00 o'clock, 8:52 on the 4th of April, just before
24 you signed just before your name. The paragraph
25 states the following: "Thanks so much for your

1 kindness. Know that regardless of the outcome, you
2 now have new friend in the U.S. When you come to
3 Vegas, you will be most cordially received as my
4 guest. And if there are any kind of Teller
5 materials that interest you, they will be on their
6 way to you with my blessing".

7 Do you remember, Mr. Teller, that you
8 wrote this paragraph?

9 A I do.

10 Q Yes. And you believe that you think
11 nothing more than your paragraph?

12 A So far as I can tell, sir.

13 Q Yeah.

14 A That's an indication that magicians --

15 Q Okay.

16 A -- who share -- who share a common
17 morality sometimes become friends.

18 Q Mm-hmm. Okay. I understand. I have no
19 problem with that.

20 A Yes.

21 Q Mr. Teller, now my question is: I could
22 see that you bring your friend, Gunther, as a
23 witness against me. Did you reward and bribe all
24 your other witnesses in the same way --

25 MR. TRATOS: Objection. Argumentative.

1 Objection. It is completely harassing to
2 essentially say bribing. Your conduct of this
3 deposition, sir, is becoming outrageous. In
4 that, you are essentially trying to materially
5 harass my client.

6 So I will, again, direct you to conduct
7 yourself and these questions in a proper
8 fashion. And if you try to continue this kind
9 of harassment by essentially claiming Teller is
10 bribing his witnesses, I will discontinue the
11 deposition. We will seek sanctions before the
12 Court.

13 MR. DOGGE: I have spoken, Mr. Tratos.
14 You must do what you want to do. The only
15 thing -- what I am doing now is asking
16 questions about emails which were written
17 between the parties and between Mr. Teller and
18 Gunther. I am just asking questions about
19 this, Mr. Tratos --

20 MR. TRATOS: No. You're asking -- you're
21 making statements such as, do you bribe all of
22 your witnesses in this fashion. That, sir, is
23 harassing. That, sir, is, in fact, improper.
24 And that is -- is not going to be tolerated if
25 you're going to continue in that fashion.

1 THE WITNESS: Mr. Dogge --

2 MR. DOGGE: I think it will not be
3 tolerated -- I think it will not be tolerated,
4 Mr. Teller -- Mr. Tratos to bribe your
5 witnesses. I think that will not be tolerated
6 in courts.

7 BY MR. DOGGE:

8 Q Let's continue with the next question
9 maybe. Sorry, Mr. Teller, we lose again question --

10 A Of course.

11 Q -- you will not like to answer it, I
12 guess.

13 A Oh, I am -- I am eager -- I am eager to do
14 anything that will bring a good resolution and a
15 fair resolution to this case.

16 Q Okay. I try to -- I try to understand
17 how -- how -- I hate to be -- I hate the feeling
18 this situation how I was brought in by this exhibit
19 with the words above my head and my picture. So I
20 try to figure out how I have to deal with this,
21 Mr. Teller. And for this -- this is where you are
22 ruining my life. I will tell you that. This is
23 really ruining my life. I am not homosexual. And I
24 am a family man. And never in my life I was
25 confronted with such kind of -- and with such kind

1 of comments. It is the first time in my life and I
2 don't know --

3 MR. TRATOS: Mr. Dogge -- Mr. Dogge, this
4 is not a question. You are now using this
5 deposition to make statements, which are
6 unsupported by evidence, unsupported by any
7 documentary material that you presented to
8 my -- my client. You're engaged in --

9 MR. DOGGE: Okay --

10 MR. TRATOS: -- assertions that are
11 completely improper for a deposition. And
12 particularly, for one involving a copyright
13 infringement case. If you do not go back to
14 your questions that relate solely and only to
15 the copyright case, we will terminate the
16 deposition. This is the third time I have told
17 you this.

18 MR. DOGGE: Mm-hmm. Okay.

19 BY MR. DOGGE:

20 Q I call it -- here is this question. Yes.
21 Sorry again, Mr. Teller, to waste your time asking
22 all these questions about your evidence. But I have
23 to do a few more. In the discovery, your answers
24 were sometimes confusing for me. And maybe they
25 were clerical errors, or maybe my English wasn't

1 good enough. But now we have a court reporter as
2 clerk. So I think they will be no errors involved.

3 I have a simple question for you.

4 Tell me, on which date did you take the screen shots
5 allow your Exhibit 3 which was originally filed on
6 the 11th of April 2012?

7 A I don't know the answer to that.

8 Q This was the issue in the last -- last
9 week. We were in court for that. We had a hearing
10 about that. And I asked you in several ways to
11 identify this exhibit, and you never did.

12 So now is the moment of truth. Just
13 tell me, simple question, on what date did you take
14 this picture?

15 A I am sure I could find this date if you --
16 after this -- after this conference. But I don't
17 know it off the top of my head. I'm sorry. It is
18 just not something that I memorized.

19 Q Mm-hmm.

20 A It will be no problem --

21 Q Another question. It is a problem, Mr.
22 Teller, because I asked you already four or five
23 times too identify your exhibits and you can't come
24 to the answer of this. I gotten several answers,
25 and it confuses me and I ask you please consult your

1 answer. And you consult your answer. And
2 afterwards, you say it's a clerical error, and then
3 you give me another date.

4 MR. TRATOS: Mr. Dogge, again, you're not
5 asking questions. You are making statements.
6 I am going to ask you again, please ask
7 questions.

8 MR. DOGGE: I have many statements,
9 Mr. Tratos. I am helping Mr. teller to
10 remember how he to say when he took the screen
11 shots. This is a simple question. Most simple
12 of all of them.

13 MR. TRATOS: And he's told you he doesn't
14 recall.

15 MR. DOGGE: Okay.

16 MR. TRATOS: And he's told you he doesn't
17 recall.

18 BY MR. DOGGE:

19 Q Okay. I go to the next question,
20 Mr. Teller.

21 A Thank you.

22 Q In the discovery, you stated that the
23 document you filed, I think about which filed one.
24 You refiled Exhibit 3 on the 26th of April. Not two
25 days, like I said, it was two weeks later than the

1 original was filed. I asked you to identify this
2 document and you -- you remember what you answered,
3 what these documents were?

4 A I don't -- no.

5 Q Refiled exhibit.

6 A I am not fully understanding the question
7 sir. I'm sorry. I am genuinely trying to
8 understand you, Mr. Dogge. I really don't
9 understand the question.

10 Q Okay. It's my fault --

11 A And on questions of dates -- on questions
12 on dates, some dates I remember and some dates I
13 don't remember. Honestly. I am a very busy guy,
14 you know. So I have something other than this in my
15 life.

16 Q You're getting older. All of us.

17 A Thank you.

18 Q Mr. Teller?

19 A Yes. Yes, sir.

20 Q This is not -- this is not a question
21 about dates.

22 A Okay.

23 Q This is a question about the documents.
24 You refiled on the 25th, I help you. The date is
25 not important. It was two weeks later -- later.

1 After you refiled -- after you filed the original
2 one on the 11th, you refiled other one that says,
3 you exchanged the original one by other documents.
4 And in the discovery, I asked you please can you
5 identify this refiled document. Do you remember how
6 you identified this document, Mr. Teller?

7 A No, I didn't.

8 Q I help you.

9 A Thank you.

10 Q You said -- you said -- you answered on my
11 requests that they were screen shots based on your
12 answer. Now -- and now I have to ask you again a
13 question about dates. So what I don't understand in
14 the discovery is that you took screen shots two
15 times. You took screen shots with this weird web
16 link about bookmark bars and you took screen shots
17 without this bookmark mark bar. That's what I don't
18 understand on this question.

19 A I can explain this very simply, Mr. Dogge.
20 You requested that we remove that bookmark bar,
21 because you said it embarrassed you. Even though no
22 person who knows the internet could possibly
23 understand that as being part of your computer. You
24 objected, and we, as quickly as possible, refiled,
25 simply editing off that bookmark bar line as a

1 courtesy to you.

2 And it was an inadvertently -- it was
3 inadvertently on there to begin with. And we
4 removed it the moment you pointed it out to us.

5 Q Mm-hmm. Sorry, Mr. Teller, I have to
6 disagree, because I never asked you to remove or to
7 exchange your legal evidence by new evidence. I
8 never asked you to do that.

9 A You -- you expressed objection --

10 Q I never asked you to do that.

11 A You expressed objection to it. And since
12 this case is not about bookmark bars, but about a
13 copyright and unfair competition suit, since this
14 is -- this is what the case is about, the bookmark
15 bar was irrelevant.

16 Q Yeah. I think so too, but above my head,
17 above my picture and it is on the internet.

18 A I believe that my picture -- I believe
19 that my picture is probably on the computers of many
20 people who have bookmark bars that I would disagree
21 with. It is nevertheless -- that is not within my
22 control. And any person who uses the internet knows
23 that case.

24 Q Mm-hmm. Mr. Teller, I go to my next
25 question.

1 A Please.

2 Q Sorry. I ask again about this exhibit.

3 A Yes, I am sure you do.

4 Q This is the question: Why did -- why did
5 you file exhibit showing this shortcut links? Why
6 did you not put that exhibit without bookmark bar?

7 A It was an oversight.

8 MR. TRATOS: Objection. Asked and
9 answered. This is the fourth time that he's
10 answered this. And I don't think we're --

11 MR. DOGGE: Okay --

12 MR. TRATOS: -- going to progress if you
13 keep asking the same question. He's testified
14 that it was inadvertent --

15 MR. DOGGE: I go to the next -- I go to
16 the next question, Mr. Tratos.

17 BY MR. DOGGE:

18 Q At this -- now I ask a question about the
19 Greenburg Taurig company. I think it is a very
20 famous company, a law firm in the world, with a lot
21 of offices everywhere. And I think the attorneys
22 very clever. But did no one in this law firm ever
23 see -- if I recall thirteen lawyers are now involved
24 in this litigation -- did no one of these twelve
25 lawyers told you that it was better to file an

1 exhibit without the bookmark?

2 MR. TRATOS: Objection --

3 BY MR. DOGGE:

4 Q Is it an accident?

5 MR. TRATOS: Objection. Asked and
6 answered as to the question of it being an
7 accident several times. It's a compound
8 question. So the objection is compounded
9 question. Second, he has asked and answered
10 that it was an accident. And, third, if you
11 want to ask a question about the Greenburg
12 Taurig Law Firm, please do so. But as it is
13 now, it is unclear what you're asking.

14 MR. DOGGE: Okay. I will make the
15 question a little bit more clearer.

16 BY MR. DOGGE:

17 Q Did not one of the twelve lawyers at
18 Taurig who are appearing in this case, did not one
19 of them tell you, Mr. Teller that it could be better
20 to file this exhibits without the bookmark bar?

21 A It was an inadvertent filing. Evidently,
22 it got by my law firm as well. And I am not happy
23 about that. So it was -- it was --

24 Q So it was an accident --

25 A Even law firms make mistakes from time to

1 time, which is why we were so quick do correct it.

2 Q Yes, I noticed that. I noticed that even
3 twelve lawyers who accidently file such a document.

4 Okay.

5 A Yes.

6 Q Okay. Mr. Teller --

7 A You actually have any questions in the
8 copyright case, Mr. Dogge?

9 Q Yes. Yes. Yes. I promise, they will
10 come.

11 A Good.

12 Q So as we discussed, if this was all
13 accidently, I never hear one apologize?

14 A May I, Mr. Dogge?

15 Q Why not.

16 A I sincerely apologize for that oversight.
17 That's -- we corrected it as soon as you called it
18 to our attention. I am very sorry for it. I -- I
19 know that you are -- you objected to it strongly.
20 And I'm sorry that that happened. It is, however,
21 not relevant to this case.

22 Q For me, it is, Mr. Teller, because it's
23 ruined my life. I don't do any statements further.
24 I go to the next question --

25 MR. TRATOS: Mr. Dogge, we are going to

1 take a quick break so that the court reporter
2 can stretch her legs for a moment. We will be
3 back on the record in a little bit.

4 MR. DOGGE: Okay.

5 THE VIDEOGRAPHER: The time is
6 approximately 12:56 p.m. We are going off the
7 record.

8 (Off the record.)

9 THE VIDEOGRAPHER: The time is
10 approximately 1:02 p.m. We are back on the
11 record.

12 Please begin, sir.

13 BY MR. DOGGE:

14 Q Okay. Okay. Mr. Teller, enough time
15 about this evidence that we discussed in court. Now
16 I need you to help me something to understand. So I
17 am just a beginner and I don't know the meaning of a
18 signature. Can you explain me what the signature
19 is.

20 A In the case of shadows, shadows is a
21 particularly good example of what a signature trick
22 is. It is a trick that is associated with me very,
23 very closely. And has been for years.

24 In the case of shadows, it's a piece
25 that has been in my repertoire for a long, long

1 time. Has been part of every Penn & Teller show
2 that we have done on the stage for decades. It's
3 simply so closely associated with me that its'
4 almost like a singer's -- a singer's particular
5 voice. It's a recognizable and closely attached
6 piece.

7 Q Mm-hmm. Okay. Thank you for explaining
8 me this, Mr. Teller.

9 A May I add something -- may I add
10 something, Mr. Dogge? It's a piece that, if someone
11 were to see someone else performing it, if a
12 knowledgeable magician were to see another magician
13 performing this piece, they would say that's
14 Teller's shadows, which is how the whole thing came
15 to me to me at the beginning. Because someone
16 recognized that on your advertisement.

17 Q Okay. Just to check if I understand it, I
18 heard that you are doing a trick, Hit the Bullet.
19 One of -- of -- dealing with firing a gun with a
20 bullet and the another one is a catching the bullets
21 in his mouth. Is this also a signature piece?

22 A This is a famous -- this is a famous trick
23 that we did a variation on it. We do it -- what
24 makes it distinctly ours is that we do it
25 simultaneously from opposite sides of the stage

1 shooting bullets at each other's faces. So that
2 would be a recognizable feature of -- of our show.

3 Q Okay. But is this considered as a
4 signature trick?

5 A Under certain circumstances, I suppose it
6 might be -- not in the way -- not in the way that
7 shadows is, because shadows is quite a new thing in
8 magic.

9 Q Sorry. Yes -- it 38 years old, Mr.
10 Teller.

11 A Right. Quite a new thing in magic, which
12 has a history of 4,000 years.

13 Q Okay. Yeah --

14 A So, yes --

15 Q Mr. Teller --

16 A -- the fact that it came from me and
17 hadn't been done before in the world, that's --
18 that's quite a big deal. It's -- it's the thing --
19 it's the thing that I expect to be remembered for.
20 It's a -- it's a piece that I -- is close to my
21 heart as a child might be to someone who had
22 children.

23 Q I know for sure they will remember you,
24 Mr. Teller, as the person who performed shadows for
25 sure. Another question.

1 A Thank you.

2 Q First of all, the cups and balls.

3 A Yes, sir.

4 Q First of all, the cups and balls that is

5 performed by Penn & Teller, is this a signature

6 piece?

7 A It's certainly a recognizable unique piece

8 of our material. The distinction of signature trick

9 is -- is a little bit complex. But as far as I

10 know, no one else has ever done the cups and balls

11 with clear plastic cups. And you call it revealing

12 the trick because I think, because of your

13 inexperience with magic. And I understand that

14 completely. It's not a revelation of the trick.

15 Q Mm-hmm. Not --

16 A It's a performance of the trick, in which

17 although the audience is seeing all the activity,

18 they're still not able to follow it.

19 Q Mm-hmm. Yeah. Yeah. Mr. Teller?

20 A Yes, sir.

21 Q Another question about the trick which is

22 performed by when you change money, you change money

23 to goldfish. I believe it's called Silver Fish?

24 A That is correct.

25 Q A very famous trick. How long -- how long

1 how long have you performed this trick, Mr. Teller?

2 A Again, I am not perfect with dates, but
3 it's probably in the neighborhood of twelve years
4 now. At this -- I'm sorry I am so bad with dates.
5 but it is a very -- I mean, it's a very --

6 Q I never --

7 A Yes, sir. Pardon me?

8 Q No. No. Go. Go. Go on. Continue.

9 A No. That's all -- that's all I have to
10 say.

11 Q Well, okay. Okay. So I never seen
12 someone else performing this specific Gold Fish
13 show. I presume it is also a signature piece and it
14 is something that you do?

15 A It is something --

16 Q With a fish --

17 A -- it's something that is -- it is
18 something that is very closely associated with me.
19 I think, by some standards, it would be considered a
20 signature trick. But signature trick might be might
21 be -- you know, might be something that we would
22 reserve for sort of the crown jewel in this thing,
23 which in my case is shadows.

24 Q Okay.

25 A But certainly, if someone -- if someone

1 were to begin manufacturing -- begin manufacturing
2 that trick and selling it, I would raise objections
3 to it.

4 Q Because --

5 A Because -- because, sir, there really
6 is -- magic -- magic has a sort of an ethical code
7 that is, as I say, sometimes violated. And as, you,
8 yourself pointed out the Chinese are eager to do
9 that. But magic has an ethical, in which when
10 someone pulls a piece out of his heart over a long
11 period of time and does something that does not look
12 like everybody else's trick, that is accorded a
13 certain respect in magic. And again, as a newcomer
14 to magic, I have tried repeatedly to explain this to
15 you, but I am not sure if you ever fully understood.

16 Q I try -- I try very hard, Mr. Teller, to
17 understand all this new things to me --

18 A Okay.

19 Q You're right I am not really -- I'm not
20 really doing magic for fifty years. But stay with
21 the subject. This tricks we just talk about, right,
22 this, you catch the bullet -- or Penn is catching
23 the bullet -- I don't know -- but the trick with the
24 bullet. The tricks with the cups and balls. And
25 the one with the cups. And then the Gold Fish --

1 the Silver Fish. All these tricks copyrighted by

2 you? Do you have a copyright on these tricks?

3 A I am -- I am not completely sure of the

4 answer to this. And this is something that you, as

5 a person who is inquiring on this can check on for

6 yourself in the U. S. copyright office. It's

7 possible to copyright tricks by -- by videotaping

8 them and as part -- as part of the show. And some

9 of those may be copyrighted in that way. But if

10 you're asking should -- should you decide to

11 manufacture my Silver Fish trick, my advise would be

12 don't.

13 Q No. No. No, Mr. Teller.

14 A I don't want you going through my whole

15 repertoire picking things one by one, like whether

16 or not to copyright it.

17 Q No, Mr. Teller. Let's take one by one.

18 The Silver Fish, do you think -- do you remember of

19 it's copyrighted by you?

20 A I don't --

21 Q The Silver Fish?

22 A It was not copyrighted as a paper

23 copyright, but it may be copyrighted video. I don't

24 know the answer to that. The business part of my

25 operation is mostly carried on by the people I

1 employ to do this.

2 Q Okay. I tell you why I am asking you

3 this, Mr. Teller.

4 A Please.

5 Q Because I ask you the same question in the

6 discovery, and I ask you to enumerate all the

7 tricks, illusions copyrighted by you. But you --

8 you gave a list, but you didn't list the Silver

9 Fish. So is this a clerical error, or how come that

10 you didn't list it? This answer should be given

11 under oath. Specifically, the Silver Fish, how

12 come --

13 MR. TRATOS: Objection. Asked and

14 answered. He's already told you that he did

15 not think there was a paper copyright on Silver

16 Fish. He's answered that question, sir.

17 BY MR. DOGGE:

18 Q Okay. So now I have to remember you,

19 Mr. Teller, to another moment we have together.

20 A Yes.

21 Q Which was not such a nice moment because

22 it was not a polite moment because you lost your

23 temper in one of your phone calls. It was more than

24 a year ago, when you were trying to give me another

25 lesson, like you're doing now, in respect. Telling

1 me that I have no respect, otherwise I should do the
2 same as the magician from Sweden. Do you remember
3 this conversation?

4 A Yes.

5 Q Yes. You told me-- can you, for the
6 record, this time, Mr. Teller, can you please tell
7 me this story again from this magician from Sweden?

8 A Someone -- a friend of mine called my
9 attention to a magician from Sweden who had copied
10 my Silver Fish trick. I managed to reach him by
11 telephone, discussed the situation with him, made
12 him aware that this was not -- he was again, not as
13 well informed as he might have been -- made him
14 aware that this was -- that this was not considered
15 ethical. He apologized, and he voluntarily sent me
16 his apparatus at no -- with no cost to me. Not even
17 asking me to pay the shipping. That's the story of
18 that -- yes. That's kind of -- go ahead. No. Go
19 ahead.

20 Q Yes. Yeah. I remember that, too.

21 A Yes.

22 Q I remember you told me this story,
23 Mr. Teller.

24 A Yes.

25 Q But, now you just stated that the trick is

1 not copyrighted --

2 A Correct.

3 Q -- so how come that the magician -- how

4 come that the magician did send you this trick?

5 What did you tell him to make him do that?

6 A I told him that it was my trick, that I

7 had developed it. I told him about all the work

8 that went into it. And I told him that, in magic,

9 that's not the proper thing to do. That's all I

10 said. And he apologized and sent the trick to me.

11 It was -- it was really -- it was the way magicians

12 should treat brother magicians.

13 Q Yeah. If someone fit in his mind, you

14 don't take it, don't touch it?

15 A If there is evidence to that, and there

16 was -- he knew perfectly well that this was -- he --

17 he understood then that this was not a traditional

18 trick in any way. I think he probably didn't

19 realize that at first. It's the way we should

20 behave as magicians.

21 Q Yeah. I think so too.

22 A Yes.

23 Q Mr. Teller, next question.

24 A Yes, sir.

25 Q How are you related to Mr. Ean McCarthy

1 (PHONETIC)?

2 A Ean -- who? I am afraid that I don't -- I

3 don't that -- Ean McCarthy?

4 Q Yes.

5 A I have never heard of him.

6 Q You don't know his name?

7 A No.

8 Q Okay. No problem. No problem. How are

9 you related, Mr. Teller, with Mr. Alexander Merch

10 (PHONETIC) from Germany?

11 A Mr -- would you say that name again. It

12 doesn't ring a bell with me.

13 Q Alexander Merch.

14 A Alex --

15 Q Merch. His name is Merch --

16 A Merch? I don't know --

17 Q From Germany.

18 A I don't know that name off the top of my

19 head. I -- keep in mind, Mr. Dogge, I have met many

20 magicians, and I don't know all their names.

21 Q Yeah, yeah --

22 A But I don't know --

23 Q But for sure, Mr. Teller, I will maybe I

24 will refresh your memory now. You will remember

25 these two names or these two persons because they

1 were performing shadows that you do.

2 A I did not know that.

3 Q Yeah. They do -- they do or they did.

4 They were doing this. But no problem. Next

5 question, Mr. Teller. I don't know the name of this

6 man, but there was a guy in Europe, a magician who

7 performs an improved version of shadows. It is

8 exactly the same that you are doing on stage, but he

9 has a little movement. He was blowing the air out

10 of his mouth, blowing to the shadow. And the rim

11 rose was bending over. Do you know this person?

12 How are you related to this man? You don't know

13 him?

14 A I have never --

15 MR. TRATOS: Objection. Mr. Dogge, have

16 you identified the individual? Do you know the

17 individual's name, sir?

18 MR. DOGGE: No. I don't know if -- if the

19 name of this man. I found it on the internet

20 many years ago from You Tube. And in that

21 time, I didn't think I ever needed his name, so

22 I -- the video -- I don't find the video

23 anymore on You Tube. So but just wanted to ask

24 you, Mr. Teller, if you knew this guy?

25 A No. I'm sorry, I don't.

1 Q He magically disappeared from You Tube.

2 A I'm sorry.

3 Q But he didn't order any -- no. No. No.

4 Don't be sorry.

5 A No. I just don't -- I just don't --

6 Q I --

7 A I don't -- I don't really scan You Tube

8 for copies. Once in a while, when someone call my

9 attention to something that I think is -- is not

10 properly being done, I try in a very gentlemanly way

11 to contact the person, as I did with you, sir.

12 Q Okay. Did you ever offer money,

13 Mr. Teller, to people who are infringing on your

14 copyrighted tricks?

15 A Why would I do that?

16 Q You did it to me.

17 A No, sir. I -- I -- if someone were

18 infringing on my copyright, I would expect them to

19 offer me money. Not the other way around. In your

20 case, I have explained exactly why it was that I

21 offered you, as a courtesy to you, on an assumption

22 that you were a good man, something to defray your

23 development costs.

24 Q Okay. Very kind of you, Mr. Teller.

25 A Thank you.

1 Q Although you don't know me, but I think
2 you are very kind.

3 A I am kind of a kind person sir, yes.

4 Q Well, yeah. I think so, too. Did you
5 ever sue another person, Mr. Teller, on infringement
6 of your copyright tricks?

7 A No.

8 Q I am the first one?

9 A You are the first. And it's made me very
10 sad.

11 Q Mmm. The question now, Mr. Teller, about
12 this Swedish magician, the guy who sent his props
13 and his tricks in a box to you.

14 A Yes.

15 Q If it is the fish trick, the Silver Fish
16 trick in a different way, for instance, if he showed
17 the fish tank on all sides, on the back side and on
18 left and the right side, would you call it an
19 improvement on the Silver Fish trick?

20 MR. TRATOS: Objection. Incomplete
21 hypothetical. Assumes facts not in evidences.
22 It's almost impossible to answer that kind of a
23 question.

24 MR. DOGGE: I think it's a simple
25 question. Mr. Teller, if you want to answer,

1 you can, if you like. It brings me some
2 clearness in all these difficult stories.

3 THE WITNESS: When I'm considering what is
4 important in a trick, I consider the audience's
5 point of view, primarily. And the audience's
6 point of view -- I know, you as somebody new in
7 magic may not grasp this, but the audience's
8 point of view is very romantic much of the
9 time. It's a very -- it's a very big picture
10 thing. They're seeing something for the first
11 time. So they're very aware of things like a
12 rose and a shadow. A vase, they don't care
13 about.

14 If somebody did a version of the -- of the
15 of Silver Fish in which he exhibited the
16 vase -- the -- the tank on all sides, to an
17 audience, to a real audience, what matters is
18 the beautiful idea of transforming the water
19 into the coins, and then the coins back into
20 the fish. That's the central idea of it.

21 That's what they perceive. If -- if I were
22 copyrighting that trick on paper, that is the
23 idea I would be copyrighting.

24 Trivial things, like exhibiting the tank
25 on all sides, that's the sort of thing that

1 magicians think about, but the audiences don't.

2 The audiences -- the audiences are plenty

3 amazed without provers that would mean

4 something only to magicians.

5 Q Mm-hmm. I understand what you are saying,

6 Mr. Teller.

7 A Thank you.

8 Q I read this in a book somewhere, not to

9 run if you're not being chased. That's what you

10 want to say?

11 A Perfect. Absolutely -- that is exactly

12 the idea. Exactly the idea. Stay with the

13 beautiful --

14 Q Yea --

15 A -- stay with the beautiful idea that

16 enchants people and uplifts them and don't sit

17 around proving things too much, because that spoils

18 the magic. Yes, don't run if you are not chased is

19 exactly right, yes.

20 Q Yeah. On the other side, Mr. Teller, the

21 first question I ever have, and all the guys, all

22 the persons, they ever ask asked when they see a

23 magic trick is, how do you do it? Do it again. I

24 know how you do it. So all these people, the

25 audience, the public, of course, they are amazed by

1 the beautiful trick, but they ask -- they all have
2 this question, how is this done? How does this
3 work. And I think if you could show this fish tank
4 on all sides, on the backside, and on the left side,
5 and on the right side, it would cut all their ideas
6 in figuring out how the trick is done. It would be
7 more magical; don't you think so?

8 A I -- I -- I think that that would be
9 putting the audience in a state of mind that is not
10 good for that trick. That -- that trick is so much
11 about the simple and beautiful relationship between
12 an audience member and me. I -- I -- I think that
13 adding these -- adding these unnecessary provers
14 that kill the romance, kill, cut the throat of the
15 romance would be a terrible, terrible thing to do.
16 Yes, it would be fine for a magicians. But when the
17 public says I have no idea how you do that, that's
18 just their way of saying, I was amazed. I had my
19 breath taken away form it. It's not -- it's not
20 a -- like a detective.

21 Q Mm-hmm. Okay. I like your -- your
22 talking, Mr. Teller. You are really Teller. Sorry
23 for that.

24 A That's kind of you --

25 Q No --

1 A -- you know, Mr. Dogge, under other
2 circumstances, I bet we would be great friends. I
3 bet we would -- we would be great friends. And I
4 bet, you know, I would be able to help you. And
5 that's what I had hoped from the very beginning. I
6 really -- I really do.

7 Q Okay. Mm-hmm. Mr. Teller?

8 A Yes, sir.

9 Q I don't want to get -- I don't want to get
10 sentimental, now --

11 A Of course. No, this is a deposition. We
12 shouldn't get sentimental. Let's stick to the --

13 Q Yeah. Yeah --

14 A -- the case.

15 Q So did I understand this right, it is not
16 because it is a signature trick that it is
17 automatically a copyrighted trick? This is -- this
18 is --

19 A That is --

20 Q Do I understand this right?

21 A I -- yes, that is correct. Copyright --
22 copyright is a legal term.

23 Q Yes.

24 A And signature trick --

25 Q Yes --

1 A -- signature trick is a different sort of
2 thing.

3 Q Yeah. Okay. And that's despite that
4 person. It is not because it is a copyright that it
5 is a signature trick?

6 A I believe there could be many tricks that
7 could be copyrighted that would not be signature
8 tricks, because the person hasn't performed them
9 enough. You know --

10 Q Yeah. Okay --

11 A -- performing this hundreds and thousands
12 of times, I believe probably in my life. I was
13 thinking it was tens of thousands, but it might even
14 be hundreds of thousands of times. Performing that
15 and attaching that to me makes it a signature trick.

16 Q Mm-hmm. Okay. Well, then -- still I am,
17 how do I say? A hard guy or a hard head. It
18 doesn't get in my brains now. How it -- how does it
19 come that you did not copyright all of your
20 signature tricks?

21 MR. TRATOS: Objection --

22 BY MR. DOGGE:

23 Q It is so important. And you didn't
24 copyright --

25 MR. TRATOS: Objection. Mischaracterizes

1 his testimony. He has previously testified
2 that the other tricks may be considered to be
3 signature in some circles, but for him, the
4 signature trick is shadows. That
5 mischaracterizes his testimony.

6 BY MR. DOGGE:

7 Q Okay. I just try to understand, Mr.

8 Teller. That is the only thing --

9 A Mm-hmm.

10 Q Okay.

11 A It's complex. It's complex, Mr. Dogge.

12 It is.

13 Q Yeah, it is. Yes. I understand this now.

14 I think it's -- again, it's a very odd to have a
15 copyright on a magic trick; don't you think so? Not
16 so many magicians have copyright on their magic
17 tricks?

18 A I -- I don't know, but it may be. It may
19 be.

20 Q Do you know any other magician which have
21 performing tricks which are copyrighted by you?

22 A I -- I have no way to know that, sir. No
23 way to know that at all.

24 Q No. Okay.

25 A I mean, I know many magicians -- I know

1 many magicians who have patented tricks, but
2 patenting is an entirely different kind of process.
3 Patenting has to do with the method and copyrighting
4 has to do with the effect.

5 Q Mm-hmm, I understand that.

6 MR. TRATOS: Mr. Dogge. I need to --

7 BY MR. DOGGE:

8 Q Okay. Mr. Teller?

9 MR. TRATOS: Mr. Dogge, it's Mark Tratos.
10 I need to take a break to make a phonecall.
11 Would this be an appropriate time to break for
12 lunch? It's 1:30 in the afternoon here in Las
13 Vegas.

14 MR. DOGGE: Mmm --

15 THE WITNESS: I would -- I would be
16 grateful for some lunch. I'm here in an office
17 without much food.

18 MR. DOGGE: Mr. Teller, how can I refuse
19 you to have lunch?

20 THE WITNESS: Thank you. Thank you. I
21 hope you can have a nice snack while Mr. Tratos
22 makes his phonecall, and I grab a little bit of
23 something. And we will be back as quickly as
24 we can.

25 MR. TRATOS: Can we say 20 minutes? 20

1 minutes?

2 MR. DOGGE: Twenty minutes?

3 MR. TRATOS: Yeah.

4 MR. DOGGE: Okay. We come back in 20
5 minutes.

6 THE WITNESS: Excellent.

7 MR. DOGGE: Enjoy your snack, Mr. Teller.

8 THE WITNESS: Thank you very much.

9 MR. TRATOS: Thank you.

10 THE VIDEOGRAPHER: The time is
11 approximately 1:26 p.m. We are going off the
12 record.

13 (Off the record.)

14 THE VIDEOGRAPHER: The time is
15 approximately 1:50 p.m. We are back on the
16 record. Please begin, sir.

17 BY MR. DOGGE:

18 Q Okay. I pick up from where we were,
19 Mr. Teller --

20 A Yes, sir.

21 Q I have to go back from a long time, more
22 than a year ago. I asked you several times by
23 e-mail to get a detail of your copyright, but you
24 never -- you always refused to give me the details.
25 You only gave me those by complaint.

1 A Yes.

2 Q So why -- why didn't you want to give me
3 the details, Mr. Teller?

4 A Mr. Dogge, I was under no obligation to
5 provide you with information to help you avoid my
6 copyright. My copyright is perfectly accessible on
7 the U.S. government website. That's your job.

8 Q Okay. All right. I have another
9 question. I think a famous brand such as Coca-Cola,
10 they show everywhere in the world on all their
11 products the symbol of their copyright.
12 Unnecessarily because everybody knows that Coca Cola
13 is a registered product, but still everywhere you
14 see the copyright symbol on the product.
15 Mr. Teller, you are also a very famous person, but
16 why don't you show a published anywhere which tricks
17 are copyrighted by you?

18 MR. TRATOS: Objection. Assumes facts not
19 in evidence. And I think you are
20 mischaracterizing the difference between a
21 copyright notice and a trademark notice. The
22 circle R registration is a trademark notice for
23 Coca-Cola. It is not a copyright notice. And
24 you're confusing two separate intellectual
25 properties.

1 To that extent, Teller, you can answer the
2 question.

3 THE WITNESS: When you go to --

4 MR. DOGGE: Okay --

5 THE WITNESS: -- when you go to a play,
6 they don't put the copyright symbol on stage.

7 They just don't. And I felt under no
8 obligation to either. If you have any doubt --

9 MR. DOGGE: Mm-hmm.

10 THE WITNESS: -- about whether the
11 material that you're dealing with is
12 copyrighted or not, the burden is on you to
13 find that out. Also, I didn't, you know --

14 MR. DOGGE: Mm-hmm --

15 THE WITNESS: -- you mentioned at one
16 point that we -- that I -- that on the
17 internet, any representations of shadows didn't
18 contain my copyright notice, and I didn't post
19 any of these. So I don't -- I really don't
20 know what you would expect me to do.

21 BY MR. DOGGE:

22 Q No. But you didn't give any comments on
23 these videos on You Tube that -- to warn -- to warn
24 me or to warn anyone else that these videos or these
25 act of videos were copyrighted. And you mentioned

1 this on your website when the shadows or other
2 things are copyrighted. Do you mention it anywhere
3 on the internet, actually?

4 A Mr. Dogge, the very first conversation I
5 had with you, I made this perfectly clear. So I --
6 I -- I don't -- if you're expecting me to anticipate
7 that you're going to copy my trick and that I should
8 put a notice out there to avoid you misunderstanding
9 that, it seems unreasonable.

10 Q I know, but my question is simple,
11 Mr. Teller. Do you, anywhere, on the internet, do
12 you anywhere, show which tricks are copyrighted by
13 you?

14 A No.

15 Q Do you mention this on your website?

16 A No. I've explained this -- I have
17 answered --

18 Q Okay. Thank you --

19 A -- this twice question twice before Mr.
20 Dogge.

21 Q Okay. But now it's very clear,
22 Mr. Teller. Thank you very much for answering this
23 question. Thank you.

24 A It is however, completely available --

25 Q Next question --

1 A -- to you in the copyright office. And

2 had you taken the trouble --

3 Q Yeah. Yeah --

4 A -- before you began to check this, you

5 would -- you would have been well informed.

6 Q Mm-hmm. Thank you for your advise,

7 Mr. Teller.

8 A Thank you.

9 Q Is it true that copy -- that copyrighted

10 magic tricks should not be done by another person

11 unless they have a license to perform the trick?

12 A A copyrighted work needs permission for

13 performance, yes.

14 Q Yeah. Now, another question: Do you

15 perform magic tricks which are copyrighted by other

16 persons?

17 A Let me check and see if we have. No. We

18 have, at times on television, gotten permission from

19 certain magicians to perform pieces of their

20 material with their complete consent and generally

21 by paying them some money. But in our live show --

22 Q Okay --

23 A -- absolutely not.

24 Q Yeah. Okay. So I understand this right.

25 If someone wants to perform a copyrighted trick,

1 they -- they need a license to do this -- to do
2 this? They need a license from the copyright
3 holder?

4 A Yes.

5 Q Okay. Very good. Now, the other way
6 around, Mr. Teller, do you -- did you license any
7 one to perform copyrighted tricks which were
8 copyrighted by you?

9 A I have given one license on shadows.

10 Q Okay. And can you tell me who's the
11 person who got this license?

12 A Yes. A performer who works under the name
13 Hector is Magic. I -- I can't recall his actual
14 very elaborate Spanish name.

15 Q Okay. Interesting. And when did you
16 license this person to perform the tricks.
17 Mr. Teller?

18 A I -- I don't recall the date. I'm sorry.
19 I believe it was -- it was within the last two
20 years.

21 Q In the last two years. I think this is
22 very important, Mr. Teller. Can you provide me a
23 copy of this -- of this license, see exactly when
24 the date of this license is started?

25 MR. TRATOS: Mr. Dogge, it's Mark Tratos.

1 We have told you that we would produce this
2 license if you would sign the protective order.
3 The license contains confidential information.
4 That's why you refused to enter the protective
5 order, and that's why it has not yet been
6 produced. We will redact --

7 MR. DOGGE: Okay --

8 MR. TRATOS: -- we will redact that
9 document, we will take out those portions of it
10 that are proprietary, and we will supplement
11 our initial disclosures because you have
12 refused to enter a protective order.

13 MR. DOGGE: Very good, Mr. Tratos. I
14 don't -- to make this thing clear, Mr. Teller,
15 I am not really interested what is exactly --
16 what is written in this document. The only
17 thing I just want to know is the date. The
18 date when you agreed with Mr. Hector to license
19 your shadows to him, and he can do your
20 performance. The date. That's the only thing
21 important to me.

22 So if you could provide me this document,
23 you can redact the whole document. I just want
24 the date. That's all I want. Okay. Thank you
25 very much for this, Mr. Teller.

1 BY MR. DOGGE:

2 Q Okay. Now, I have another question
3 concerning or regarding one of your responses in the
4 discovery. You stated, and I repeat this word by
5 word. "The defendant has attempted to use the
6 litigation to malis (PHONETIC), embarrass, and
7 harass the plaintiff within the magic community".

8 Can you explain what you mean by
9 this, Mr. Teller?

10 MR. TRATOS: Would you -- would you please
11 read, not just the answer, but the question
12 that that is attached to. Please identify the
13 question and the answer.

14 MR. DOGGE: It was actually not an answer.
15 It was an objection, and you refused to answer.
16 This was an excuse for not answering my -- it
17 doesn't matter which question.

18 MR. TRATOS: It does matter, sir --

19 MR. DOGGE: -- you came up with --

20 MR. TRATOS: It does matter, sir. You
21 cannot take things out of context. If you
22 don't identify the question for which that
23 objection was rendered, it will be impossible
24 for him to answer that, sir.

25 MR. DOGGE: But I think this is a

1 statement made by you, so I -- how do you make
2 a statement if you can't prove your statement?

3 MR. TRATOS: Mr. Dogge, you're engaged --

4 MR. DOGGE: I --

5 MR. TRATOS: -- you're engaged in conduct
6 that is not a deposition. You're engaged in
7 argumentative conduct. If you want to ask him
8 a question, identify the question you asked and
9 full response that was given, and he can
10 respond. Otherwise, you're taking it out of
11 context and making it impossible for him to
12 understand what the question is.

13 MR. DOGGE: Okay. I will look this up in
14 our next break, when we are going to have a
15 coffee again. I will look it up and then we
16 can speak further about this question,
17 Mr. Teller.

18 THE WITNESS: Thank you.

19 BY MR. DOGGE:

20 Q Just a question in between, Mr. Teller,
21 are you still interested to buy the exclusive rights
22 of my invention, the roes and the shadow?

23 A I was never interested to buy it. I am
24 interested in seeing that it is not disseminated --
25 remember, Mr. Dogge, you threatened to sell it to

1 the Chinese. You threatened to put it on every
2 shelf on Walmart. I would like that not to happen.
3 And so, buying your -- buying your -- buying your
4 piece right now has less appeal to me than it did.
5 Although, I, again, whatever we can do to make
6 things go smoothly is -- is -- would be helpful to
7 both of us, I think.

8 Q Mm-hmm. Well, I think you're confused now
9 in the store about the Chinese and the Walmart,
10 because this came up after you offered me 15,000 to
11 come and -- exclusive rights to my invention. That
12 is what you wrote in you email, Mr. Teller so,
13 therefore, I just ask you -- forget it.

14 A Okay.

15 Q I go on with the next question. Let's
16 concentrate to the alleged copyright infringement.

17 A Yes, sir.

18 Q Of course, you told me you heard before
19 Petros (PHONETIC). You know Petros, of course.

20 A I don't know, Petros, of course. I think
21 you -- you said -- I think someone, and it's
22 possibly you called to my attention what looked to
23 me like a fan site. You know, there -- there are
24 people who have taken Penn & Teller pieces,
25 children, for example, amateur magicians, and done

1 their own best representations of these in their
2 living rooms. And these -- these people are fans.
3 And I have to make a differentiation between someone
4 who's a fan who puts up a tribute site and says, I
5 love Teller shadows. This is -- this is -- this is
6 me trying to do this trying to do this -- trying to
7 do this trick, and someone who says, I am going to
8 market this trick, and reduce the value of the trick
9 for Teller. I am going to market this trick to
10 anyone who wants to come and buy it all over the
11 world. There is a huge difference between those
12 two. And I have to make those distinctions from
13 time to time when people call my attention to these
14 things.

15 MR. DOGGE: Yeah. Okay. I understand
16 that. But did you have the time to see this
17 video from Petros on the You Tube?

18 A I -- I -- it's been so long. I -- I -- is
19 that the very badly photographed one? I remember
20 there was one that was very --

21 Q Yes --

22 A -- very clumsily and badly photographed --

23 Q Yes, I think --

24 A -- if that's the one -- if that the one
25 that you're talking about, then I probably --

1 that's -- I have a faint image of somebody in, you
2 know, with very bad video doing a portion -- doing
3 shadows with some sort of -- I -- I really don't --
4 I -- I -- I perhaps should have reviewed this stuff
5 before, but you didn't ask me to do so.

6 Q Mm-hmm. I don't -- I don't remember now,
7 but I got this document from Mr. Tratos, and I think
8 he filing this video in exhibits. So I think you
9 can watch this video in your own evidence.

10 So but that makes my next questions a
11 little bit difficult, because I wanted to ask you if
12 the -- I don't want to go into the methods,
13 Mr. Teller. Again, the methods is not the issue,
14 right, in this question --

15 A I agree completely.

16 Q I want to ask you -- yeah. I wanted to
17 ask you about the performance. If you see Petros'
18 performing shadows, and it's even called Shadows by
19 Petros. You know that. Do you agree that the --
20 that the vase or vase -- how you say this in
21 English? Vase -- is similar to the Teller vase in
22 shadows?

23 A I already said that I don't recall this
24 vividly.

25 Q Yeah --

1 A I truly don't recall this vividly. Let me
2 say the -- the vase is the least important feature.

3 Q Mm-hmm --

4 A The vase is the least important feature.

5 It's -- you don't -- when I listen to audience
6 members commenting on the trick after the show, they
7 never say, how about that vase. They say, awe, you
8 were cutting a rose by cutting the shadow. How
9 beautiful. The vase is irrelevant to that.

10 Q Yeah. I understand your opinion in this,
11 Mr. Teller. But I just wanted to point out -- and
12 it's difficult if you don't remember exactly what it
13 was to be seen on this Petros video, but you -- you
14 can check it out, and you will see that the vase is
15 exactly the same as the shadows. And I don't know
16 what is for you more important, that's vase. But
17 let's think about the easel, where the shadow is
18 projected on. The easel is affecting the knife, the
19 easel and shadow and the knife, which is handled by
20 Petros is, in my eyes, very similar to your knife
21 and shadow. And the whole movement, the whole
22 sequence, the whole choreographed piece, if you like
23 to call it like that is very similar in Petros'
24 shadows as it is in Teller's shadows, but now if you
25 don't remember this --

1 A Well, let me ask you a question. May I
2 ask you a question, Mr. Dogge, where does this
3 Petros person perform? What is his venue?

4 Q On the internet, Mr. Teller.

5 A No, but the internet --

6 Q On the internet --

7 A But he's not an actual performer. So he's
8 just -- he's just -- he just puts up one video on
9 the internet. He's not actually going --

10 Q I don't know --

11 A -- doing this in theaters. If you don't
12 know, you really can't ask me to comment on this.

13 Q I know. But I don't know where Mr. Petros
14 is performing. I don't know. He's a magician. For
15 sure. You can see this on his website, and you can
16 see that on You Tube. But if you got that, it's
17 not -- it's your choice, Mr. Teller.

18 A Okay. But you can continue to -- to
19 present your questions. Thank you.

20 Q Yeah. So but I still wonder then now if
21 this Petros' presentation is very similar, more
22 similar than my rose and the shadow to your shadows,
23 I just wonder how it comes that you never complained
24 by Mr. Petros and never filed a complaint for
25 infringement and you didn't -- and why don't take

1 down that video of the of You Tube?

2 A Now --

3 Q Why?

4 A I was unaware of it until this -- until

5 this business began. And for --

6 Q Okay. But --

7 A -- we -- I certainly have the right to do

8 that, if I should choose to. It's a very --

9 Q Yeah. I think so --

10 A -- it's a very, very different thing from

11 advertising that you're going to sell a piece to all

12 people who wish to buy it, that it is easy to

13 perform, and that they can do it in their show, thus

14 reducing the value, the uniqueness of my show. It's

15 very different. And I am sure you understand that

16 distinction. I am sure you do.

17 Q Mm-hmm. I'm still -- I am confused,

18 Mr. Teller, because you say now you just became

19 aware of this, and I told you already, from the

20 beginning, when I answer to your complaint, in my

21 exhibits, I filed this information especially for

22 you, to inform you that Hector is there and that

23 ALS, another guy who is doing a shadows illusion,

24 and that Petros is doing a shadow illusion. And so

25 you know it now already for a long time, and Petros

1 is still on You Tube. Still with the same shadows.

2 Petros' shadows. And you didn't order it to take

3 down from You Tube. I can't understand this.

4 MR. TRATOS: Mr. Dogge, instead of making

5 statements on the record and arguing your case,

6 this is a deposition, you are to be asking

7 questions. If you have a question of

8 Mr. Teller, ask it. Otherwise, there is no

9 reason for you to continue this ongoing series

10 of statements. You're making arguments.

11 You're not asking questions.

12 BY MR. DOGGE:

13 Q Mr. Teller?

14 A Yes.

15 Q Do you remember that you told me in one of

16 our phone conversations we had that you don't want

17 that anyone else in the world perform your magic

18 trick shadows? Do you remember that?

19 A I don't remember making that statement.

20 Although, it -- it doesn't disagree with my

21 fundamental sentiment about it.

22 Q Mm-hmm. Mr. Teller, I have to remind you

23 now that you are answering under oath.

24 A Yes, I --

25 Q I repeat my --

1 A I answered your question --

2 Q -- because --

3 A -- I answered your question, Mr. Dogge.

4 Q Yeah.

5 A You do not have to remind me that I am
6 understand oath.

7 Q Mm-hmm. You stated you didn't tell me on
8 the phone. You told me on the phone that on top of
9 this, you stated in several documents, on legal
10 documents in court now that you don't want anyone
11 else in the world to perform shadows. So now you've
12 changed your mind because Petros is performing
13 shadows and Hector is performing shadows. So when
14 did you change your mind then?

15 MR. TRATOS: All right. Mr. Dogge,
16 objection. It's argumentative. Mr. Teller has
17 told you very clearly his answer. You've asked
18 and answered it -- you've asked it and he's
19 answered it several times. He's drawn a clear
20 distinction for you between what you were
21 doing, which was trying to sell this to many,
22 many, many people all over the world and what
23 was being done by others on video. He's
24 answered this question, and you're just being
25 argumentative. That's not productive for us in

1 the deposition. I am going to suggest to you
2 that you ask questions and move on, or we'll
3 have no reason to continue the deposition.

4 MR. DOGGE: Mr. Tratos, thank you for your
5 statement, but if Mr. Teller and you keep on
6 telling me that I cannot ask the questions,
7 then we don't come any further, we will be
8 surprising to see for the court how we continue
9 then.

10 BY MR. DOGGE:

11 Q Now, let's speak about our tricks. Mr.
12 Teller.

13 A About our what?

14 Q Shadows -- our magic trick? About the
15 litigation. In the litigation --

16 A Yes.

17 Q -- about your shadows and about my rose
18 and shadow. Do you really -- do you really believe
19 that they are no different from each other?

20 A I believe they are essentially the same
21 trick. They are recognizably the same trick. If
22 you place those before three audiences, the three
23 audiences of 1000 people, each of those three
24 audiences would say that's the same trick. They
25 will say, oh, there's little minor variations --

1 Q Mr. Teller --

2 A Yes. I'm sorry. If you would like to

3 interrupt me go ahead --

4 Q Yes, because now you are making

5 statements. And Mr. Tratos maybe will do an

6 objection now.

7 So let's stay by the facts,

8 Mr. Teller.

9 A Yes.

10 Q Even without a magician involved, just

11 watching the items on stage, anyone can see that the

12 tricks are different. Don't you see the difference

13 between the --

14 A No.

15 MR. TRATOS: Mr. Dogge, you have not got

16 any documents in front of Mr. Teller. You're

17 asking questions without an exhibit in front of

18 him, without any statements in front of him.

19 You've not shown him any videos. So you're not

20 supporting any of the questions with anything

21 for him to reference.

22 MR. DOGGE: Okay, Mr. Tratos. Can you

23 please take Exhibit 1 in my answer to your

24 complaint. Might I ask you to bring your

25 exhibits.

1 MR. TRATOS: Sir, it's your obligation --

2 MR. DOGGE: Can you show Exhibit 1 to --

3 MR. TRATOS: Mr --

4 MR. DOGGE: Can you show this exhibit to

5 Mr. Teller and then I will ask this question

6 again?

7 MR. TRATOS: Mr. Dogge --

8 MR. DOGGE: Can you do that, Mr. Tratos?

9 MR. TRATOS: No, Mr. Dogge. It is your

10 responsibility to produce your the documents

11 you're going to ask. That was your

12 responsibility. You've seen it demonstrated

13 for you when you had your deposition taken.

14 When we ask you questions, we provided you with

15 the documents. You should have provided the

16 court reporter, and the videographer, and this

17 service with the documents that you wanted to

18 have examination on. That was your

19 responsibility. You've not fulfilled that

20 responsibility. It is not our responsibility

21 to bring an entire legal file to decide what

22 you're going to choose to use. That's your

23 obligation. If you chose not to use that

24 right, we're sorry --

25 MR. DOGGE: Mr. Tratos, thank you very

1 much for your statements. Now, Mr. Tratos, I
2 got to interrupt you. I'm sorry. But you
3 didn't answer to, in the confirmation, when I
4 asked you to be present on this litigation --
5 on this deposition, and I asked you to bring
6 all these documents and you didn't refuse --
7 you didn't -- and said you didn't want to bring
8 these documents. So I was thinking you had
9 these documents with you. It is not my
10 responsibility --

11 MR. TRATOS: Mr. Dogge, it's your
12 responsibility. It's your deposition. It's
13 your obligation, sir.

14 BY MR. DOGGE:

15 Q Okay. I will continue with the -- if you
16 don't want to answer to these simple questions,
17 Mr. Teller you are going to have another chance --

18 A I've answered the question, sir. I've
19 answered the question, Mr. Dogge.

20 Q That you don't see a difference between
21 the items; is that your answer?

22 MR. TRATOS: Objection. Mischaracterizes
23 his prior testimony --

24 MR. DOGGE: Is that --

25 THE WITNESS: I said it is the same trick.

1 One of the least important props is different.
2 The trick itself, the effect on the audience,
3 what -- everything that is important and
4 identifiable about the trick is the same. And
5 you know that. You confessed that in your
6 advertisements. How could you not know that?

7 BY MR. DOGGE:

8 Q Mr. Teller, you wanted to pay \$15,000 for
9 the difference. You enumerated all the differences
10 in your e-mail. You know that. Let's continue with
11 the questions, Mr. Teller.

12 A Please.

13 Q You stated that the method of the illusion
14 is not important in this litigation. Why did you do
15 that? Why did you say that?

16 A Because that is what I believe.

17 Q Because what?

18 A That is what I believe. That it is the
19 effect --

20 Q Okay --

21 A What we're talking about is the effect.

22 The effect. The dramatic --

23 Q Okay.

24 A -- effect.

25 Q Okay. Mr. Teller, now simple question:

1 Don't you agree that every method has its limit?

2 A I don't know what you mean by that.

3 Q Every method in any magic trick has its

4 own limits; don't you agree with this?

5 A Every method --

6 Q In the performance --

7 A -- has its limits. So you mean -- can you

8 give me an example?

9 Q Yes. We are speaking -- you were speaking

10 about the effect, that the most important, in your

11 eyes, in this trick, the effect.

12 A Yes.

13 Q Don't you agree -- don't you agree that

14 the limit of the methods will limit the effect, the

15 performance. I can give you an example. It's

16 also -- it's always very dangerous to give examples

17 of analogy, because they're not always completely

18 right. But for instance if you see the method to

19 move a car with an engine if -- don't you think that

20 the engine will limit the car performance?

21 A The fact -- let me see if I understand

22 what you're saying. You're saying that in a car,

23 the nature of the engine would say limit the speed

24 that the car can go; is that what you mean?

25 Q Yes. I think so. I don't know if this

1 analogy is completely right --

2 A I don't think it is, because in this -- in
3 this case, we're talking about -- we're talking
4 about a -- a work of imagination, and we're talking
5 about something that the -- the effect -- not every
6 effect benefits by technical changes. Not every
7 effect benefits by technical changes. And I think
8 you believe that. And I am -- and as a very
9 experienced performer, I can tell you that's not the
10 case. I've seen many, many tricks improved in a way
11 that hurt their overall effect. I -- to -- to
12 your -- your method diminishes considerably the
13 romance of the trick. It diminishes it
14 considerably. It takes -- it takes away -- it's
15 why -- it's why I was so uncertain that I could
16 possible have any use of it. Because the audience,
17 at the end of that trick is gasping with the beauty
18 of it. It's gasping with the way it's touched their
19 hearts. They're not puzzling over it. And your
20 tiny change to the end of that will spoil that
21 trick. If you were to do that trick, it would be
22 less effective than the way I do it.

23 And this is just -- this is me
24 speaking out of nearly 40 years of experience, but I
25 have had this experience.

1 Q I believe that, Mr. Teller. I see that.

2 I know that, yes. And I have to say, I think you

3 are a great magician. Compliments to you.

4 But still, I -- I -- my question

5 is -- is not really answered, because I think a car

6 with a 5000 cc engine drive much more faster than a

7 care with a 500 cc engine. And I think the

8 method -- the limitation of the method -- limitation

9 of the engine will limit the performance as well --

10 A I understand that. But mr. Dogge --

11 Q You can't --

12 A -- suppose -- just to take your analogy

13 one step further. Suppose that the person who owns

14 the car is concerned mostly about the smoothness of

15 the ride, and your 5000 pound engine drives it very

16 fast but it's no longer a pleasure to drive; that's

17 not an improvement.

18 Q I understand that, Mr. Teller. But would

19 you call the two cars different to each other?

20 A So are you talking about -- so I have --

21 let's say I have a Rolls Royce, you put a different

22 engine in my car, is my car no longer a Rolls Royce?

23 My car is a Rolls Royce.

24 Q Congratulations.

25 A I don't have a Rolls Royce, by the way. I

1 have a ten year old car. I have a ten year old car

2 that is desperately in need of changing. I do.

3 It's a mess. It's a mess. I've -- it -- it's --

4 it's held together with tape at the moment. And

5 that's -- that was a joke --

6 Q I feel sorry for you --

7 A -- not testimony. That was a joke not

8 testimony.

9 Q Okay. Now, Mr. Teller, I say that you

10 will see this as a different car, and I think if

11 you're going to fill it up with gas, you will feel

12 that it's a different car. And when you drive the

13 car, you will feel that the engine makes the car

14 different to a -- but that is the analogy happens --

15 A Yes. It is the analogy. And you should

16 just continue with your questions, I think, Mr.

17 Dogge, so make some progress here.

18 Q Yes.

19 A Yes.

20 Q I am going to do that, yes.

21 A Thank you very much.

22 Q Now, still I go back to this our magic

23 tricks. In shadows, there is only half of the rose

24 missing. Because half of the stem is hidden in --

25 in Bakardy's magic trick, the rose is completely

1 disclosed. It is as transparent as a Coca Cola
2 bottle. The prop I invented allows the magician to
3 control the flower falling apart in any vase, any
4 bottle; white, black, nontransparent, or
5 transparent. Even without a vase or bottle, the
6 magician can just hold the flower in his hand or
7 plant it the stand in the ground somewhere and still
8 be in control of the flower.

9 Mr. Teller, again, you think that the
10 prop or the methods is not limited the performance?

11

12 MR. TRATOS: Objection. Asked and
13 answered. Mr. Dogge, you have now confused the
14 issue of the prop with the issue of the
15 copyright. The copyright is not on the prop,
16 sir.

17 MR. DOGGE: Okay. I am confused. This is
18 the first time I am speaking with a big
19 magician, a famous magician, and with a famous
20 lawyer on the other side of the world so
21 forgive me. I am confused. I don't know the
22 difference between copyright of patents, maybe.
23 I have to study more.

24 BY MR. DOGGE:

25 Q But speaking of David Copperfield, do you

1 think it could perform his act when he's flying in
2 mid air in the middle of the theater using this old
3 fashion method or prop, which was revealed by your
4 colleague, the masked man, using a forklift behind a
5 curtain?

6 A I have no idea what you're referring to --

7 Q Where David Copperfield would fly around
8 in?

9 A I am sorry. I -- I don't have any idea
10 what you are referring to. David Copperfield did a
11 beautiful, beautiful flying act on stage. I did see
12 that. That was a wonderful act. And it was much --
13 I mean you call it crude, but my God, it was the
14 most sophisticated thing that had ever been done in
15 the way of flying. But you don't know that, because
16 you're new in magic. And I sympathize with that.
17 But you don't know what you're talking about.

18 Q I think -- I think you misunderstood,
19 Mr. Teller. Sorry. It's probably -- it's probably
20 my fault. I'm speaking badly English. I don't
21 think that it's crude -- or how do you say? No,
22 absolutely not.

23 I ask you again, Mr. Teller, don't
24 you agree that David Copperfield cannot magically
25 fly in the center of a theater by using a forklift

1 hidden behind a curtain like the method which was
2 revealed by your colleague, the Masked Man?

3 A My colleague?

4 Q The Masked Man. He reveals all the
5 tricks, you know --

6 A The Masked Magician, yes. I saw -- I say
7 some of those shows. No. David Copperfield could
8 not fly around the stage being lifted by a forklift
9 in the way that he does. That -- that is certainly
10 correct.

11 Q Thank you very much for your answer,
12 Mr. Teller. At least we agree that the props -- or
13 the methods is limiting the performance. I think
14 you understand my question now.

15 A I understand the point that you're
16 arguing, but I disagree with your overall thinking,
17 sir.

18 Q Yeah. Okay. Again, to the -- to the
19 items, Mr. Teller, did you ever perform shadows in a
20 transparent vase or bottle?

21 A No, sir --

22 MR. TRATOS: Objection. Asked and
23 answered.

24 MR. DOGGE: Sorry. I didn't understand.

25 MR. TRATOS: I made an objection, sir.

1 You've asked and answered that question.

2 MR. DOGGE: I don't understand it.

3 BY MR. DOGGE:

4 Q Anyhow, you didn't -- you didn't perform
5 in a transparent vase or not?

6 A I did not.

7 Q Okay. Can I ask you, Mr. Teller -- I'm
8 sorry. I am hardheaded. Why did you never perform
9 in a transparent vase?

10 A It never --

11 MR. TRATOS: Objection. Asked and
12 answered, previously.

13 THE WITNESS: -- it never occurred to
14 me --

15 MR. DOGGE: Okay.

16 THE WITNESS: It seems inconsistent, also,
17 with the beautiful sort of Japanese look that
18 the trick has.

19 BY MR. DOGGE:

20 Q Okay. Did you ever perform shadows in
21 your light of that vase, which was filled with
22 water?

23 A You're asking me the about method of the
24 trick, and I -- I decline to answer that, without
25 entering into a protective agreement. And even

1 then, it's proprietary information. You've been
2 prying about this for a long time, Mr. Dogge.

3 Q No, sir, Mr. Teller --

4 A And I have --

5 Q I am not interested --

6 A -- no interest in giving you my

7 proprietary information. Really, I don't.

8 Q No. No. I understand it. I am not

9 asking you about the method. I am just asked if you
10 ever performed with a vase with water inside.

11 That's the question.

12 A You're asking me about my method.

13 Q Okay. Did you ever perform shadows

14 removing the stem of the rose at the end of the

15 magic trick?

16 A No, I did not.

17 Q Why not?

18 A It's inappropriate to the story of the

19 trick. There is as I -- as you and I have

20 discussed -- we've said this again and again, that

21 at some point, I -- I -- I don't need to repeat

22 this. Do I need to repeat this?

23 MR. TRATOS: No --

24 THE WITNESS: I gave you all this -- every

25 answer to this earlier in this -- in this

1 conversation. I -- you don't need to keep
2 asking me the same questions. It's all going
3 to be on record.

4 MR. DOGGE: Okay --

5 THE WITNESS: You can go back and reread
6 what I said the last time. I am not going to
7 change my answer.

8 BY MR. DOGGE:

9 Q That's fine. I will compare your answers
10 with your answers given in the discovery. Thank you
11 very much, Mr. Teller. I just have one more
12 question regarding the evidence. Did you really
13 file this complaint without having the video to
14 prove the alleged --

15 A Yes, we did because -- Mr. Dogge, I
16 thought that you and I were going to come to
17 wonderful terms. That you would end up happy. That
18 I would end up happy. I had no -- when I asked for
19 that video to be taken down initially, it was -- it
20 was simply to start this discussion with you. It
21 was not, with any idea, that you would ever, ever go
22 so far as to -- as to insist, essentially, insist
23 that I sue you.

24 Q Mm-hmm. But you were asking for my
25 address on the 3rd of April?

1 MR. TRATOS: Is that a question, sir?

2 MR. DOGGE: Yes. That's a question.

3 MR. TRATOS: What is the question?

4 BY MR. DOGGE:

5 Q You were asking for my address on the 3rd
6 of April. Why were you asking for my address on the
7 3rd of April --

8 MR. TRATOS: Asked and answered.

9 MR. DOGGE: Yeah. Okay. It is answered.
10 In Europe, it's very unusual -- it's not common
11 to file a complaint against anyone without
12 evidence. Maybe this is different in
13 America --

14 MR. TRATOS: Mr. Dogge, I -- I beg your
15 pardon. But, sir, you filed a defamation case
16 in Belgium without a shred of evidence. And
17 you have filed that case alleging that your
18 life has been ruined. And in eight months of
19 that case, you have not filed a single
20 document. Not a single document that would
21 support your claims. Not one, sir. So I think
22 it's inappropriate for you to be making
23 argument here. You should be asking questions.

24 MR. DOGGE: Mm-hmm.

25 MR. TRATOS: That's it. Thank you.

1 MR. DOGGE: We will -- we will see this in
2 court, Mr. Tratos.

3 BY MR. DOGGE:

4 Q Again, I have to ask you something about
5 your evidence then. In your evidence, I could see
6 that Mr. Tratos filed the no shadow presentation by
7 Gerard Bakardy. It's a little video, which is on
8 You Tube now. Explain me how you came in possession
9 of this video, Mr. Teller.

10 A I -- I was I was directed to that video by
11 some friend of mine. I don't know who. And looked
12 at it and thought, well, he's now avoiding -- he's
13 now avoiding doing my trick. But -- but by now,
14 it's too late. Because by now, this whole dispute
15 is widely known. Anyone who should buy your version
16 of it now would easily see it as a way to do my
17 trick. So I am not sure what your question is
18 beyond that.

19 Q I think you're confusing, Mr. Teller, with
20 the videos. I am speaking about the no shadow
21 presentation --

22 A That's correct.

23 Q -- by Gerard Bakardy.

24 A Yes.

25 Q This is -- this is a video without any

1 moving action. That is just --

2 A Yes.

3 Q I used some photos and some --

4 A Yes.

5 Q You speak about the same video now?

6 A I would -- it's --

7 Q You answer my question.

8 A This is a video of you sitting next to a

9 table and talking about life while a rose falls

10 apart --

11 Q No. No.

12 A Oh, now I don't -- no, then I don't know

13 what video you're referring to.

14 Q No. It's a video you filed now in your

15 evidence.

16 A I don't know what you're referring to.

17 Can you call my attention to it? Can you point it

18 out?

19 Q I am just trying to explain it. It is a

20 video -- I am not in the picture, and there is no --

21 no flower, no rose, no bubble, no Coca Cola bottle

22 in the picture. It's only effects --

23 A Oh --

24 Q No shadow. Nothing at all.

25 A This, I did -- I did see this.

1 Q Good.

2 A I did see this right -- some time right
3 after we filed the suit. And this -- is the one
4 where you said all will be revealed? Is that the
5 one?

6 Q Yeah, that's the one.

7 A Uh-huh. It seemed quite cryptic to me.

8 Q And my question -- no. No. But my
9 question was: How did you come in possession of
10 this video, because you filed it now evidence?

11 A Oh, oh. How -- oh. Once that information
12 came to me by -- once we seized communicating, any
13 time I would get any piece of information pertinent
14 to this case, I would send it to my attorneys, and
15 they would take it from there. Because once the
16 lawsuit had really commenced, you and I had to be --
17 I stepped back and let my attorneys handle all of
18 that sort of stuff. So no, I don't -- I truly
19 don't -- I don't know how they came in possession of
20 it. So I don't think what -- yes, I don't know the
21 answer to that.

22 Q Mm-hmm. Okay. Anyhow, you have it. So
23 you must have -- someone must have downloaded it,
24 because it's on You Tube and it's downloadable from
25 You Tube --

1 A Okay.

2 Q -- and now it's in your file of evidence.

3 A Okay.

4 Q So someone must be able to play and to
5 download that video. Now, you are asking me to
6 produce the video at issue called the missing
7 videos. Do I understand that right, that this means
8 that you don't have this video?

9 A That is correct.

10 Q Okay.

11 A And we've been through this before
12 Mr. Bakardy -- Mr. Dogge. Forgive me.

13 Q No --

14 A We've been through this before. So can
15 you come to a new question?

16 Q I just want confirmation. So in -- that
17 means that you have the video, nothing to do with
18 the copyright, just some words and picture --
19 pictures, no shadow, no rose, nothing. This is your
20 evidence and you forgot --

21 MR. TRATOS: Mr. Dogge --

22 MR. DOGGE: I --

23 MR. TRATOS: -- I am going -- Mr. Dogge,
24 again, this is Mark Tratos, I am going to
25 object. You are arguing with the witness. You

1 are making statements. You are not asking
2 questions. This is improper.

3 MR. DOGGE: Mm-hmm.

4 MR. TRATOS: You know that you have
5 said --

6 MR. DOGGE: Okay.

7 MR. TRATOS: -- repeatedly -- you know
8 you've said repeatedly through this litigation
9 that you were going to produce the videos, that
10 you were going to show them to the jury.

11 That's what you said. And then surprisingly,
12 you destroyed the videos on your computer.

13 Now it's inappropriate for you to be
14 making these kind of arguments simply ask
15 questions or we will suspend this deposition.

16 Thank you.

17 BY MR. DOGGE:

18 Q Okay. So let's speak -- one more question
19 about this missing video. Did you get any answer
20 from You Tube, Mr. Teller? We are requesting these
21 videos now from You Tube. Did you get any answer?

22 A I don't believe we've received any answer
23 yet.

24 Q Okay. We are still waiting --

25 A We're making our best efforts -- we're

1 making our best efforts because this would certainly
2 be helpful.

3 Q Yes. Thank you very much for telling me
4 this, Mr. Teller. Another question. Please tell me
5 how you are related with Bugs and Rudy?

6 A Oh, Bugs and Rudy Discount Corporation is
7 one of the companies that Penn and I jointly own.

8 Q Okay.

9 A So that's the company -- that's the
10 company -- that's the company that owns all of
11 our -- all of our material things connected with
12 the -- with the company; our props, our computers,
13 and all that sort of thing.

14 Q Okay. What did that -- I guess you
15 answered this question. What is the activity or the
16 purpose of this corporation. How many employees,
17 Mr. Teller, how many people are there -- are working
18 in that office?

19 A Oh, you're asking the wrong person. Let
20 me -- let me think. I have a company director, two
21 people who work in the office. I have two magic
22 guys that work for me, that set the props. They
23 employ one -- I think they employ one other person
24 in the shop all the time. We have a truck driver
25 who drives when we perform -- when we travel.

1 Q More or less, Mr. Teller. It's not so
2 important. More or less.

3 A Somewhere around ten, I think. I -- I --
4 you know, it could --

5 Q Okay.

6 A I guess you could say the person who sells
7 merchandise at the show is an employee. So eight,
8 ten, something like that. Again, I don't run the
9 business part of my company. I run the artistic
10 part of my company. You know, I -- that's the --
11 that's the part -- that's where I am concerned --

12 Q Okay. But you own the business?

13 A I do.

14 Q Okay. Mr. Teller, how are you related
15 with James Steinmyer?

16 A I know of James Steinmyer. I've known
17 James Steinmyer for some time. He's a very famous
18 magic historian. I've attended his -- I've attended
19 his magic history conference a couple of times.
20 James Steinmyer -- let me think -- oh, James
21 Steinmyer wrote a book called Hiding the Elephant,
22 which the New York Times engaged me to review at one
23 point. That is my relationship with him.

24 Q Okay. Is he from -- does he live in Las
25 Vegas? Work in Las Vegas?

1 A I believe -- no, I think he lives in Los
2 Angeles.

3 Q Los Angeles, okay.

4 A Yeah.

5 Q How long -- how long do you know James
6 Steinmyer, more or less? Many years? 20 years? 50
7 years?

8 A Let me think. I've known of him for a
9 long time. And because we both move in the magic
10 circles, I am sure I must have run into him some
11 time in the last ten years. I've never been friends
12 with him.

13 Q That was my next question. Are you a
14 friend or just a business relation?

15 A I am -- I am a fan of his work, because
16 he's written so many fine books. And he's done --
17 he's designed magic for very -- for wonderful
18 magicians, like, David Copperfield and Doug Henning.
19 If I walked into a room, I would greet him and shake
20 his hand. We don't hang out. We don't visit. I've
21 never been to his home. He's never been to my home.
22 I don't know if we have ever had dinner together,
23 but I doubt. So that's -- it a -- I think it's a --
24 I think it's a -- I am a fan of his.

25 Q Yeah. Did he ever give advise to you and

1 Penn & Teller regarding your tricks and shows?

2 A At one point, we tried to see whether he
3 could come up with a piece of magic for us since he
4 was inventing magic for other people, but we never
5 succeeded because the kind of thing he designs is
6 not the kind of thing that we use.

7 Q Okay. And okay -- yeah.

8 A It's very hard to be --

9 Q So. You never worked --

10 A Sorry. It's very hard to be an American
11 magician and not know of James Steinmyer. He is
12 really one of the world's great authority on magic.

13 Q Yeah. You can see that on the internet,
14 he's a very famous man.

15 A Yes, he is.

16 Q But did you ever work together with James
17 Steinmyer on the same project?

18 MR. TRATOS: Objection. Asked and
19 answered.

20 MR. DOGGE: I didn't ask you this
21 question.

22 MR. TRATOS: He has just testified that
23 they asked Mr. Steinmyer to work, to develop a
24 illusion, but it didn't develop. It didn't
25 work.

1 THE WITNESS: Let me be very, very clear
2 about this.

3 MR. DOGGE: Okay.

4 THE WITNESS: We did a television show
5 called Off the Deep End, and we endeavored to
6 have Jim Steinmyer design something for that
7 show, and it never worked out.

8 BY MR. DOGGE:

9 Q Now, okay. Mr. Teller, in answer to my --
10 one of my discovery requests, to identify all your
11 copyrighted magic tricks, identify you, and you have
12 a copyright of, you listed Hiding the Elephant. Is
13 this a trick you performed?

14 A No. I'm sorry. I -- I -- Jim Steinmyer
15 wrote a famous magic book called Hiding the
16 Elephant. And I was engaged by the New York Times
17 to review this book when the book was published.
18 Hiding the Elephant is not a trick.

19 Q Oh, okay. I understand it.

20 A Okay.

21 Q Just a second, where we go now. Oh, yeah.
22 It's again, a shame you didn't bring the documents I
23 ask you to bring but otherwise I would call your
24 attention to Bates No -- maybe you can write it
25 down, Mr. Tratos, so you can check it in your

1 office, Bates No. 72. And there I asked you to -- I
2 would ask you then now if you had this in front of
3 you, to describe what is on this page, what is on
4 this document. But you didn't bring this document,
5 so I will -- I will describe what I see for you, and
6 then maybe you can go more in detail.

7 Mr. Teller, this is a picture of what
8 I see from you as a young, attractive boy. The
9 magician Teller, thick eyed victim of the universe
10 in general does really untamed magic including
11 rooting a rose by cutting the shadow. This is
12 written by Joseph Addock (PHONETIC) from the Evening
13 Bulletin. And it is a black and white picture. Do
14 you know about which picture I am speaking of?

15 A I believe I do.

16 Q Yeah. In the picture, Mr. Teller, can you
17 describe what is seen in this picture --

18 A I am afraid I don't recall -- I believe I
19 am wearing tights and I have long hair. That's all
20 I know.

21 Q Yes.

22 A Now, keep in mind, Mr. Dogge, that I,
23 again, I am not sure that we're thinking of the same
24 picture. But there are -- there are many, many
25 pictures that are production stills, that are

1 publicity photos that are not accurate
2 representations of what is going on on stage. So if
3 you're about to call some difference between --
4 between a publicity still and what goes on on stage,
5 I am afraid you are out of luck.

6 Carl Germain, for example, the person
7 who used to do the mysterious planting and blooming
8 rose trick, when you see that picture in his
9 publicity materials, it's quite impossible when
10 you -- when see -- saw it on stage. It was a
11 completely different thing. So if you're about to
12 call a difference between that and my stage piece,
13 it's -- you're barking up the wrong tree.

14 Q Okay. Yeah. I was just wondering -- I
15 see some very rare things on this picture. For
16 instance, I see this rose standing there in front of
17 you. And the rose is hanging with the head down,
18 and in the shadow, from this rose, the head is just
19 straight, standing up.

20 A You -- this is --

21 Q -- in the picture?

22 A This is -- that certainly may be an
23 accurate shot. I, again, I cannot tell without
24 actually looking at the picture. But something you
25 don't understand, Mr. Dogge, because, again, you

1 haven't got the experience that I have with this
2 trick. In order to present this trick for a large
3 audience, it's necessary to place the light source
4 low so that the light itself is not blocking the
5 view of the audience. That means that when you cast
6 the shadow of the -- of the rose up onto the screen,
7 the -- it's important to consider that a shadow
8 distorts, if it's leaning this way or that way. So
9 it may appear to you if the rose -- if the rose is
10 drooping this way, the shadow may still appear
11 straight (indicating). Do you understand what I am
12 saying? That has to do with the angle -- the angle
13 of the light.

14 Q Okay. Yeah. I was wondering if this was
15 a tricky thing of the photographer or I don't know.

16 A I don't know. One of the -- one of the
17 reasons --

18 Q Anyhow --

19 A -- that I prefer the vase that I use to
20 the appliance that you've devised is that the vase
21 isn't subject to the same kind of distortion that
22 other -- that other shapes are subject to, because
23 the vase is essentially spherical. And its sphere
24 will cast the spherical shadow from down here and
25 from -- and from -- and from being looked at

1 directly. It's a very -- it's a nuance concern that

2 I have dealt with over the years very heavily.

3 Q Mm-hmm. Okay. Good. Mm-hmm. I go to my

4 next question, Mr. Teller. We're almost done.

5 A Oh, wonderful. Thank you.

6 Q So I think it's good news; isn't it?

7 A Yes, it is.

8 Q Yeah. I have to go back once again to

9 this picture, because I see that there is the vase,

10 which is not that important for you. But this vase

11 on that picture is transparent.

12 A Is a what?

13 MR. TRATOS: It's transparent.

14 BY MR. DOGGE:

15 Q It's a transparent.

16 A So -- oh, so then you are definitely

17 looking at a publicity still. Probably posed in a

18 studio.

19 Q Okay.

20 A And probably improvised in a studio where

21 the photographer probably said, here, put this vase

22 in there, put this rose up there, and stand up there

23 and pose.

24 Q Yeah. Okay. So it's a tricky picture

25 from the photographer, let's say it like that.

1 A I -- I -- that's what it sounds like to

2 me, because it's never been part of my routine.

3 Q Yeah. Mm-hmm. Okay. Just a second.

4 A Sure. Take your time, sir.

5 Q Oh, yeah. Like I said, we are almost done

6 Mr. Teller.

7 A Splendid. Thank you.

8 Q I have to go back to your -- to the time

9 when you were a teacher.

10 A Yes, sir.

11 Q And when you have to take some exam. When

12 you have to take some examinations from your

13 students.

14 A Yes.

15 Q And I want to speak about clerical --

16 clerical errors, Mr. Teller. Clerical error.

17 Suppose you were taking an

18 examination from your teacher -- from your students

19 and you called them -- you asked them to call the

20 capitol of France.

21 A Okay.

22 Q One of your students -- and one of your

23 students would answer Baris, with a B, Baris.

24 A Mm-hmm.

25 Q Would you, as a teacher, consider this as

1 a clerical error?

2 A As a teacher? That's a -- that's a good
3 question. As a -- as a teacher, I would probably
4 say that that is a wrong answer.

5 Q A wrong answer?

6 A Yes. B-A-R- -- you said B-A-R-I-S. I
7 would say --

8 Q Yes. It is Paris with a P, but he
9 answered Baris.

10 A But he answered Baris --

11 Q If I was a teacher, I would say that is --
12 was a clerical error. If he answered Rome, which is
13 the capital of Italy, then I would say this is the
14 wrong answer. You don't think so?

15 A No. I -- I -- it may. When you're -- I
16 mean, having been a teacher, part of what your job
17 is, is to teach a child to pay attention to details.
18 So it -- it --

19 Q Okay.

20 A -- teaching is a complex thing. And
21 you're asking me a very weird, hypothetical question
22 about -- that I don't understand the pertinence of
23 that to this case.

24 Q Okay. You will understand the purpose in
25 the next question, actually -- on the second

1 question.

2 A All right.

3 Q Suppose someone -- you as a teacher asked
4 your people -- your pupil or your students when was
5 the time that the world -- the first world war was
6 happening.

7 A Yes.

8 Q And your students are answering, this was
9 1814 to 1818.

10 A Yes.

11 Q Do you call this a clerical error or the
12 wrong answer?

13 A I would call it the wrong answer.

14 Q I think you just misstate -- you say the
15 wrong answer? Okay.

16 A Yes.

17 Q Well, I would give them another chance
18 because they just missed -- if they say it was 40,
19 45, this is the second world war. And I would say
20 this is the wrong answer, but okay --

21 MR. TRATOS: Mr -- Mr, Dogge --

22 MR. DOGGE: I don't --

23 MR. TRATOS: I apologize to you, it's

24 Mark --

25 MR. DOGGE: I come to my question now. I

1 come to my question.

2 THE WITNESS: Okay. Please do. Thank
3 you.

4 BY MR. DOGGE:

5 Q What is your date of birth? What is your
6 date of birth?

7 A Oh, February 14, 1948.

8 Q Okay. Suppose you answered me this is the
9 1t of March --

10 MR. TRATOS: Mr. Dogge, I am -- I am going
11 to object now and tell you, if you're trying to
12 build a case because we changed a date in our
13 response of answers -- is that what you're
14 trying to do? These series of questions simply
15 don't prove that point. You are in the same
16 way, an amateur at being a magician. You
17 haven't practiced law before. And I can simply
18 share with you, you're wasting everyone's time
19 doing this.

20 If you have a question about an error on a
21 document that was filed in this case, ask
22 those -- that kind ever of question. Do not
23 waste everyone's time by going around these
24 kinds of circles. It does not help you. It
25 certainly does not help us. Please ask a

1 pertinent question to this case.

2 MR. DOGGE: Okay, Mr. Tratos.

3 BY MR. DOGGE:

4 Q Mr. Teller, I just need you to ask these
5 questions, because you have changed your answer so
6 many times, and you call it clerical errors, and I
7 get confused by that. So I want to clear it up.

8 Let me ask you this simple question.

9 When you state that you took the
10 screen shot form the 30th of March, and afterwards
11 changed your answer, stating that you took the
12 screen shot at the 15th of March; meaning two weeks
13 earlier, being a teacher, Mr. Teller, would you call
14 this answer a clerical error or would you call this
15 an untruthful answer?

16 A I don't know what documents you're
17 referring to. I don't know the background to what
18 you're referring to. It sound like a simple
19 mistake. And a mistake in this case is not the same
20 thing as answering a question in a -- in a school.
21 I -- I really -- I don't get your point --

22 Q Okay.

23 A I don't know what you're really asking me.
24 If at one point we -- clearly, we made one large
25 mistake, which was to include the bookmark bar on

1 that first -- on that first screen shot of you. It
2 was a mistake. It was absolutely a mistake. And
3 because it's -- it obviously offended you, which we
4 had no reason to do. We had no interest in. All we
5 had the interest in was identifying the fact that
6 you were selling my trick on the internet. And it
7 pertains -- there is no pertinence at all to that
8 bookmark bar. That's why we redacted it.

9 Q Okay --

10 A It bares no relation to this case. And I
11 think you're desperate. You know, I think you're
12 desperately clutching at any straw that would give
13 you any leg up on this, and you're failing. I --
14 I -- this would have been so easily to resolve if
15 you hadn't done this.

16 Q You're free, Mr. Teller, to think what you
17 want to think.

18 A Thank you.

19 Q When I ask you in -- when I asked you in
20 discovery, Mr. Teller, to prove me some documents
21 the damage you had had -- you have had because of
22 me, caused by Bakardy and his creation, you stated
23 you answered later. Can you tell me now what the
24 damage is that you have had because of my invention,
25 alleged invention?

1 A You have ripped my heart out Mr. Bakardy.
2 You have ruined my faith in humanity. You have
3 ruined my faith in the ethics of magic. I don't
4 mean to sound angry, but you really have done
5 serious, personal damage to me. You have taken
6 amounts of time that I would have devoted to
7 building my career, and instead have them wasted
8 on -- on this -- on this deposition, on all of
9 this -- on all of this work, which I had to do to
10 protect my own interest against you.

11 You have also cost me hundreds of
12 thousands of dollars just to resolve something that
13 should have been resolved in a simple and
14 gentlemanly manner. Is that clear?

15 Q You want a drink, Mr. Teller?

16 A I don't drink.

17 Q What do you like, Mr. Teller --

18 A I don't drink, Mr. Bakardy -- or Mr.
19 Dogge, pardon me.

20 Q Try to stay calm, Mr. Teller. This is the
21 second time you lose your tempter. It's not good
22 for your heart.

23 A Thank you. I appreciate your concern. I
24 appreciate your concern. I -- I, as you know --

25 Q I --

1 A -- as you know, I am a very, very patient
2 man and a very generous man. And it takes a lot to
3 get me going. I mean, it took your saying, would
4 you like to see this on the shelf -- your trick on
5 the shelves of every Walmart, to get me to lose my
6 temper. That day -- that day, which I think was
7 April 6h, I -- I came that afternoon in the
8 expectation that we would end up the best of
9 friends, because we had talked about your selling
10 your creation -- your copy, but in a way that
11 wouldn't infringe on my -- on my interests. We had
12 talked about that possibility. And I -- I was on
13 the roof of a garbage in -- at the airport in Las
14 Vegas, expecting in every way for this to be settled
15 amicably. And you mentioned three presentations,
16 which I said, okay. I think I can live with that.
17 Then you mentioned the fourth presentation, the one
18 that you had lifted from Hector, and I said, no,
19 that's not acceptable. Because my request to you
20 was come up with a presentation different enough
21 that it will seem like a completely different trick
22 to the audience. And at that point, I was amazed
23 that you insisted on that. You said, awe, this is
24 the one I like the best. As if you were jabbing a
25 little knife into my -- into my ribs.

1 I was very upset by that, but we
2 stopped talking then and we resumed our conversation
3 once I landed in Los Angeles and was in the middle
4 of another work project. And that point, you
5 brought out this -- this notion that I should pay
6 \$125,000, fully to -- two plus times the amount of
7 money that I have ever spent on a magic trick.
8 \$125,000 to you to merely redeem something that was
9 mine. And then on top of that, you threatened,
10 again, that you were going to put it in every
11 Walmart. I -- yes, I lost my temper. And believe
12 me, a person has a right to lose his temper when
13 he's being attacked and viciously provoked as you
14 did.

15 Q Are you done, Mr. Teller?

16 A Yes. And any further questions?

17 Q Yes. Because you are -- I am surprised
18 that Mr. Tratos is not interrupting you in all your
19 statements, because you are telling me that I lifted
20 a trick from Hector. Can you prove this,
21 Mr. Teller?

22 A No, I can't --

23 Q Can you prove your statement?

24 A Let me -- let me say --

25 Q Okay. Okay. Mr. Teller --

1 A May I make a correction, sir? May I make
2 a correction, sir?

3 Q If you -- if you can't prove your
4 statement, don't make any further statement, if you
5 can't prove it.

6 A Let me make a correction, sir. Your
7 description --

8 Q Okay.

9 A -- of your idea was exactly the same as
10 another magician's performance. I believe that that
11 coincidence is so unlikely as to justify my belief
12 that you had lifted that. You also indicated your
13 awareness of Hector before that. So it seems to me
14 that Hector certainly didn't lift it from you now;
15 did he?

16 Q No, he can't. His prop is similar to
17 yours; not to mine, Mr. Teller. So let's speak
18 about your damage again. You do a lot of statement
19 that your heart is with -- but for me you seem very
20 alive.

21 Mr. Teller, do you think that you
22 expect of this report will show that there were less
23 tickets show in the Penn & Teller shows during the
24 period of a year, from March 2012 to March 2013
25 compared with the previous year, March 2011 to

1 March 2012? Meaning, during the period that we are
2 in this litigation, did you sell less tickets to
3 your show?

4 A I did not.

5 Q Did you sell less tickets to your show,
6 Mr. Teller, in that one week that my video was on
7 You Tube with the alleged infringement video?

8 A I have no way of knowing that.

9 Q Oh, but that's -- maybe you can prove it.
10 Mr. Teller, in one of your emails you wrote to me
11 that you're a clever businessman. And a good
12 businessman they usual do -- they stay alert. And
13 now my question: Do you watch or check daily what
14 happens on this magic market regularly?

15 A No.

16 Q What happens on this magic market?

17 A No. I also don't know what statement
18 you're referring to. You said, we are both
19 businessmen. And at one point, repeated that back
20 to you by way of telling you that I was taking the
21 business threat that you were presenting me with
22 seriously.

23 Q I never threatened, Mr. Teller. Never. I
24 have never demanded 125,000 like you just said. Can
25 you prove that I demanded 125,000?

1 A I believe --

2 Q Can you prove your statement again.

3 Mr. Teller?

4 A I believe you, yourself, said that you

5 asked for that fee. Did you -- did you believe that

6 I offered that?

7 Q No, Mr. Teller.

8 A Do you believe that I offered that?

9 Q No, Mr. Teller, I asked you -- I just

10 asked you, can you prove your statement, that I

11 demanded 125,000? That's what you were telling me.

12 A I -- I was party to the conversation, and

13 I can testify absolutely that you demanded \$125,000.

14 Q Next question, Mr. Teller: How many

15 persons are you aware of are performing, selling,

16 buying, or renting magic tricks which could be

17 claimed by you as your copyright or your signature

18 trick?

19 MR. TRATOS: Objection. Compound

20 question. And it's simply inarticulate, sir.

21 You might try to rephrase it.

22 MR. DOGGE: I try.

23 BY MR. DOGGE:

24 Q How many persons are you aware of,

25 Mr. Teller, are performing the trick similar to

1 shadows or to any other copyrighted trick from you?

2 A To the best of my knowledge, Hector and
3 one magician in Britain, to whom I have granted a
4 limited license, as I did to Hector, on a different
5 trick.

6 Q Okay. How many persons, Mr. Teller, are
7 you aware of are selling and, of course, buying --
8 they being sold for one to buy it, how many persons
9 are you aware of are selling your copyrighted
10 tricks?

11 A I -- I don't know the answer to that.
12 I -- I have evidence from the fact that Hector
13 apparently purchased the prop that he used from some
14 magic builder, but I -- I am afraid that I don't
15 know the -- I don't know these people who have done
16 this piracy.

17 Q Mm-hmm. Okay. As a good businessman, Mr.
18 Teller, you should know this but --

19 A But I've never claimed to be a good
20 businessman. I'm sorry. Go --

21 Q How many persons, are you aware of,
22 Mr. Teller, are you renting this magic tricks which
23 are copyrighted by you?

24 A I -- I'm not aware of any.

25 Q Okay.

1 A We -- Penn -- Penn and I write pieces of
2 magic for ourselves with the intention of them being
3 identified with us. It's our style. We -- we write
4 for us -- we don't write for magicians in general.

5 Q Yeah. Okay. So Mr. Teller, how many
6 times did you watch my video, Bakardy's video, the
7 rose and the shadow?

8 A I -- I no longer remember exactly. I
9 certainly watched it enough to recognize that you
10 were doing my trick. I know -- I know I
11 watched your -- I know I watched your -- the --
12 the -- more distant one and the more close up one,
13 at least once each. But enough to identify each of
14 the elements that -- that was recognizable to me.
15 Apart from that, I really can't tell you. I -- I --
16 it was -- it hit emotionally very strongly. And
17 that's why I got in touch with you. In the full
18 exception that you --

19 Q Mm-hmm.

20 A -- that you would be a pleasant person to
21 deal with.

22 Q Mm-hmm. Okay. Mr. Teller, I have another
23 question about a document, Bate No. 68. And you
24 wrote -- if you want to just hold on a second so I
25 can check this document.

1 A Sure.

2 Q This is an e-mail coming from on the 4th
3 of April. And this email is from you to -- to me.
4 And in this e-mail you say, "I would like to offer
5 you 15,000. I assure ethical and legal position of
6 your method. And another -- I end up without a
7 division of lawsuit, yet a potential step forward,
8 improving my signature trick". Now, I have this
9 question about improving. How did you see -- how
10 did you think my invention could improve your
11 shadow?

12 A You said to me, Mr. Bakardy that --
13 Mr. Dogge, pardon me, that you felt that if you
14 worked a long time further you might be a able to
15 get the natural movement that I have in my -- in my
16 piece. And it was in the hope that something like
17 that might happen and that that might be of some use
18 to me. But keep in mind, the two of us, in our
19 conversations, were trying to be very nice to each
20 other. And I was trying to be very nice to you. I
21 mean, at one point you said to me, you know, you are
22 a God to me. And I knew that that was just flattery
23 and that that was just -- you were being nice. And
24 indeed when I say you are a clever man, I -- I meant
25 that to a degree, but this -- there is also just a

1 little bit of -- of friendly wooing going on there.
2 So that's a -- it certainly -- there is a
3 possibility that your method might have been useful
4 to me. I have no idea whether it would be. I have
5 no idea whether it would be an improvement, but
6 certainly there is lots of your -- of your
7 presentation in your method that I would pay no
8 attention to because it's irrelevant to the beauty
9 of the piece.

10 Q So I have to ask it again because you
11 don't answer me my question. In which way -- you
12 say that it might be a step forward to improve it.
13 So my question is, I don't define this question, did
14 you see it as an improvement regarding the method of
15 time of your --

16 MR. TRATOS: Mr. Dogge, it's Mark Tratos.
17 I am not understanding your question. Are you
18 asking Teller whether or not he believed your
19 method was better than his method at the time;
20 is that what you're asking?

21 MR. DOGGE: I am just asking what
22 Mr. Teller meant by saying that it was an
23 improvement -- improving to his signature
24 trick. And I was just asking how Mr. Teller,
25 this improvement, was this regarding the set up

1 time or was it regarding the performance
2 itself, or was it regarding the real
3 reliability of the method.

4 THE WITNESS: Would you -- would you read
5 my -- what I wrote to me again, please.

6 MR. TRATOS: Would you read the whole
7 paragraph, please.

8 MR. DOGGE: Yes. "If we follow this plan
9 and back it up with proper paperwork, we make a
10 respectable amount for your work and avoid
11 legal headaches and have a new friend in Vegas.
12 I end up without the aggravation of law suit,
13 yet a potential step forward towards improving
14 my signature trick, and gain a new colleague."

15 A Yes.

16 Q End of paragraph.

17 A Potential step forward is the important
18 phrase to look at there. There is -- there is no
19 evidence to me that your -- that your method would
20 actually be of value to me, but I thought that there
21 might be something I could develop out of it that
22 might in some way be of value to me. I was trying
23 to justify to myself spending \$15,000 to buy back
24 something that was already mine.

25 BY MR. DOGGE:

1 Q Mm-hmm. Okay. We're almost coming to the
2 end of the questions, Mr. Teller.

3 A Good. Thank you.

4 Q Yeah. In this request for admissions, you
5 deny that the defendant never approached you to sell
6 his invention. In other words, you say that it was
7 me who approached you to sell my creation or
8 invention. When was it, Mr. Teller? Please explain
9 me when I -- I approached you for -- to sell my
10 invention to you?

11 A I -- I don't understand the question.

12 MR. TRATOS: Yeah. Again Mr. Dogge, if
13 you want him to answer a question, read your
14 full question and his full answer, and then he
15 can -- he will elaborate, but you can't get a
16 complete answer without that.

17 MR. DOGGE: Okay. I rephrase the
18 question.

19 BY MR. DOGGE:

20 Q Mr. Teller, was it me who contacted you
21 the first, or was it you who contacted me?

22 A I contacted you.

23 Q Yes. Did I ever contacted you with a
24 question, Mr. Teller, can you buy my trick? I want
25 to sell this to you exclusivity to you? Did I ever

1 approach you in such way?

2 A Unfortunately, you never did. That would
3 have been the proper -- the proper action. The
4 proper action would have been to come to me and say,
5 Mr. Teller, I have something that might be of
6 interest to you. Are you interested in it? But you
7 didn't do that. You didn't do that. You placed
8 advertisements on the internet, using my name,
9 citing my name as the -- as your -- as a reference,
10 because it's a very famous trick now and belongs to
11 me. You went that way instead of coming to me. So
12 no, you did the wrong thing. You did not come to
13 me.

14 Q Yeah. This is going to be a long
15 question, I think. This is difficult. Oh, yeah.
16 In this e-mail, when you offered me \$15,000 of my
17 video, you wrote, "If this were to get out in the
18 magic community, then it would make both of us look
19 very, very bad". What did you mean by that?

20 A I ment that -- I felt that your action was
21 very wrong. And I also felt that I should be --
22 that I should handle it discretely so as non not to
23 harm you or harm me. I also felt that your action
24 was a bad example to the magic community of someone
25 who had taken someone else's trick, made a very

1 insignificant change, to my view, and then -- and
2 then gone and sold it. I thought all of that looked
3 very bad. And I didn't want that to become public.

4 Unfortunately, by the time it was
5 necessary for me to bring this suit against you,
6 that -- that position was no longer attainable.

7 Q Mm-hmm. Okay. I don't see how it
8 could -- how I could look badly -- very, very bad
9 story, because I think it could be great news in the
10 magic community, that a Belgium nobody created the
11 magic trick -- shadows in such a way that Teller
12 wanted to buy it. So how do you think that it
13 would -- how I would be -- I would like very bad?

14 A Because -- because you proceeded without
15 my -- without my consent, without my license, and
16 behind my back. That don't look good for you, sir.
17 It doesn't. If you had -- if you had come up with a
18 fabulous new trick, which I honestly think you're
19 probably capable of. A fabulous new trick that was
20 your own idea, then let the bells ring. Let's all
21 celebrate. It's the fact that you were using my
22 trick and attaching my name to it that looked bad
23 for you.

24 Q Mm-hmm. Yeah. Mr. Teller, I understood
25 your concerns that you didn't want to bring this

1 into the magic community, and that you did not --
2 that you didn't want to inform anyone else about
3 your offer, but you did actually. It was not me
4 that was bringing this confidential letter in the
5 magic community. A week after you wrote me this
6 e-mail, offering 15,000 for my invention and asked
7 to keep this confidential, you sent this particular
8 email to publishers of newspapers or magic
9 magazines. This confuses me again, Mr. Teller. Can
10 you explain why you did that.

11 A Once the -- once I had placed -- once I
12 had brought suit against you, I felt it was very
13 important to inform the magic community so that
14 other people wouldn't inadvertently become involved
15 in the lawsuit by being -- by secondarily infringing
16 on my copyright and on my possession of this -- of
17 this thing. I thought it was very important. I've
18 already explained to you why I -- why I wrote very
19 confidential letters to several people in the magic
20 community to try to identify what kind of person I
21 was dealing in you because we were indeed strangers.
22 I didn't have any -- any further information about
23 you. So that -- that's -- I have explained that,
24 and it is -- was absolutely essential to me that
25 that we -- I not allow other people in the magic

1 community to be drawn into this lawsuit without
2 their awareness of what they would be getting into.

3 Q Mm-hmm. Mr. Teller, I think you are a
4 little bit confused now because the letter, the one
5 that I was just reading for you where you offered me
6 15 000 --

7 A Yes.

8 Q -- and you said keep this confidential
9 otherwise we gonna look very, very bad --

10 A Yes.

11 Q And that it could be an improvement to
12 your trick, that email, that letter was sent by you
13 to Gunther on the 4th of April, before we had this
14 litigations.

15 A Yes, I --

16 Q Before --

17 A -- I have already explained this to you.
18 Mr. Bakardy -- Mr. Dogge, I was trying to handle
19 this with the maximum degree of discretion. And I
20 was actually -- once I -- once I identified that
21 that Mr. Gunier (PHONETIC) was someone who
22 understood magic ethics and that you were already
23 acquainted with him, I was hopeful that Mr. Gunier
24 would be able to persuade you, to bring you around
25 to the understanding of how this should be handled.

1 And you'll see in his reapply that he endeavored to
2 do that. And he endeavored to do that several
3 times. All of this was by way of discretion so that
4 this would not blow up.

5 And Mr -- Mr. Gunier also --

6 Q Mm-hmm?

7 A -- didn't -- he may -- there was no
8 publication of anything about this until after the
9 lawsuit came out.

10 MR. TRATOS: Mr. Dogge, we need to take a
11 break here on the -- no. Okay.

12 THE WITNESS: Well, do you have any idea
13 how much longer we will be going, Mr. Dogge?

14 MR. DOGGE: Maybe 15 minutes, 30 minutes
15 maximum. I prefer to finish actually now. If
16 you can continue just a little bit further, we
17 finish.

18 THE WITNESS: Okay. Fine. Thank you,
19 sir.

20 MR. DOGGE: Yeah?

21 THE WITNESS: Yes, that's fine. I just
22 want to be considerate to our court reporter.
23 Oh, okay. Then let's continue.

24 MR. DOGGE: Let's continue? Okay.

25 THE WITNESS: Yes, please.

1 BY MR. DOGGE:

2 Q So still I am confused, Mr. Teller,
3 because a confidential letter, is how you call it,
4 that you sent this to the publisher of newspapers
5 and magazines, and I wonder where what happens with
6 the confidence in this confidential sending this
7 letter.

8 A Mm-hmm. Was -- did --

9 Q Other question, Mr. Teller.

10 A Yeah.

11 MR. TRATOS: There was no other question.

12 He was making a --

13 THE WITNESS: Okay. I'm sorry. Forgive
14 me. Go ahead.

15 MR. DOGGE: Mm-hmm.

16 MR. TRATOS: What is your question, sir.

17 BY MR. DOGGE:

18 Q Yes. New question, Mr. Tratos,
19 Mr. Teller. You offered me this 15,000 this first
20 e-mail on April 4 -- 4th of April, I just wonder if
21 the offer made on the 6th of August, half a year
22 later, offering again 15,000, and we are in the
23 middle of this litigations, you offer me again
24 15,000 for the same prop, for the same method for
25 the same -- and I asked why you do that, and you

1 denied it in your -- in your answers.

2 A I don't know what e-mail you're referring
3 to.

4 Q Just tell me --

5 A Can you read the e-mail, please.

6 Q I just -- yes. It is a letter coming from

7 Mr. Tratos. Let me see if I can find it.

8 Mr. Tratos stated in this letter -- just a second.

9 I am going through documents. Mm-hmm. Yes. I -- I

10 think I have it. Yes. It's an e-mail, therefore I

11 ask you this first question, Mr. Teller, are you

12 aware of all the emails going on between the two of

13 us and between Tratos and me, and is he aware of all

14 the emails what we have going on. And I think this

15 is one of them, probably you don't know about.

16 This is an e-mail sent on May 23.

17 And I read just one paragraph. "Teller has now

18 required to expend several tens of thousands of

19 dollars to inform his right and this will no pay the

20 sum you demanded to require your product. We will

21 pay you the standard prop development fee of no more

22 than 15,000. We will absorb the cost of shipping.

23 This is the e-mail I got from you, from Mr. Teller

24 the 23rd of May.

25 A I think the point --

1 Q When we were in the middle --

2 A I believe the point of this was, in spite
3 of all of the expenditures that I have made in legal
4 fees up to that point, we were still willing to pay
5 you \$15,000 as I made as my offer to you to settle
6 at that point before all of the rest of this money
7 had gone down the drain because of your attitude. I
8 am --

9 Q Mm-hmm.

10 A I believe we were being generous past
11 description honestly.

12 Q Okay. Good, Mr. Teller. So it was
13 actually the same 15,000 for the same methods you
14 were referring to in your first e-mail on the 4th f
15 April; is that correct?

16 A Yes. I am not sure that Mr. Tratos is
17 phrasing of the -- the standard -- the standard
18 offer was exactly -- was exactly correct bat that
19 point, because I -- I don't -- standard offer is
20 a -- is a vague sort of term. But I -- I -- I think
21 by that, he probably meant the offer that I had
22 previously tendered.

23 Q Yes. Yes. The -- you are speaking about
24 the same offer actually?

25 A Yes.

1 Q Yeah --

2 A The same -- the same offer, because
3 remember, Mr. Dogge, when we -- when I was about to
4 commence this legal action, I realized that it would
5 cost me at least \$40,000 to start the legal action.
6 And I said to you, listen, Gerard, I -- I don't want
7 to do legal action. I don't want to do legal
8 action. I don't think this prop is -- has --
9 necessarily any possibly use for me, but I would
10 rather give \$40,000 to magician than I would to an
11 attorney -- forgive me, Mr. Tratos. But I would
12 rather give it to a magician than to an attorney,
13 and I offered you that. And you declined that, and
14 kept asking for escalations and escalations and
15 escalations until you demanded your \$125,000. And
16 then it became apparent that you were not -- not
17 ready to deal realistically and ethically with me.

18 MR. DOGGE: Mr. Teller, can I interrupt
19 you now because we are listening to a lot of
20 statements without proving the statements. I
21 would rather go on with asking you some
22 questions.

23 THE WITNESS: Of course.

24 MR. DOGGE: Sorry for that, Mr. Teller --

25 THE WITNESS: Let's go on with questions,

1 sure.

2 BY MR. DOGGE:

3 Q I -- yeah. The most confusingly and crazy
4 answer I seen from you in this discovery when was
5 happening the last weeks, months, was when I asked
6 you this question, that anyone can see on the
7 Teller's shadows video on You Tube, showing the
8 parts of your performance but you denied that Penn
9 states that in a particular video that nobody knows
10 that how it is done and no one will figure it out
11 but that doesn't matter. You deny that Penn is
12 doing such a statement. Why do you -- why do you
13 deny such a fact?

14 MR. TRATOS: Objection. Mr. Dogge, you're
15 doing it again. I've asked you to do this. If
16 you have a specific answer -- request for
17 admission or an answer, read the complete
18 request for admission and read the complete
19 answer, and then ask the question. But you
20 can't take it out of context, because
21 Mr. Teller would not know what you're referring
22 to.

23 MR. DOGGE: Mr. Tratos, wouldn't know what
24 you are answered -- that is what you are tell
25 me, Mr. Tratos.

1 MR. TRATOS: I am not telling you that --

2 MR. DOGGE: I will -- I will rephrase the

3 question. I will rephrase the question.

4 BY MR. DOGGE:

5 Q Mr. Teller, are you aware that there was a

6 video of shadows that you see on You Tube where Penn

7 states nobody knows how it is done and nobody will

8 figure it out but that doesn't matter?

9 A I haven't viewed that video. I -- I

10 believe I may have viewed that video once, but this

11 was -- you understand, this is from a piece done by

12 A & E. It was an A & E profile -- Arts &

13 Entertainment Profile of Penn & Teller some 20 years

14 ago. And Penn was not testifying in court. Penn

15 was -- Penn was talking about our career. And when

16 Penn talks about our career, it's -- it's a form of

17 entertainment. It's not testimony.

18 Q Okay. Good, Mr. Teller. How do I need to

19 understand -- or someone, it doesn't matter me. How

20 do you need -- someone to need to understand this

21 first part of Mr. Penn's statement. The first part,

22 nobody knows how it is done, and no one will figure

23 it out? How I need too see this?

24 A You need to see it as a showman --

25 Q Okay.

1 A You need to see it as a showman giving a
2 performance.

3 Q Mmm. It reminds me a little bit of the
4 Fula (PHONETIC) shows. For me, it's another
5 provoking challenge. Is it a challenge or a threat?

6 A I don't think it's either. I think it's
7 just a performance. I think it's Penn -- Penn
8 basking in how much people enjoy that trick. You
9 know, he -- because you're part of the -- forgive
10 me, the more -- a new -- because you're a newer
11 member of the magic community, I think you're a
12 little more hung up on how tricks are done than --
13 than the -- than the public is. And I think that's
14 mislead you through this whole thing. But I'm
15 sorry. I am digressing. I didn't mean to.

16 Q Mm-hmm. I -- I -- statements are
17 sometimes challenges or threats, but you can -- you
18 can -- you can't deny that, Mr. Teller, that Penn
19 said that nobody know how it is done and no one will
20 figure it out --

21 A I don't deny --

22 Q I --

23 A I don't --

24 Q You don't --

25 A I deny that. It's not -- it's not

1 testimony.

2 Q You don't deny that?

3 A It's not testimony. I don't deny it.

4 Q Very good. And what do you think, how can

5 I understand the last part of that statement, but

6 that doesn't matter? If someone will figure it out,

7 that doesn't matter?

8 A No. Again, you put much too much weight

9 on the question of how a trick is done and not

10 nearly enough weight on how the emotion of the trick

11 works for the audience. It's a product of your

12 inexperience.

13 Q Mm-hmm. Okay. Mr. Teller, since there

14 are many magicians performing the similar effect

15 shadows with a similar prop of using shadows, and

16 since the oldest version, the 30 years -- 38 years

17 old version, and an improved version is sold, and

18 for sale, still for sale, for rent on the internet,

19 it seems that this challenge from -- or threat from

20 Mr. Penn has been answered, but that doesn't matter,

21 as you sate. If it really doesn't matter, why do

22 you file a complaint -- a compliant against me,

23 Mr. Teller?

24 MR. TRATOS: Objection --

25

1 BY MR. DOGGE:

2 Q My creation is so far away from -- my

3 creation is so far away from what --

4 MR. TRATOS: Objection --

5 BY MR. DOGGE:

6 Q -- from all of these props which are being

7 sold and rented now, even given for free on the

8 internet.

9 MR. TRATOS: Objection. Mr. Dogge, you're

10 again engaged in argument. You're not asking

11 questions. You are stating a proposition.

12 You're setting up straw men. You're trying to

13 knock them down. You're trying to argue your

14 case. That's not the purpose of this

15 deposition. You have absolutely never

16 tendered, in this litigation, any evidence that

17 a prop is being sold anywhere. You have not

18 tendered in this litigation any evidence that

19 our prop is being rented anywhere. You have

20 not tendered in this litigation any evidence,

21 yet you make those falls statements as a

22 preamble and argument here. Sir, your conduct

23 is inappropriate for a deposition. Ask

24 appropriate questions, or we will end the

25 deposition.

1 MR. DOGGE: Mr. Tratos, it's not my task.
2 I am not an employee of Mr. Teller. It's not
3 my task to tell you where all these props can
4 be rented or where they're sold. It is not my
5 business. That's your business.

6 BY MR. DOGGE:

7 Q So Mr. Teller, next question. I don't
8 have to prove where they're sold.

9 MR. TRATOS: Your claims, sir, that they
10 are being sold without evidence is just that,
11 it's puffery. It's argument. It has no value
12 and no bearing in this deposition. Ask
13 questions that Mr. Teller can respond to.

14 MR. DOGGE: Okay. I will provide this
15 evidence in court, Mr. Teller. When you come
16 in court --

17 MR. TRATOS: Sir, that's the whole point.
18 It will never come to court, because you have
19 an obligation. If you're going to use this
20 evidence, you have the obligation to produce
21 the evidence now during the discovery period.
22 You have refused to produce the evidence.
23 You've never produced it here. You will be
24 limited in court to only those things which you
25 have produced before court, sir. You have to

1 produce it now. Not later.

2 MR. DOGGE: But I will produce,

3 Mr. Tratos. Don't get nervous. I will --

4 MR. TRATOS: I'm not nervous --

5 MR. DOGGE: -- produce these documents and

6 you will see them.

7 MR. TRATOS: Well, you haven't produced

8 them this far.

9 MR. DOGGE: No. No. That's true. It's

10 not my -- I am not working for Mr. Teller. I

11 don't have to --

12 MR. TRATOS: Mr. Dogge, you have --

13 MR. DOGGE: It's your business.

14 MR. TRATOS: -- Mr. Dogge, you have

15 obligations. And the obligations are to

16 produce relevant information in this case at

17 the time they're requested. You have

18 obligations to produce it when you're ordered

19 to produce things by the court. You have, sir,

20 conducted yourself in a way that you have

21 disobeyed the Court's orders and now you're

22 telling us that you have possession of

23 information that you haven't produced in --

24 MR. DOGGE: Mr. Tratos --

25 MR. TRATOS: Hold on. Let me finish my

1 statement.

2 MR. DOGGE: No.

3 MR. TRATOS: Let me finish my statement --

4 MR. DOGGE: No, I am going to interrupt

5 you now, because --

6 MR. TRATOS: Let me finish my statement,

7 sir --

8 MR. DOGGE: -- this deposition,

9 Mr. Tratos --

10 MR. TRATOS: Mr. Dogge --

11 MR. DOGGE: -- this deposition now --

12 MR. TRATOS: Mr. Dogge, I am finishing my

13 statement --

14 MR. DOGGE: You can have your time in

15 court and you can have your time and the

16 documents.

17 MR. TRATOS: Mr. Dogge, I am telling you,

18 sir. I am putting you on notice, that if

19 you've got documents and you have not produced

20 to us that you intend to use at trial, I will

21 ask for sanctions against you for your

22 mishandling of evidence. You cannot withhold

23 the evidence and spring it on us at trial.

24 That's not proper under the rules. It's

25 improper for you to even suggest that. And I

1 am telling you, sir, if you don't produce it
2 immediately, I will ask for sanctions. Thank
3 you.

4 Go with your next question.

5 MR. DOGGE: Mr. Tratos, Mr. Teller, I was
6 asks you questions during this deposition about
7 your own exhibit which you didn't bring, so I
8 will file my exhibits in court and I will file
9 it to you. Don't worry about that, Mr. Tratos.

10 So I am going to ask maybe more, maybe
11 five or ten questions, and then we are done.

12 THE WITNESS: Okay.

13 BY MR. DOGGE:

14 Q Mr. Teller, you can believe me, and I will
15 show you the evidence as Mr. Tratos is asking now --

16 A That's fine -- that's fine, Mr. Dogge.

17 Absolutely fine. The question is whether that will
18 pertinent to the question of whether or not you
19 infringed on my creation. And I don't think it will
20 be.

21 Q Mm-hmm. Okay. Anyhow, Mr. Teller, I have
22 to tell you that the internet provides the manual or
23 even more, it shows the video for the handy one --
24 for the handy guide, how to build a prop, perform
25 the shadows illusion --

1 A I am -- I am unaware of that.

2 Q It is there. And I will file this in --

3 A Again, the prop is not the concern here,

4 Mr. Dogge. The prop is not the concern. The

5 current concern is that you were selling a

6 copyrighted effect. And regardless of any props,

7 regardless of how many videos there might be, what

8 you were doing was wrong. It doesn't mean that the

9 other people are not wrong too.

10 Q Mm-hmm. But you're still eager to find

11 out what the prop is?

12 A I am not eager -- I have -- I have lost --

13 I've lost every shred of interest in your prop,

14 Mr. Dogge. Every shred of interest.

15 Q Yeah.

16 A Because the operation of it was so abrupt

17 that regardless of how clever it is, I am -- I am

18 really I am done with my interest in it, which was

19 mostly just trying to be nice to you.

20 Q Okay. I think we are -- I have another

21 few questions, but --

22 A Go ahead.

23 Q -- I think you're not going to -- you're

24 not going to like these questions, Mr. Teller.

25 A It's no matter. I will answer them.

1 Q I have to go back to -- to all the -- to
2 ruining of my life, Mr. Teller. What you did during
3 this litigation, filing these exhibits, showing my
4 name, showing my picture under pornographic web
5 link --

6 MR. TRATOS: Mr -- Mr. Dogge, I am going
7 to tell you now, sir. Mr. Dogge, I am going to
8 tell you now, if you continue a line of
9 questions that relates to the Belgium case, we
10 will leave the deposition now. You are not
11 entitled to be asking questions about the
12 Belgium case, and you're -- your manifestly
13 false statements that your life has been
14 ruined -- your manifestly false statements are
15 exactly where you're going with this. So I
16 will tell you, sir, if you ask another question
17 along that line, we will end this deposition.
18 You're not entitled to be asking questions
19 about the Belgium litigation. Period.

20 MR. DOGGE: I am entitled, Mr. Tratos to
21 ask questions about the legal evidence that was
22 filed by you, showing this bookmarks above my
23 name and above my picture, but I understand
24 that you're not going to answer these
25 questions --

1 MR. TRATOS: But we have answered that --
2 we have answered --

3 BY MR. DOGGE:

4 Q Mr. Teller --

5 MR. TRATOS: We've answered over a dozen
6 questions about the bookmark. And there is
7 nothing further that you're entitled to ask
8 about those questions.

9 BY MR. DOGGE:

10 Q Mr. Teller, I have my last question for
11 you. Do you agree that copyright can't be stopped
12 or blocked by improvement?

13 A I'm sorry?

14 MR. TRATOS: Can copyright be stopped or
15 blocked by improvement?

16 THE WITNESS: I -- I don't know what --
17 no. Just, I seriously don't understand what
18 you mean by stopped.

19 BY MR. DOGGE:

20 Q Sorry. I rephrase. I rephrase.

21 A Yes, please.

22 Q This is really a clerical error. It just
23 means the other way around. Do you agree that
24 copyright can't stop improvement?

25 MS. COURT REPORTER: Did you say can or

1 can't?

2 MR. DOGGE: Cannot.

3 BY MR. DOGGE:

4 Q Do you agree that copyright cannot stop
5 improvement?

6 A I don't understand what that would mean.

7 I honestly don't. Copyright is a way of identifying
8 a creation. That's -- that's what copyright is.

9 It's -- it doesn't -- that's all it does. If you
10 mean, does -- is that going to prevent technical
11 changes from happening? No. It will not prevent
12 technical changes from happening. But it will
13 identify what the essential elements of the
14 performance piece are that identify that particular
15 piece that require license for use. That copyright
16 will -- copyright is designed to fix a -- to fix in
17 place a particular -- to the best of my
18 understanding. I am not an attorney. But it's
19 designed to identify the strong and identifying
20 traits of a particular creation. And -- so that
21 someone else who is using that creation must come to
22 the creator of that original and -- and ask -- ask
23 for its use. That's -- I believe that's the
24 function of copyright. It's so, you know, it's so
25 that people who are truly creative people don't lose

1 their creation by people who are mere copyist.

2 That's -- that's my understanding.

3 Q You mean --

4 A So I don't understand what -- what

5 you're -- what the statement -- the question, can

6 copyright stop improvement, doesn't make any sense

7 to me. I -- I don't understand what you're talking

8 about.

9 Q Because we are all watching color

10 television and no black and white television. This

11 is an improvement of the television. And the black

12 and white was probably copyrighted 40 years ago --

13 A No, it would not have been -- it would not

14 have been copyrighted, Mr. Dogge. It would have

15 been patented. And patenting is an entirely

16 different thing --

17 Q Okay.

18 A Yes, copyright is a different thing --

19 Q I think this is my last question left.

20 Last question, Mr. Teller. Do you mean that

21 copyright protects magic tricks?

22 A Copyright, in this case, does protect a

23 magic trick, yes. That's -- that's why this legal

24 action has validity, yes.

25 Q That's why we need find out in court then,

1 Mr. Teller?

2 A Absolutely, sir.

3 Q Okay.

4 A Okay. Best -- best of luck --

5 Q I think this deposition is -- is over.

6 A Okay. Thank you -- thank you very much

7 for your time, and I -- I do hope this ends up

8 resolving itself and, you know, as fairly and

9 amicably as possible. Thank you.

10 MR. TRATOS: Thank you.

11 MR. DOGGE: Okay. Mr. Teller. Thank you

12 for your time, Mr. Teller.

13 THE WITNESS: Thank you very much.

14 MR. TRATOS: Mr. Dogge, we want to have

15 standard stipulation on this, so that the court

16 reporter will deliver the copy of this to our

17 office so that Mr. Teller can review it and

18 sign it. And we will do that when she has it

19 completed.

20 MR. DOGGE: Okay. When -- now I have this

21 question to the court reporter. When -- can I

22 have copy of this?

23 MS. COURT REPORTER: Of course. You will

24 receive the original and the copy, and that

25 will be in ten business days. And Humberto has

1 all your information.

2 MR. DOGGE: Excuse me? What else. It's
3 not clear to me.

4 THE WITNESS: She said ten business days.

5 MS. COURT REPORTER: We're going to let
6 the videographer go off the record and I can
7 explain it to you.

8 THE VIDEOGRAPHER: This concludes the
9 video deposition of Teller. The original media
10 of today's testimony will remain in the custody
11 of Las -- excuse Lawyers Solutions Group. The
12 time is approximately 3:39 p.m. We are going
13 off the record.

14 -oOo-

15 (Whereupon, the deposition
16 concluded at 3:39 p.m.)

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1 CERTIFICATE OF DEPONENT

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18 * * * * *

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

22

23 TELLER, Deponent Date

24

25

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)

) ss:

3 COUNTY OF CLARK)

4 I, Yvette Rodriguez, a duly commissioned
5 Notary Public, Clark County, State of Nevada Do
6 hereby certify:

7 That I reported the video deposition of
8 TELLER, commencing on July 1, 2013 at 3:39 p.m.

9 That prior to being deposed, the witness
10 was duly sworn by me to testify to the truth; that I
11 thereafter transcribed my said shorthand notes into
12 typewriting; and that the typewritten transcript is
13 a complete, true, and accurate transcription of my
14 said shorthand notes.

15 I further certify that I am not a relative
16 or employee of counsel or any of the parties
17 nor a relative or employee of the parties
18 involved in said action, nor a person
19 financially interested in the action.

20 IN WITNESS WHEREOF, I have set my hand in
21 my office in the County of Clark, State of Nevada,
22 this 1st day of July, 2013.

23 _____

YVETTE RODRIGUEZ, CCR NO. 860

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